

BETWEEN ASHKENAZ AND SEPHARAD, JUDAISM AND CHRISTIANITY:
ASHER BEN JEHIEL AS A LIMINAL FIGURE IN THE HIGH MIDDLE AGES

EVAN GOLDENTHAL

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Abstract

The central figure of this dissertation, Rabbi Asher ben Jehiel (Rosh, c.1250-1327), is explored as a liminal figure of the Middle Ages, in a variety of ways. Using the scholarship of Homi Bhabha on the topic of cultural hybridity, in addition to other thinkers, this medieval rabbi is presented as an individual who situated himself between various borders, often as a consequence of historical circumstances. The first border he crossed was from his birthplace of Ashkenaz to Sephardic lands, a result of a persecutory environment in his place of origin. Beyond geographic borders, Rosh traverses a communal boundary that exists between Jews and Christians. As a result of being a leading Jewish thinker in Christian lands, his encounter with Christianity was necessary and regular. Subsequently, we see many references to Christianity in his works, with a duality emerging. This dissertation examines this ‘collision’ vs. ‘conversation’ narrative, noting that Rosh takes different stances on Jewish-Christian relations in different texts. The ‘collision’ narrative emerges in his Pentateuch commentary, while the ‘conversation’ approach stems from his legal writings.

This dissertation, therefore, presents texts that help understand this liminal image of Rosh. Some of these primary sources have not been explored sufficiently in current Jewish scholarship.

This work also provides a more robust understanding of Jewish-Christian relations in the High Middle Ages while offering insight into whether or not more modern critical approaches (postcolonial and otherwise) are useful to current scholars of the Middle Ages.

Dedication

I dedicate this dissertation to my bubbies, Cesia Rosenberg (ל"ר) and Madeline Rosen (ל"ר), who would be so thrilled to see this project come to fruition.

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Chapter 1

The Jews of Medieval Ashkenaz

Anna Sapir Abulafia contends that the Ashkenazi Jewish experience with Christians in the Middle Ages was infused with contradictions. She notes that despite the persecutions, which were manifold, the Jews did not suffer universal expulsion like in England and France and retained a Jewish community in some cities – Worms for example – until the ascent of the Nazis in the 1930s.¹ Nevertheless, frequent maltreatment was a reality, and these events impacted the lives of the Jews of Ashkenaz in many ways. For one particular figure, Rabbi Asher ben Jehiel (Rosh, c.1250-1327), the focal figure in this dissertation, local persecutions played a major role in his life.

Before examining Rosh's particular story, an exploration of general history in the area and its effect on the Jews of Ashkenaz would be appropriate. According to Michael Toch, the Jewish experience in medieval Ashkenaz began when Jews from Italy and France settled in the cities of Metz and Mainz in the late ninth century.² These communities were then followed by Jewish settlements throughout Ashkenazi lands, culminating in roughly fourteen major communities. With events such as the First Crusade, pogroms, ritual murder accusations, and other targeted persecutions of the Jewish populace, the total number of these communities

¹ Anna Sapir Abulafia, *Christian-Jewish Relations, 1000-1300: Jews in the Service of Medieval Christendom* (London: Routledge, 2015), 37. See the preface to David Malkiel, *Reconstructing Ashkenaz: The Human Face of Franco-German Jewry, 1000-1250* (Stanford: Stanford University Press, 2009) for a definition of the geographic space "Ashkenaz." Although different from the meaning in the Middle Ages, Ashkenaz is currently accepted to refer to France and Germany in its modern usage. Malkiel writes how this "makes historical sense, given the unification of these lands under the Carolingian rule and especially given the close cultural ties between the Jews of these two centers. The terminological and ethnic distinction between France and Germany faded following the eastward migration of large numbers of central European Jews in the late Middle Ages."

² It should be noted that an earlier Jewish settlement existed in Cologne.

increased and decreased as historical circumstances dictated.³ As Abulafia notes, “Jewish existence in Ashkenaz, even in the best of times, remained precarious.”⁴ One cannot, however, simply observe the Jewish community through a lens of targeted attacks and persecutions.

The reality of the Jewish experience in medieval Ashkenaz was actually much more variegated than one might think considering the focus generally placed on negative events. Highlighting a more nuanced understanding of the Jewish experience, one can conclude that things were not entirely bleak. The Jews of Ashkenaz had a thriving intellectual culture and often had lucrative professions that served both Jewish and non-Jewish communities alike, working as bakers, doctors, butchers, viticulturists, moneylenders, traders, and smiths, even interacting and dealing with the upper echelons of society and maintaining active rosters of Christian employees.⁵ When considering intellectual culture, one need look no further than the many influential works written in Ashkenaz during the High Middle Ages in the realms of legal literature as well as biblical exegesis to understand that despite persecution, the Jewish community thrived in its own right.

Jewish relations with emperors and lords of the Holy Roman Empire was another complicated facet of the Ashkenazi Jewish experience. When relations were positive, Jews benefited greatly from favoured status and legal protections. Charters such as those from Henry IV (r. 1056-1106) and Rudiger Huozman (Rüdiger Huzmann), the Bishop of Speyer, encouraged Jewish settlement by granting privileges to Jews that mirrored those which were offered by Louis the Pious almost three centuries earlier to achieve the same goal. Tax and toll exemptions,

³ Michael Toch, “The Jews in Europe 500–1050,” in *The New Cambridge Medieval History* (Cambridge: Cambridge University Press, 2005), pp. 545-570, 554-555.

⁴ Abulafia, *Christian-Jewish Relations*, 39.

⁵ *Ibid.*, 40.

guaranteed protection from physical harm, religious tolerance, the ability to bring foreign slaves and more were all granted to Jews as incentives to live there.⁶ As time went on, the privileges expanded even further, yet persecutions always remained a reality in the Jewish world. This stark reality was embodied in the figure of Rabbi Meir of Rothenburg (Maharam), whose life had a significant impact on Rabbi Asher ben Jehiel.

Rabbi Asher ben Jehiel

Rabbi Asher ben Jehiel (Rosh) lived from c.1250 – 1327.⁷ He began his life in the lands of Ashkenaz; his family came from Cologne in the Rhineland and he spent time in Mainz and Worms, also studying in France – perhaps in Troyes – according to Freimann, who, in the early twentieth century, wrote the most comprehensive academic biography of Rosh.⁸ Not much is known about the early life of Rosh, but a much discussed period begins in 1283, the year which saw an increase in persecutions targeting many Jewish communities in Ashkenaz, mainly in Mainz and its surrounding areas.⁹ These persecutions at the hands of the Christian authorities led to the eventual migration of Rosh and his family to Toledo, Spain. As Urbach notes, we do not have a significant amount of information regarding the life of Rosh in Ashkenaz. Most of our knowledge of his life and writings come from his years in Sephardic lands.¹⁰ A watershed

⁶ Ibid., 41.

⁷ The definitive biography of Rosh is Avraham Freimann, *Rosh - Rabbeinu Asher Ben Jehiel and His Descendants: Their Lives and Works* (Jerusalem: Mossad Ha-Rav Kook, 1986) [Heb.]. See also, Ephraim Urbach, *The Tosafists: Their History, Writings and Methodology* (Jerusalem: Bialik Institute, 2007), 586-599 [Heb.].

⁸ Galinsky, Judah. “Between Ashkenaz (Germany) and Tsarfat (France): Two Approaches toward Popularizing Jewish Law,” in *Jews and Christians in Thirteenth-Century France*, edited by Yehuda D. Galinsky and Elisheva Baumgarten (New York: Palgrave Macmillan, 2015), 77-92, 84, and Freimann, *Rosh*, 20.

⁹ Freimann, *Rosh*, 22

¹⁰ Urbach, *The Tosafists*, 586. Sepharad means Spain, but the term is also used to describe Jews from the Muslim world. In this dissertation, the narrow meaning of Sepharad is the one generally used.

moment that directly relates to the life of Rosh is the imprisonment and subsequent death of Maharam, his mentor and friend.¹¹ The turbulence of these times has been attributed to the shaky political situation that resulted in the election of Rudolf I of Habsburg as the Emperor of the Holy Roman Empire.¹²

The combination of political turmoil coupled with an already present distaste for the Jewish community galvanized frequent persecutions.¹³ Just like his student, Rosh, Maharam attempted to leave Ashkenaz, yet was unable to escape safely as a result of the challenges the Jewish community faced during this period. Agus writes in his important work on Maharam's life and writings that Maharam got as far as Lombardy, where he "was recognized by an apostate who reported him to the authorities. He was then apprehended and delivered to Emperor Rudolph,"¹⁴ resulting in his incarceration.¹⁵ This development thrust Rosh into a political quandary, as he and other Jewish leaders were required to negotiate with the authorities to release Maharam from prison.¹⁶

The backdrop for these events is the so-called interregnum period of the Holy Roman Empire after the death of Frederick II in 1250, whose broad aspirations for a unification of legal

¹¹ Freimann, *Rosh*, 23

¹² Irving A. Agus, *Rabbi Meir of Rothenburg: His Life and His Works as a Source for the Religious, Legal, and Social History of the Jews of Germany in the Thirteenth Century* (New York: KTAV, 1970), 125.

¹³ It should be noted that although the political situation as well as the theological arguments mentioned in this dissertation played a role in creating a tenuous situation for the Jews, these are by no means the sole factors at play. Scholarship has placed significant focus on the "Crisis of the Late Middle Ages" as a major contributing factor to the instability seen in medieval Europe during the fourteenth and fifteenth centuries. Factors such as famine, plague and climate change all played a role in creating more challenging circumstances for medieval European society, and this impacted Jews as well.

¹⁴ *Ibid.*, 126. The Latin note referring to the arrest of R. Meir is found in the *Annales Colmarienses*, reporting in 1287: *Rex Rudolphus cepit de Rotwilre Judeum, qui a Judeis magnus in multis scientiis dicebatur et apud eos magnus habetur in scientia et honore*. Cf. Joseph Isaac Lifshitz, *Rabbi Meir of Rothenburg and the Foundation of Jewish Political Thought* (New York: Cambridge University Press, 2016), 44.

¹⁵ Although certain sources suggest slight variation in the date of his incarceration, 1286 is a generally agreed upon date for this event.

¹⁶ Freimann, *Rosh*, 24. King Rudolph I of Hapsburg is the monarch linked to Maharam's incarceration.

codes as well as uniting individual principalities under strong imperial rule left “a weak and decentralized Germany, ruled more by the local nobility and ecclesiastics than by the emperor ... [where] no ruler managed to gain control of Germany.”¹⁷

Much of the tension found during this period resulted from the political situation at the time; “more specifically ... the severe struggle on the part of each of the three powerful political bodies, the emperor, the lay and ecclesiastical nobility, and the burghers, to increase its power at the expense of the other two ... The right to tax the Jews thus became the bone of contention over which the three powers fiercely fought for decades; while, in the process, they mercilessly crushed under foot the security, the freedom and the dignity of German Jews.”¹⁸ This reality of the political structure, which had an “almost anarchical variety of actions and counteractions, often dictated by purely local or temporary exigencies [made] the story of medieval Jewry in Germany such a hodgepodge of positive and negative attitudes,”¹⁹ and led to a precarious situation of increased persecution of Jews and subsequently engendered a tendency for emigration.

Further political unrest arose from new laws Emperor Rudolph passed in an effort to profit from the taxation of Jewish communities. Agus suggests that Rudolph enacted this legal right in 1283, acting in accord with the decree of *servi camerae* which, used previously in England, established the Jews’ indebtedness to the crown and hence justified their taxation and

¹⁷ Lifshitz, *Rabbi Meir*, 38. The Great Interregnum refers to the period from the death of Frederick II (1250) to the accession of Rudolph I as king in 1273. This was a time of great political unrest which lasted even beyond Rudolph’s death in 1291. During this period Rudolph was never crowned emperor, and continued feuding, political ploys and instability lasted until Henry VII was crowned emperor by Pope Clement in 1312 when the interregnum ended.

¹⁸ Agus, *Rabbi Meir*, 132. Cf. Lifshitz, *Rabbi Meir*, 37-39.

¹⁹ Salo Wittmayer Baron, *A Social and Religious History of the Jews: Late Middle Ages and the Era of European Expansion, 1200-1650*, vol. 11 (New York: Columbia Univ. Press, 1976), 263.

gave the crown ownership of their property.²⁰ This, according to Agus, was a drastic change in the Jews' legal status, yielding significant discontent as they no longer could see their position in Ashkenazi society as predictable. He writes that the Jews "jealously guarded their freedom and would not permit any encroachment upon their rights. The formulation of their new status by Rudolph, therefore, was a severe shock to them, and they were ready to resort to extreme measures, even leaving Germany altogether in order ... to combat this imputation of servility."²¹ Agus contends that the combination of these factors led to the eventual degradation of the Jews of Ashkenaz, changing from a "self-reliant, resourceful and courageous" people, to a downtrodden group that a malicious ruler sought to humiliate and rob of their liberty, treating them in a way that bordered on enslavement. This reality, in combination with the physical threats posed by the Rindfleisch²² and Armleder²³ massacres, created the perfect storm of discontent that resulted in a wave of Jewish emigration that both Maharam and Rosh decided to follow.²⁴ As stated by Lifshitz: "Living conditions for Jews in Germany progressively worsened throughout the High Middle Ages; the tax burden became too onerous, with the result that many Jews sought to leave Germany illegally despite the legal proscriptions."²⁵ In addition to these considerations, the government also had concerns that Jews leaving and taking their property would impoverish the country. A letter regarding seizure of property penned by Rudolph I,

²⁰ Agus, *Rabbi Meir*, 139-140. Baron, *A Social and Religious History Vol. 11*, 263. Lifshitz, *Rabbi Meir*, 39. Cf. Kenneth R. Stow, *Alienated Minority: the Jews of Medieval Latin Europe* (Cambridge: Harvard Univ. Press, 1996), 279. For an outline of *servi camerae*, see Mark R. Cohen, *Under Crescent and Cross: the Jews in the Middle Ages* (Princeton, NJ: Princeton University Press, 2008), 46-51. For a definitive article on the Ashkenazi context see Salo Baron, "Medieval Nationalism and Jewish Serfdom," in *Studies and Essays in Honor of Abraham A. Neuman ... Edited by Meir Ben-Horin, Bernard D. Weinryb, Solomon Zeitlin.*, ed. Abraham A. Neuman et al. (E.J. Brill for the Dropsie College, Philadelphia: Leiden, 1962), pp. 17-48.

²¹ Agus, *Rabbi Meir*, 142-3.

²² Stow, *Alienated Minority*, 231.

²³ Ibid.

²⁴ Agus, *Rabbi Meir*, 144. Cf. Stow, *Alienated Minority*, 231 and Lifshitz, *Rabbi Meir*, 40.

²⁵ Lifshitz, *Rabbi Meir*, 40.

which reached the leaders of the communities of Mainz, Speyer, Worms, Oppenheim and the towns of the Wetterau, attempts to ensure this problem would not occur, insisting that the property of migrating Jews became the property of the emperor.²⁶ All of these factors suggest that one observes nothing but worsening conditions for the Jews of Ashkenaz.

This narrative would have come as no surprise to Maharam, Rosh's mentor, as his responsa specifically discuss a case that portends his eventual imprisonment. Agus notes that these "cases of mass imprisonment of entire communities [as a result of Jews fleeing heavy taxation] were quite frequent in the thirteenth century, and must have all been motivated by the same anxiety on the part of the overlord that the Jews would flee from his territory,"²⁷ which Maharam writes in his responsa as well.²⁸ The fact that Rudolph perceived the Jews under his rule as serfs made existence very difficult. For Maharam, his journey unfortunately ends with his demise in prison, a result of his insistence that the Jewish communities not pay an exorbitant ransom on his behalf that Rudolph duplicitously described as a tax.²⁹

²⁶ Agus, *Rabbi Meir*, 127. A letter found in *Codex Diplomaticus* quotes King Rudolph saying "that since both the person and the property of the Jews as a group, and of every Jew as an individual, belonged to the king, and since a number of the Jewish residents of the above-mentioned towns had fled beyond the sea without previously obtaining the king's permission, it was fitting and proper that he should appropriate the real and personal property they had left behind; the archbishop of Mayence [Mainz] and Count Eberhard of Katzenellenbogen were appointed to take over and manage this property."

²⁷ Ibid., 145.

²⁸ Ibid. Agus quotes the responsum where Rabbi Meir writes that "although the ruler imprisoned the Jews, his intention was to tax them but not to kill them; that since he desired to impose on them an exceptionally heavy tax, he feared they might flee from his territory, and therefore ordered their arrest.." On p. 149, Agus shows the reality of the frequent struggle between temporal and ecclesiastical powers in the Christian community, in the context of Rabbi Meir's incarceration. There is mention that the Jews pleaded with Pope Nicholas IV to release Rabbi Meir and Nicholas in turn implored Rudolph to release him. This intervention, however, was unsuccessful, encapsulating the divided power during the *interregnum* and the aforementioned political instability.

²⁹ Ibid., 150. Though this had been accepted as true for many years, Simcha Emanuel recently wrote an article discussing how this story of Maharam's refusal to allow the community to pay for his release did not occur with him, but rather with another 12th century sage. For an alternative history regarding Maharam's release, see Simcha Emanuel, "Did Rabbi Meir of Rothenburg Refuse to Be Ransomed?," *Netuim* 19 (2014): pp. 155-169 [Heb.]. In this recent article, Emanuel insists that although there is no way to prove one way or another, it is just as reasonable to imagine, based on the Talmudic dictum in Gittin (4:6) that states captives should not be redeemed for greater than their value, that this story never occurred, as there is little chance Maharam would refuse his redemption. Due to

Of course, much of the vitriol directed against the Jews during this period can be attributed to the anti-Judaism found throughout Ashkenaz. Even though – as modern scholarship insists – this was not the only mode of Jewish-Christian contact during this period, it is nevertheless necessary to acknowledge it as a reality. David Berger’s essay “Anti Semitism: An Overview” provides a succinct summary of the history of antisemitism, placing specific focus on our period of interest, the Middle Ages. He notes that there were many factors contributing to hatred of Jews during this period, notably the transformations in economics, politics, intellectual life and theology, and each provided further fodder for stoking the coals of Jew hatred.³⁰ Overall, it is “precisely because Jews were the only significant minority in medieval Christian Europe that the fear and hatred of the alien became fixed upon them; a fixation that develops over a millennium.”³¹ The fact that the Jews were the visible “other” in Christian Europe for so many years made them a quintessential target of Christian ire. Berger continues to examine this phenomenon in another essay, “From Crusades to Blood Libels to Expulsions: Some New Approaches to Medieval Anti-Semitism.”³² He provides an overview based on scholarship that attributes potential Jew-hatred to factors such as economic competition, fears surrounding the arrival of the millennium, increased piety and further knowledge of Jewish legal works – leading to the Talmud trial controversies.³³ Additionally, briefly discussing the writings of R.I. Moore,

Rabbi Meir’s importance for Torah learning in Europe as a whole, it is likely he would have been redeemed at any cost.

³⁰ David Berger, *Persecution, Polemic, and Dialogue: Essays in Jewish-Christian Relations* (Brighton: Academic Studies Press, 2013), 5.

³¹ *Ibid.*, 8.

³² *Ibid.*, 15-39.

³³ For a discussion of the attack on rabbinic literature, see Jeremy Cohen, *The Friars and the Jews: The Evolution of Medieval Anti-Judaism* (Ithaca: Cornell University Press, 1982), 51-76. Cf. Robert Chazan, Jean Hoff, and John Friedman, *The Trial of the Talmud: Paris, 1240* (Toronto: Pontifical Institute of Mediaeval Studies, 2012). This recent work discusses the Paris Talmud Trial of 1240, a watershed event in the ongoing encounter of Christian intellectuals with rabbinic writings during the Middle Ages.

Berger mentions how popular opinion and beliefs in the lower echelons of society can often colour societal opinions of certain individuals and groups.³⁴ As Berger concludes, “an intensification of popular piety, a changing economic reality, political, social and economic struggle among nobility, kings, and popular movements, Christian familiarity with post-biblical Jewish texts, the growing prominence of the Devil and his minions, naked fear, millenarian expectations and a triumphalist Christian mission, perhaps the exclusiveness produced by national or Church-centered unity and the anxiety engendered by the doctrine of transubstantiation – all these contributed to the erosion of the security of the Jews.”³⁵ These factors, in conjunction with political instability, fomented anti-Jewish sentiments in the Christian populace.

Moving to the main figure of this dissertation, Rosh, it should be noted that most of the scholarly treatments of his life have until now been conducted in Hebrew, and therefore an incidental contribution of this dissertation is providing an analysis of the significant scholarship on him from both past and contemporary scholars to an English-speaking audience. After providing a short biographical sketch of Rosh drawn from both primary and secondary sources, subsequent discussion of his writings will be undertaken.

Rosh was born in Ashkenaz around the year 1250, and later became a prize pupil of Maharam. He took up a leadership position after the death of his teacher around the year 1290 and spent roughly fifteen years as the leading authority of his community, until he and his household moved to Spain in 1303. He finally settled in Toledo two years after his departure. He quickly climbed the rabbinic ranks in his new surroundings, eventually “becoming the chief

³⁴ Berger, *Persecution, Polemic, and Dialogue*, 38.

³⁵ *Ibid.*, 39.

rabbi under the formal recognition and auspices of the king, until the end of his life in the year 1328.”³⁶

The challenges mentioned above spurred Rosh, along with many other Jews, to migrate from Ashkenaz to Sepharad, acting similarly to Rosh’s mentor Maharam. We have a written record describing how Rosh sent his son, Rabbi Yehuda, to scout potential places of settlement.³⁷ The hardships that the Jews faced in Ashkenaz during this period were evidently so difficult that Rabbi Yehuda referred to these lands as the “lands of persecution,” a phrase found often in Jewish literature to describe particularly trying periods for the Jewish people.³⁸

This move to Spain took place over the course of some time, and the travelogues discussing his move, scouting, and the reservations he held on how he should engage in this life-altering decision have been preserved in the compilation *Minhat Ken’aot*.³⁹ This work provides an interesting glimpse into the impressions of Rosh as he entered Sephardic lands for the first time with the intention of settling down somewhere within their borders, marking his move between the two major centres of the Jewish world during the Middle Ages.⁴⁰ The fact that Rosh lived in the two major poles of Jewish culture during this period is fascinating in itself, and ties in with the themes of liminality and border crossing that inform this dissertation. This liminal existence that Rosh embodies is a microcosmic example of the macrocosmic, hybrid reality of Jewish culture and identity that was a consistent piece of the medieval Jewish experience.

³⁶ Israel M. Ta-Shma, *Creativity and Tradition: Studies in Medieval Rabbinic Scholarship, Literature and Thought* (Cambridge: Harvard University Press, 2007), 114. For further examples of Rosh’s relationship with monarchs and political figures, see chapter 4.

³⁷ Tehila Elitzur. “Responsa of Rosh in Tort Law: Legal and Methodological Approaches to Rulings.” Dissertation, Ben Gurion University, 2009 [Heb.], 8.

³⁸ Freimann, *Rosh*, 26. The phrase Rabbi Yehuda uses is "את ארץ הגזירה"

³⁹ Abba Mari ben Moses Ha-Yarhi, *Sefer Minhat Kena’ot* (Pressburg: Verlag von Anton Edlen v. Schmid, 1838).

⁴⁰ *Ibid.*, Letter 52.

According to Judah Galinsky, the major contribution of Rosh upon his arrival in Spain was in the realm of thought and learning, where he completely changed the landscape of how the Sephardic communities interacted with the *halakhic* corpus.⁴¹ As Galinsky notes, according to Rabbi Yosef Karo (1488-1575), a revolutionary halakhic sage in his own right, “in all of Spain they act in accordance with all of the rulings and all of the realms of *issur* and *heter* [that which is forbidden and that which is permitted] in the manner Rosh explains.”⁴² This statement, coming from a scholar with the clout and acumen of Rabbi Karo, shows precisely how influential Rosh was in Spain even though he spent only a portion of his life there. One theme that scholars discuss is the low level of text study in Toledo that existed before Rosh settled in the community and took up the mantle of head rabbi. The new focus on communal learning arose as a direct result of changes engendered by Rosh, with Galinsky noting that “the spreading of Torah and creating disciples brought the Jews of Toledo out of the darkness of naiveté.”⁴³ Therefore, it was not only that Rosh brought his own legal prowess to the community and helped fashion it in that sense, but Rosh insisted upon also fostering a community of students who would eventually serve as the scholarly elite after his passing, in a community that was lacking any such cadre beforehand. According to Rabbi Menachem ben Zerah (1312-1385), Rosh achieved this revolutionary change in Spain by insisting upon focusing study upon, and proliferating knowledge of, the Babylonian Talmud.⁴⁴ By bringing talmudic learning into the forefront of the

⁴¹ Defined as Jewish law or jurisprudence, *halakha* describes the legal realm of Judaism that is in a large part shaped by the Talmud and its subsequent interpretations over the centuries by rabbinic scholars.

⁴² Judah Galinsky, “Rosh the Ashkenazi in Sepharad: Tosafot Ha-Rosh, Piskei Ha-Rosh, Yeshivat Ha-Rosh,” *Tarbiz* 74, no. 3 (2005): pp. 389-421, 390-391 [Heb.]. *Issur* and *heter* roughly translating to “legal rulings in the realm of forbidden and permissible actions.”

⁴³ *Ibid.*, 393. The narrow definition of Torah is the five books of Moses, but that word is often used as a general term for all religious Jewish text study.

⁴⁴ Menahem ben Zerah, *Tzeida Laderekh* (Warsaw: 1880)

Toledan community, he improved the level of *halakhic* understanding in his community.⁴⁵ In essence, Rosh and the Toledan community developed an ostensibly symbiotic relationship with his new appointment as head rabbi. As Galinsky writes: “The unique meeting between a sage from Ashkenaz and a proud Sephardi community in Toledo yielded fruitful results for both sides. Rosh gained a refuge from the persecutions that targeted the Jews of France and Germany, and the Toledan community received an accomplished sage who brought back the respect that had previously been lost in the field of Torah study.”⁴⁶ Overall, the impact of Rosh on the community of Toledo as well as the state of Jewish learning in Spain cannot be overstated, and his encounter with this community will be unpacked further.

This chapter began to provide an image of Jewish life in Ashkenaz along with the underlying historical realities that influenced it. There is, of course, still more to unpack regarding Jewish life and cultural creativity in Ashkenaz, and this will continue in future chapters. Though this chapter has mostly outlined a trajectory of deterioration and eventual emigration, it should be noted that in many respects Jewish life thrived in Ashkenaz, and this point will continue to be explored as the dissertation progresses. However, in order to further explore this issue in the coming chapters, first the literature about hybridity and liminality will be analyzed, which can serve as a useful tool for providing the theoretical framework that will underlie much of this dissertation, and will enable us to understand Rosh and the communities in which he lived in a nuanced fashion.

⁴⁵ Judah Galinsky, “Ashkenazim in Sepharad: The Rosh and the Tur on the Codification of Jewish Law,” *The Jewish Law Annual*, 2006, pp. 3-23, 6.

⁴⁶ *Ibid.*, 23.

Chapter 2

Cultural Hybridity: Creating a Working Definition

The overall theme of hybridity underlies much of this dissertation, and it manifests itself in many ways. Hybridity that arises from interactions with another religion/culture – Christianity in this instance – is one form.⁴⁷ In addition, I will also discuss intra-Jewish cultural hybridity, a result of interaction between Sepharad and Ashkenaz. Rabbi Asher ben Jehiel (Rosh, c.1250-1327) encountered hybridity throughout his life, and how he precisely engaged with it will be discussed throughout.⁴⁸

Marcus and Fischer's *Anthropology as Cultural Critique* provides insight into how the fields of anthropology and ethnography have changed over the years and have helped us understand how to look at cultures critically.⁴⁹ Using tools similar to those employed by Marcus and Fischer, historians have also engaged with past cultures and used critical analysis in an attempt to garner a robust understanding of past realities.

The main point that Marcus and Fischer make regarding culture is that it is dynamic and often beyond simple categorization. The authors state that the authority of grand narratives, once

⁴⁷ A distinction between religion and culture - it should be noted - could be seen as anachronistic, as this might be a duality that is an outgrowth of modernization and secularization. I use these terms throughout this dissertation knowing that they are very dependent on historical context. For a discussion of medieval religious culture in England, giving a glimpse at the importance of contextualization, and an article that shows how much more there is to this discussion cf. Carl Watkins, "'Folklore' and 'Popular Religion' in Britain during the Middle Ages," *Folklore* 115, no. 2 (2004): pp. 140-150.

⁴⁸ This type of hybridity arose via Rosh's reality as a figure who lived in both Ashkenaz and Sepharad and served in a major rabbinic capacity in both communities. This led to a liminal situation that exemplified many facets of Rosh's life.

⁴⁹ George E. Marcus and Michael M. J. Fischer, *Anthropology as Cultural Critique: An Experimental Moment in the Human Sciences* (Chicago: The University of Chicago Press, 2004). The work addresses multiple issues, many of them beyond the scope of this dissertation. Nevertheless, it is indicative of a change of direction in terms of historical research and is important in this regard.

utilized to define cultures in an essentialist manner, have been “suspended [...] in favor of a close consideration of such issues as contextuality, the meaning of social life to those who enact it, and the explanation of exceptions and indeterminants rather than regularities in phenomena observed – all issues that make problematic what were taken for granted as facts or certainties on which the validity of paradigms had rested.”⁵⁰ In this era of critical investigation, the “post” stage of inquiry, the authors insist that one constantly reexamines and rediscovers culture.⁵¹ Many different factors define culture – whether it be the observer noting how culture works, or the society itself as it interacts with external influences. The challenge that arises in an analysis of culture is to find a manner through which one can “be able to capture more accurately the historic context of its subjects, and to register the constitutive workings ... on the local level.”⁵² In the instances that fuel this dissertation, which are historical moments drawn from textual remnants, our goal is to tease out historical realia from cultural texts, a form of cultural hermeneutics. Cultural encounters occur on a local level and are tied to a specific individual and specific locales, hence the need to avoid essentialist narratives in their interpretation. Broad conclusions about generalized historical realities might have merit at times, but such an exercise always has to be considered tenuous and comes with notable caveats. To be successful in these endeavours, one must gain a better understanding of precisely how to observe the cultural moments of the past, and the theoretical insights into the hermeneutics of historical interpretation are an invaluable aid in achieving such an understanding.

⁵⁰ Marcus and Fischer, *Anthropology*, 8.

⁵¹ *Ibid.*, 24.

⁵² *Ibid.*, 39.

Hybridity and Interstitial Spaces: Homi Bhabha's Contributions

Before beginning our analysis, we require a working definition of the term 'cultural hybridity.' This concept has received significant attention in the academy, leading scholars to conclude that "the literature on [this] topic is vast and seemingly open-ended."⁵³ Academics have refracted it through a variety of lenses and disciplines, and the complexity of this discussion exceeds the scope of this dissertation. Still, I will provide a working definition for understanding hybridity in the context of the cultural encounters this dissertation addresses.

The theoretical realms of postcolonialism, poststructuralism, and other related fields contain much of the academic theorizing on hybridity. The writings of Homi Bhabha have significantly influenced this discussion, and his magnum opus *The Location of Culture* has been lauded for helping define the field of cultural studies and providing an erudite understanding of the spaces where cultures meet.⁵⁴ Bhabha focuses upon "in-between" spaces, stating that "they provide the terrain for elaborating strategies of selfhood – singular or communal – that initiate new signs of identity, and innovative sites of collaboration, and contestation, in the act of defining the idea of society itself."⁵⁵ According to Bhabha, spaces where cultures meet yield cultural self-definition, which always results from a conversation or confrontation with an "other," a perceived cultural difference. The richness of these encounters extends beyond exploring only one cultural dimension and necessitates the deemphasizing of cultural antagonisms based on a single point of difference. Even amidst conflicts based on perceived

⁵³ Axel Michaels, "Cultural Hybridity and Transculturality," in *Engaging Transculturality*, eds. Laila Abu-Er-Rub, Christiane Brosius, Sebastian Meurer, Diamantis Panagiotopoulos, Susan Richter (New York: Routledge, 2019), 3.

⁵⁴ Homi K. Bhabha, *The Location of Culture* (New York: Routledge, 1994).

⁵⁵ Bhabha, *The Location of Culture*, 2.

cultural difference, a collaborative and dialogical experience persists, either on a conscious or subconscious level, helping shape cultures in conversation.⁵⁶

But can cultures ever be considered distinct entities? Bhabha understands hybrid spaces as the spaces where “cultural differences contingently and conflictually touch ... resisting binarism.”⁵⁷ It is incumbent upon us to realize that, according to Bhabha, two binary cultures cannot exist at a meeting point, as such a concept is abstract. Thinking about cultures as mosaics, rather than singular entities, best represents Bhabha’s (as well as many other scholars’) position.⁵⁸ For example, Michaels explains that “cultures ... are based on intrinsic ‘fusion’ and are to be considered, in this sense, as a priori hybrid.”⁵⁹ Cultural hybridity, therefore, is an *a priori* existence that lends itself to our understanding of what culture is -- we cannot view a fragment of any culture without understanding how the multiple cultural forces it encounters entangle it.

Bhabha’s understanding applies to the identity of an individual as well. Bhabha writes concerning “man as his alienated image; not Self and Other, but the otherness of the Self inscribed in the perverse palimpsest of ... identity.”⁶⁰ He stresses that we must see these two aspects of identity as interacting with one another, forming what he labels as the otherness of the self, an intercalation of both identities into a singular dual-identity, a personalized third space. Marie Louise Pratt has written on the concept of a contact zone in a similar vein: “a social space where cultures meet, clash and grapple with each other often in contexts of highly asymmetrical

⁵⁶ Ibid., 3. This observation has been made specifically in the Middle Ages in the field of Jewish studies, as will be discussed below. For definitive treatments, cf. Israel Jacob Yuval, *Two Nations in Your Womb: Perceptions of Jews and Christians in Late Antiquity and the Middle Ages*, trans. Barbara Harshav and Jonathan Chipman (Berkeley: University of California Press, 2008) and Ivan G. Marcus, *Rituals of Childhood: Jewish Acculturation in Medieval Europe* (New Haven: Yale University Press, 1998).

⁵⁷ Ibid., 5.

⁵⁸ Bhabha would contend that a culture that doesn’t exist on a physical border would necessarily be hybrid, navigating phantasmic borders. The notion of a culturally isolated cultural existence is all but impossible.

⁵⁹ Michaels, *Cultural Hybridity*, 5.

⁶⁰ Bhabha, *The Location of Culture*, 63.

relations of power ... or their aftermaths as they are lived out in many parts of the world today.”⁶¹ Her theory relates to Bhabha’s third space and provides an expanded framework for understanding the dynamics of cultural encounters. Exploring cultural encounters in the context of European imperialism, Pratt focuses on the interplay of power in the meeting of cultures and explores these mechanisms through a variety of questions that also have relevance for our context. Pratt specifically discusses the term ‘transculturation,’ which ethnographers have used “to describe how subordinated or marginal groups select and invent from materials transmitted to them by a dominant or metropolitan culture ... a phenomenon of the contact zone.”⁶² Although subjugated cultures have no say in what the dominant culture imposes, their autonomy lies in the “varying extents [of] what they absorb into their own [culture], and what they use it for.”⁶³ This leads to Pratt’s discussion of “autoethnography,” the “instances in which colonized subjects undertake to represent themselves in ways that engage with the colonizer’s own terms. If ethnographic texts are a means by which Europeans represent to themselves their (usually subjugate) others, autoethnographic texts are those the others construct in response to or in dialogue with those metropolitan representations ... it involves partial collaboration with and appropriation of the idioms of the conqueror.”⁶⁴ This notion of Pratt’s echoes Bhabha’s concept of mimicry, which also is an initiative to resemble the colonizer, which he defines as “a

⁶¹ Mary Louise Pratt, “Arts of the Contact Zone,” in *Ways of Reading*, ed. David Bartholomae and Anthony Petrofsky, 5th ed. (New York: Bedford/St. Martin’s, 1999), pp. 583-592, 584.

⁶² *Ibid.*, 589.

⁶³ *Ibid.*

⁶⁴ *Ibid.*, 590. Clifford, who is quoted below, refers to the notion that ethnographic fieldwork should be seen in a rubric of “true fiction.” This statement could certainly be linked to this observation by Pratt, whereas all culture seemingly fashions a fictionalized version of itself that often elides - perhaps subconsciously - origins of various customs and beliefs. As Clifford on pg.23 of *Routes*, writes “generally speaking, what’s hidden is the wider global world of intercultural import-export in which the ethnographic encounter is always already enmeshed.” For further reading, see James Clifford, *Routes: Travel and Translation in the Late Twentieth Century* (Cambridge: Harvard University Press, 1999).

difference that is almost nothing but not quite.”⁶⁵ Pratt’s concept of the contact zone has clear congruences with Bhaba’s third space. In the contact zone, one will invariably encounter expressions of cultural hybridity.⁶⁶

Can the Middle Ages be Postcolonial?

The scholarship on cultural studies in the previous section, indebted to postcolonialism, is undoubtedly not rooted in the Middle Ages. This has led some scholars to question if one can simply link the Middle Ages to postcolonial ideas, as this dissertation does. A leading scholar of postcolonial critique, Edward Said, warns us against the concept of “travelling theory,” attempting to apply theories anywhere and everywhere in scholarship, seemingly undermining this concept of the ‘Postcolonial Middle Ages.’⁶⁷ In recent years, numerous works have critically examined whether one can approach the Middle Ages from postcolonial theory’s perspectives, with some positing that this would constitute poor scholarship. As Delaney notes, “some scholars have insisted on using ‘colonial’ and ‘postcolonial’ only about the modern period. And indeed, if we define these notions exclusively in terms of European imperialism or the rise of capitalism or the birth of nationalism, then they will not serve to delineate conditions in the Middle Ages.”⁶⁸

⁶⁵ Bhabha, *The Location of Culture*, 91.

⁶⁶ Significant scholarship builds further on this notion of a third space, the “borderland” situation of cultural encounter. Gloria Anzaldúa’s *Borderlands/La Frontera* describes how worlds merge to “form a third country – a border culture ... a vague and undetermined place created by the emotional residue of an unnatural boundary. It is a ‘state of perpetual transition.’” See Anzaldúa Gloria, *Borderlands = La Frontera: The New Mestiza* (San Francisco: Aunt Lute Books, 2007), 99-100.

⁶⁷ Bruce W. Holsinger, “Medieval Studies, Postcolonial Studies, and the Genealogies of Critique,” *Speculum* 77, no. 4 (2002): pp. 1195-1227, 1201. For the full formulation, see Edward Said, “Traveling Theory,” in *The World, the Text, and the Critic* (Cambridge: Harvard University Press, 1983), pp. 226-47. Similar concerns are addressed in Moshe Rosman, *How Jewish Is Jewish History?* (Oxford: The Littman Library of Jewish Civilization, 2009), 96n37. See also Brigitte Wallinger-Schorn, *“So There It Is”: An Exploration of Cultural Hybridity in Contemporary Asian American Poetry* (Amsterdam: Rodopi, 2011), 46-47 for a discussion of colonization in a context of immigration, specifically referencing the Asian-American experience. Though different from ‘classic’ colonialist experience, Wallinger-Schorn shows convincingly how postcolonial discourse has significant relevance in these experiences, using theoretical approaches such as Bhabha’s as a springboard for unpacking complex encounters.

⁶⁸ Sheila Delany, *Chaucer and the Jews* (London: Routledge, 2014), 70.

Gabrielle Spiegel agreed with this sentiment when reviewing a work of ‘postcolonial medieval studies,’ outlining the fallacy of extending postcolonial theory to a pre-colonial period.⁶⁹ One major critique is that of anachronism. Spiegel insists that activities in the medieval period in no way resemble our modern definition of colonization. She asserts that “local genesis and definite contexts in which period-specific modalities of knowledge, power, thought, epistemologies and technologies are put into play in the societies analyzed [must be avoided] ... a postcolonial society has a historical specificity and density that is not easily translated into pre modern worlds.”⁷⁰ Therefore, according to Spiegel, postcolonial theorizing has no place in a realm outside a modern context.

This position has been refuted by many scholars who point to Spiegel’s somewhat limited, if not parochial understanding of the literature she references.⁷¹ Nadia Altschul states explicitly that postcolonial perspectives have relevance outside of their original context. She argues that “most places on the planet have at some point experienced different facets of colonization, and thus it would be reductive to limit postcolonial studies to the spatio-temporal domains of European post-Enlightenment modernity which have become best known in English-language academic surroundings.”⁷² Altschul argues that postcolonialism at its core is about cultures in contact – often in the context of colonizers and colonized – and needs to be seen through the lens of hegemonic relations and resistance in cultural encounters.⁷³ Therefore, according to Altschul, there is no real need to have a “traditional” colonial experience. Meetings

⁶⁹ Gabrielle M. Spiegel, “Épater Les Médiévistes,” *History and Theory* 39, no. 2 (May 2000): pp. 243-250.

⁷⁰ Spiegel, “Épater Les Médiévistes,” 246-250.

⁷¹ Scholars adept in postcolonial theory would likely find irony in these claims, something that can be labelled as a seeming attempt by a certain branch of scholarship to assert an “essentialist” position on a specific body of work. They would view this as an attempt to establish hegemony over a set of ideas, in true postcolonial fashion.

⁷² Nadia R. Altschul, “Postcolonialism and the Study of the Middle Ages,” *History Compass* 6, no. 2 (2008): pp. 588-606, 590.

⁷³ Ibid.

in the context of powerful and powerless are sufficient to (pre)create such anachronistic conditions.⁷⁴

Bruce Holsinger's *Medieval Studies, Postcolonial Studies and the Genealogies of Critique* builds on these ideas. Holsinger claims that class divisions can be a link between colonialism and the Middle Ages. Holsinger notes that medievalists have dismissed the notion of restrictive temporality. A "new comprehension of subalternity and its variegated historical inscriptions was understood by some to be the common goal of medieval studies and an emergent postcolonial critique."⁷⁵ Holsinger shows that the overlap that one can find between the medieval unrepresented and marginalized individual and the colonial subaltern is telling. Such congruence can be found particularly in the study of historical figures at a micro level, as we shall be doing in this dissertation⁷⁶

The Middle Ages can be Postcolonial – Hybridity as our touchstone

Power and marginalization play a significant role in both postcolonial and medieval societies. Hybridity represents another important shared cultural factor. Desblache writes, following Bhabha, that "[in the] postcolonial world, hybridity was valued as a key agent of cultural, linguistic and political transformation."⁷⁷ This understanding enables a recontextualization of the Middle Ages, when hybridity and border crossing, physical and

⁷⁴ See Jeffrey Jerome Cohen, *The Postcolonial Middle Ages* (London/Basingstoke: Palgrave, 2001) for a collection of essays which all assert the applicability of postcolonial theory in medieval studies. For Cohen, the power dynamic in the Middle Ages focused on Christianity, specifically in Europe, supports its characterization as a society with postcolonial tendencies. Geographic parochialism was a critique lodged against this collection, which Cohen acknowledged.

⁷⁵ Holsinger, "Medieval Studies," 1198.

⁷⁶ This can arguably be seen in the population of medieval Jews as well.

⁷⁷ Lucile Desblache, "Hybridity, Monstrosity and the Posthuman in Philosophy and Literature Today," *Comparative Critical Studies* 9, no. 3 (2012): pp. 245-255, 246.

otherwise, are congruent with similar transformations of a cultural, political and linguistic nature in a colonial and postcolonial context.⁷⁸

In the introduction to *The Postcolonial Middle Ages*, Jeffrey Jerome Cohen unpacks the notion of hybridity through the lens of medieval Christianity. He writes that “the Post-Christian Middle Ages ... focus on Christian heterogeneity, the way in which *Christianas* differed within itself. Christianity then becomes a network of discourses, lacking uniformity and full cohesion, mutable over time.”⁷⁹ This heterogeneity is hybridity, necessitating an image of a varied entity, constantly changing and adapting based on external and internal communal influences, a description that matches Bhabha’s writings. This idea is valuable, and it can be applied not only to medieval Christians but medieval Jews as well.

Building further on hybridity in the Middle Ages, Cohen writes, “hybridity does not indicate some peaceful melding of colonizer and colonized. It does not imply the purity or homogeneity of categories such as subaltern prior to the advent of conquest, and it neither obliterates nor supersedes the histories it intermingles. Hybridity is so useful because it can never be an absolute category ... interleaving that engenders the new without superseding anterior cultures.”⁸⁰ This definition provides an understanding of hybridity’s precise operation. Cohen invokes the language of intercalation to describe what occurs in a liminal cultural space. It is not about cultural replacement, but rather the formation of a cultural mosaic, an almost third identity (Bhabha’s third space and Pratt’s contact zone), and this is precisely what will be observable in the focal subjects of this dissertation.

⁷⁸ Brah, Avtar, and Annie Coombes. *Hybridity and Its Discontents: Politics, Science, Culture*. Florence: Taylor and Francis, 2005 invokes the concept of hybridity when attempting to discern whether postcolonial theory has a place in the medieval academy.

⁷⁹ Cohen, *Postcolonial Middle Ages*, 7.

⁸⁰ See the introduction to Jeffrey Jerome Cohen, *Hybridity, Identity, and Monstrosity in Medieval Britain: On Difficult Middles* (New York: Palgrave, 2009).

Brentjes, Fidora and Tischler point to a variety of overlapping realities that encourage linking postcolonial thought with the Middle Ages and summarize the above argument succinctly. They write that “the embedment of these cross-cultural activities of knowledge exchange in larger processes of confrontation, collaboration, dislocation and settlement. The long-lasting instability, permeability and reinvention of frontiers, dynasties, languages, tribes, sedentary populations, customs, habits and beliefs during those centuries that we label here as ... medieval create [a] multitude of contexts.”⁸¹ Overall, the medieval context is arguably not significantly different from any others, and therefore it seems surprising that scholars have only recently applied these theories in a Middle Ages context. This endeavour has proven fruitful, advancing the critical discussion in the realm of medieval studies, and leading to the realization that a “cross-cultural exchange of knowledge was a way of life” during this period.⁸²

The Significance of Hybridity for Jewish Scholarship

One final aspect of this discussion has particular significance, due to its focus on Jewish studies. Some scholars have used the Jewish experience, often associated with marginality and hybridity, as the paradigmatic example of how postcolonial theory can translate to the Middle Ages.

Kathleen Biddick has suggested that there is an undeniable resemblance between the historical situation of the Jews and the colonial experience, substantiating the concept of a “postcolonial Middle Ages.” Biddick writes, “[using] the word ‘colonize’ to think about systemic domination and ... ‘to colonize’ means to disempower physically as well as corporeally ... [we should not limit our application of this theory as it] dehistoricizes colonial processes and colonized peoples.

⁸¹ Sonja Brentjes, Alexander Fidora, and Matthias M. Tischler, “Towards A New Approach to Medieval Cross-Cultural Exchanges,” *Journal of Transcultural Medieval Studies* 1, no. 1 (January 2014): pp. 9-50, 32.

⁸² Ibid.

The periodization of colonialism and ethnography begins to look very different if one includes Jews.”⁸³

Bhabha and Jewish Studies

The significance of Bhabha’s ideas to the realm of Jewish scholarship has not gone unnoticed, best evidenced when the editors of a collection of essays entitled *Modernity, Culture and ‘the Jew’* asked Bhabha to author the introduction to their work. In his essay, Bhabha writes that “a productive cultural confrontation lies in the ability to negotiate the ambivalent liminalities of a culture, its perceptual and experiential boundaries.”⁸⁴ This idea highlights our central view that “culture” arises when two cultures meet along a boundary, engaging in cultural confrontation that results in formation of a hybrid state. This space, both hybrid and liminal, shapes itself through the dynamic process of cultural exchange. In this instance, Bhabha is showing how the Jewish experience is representative of precisely this encounter. Bhabha notes how “the very idea of a pure ... national [and Jewish] identity can only be achieved through the death, literal and figurative, of the complex interweavings of history, and the culturally contingent borderlines of modern nationhood.”⁸⁵ In the realm of Jewish studies, scholars have begun applying Bhabha’s theories to various historical periods in the development of Jewish culture.

⁸³ Kathleen Biddick, “The ABC of Ptolemy,” in *Text and Territory: Geographical Imagination in the European Middle Ages*, eds. Sylvia Tomasch and Sealy Gilles (Philadelphia: University of Pennsylvania Press, 1998), pp. 268-294, 291.

⁸⁴ Laura Marcus and Bryan Cheyette, *Modernity, Culture and the Jew* (Polity, 1998), XIX.

⁸⁵ Bhabha, *The Location of Culture*, 7.

General Overview

Before engaging in period-specific examples, our discussion warrants a look at Laurence Silberstein's more general writings on the hybridity of Jewish culture and identity.⁸⁶ Silberstein cautions against the old model of discussing "the Jewish people, Jewish culture ... [as] a coherent, identifiable entity."⁸⁷ Silberstein believes that this simplistic understanding of culture and identity "informs most scholarly writings on Judaism," and is grounded in "outmoded assumptions about language, experience and culture."⁸⁸ He writes that there is a need "to reconfigure such essentially contested terms like Jew, Judaism, and Jewish into a site of permanent openness and reconfigurability," believing this can be achieved by "form[ing] our sense of self, our identity, in relation to Others over and against whom we define ourselves ... to understand identity, both individual and group, we must attend to the others over and against whom the self is positioned/constructed/constituted."⁸⁹ The editors of *Jewish Studies at the Crossroads of Anthropology and History* encapsulate these ideas when they write that "Judaism is discursive because it is heteroglossic and hybrid – constituted, and not merely modified, at the boundary between "interfering" ... systems."⁹⁰ Again, we circle back to our understanding of cultural hybridity, here simply noting that our definition remains no different in the Jewish context.

⁸⁶ Laurence J. Silberstein, *Mapping Jewish Identities* (New York: New York University Press, 2000).

⁸⁷ *Ibid.*, *Mapping*, 3.

⁸⁸ *Ibid.*, 4-11.

⁸⁹ Silberstein 5. This criticism is also lodged by Moshe Rosman in his essay in *Imagining European Jewish Communities*. His essay ...

⁹⁰ Ra'anan S. Boustan, Oren Kosansky, and Marina Rustow, *Jewish Studies at the Crossroads of Anthropology and History: Authority, Diaspora, Tradition* (Philadelphia: University of Pennsylvania Press, 2011).

Hybridity and Periodization in Jewish Studies

Even though discussing macrohistorical trends is not a major historiographical concern for many contemporary scholars, I believe that it is fruitful to demarcate broad periods of Jewish history as unique and specific manifestations of cultural hybridity and Jewish identity. Space does not permit an extensive discussion, so I will limit my discussion to some examples of our definition of cultural hybridity, as applied by leading scholars in their fields, in the three periods of Late Antiquity, Early Modern/Modern and Medieval.

Hybridity and Periodization: Late Antiquity

Michael Satlow, a scholar of Jewish Late Antiquity, has written extensively on defining Judaism, Jewish culture and Jewish identity in Late Antiquity.⁹¹ Satlow tersely notes that “Jews exist, not Judaism. Each Jewish community enters distinctive cultural negotiations with tradition, non-Jews, and other Jews. It is perhaps more awkward but certainly more accurate to speak of how Jews wrestle with these issues than how ‘Judaism’ or ‘Jewish culture’ responds to ‘Hellenism,’ ‘Christianity’ or ‘non-Jewish culture.’”⁹² According to Satlow, Late Antique Judaism is not a crystallized entity but a fluid one, in constant negotiation with the surrounding culture. He writes that “we can no longer contrast ‘Palestinian Judaism’ as the unadulterated form of the ancestral faith with ‘Hellenistic Judaism’ as the Diaspora variety that diluted antique practices with alien imports ... their ideas and concepts expressed themselves quite naturally in Greek forms.”⁹³ From the perspective of hybridity theory, we can envision Hellenized Judaism as an accurate

⁹¹ Michael L. Satlow, *Creating Judaism: History, Tradition, Practice* (New York: Columbia University Press, 2006).

⁹² *Ibid.*, 43.

⁹³ Satlow, *Creating Judaism*, 38 and Anita Norich and Yaron Z. Eliav, *Jewish Literatures and Cultures: Context and Intertext* (Providence: Brown Judaic Studies, 2008).

modality of Judaism during its historical context, just as valid as any other form. A certain level of hybridity is characteristic of Judaism in the Late Antique period.⁹⁴

Daniel Boyarin has also contributed significantly to this conversation by applying critical theory to Jewish identity in Late Antiquity. Focusing on what it means to have “Jewish” culture and identity, Boyarin has pinpointed Judaism’s relationship with Christianity as the formative encounter that defined Jewish identity during the Late Antique period. Boyarin’s thesis hinges on the difficulty in drawing distinctions between “Jews” and “Christians” in Late Antiquity, heavily influenced by Bhabha’s theories in addition to previously mentioned theoretical frameworks.⁹⁵

Boyarin’s fullest expression of these ideas comes in the introductory chapter of his work, *Border Lines*.⁹⁶ He discusses how drawing boundaries is complicated. What might appear to be a situation of binary identities actually constitutes a multiplicity of identities.⁹⁷ Shifting this notion to Late Antique Palestine, Boyarin emphasizes that the boundary between Judaism and Christianity was “constructed and imposed, as artificial ... as any of the borders on earth.”⁹⁸ In fact, according to Boyarin’s reasoning, adherents could float seamlessly between both

⁹⁴ Yaron Z. Eliav, “The Roman Bath as a Jewish Institution: Another Look at the Encounter Between Judaism and the Greco-Roman Culture,” *Journal for the Study of Judaism* 31, no. 1-4 (2000): pp. 416-454. Borrowing terminology from Eliav, Satlow discusses Late Antique Judaism as engaging in “‘filtered absorption’ or ‘controlled incorporation,’ a quiet process of the absorption of outside cultural elements into ancient Jewish society through revision and adaptation.” Explaining this process, Satlow goes on to say that “each Jewish community may have fashioned its own ‘culture’ or expression of identity, but it did not make it up out of whole cloth. When Jewish communities, or individual Jews, chose to mark their identity as Jews, they drew upon the stuff of their tradition, as they understood it within their local cultural frame.”[#] Of course, the intentionality expressed here might be slightly exaggerated, and it is necessary to consider a silent osmosis or absorption taking place, an almost unconscious adoption of custom and culture occurring.

⁹⁵ See, specifically, Daniel Boyarin, *Border Lines: The Partition of Judaeo-Christianity* (Philadelphia: University of Pennsylvania Press, 2010) and the introduction to Daniel Boyarin, *Dying for God: Martyrdom and the Making of Christianity and Judaism* (Stanford: Stanford Univ. Press, 2007).

⁹⁶ Specifically, Bhabha, as mentioned already. As Boyarin writes on p. 15 of *Border Lines*; “here is, perhaps, the very parade instantiation of Bhabhan ‘interstitial’ spaces that bear the meaning of culture. Think here of Biddick’s comment earlier that the Jewish people are those actors in history who made the application of ‘anachronistic’ theory possible in an earlier period. Boyarin seems to be in agreement, citing the Jewish experience as the paradigmatic example of how to transfer Bhabhan postcolonial thought to Late Antiquity.

⁹⁷ Boyarin, *Border Lines*, 3.

⁹⁸ *Ibid.*, 1.

communities without experiencing any crisis of identity, as the encounter effectively takes place in a liminal, third space.⁹⁹ According to Boyarin, this non-crystallized form of identity reflects what it means to be a Jew during this period.¹⁰⁰ He highlights this idea by stating that “the religious dialect map is a hybridized one, and the point is that hybridity extends even to those religious groups that would consider themselves ‘purely’ Jewish or ‘purely’ Christian for their self-understanding ... [one must] refuse the option of seeing Christian and Jew, Christianity and Judaism, as fully formed, bounded, and separate entities and identities in Late Antiquity.”¹⁰¹

Hybridity and Periodization: Early Modern/Modern Period

The Early Modern and Modern Periods have also proven fruitful for exploring the intersection of Jewish identity and postcolonial theory. Moshe Rosman helped pioneer this initiative, drawing on theories of hybridity and identity and applying them to early modern Polish Jewry.¹⁰² This relatively new endeavour contrasts starkly with previous scholarship on early modern Polish Jews, which attributed “no overriding significance” to the interactions they had with the

⁹⁹ Ibid., 2.

¹⁰⁰ See Adam H. Becker and Annette Yoshiko Reed, eds., *The Ways That Never Parted: Jews and Christians in Late Antiquity and the Early Middle Ages* (Minneapolis: Fortress Press, 2007).

¹⁰¹ Boyarin, *Border Lines*, 7-18. Cf. introduction to Elisheva Baumgarten, Ruth Mazo Karras, Katelyn Mesler, eds., *Entangled Histories: Knowledge, Authority, and Jewish Culture in the Thirteenth Century* (Philadelphia: University of Pennsylvania Press, 2017). See *Entangled Histories*, p.4, where the editors discuss cultural osmosis, stating that cultures engaged in this practice are seen as “not completely part of, acculturating but still distinct; when one appropriates, one makes something one’s own, but not necessarily separate from the culture of origin ... Because of the complexities listed before, recent scholars have sought to individuate the complex relations between and among groups by employing terms like ‘embeddedness,’ ‘exchange,’ ‘acculturation,’ ‘appropriation,’ ‘overlap,’ ‘interpenetration’ and ‘hybridity.’ These all seek to express the near paradox of simultaneous connection and separation: one can be embedded but not completely part of, acculturating but still distinct; when one appropriates, one makes something one’s own, but not necessarily separate from the culture of origin ... Entanglement implies complexity; the things being tangled can cross many times, becoming difficult or impossible to pull apart, but still remain distinct, like two colors of thread. They can run alongside each other separately, cross, diverge and converge again.”

¹⁰² For the Polish context, see specifically chapter 3: “Hybrid with What? The Relationship between Jewish Culture and Other People’s Cultures,” in Rosman, *How Jewish is Jewish History?*

surrounding Polish culture.¹⁰³ Rosman shows how prior historians believed that “Polish Jewish culture was, at base, an elaboration of a traditional, authentic, autonomous Jewish culture that had developed organically at least from talmudic times and probably even beginning with ... the Bible ... This culture was of course subject to alien influences, but these were insignificant, ultimately eschewed, or so Judaized as to make the questions of origins moot.”¹⁰⁴ This narrow approach to understanding history motivated Rosman to explore how cultural hybridity was a significant factor in early modern Jewry’s encounter with Polish culture.¹⁰⁵

According to Rosman, the ‘late (North) America’ period of scholarship began to move the conversation forward, producing work that shows how “Jews placed a premium on Polish modes of cultural validation. In addition, Jews and Poles shared a common Western heritage ... in connection with political, civic, economic, gender, scientific, and legal theory and practice, popular ideas about causation and medicine, and principles of theurgy.”¹⁰⁶ When exploring the ‘Polish’ side of the Jewish/Polish matrix, one notices a significant spillover into the Jewish side, despite early research suggesting otherwise. Rosman summarizes, “Jewish ... [and] Polish culture ... coexisted with various shared cultural axioms and behaviors ... Polish and Jewish cultures were polysystems; open ... cultural systems ... [with various] elements in constant interaction with each other in manifold ways at multiple intersections within the systems.”¹⁰⁷

¹⁰³ Ibid.

¹⁰⁴ Ibid., 86.

¹⁰⁵ Ibid., 89-90. Rosman seems puzzled to see that this notion of a distinctive Jewish culture has persisted until somewhat recently as well. Both Paul Mendes-Flohr and Jonathan Israel, in two somewhat recent works, adhere to these older notions. Rosman discusses this on p. 87 of *How Jewish?*, stating how “the unified and integrated Jewish culture ... was increasingly remote from that of the peoples among whom Jews lived.” Rosman continues, insisting that this position is untenable in the context of today’s scholarship and how “such a conception clashes, however, with the now conventional belief that Jewish culture was always embedded in and indebted to the local culture in which it was found.”

¹⁰⁶ Ibid., 9.

¹⁰⁷ Ibid.

Rosman's overall thesis echoes current scholarship's emphasis on the open osmosis occurring between Jewish society and its host culture. Precisely what this osmosis looks like is variable, yet it nevertheless occurs at almost all levels of society. According to Rosman, "there is a firm article of faith shared by practically all of today's Judaica scholars that, in all times and places ... Jews lived in intimate interaction with surrounding cultures to the point where they may be considered to be embedded in them and, consequently, indebted to them in terms of culture."¹⁰⁸ In this description, Rosman echoes notions similar to what postcolonial theory describes as the underlying mechanisms of cultural encounters.

Discussing the topic of Jewish cultural borrowing in a modern context, Todd Presner invokes Jacques Derrida's *separatrix* and its ability to aptly describe the encounter of German and Jewish culture and society in the early twentieth century. Presner defines the separatrix as the line between the two words *German* and *Jewish*, the cut that separates. The meaning of the separatrix is ambiguous: it may locate an opposition, as in German versus Jewish, it may signify simultaneity, as in both German and Jewish, and it may call upon a choice, as in German or Jewish. At the same time that the separatrix announces a kind of distinction, the relationship between the distinguished terms is characterized by an unresolved tension, a back-and-forth that is never subdued or sublated into a third term. Instead, the two terms exist in permanent tension, moving with respect to one another, but never turning into something higher. In every case the separatrix indicates the dialectical movement of a finitely structured relationship that must be articulated according to its historical specificity ... in the case of German/Jewish we find the two terms consistently 'contaminated' by one another. They overlap; they become blurred;

¹⁰⁸ Ibid., 83.

they switch places. One of the terms cannot be adequately articulated without the other.¹⁰⁹

Benjamin Baader similarly discusses the notion of the *separatrix*, looking again at the German-Jewish encounter in a modern context. Baader asserts that “Jews are never a pre-existing entity with a well-defined core and stable boundaries, but Jews as a group and Judaism or Jewishness as a symbolic system and a set of practices are created equal and shaped in the process. All participants in such a system remain interminably entangled with each other, even though – or indeed because – they often define themselves against each other.”¹¹⁰ Baader views German society’s composition as that of individuals and groups with continually shifting identities, based on their encounters and neighbourly interactions. Here, once again, we see the fruitful application of scholarly discourse on the nature of hybridity and identity formation defined by the concept of *separatrix*.

Hybridity and Periodization: Middle Ages

Finally, I will undertake an exploration of how Jewish identity in the Middle Ages situates itself in critical theory. Despite Jewish identity in the Middle Ages being more well-defined than in a late antique or early modern context, there nevertheless remains ambiguity. This was not just a characteristic of Jews – scholars have shown the dynamic nature of Christian identity during this period as well.¹¹¹

I will begin this section with the caveat that hybridity in this period is muted when compared to the epochs mentioned above. In Late Antiquity, we are observing the formation of

¹⁰⁹ Todd S. Presner, *Mobile Modernity Germans, Jews, Trains* (New York: Columbia University Press, 2012), 4.

¹¹⁰ Benjamin Baader, “From the History of Integration to a History of Entanglements: Reconceptualizing the German Jewish Experience,” *Transversal: Zeitschrift für Jüdische Studien* 14, no. 1 (2013): pp. 51-60, 53.

¹¹¹ *Ibid.*, 54.

new identities via the splintering and crystallization of systems of belief, reflected in the notion of the *Parting of the Ways*, when Jewish and Christian identities were supposedly in the nascent stages of formation.¹¹² In the Early Modern Period, when societies were entrenched in identity formation on both the conscious and subconscious levels, these ideas are oft-discussed and the boundaries are seemingly more fluid as individuals navigate the cultural “third-spaces.”

During the Middle Ages, a more crystallized Jewish identity presents itself. Perhaps as a result of religious fervour and entrenchment in certain theological beliefs, a penchant for separation presented itself much more strongly than during the late antiquity and early modern periods. On the surface, this leads to defining the Middle Ages as a challenging time for the Jews. Nevertheless, hybridity existed, although perhaps in a more muted fashion, but it still was representative of the Jewish experience during the Middle Ages.

Ivan Marcus’s *Rituals of Childhood* discusses *modern* or *outward acculturation* and *premodern* or *inward acculturation*, key terms for our discussion.¹¹³ According to Marcus, “the former refers to the blurring of individual and communal traditional Jewish identities and of the religious and cultural boundaries between Jews and modern societies. The latter refers to premodern cases ... when Jews who did not assimilate or convert to the majority culture retained an unequivocal Jewish identity. Nevertheless, the writings of the articulate few or the customs of the ordinary many sometimes expressed elements of their Jewish religious cultural identity by internalizing and transforming various genres, motifs, terms, institutions, or rituals of the majority culture in a polemical, parodic, or neutralized manner.”¹¹⁴

¹¹² As discussed in Boyarin, *Border Lines*.

¹¹³ Marcus, *Rituals of Childhood*, 11. Cf. Eliav’s discussion in “The Roman Bath,” on filtered and controlled absorption.

¹¹⁴ Ibid.

Cultural Hybridity and Rosh

The theoretical framework established in this introductory chapter informs the remaining chapters of this dissertation. The following chapters specifically unpack the intersection of the experience of Rosh with cultural hybridity. They describe a medieval rabbi who changed locales as a result of communal pressures, a journey which positioned him in-between two communities. His liminality was constituted by his situation of both being a Jew living in Christian lands and an Ashkenazi Jew in a Spanish milieu. This liminality, and its repercussions, will be analyzed in greater detail in chapter three.

Another duality and imagined border are manifest in the written texts of Rosh, a prodigious corpus that touched upon many aspects of Jewish life. The duality is most stark when comparing the attitude towards gentiles, usually Christians, seen in his Bible commentary to the approaches found throughout his legal writings. In his biblical commentary, non-Jews act as a foil to the Jewish people, a perpetual antagonist which will eventually be eliminated in a vengeful redemption. In his legal works, Rosh fashions a different image of non-Jews. Here, based on close readings, one can obtain a picture of what it means to live in close contact with a society of ‘others’ – very often a picture of amicable relations and partnership. Indeed, one can find instances of collision as well, but the focus on this aspect of the cultural encounter is nowhere near to the extent that appears in his commentary on the Bible. An in-depth look and analysis of these sources can be found in chapters three and four of this dissertation.

The split in attitude towards others manifested in theological and legal works respectively is indicative of the dichotomous nature of the Jewish-Christian experience during the Middle Ages. This reality, as scholarship has shown, is a true hallmark of the Jewish-Christian

encounter. It relates to the underlying thesis of the ‘hybrid community’ of the Jews in the Middle Ages, a focal point of this chapter. The situation that arose in the Ashkenazi Middle Ages is one of close communal contact and relations between Jews and Christians, a necessary reality of daily life during this period. As a result of this living on a shared boundary, hybridity arose along and across the perceived borders. The following chapters will demonstrate that the hybrid reality of Jews and Christians is clearly discernible in Rosh’s milieu. Rosh, too, fashioned borders in his persona as he traversed geographic and textual borders throughout his life.

This chapter has attempted to lay the groundwork for the critical theory that informs the notion of hybridity that is the lens which this dissertation views the life of Rosh. In addition, a brief overview of the development of this scholarship in the realm of Jewish studies has been provided, as well as a brief look at the encounter that it has had with academics who focus on the Middle Ages. With this framework in place, an exploration of Rosh – specifically his life, writings, and unique persona – can now be undertaken in earnest, as will be done in the coming chapter.

Chapter 3

The Writings of Rosh

Rosh was a prolific sage, boasting an impressive corpus of writings. The major works that he penned are as follows: The *Tosafot ha-Rosh*, *She'elot u-Teshuvot ha-Rosh*, the *Piskei ha-Rosh*, *Orhot Hayyim*, as well as a commentary on the Torah.¹¹⁵ Although each of them will be discussed in this section, the ones that will receive special emphasis in this dissertation are *Responsa of Rosh* and his Torah commentary.

She'elot u-Te'shuvot ha-Rosh

She'elot u-Te'shuvot ha-Rosh (*Responsa of Rosh*) is a compilation of questions and answers that are exclusively those of Rosh.¹¹⁶ A portion of this compilation was compiled while Rosh still lived in Ashkenaz, whereas the remainder consists of questions that he received and answered after migrating to Spain. In total, there are over one thousand responsa contained within this work.¹¹⁷ The order of the book was arranged by Rosh's son, who started this activity before his father died. According to Freimann, an unknown student of Rosh organized this compendium further, finishing the task after Rosh's death in 1329.¹¹⁸

¹¹⁵ Of these, the Torah commentary's provenance is debated. This will be focused upon in the upcoming section that specifically deals with this work.

¹¹⁶ The version of *Responsa of Rosh* that this dissertation is taken from the Bar-Ilan Responsa Project. A worthwhile contribution to navigating *Responsa of Rosh* is Menachem Elon, *Mafteah Ha-She'elot yeha-Teshuvot: She'elot u-Teshuvot Ha-Rosh* (Jerusalem: ha-Makhon le-ḥeker ha-mishpat ha-'Ivri, 1965) [Heb.], which provides a comprehensive topical index.

¹¹⁷ Freimann, *Rosh*, 90.

¹¹⁸ Ibid.

The responsa of Rosh are significant for many reasons, but Galinsky notes one aspect that makes them of particular value for the cultural historian. Galinsky writes that “the responsa have significant gravitas with regards to halakhic decisions, and together with this they also open up a small window into the lives and deeds of the Jewish communities of Ashkenaz and Sepharad.”¹¹⁹ Of course, having access to primary literature that describes the state of the Jewish community and its interactions with its neighbours is of the utmost value, especially when one is interested in encounters at cultural borders. Using responsa as a historical source has been discussed by Haym Soloveitchik, and some of the suggestions he provides have helped inform the methodology in this dissertation.¹²⁰ In his work that discusses and catalogues the responsa of Rosh, Menachem Elon writes that “scholars continued to develop the realm of Jewish legalism through responsa writings, it enabled them to explain already existent principles as well as to develop new ones. The point is that these legal principles arose from deep consideration and judgment of legal conundrums that arose in **everyday life**.”¹²¹ Clearly, responsa literature can serve as a valuable tool for helping reveal realities encountered by the societies in which they were formulated.

We must of course note, as Elitzur does in her dissertation on Rosh, that ideally there is a need to differentiate between responses written in Ashkenaz and those written post-relocation to Toledo if one wishes to use them as a primary source for ethnographic and sociological study. She writes that “only the ‘Sephardic’ responsa are able to serve as a source for Rosh’s encounter with the tradition and custom he found when he settled in Toledo and as a measuring stick that

¹¹⁹ Ibid., 91.

¹²⁰ Haym Soloveitchik, *Shut Ke-maḳor hiṣṭori* (Jerusalem: Merkaz Zalman Shazar le-toldot Yiśra’el, 1990) [Heb.].

¹²¹ Elon, *Maḳteah*, 7. Emphasis mine.

this geographic transition had on his activities as a posek – an authoritative legal decisor for a community – and leader of this Sephardic community.”¹²²

According to Freimann – and these dates are still accepted today – anything written before 1304 is to be seen as an Ashkenazi responsum, whereas writings after this period would be answers given during Rosh’s time in Sepharad.¹²³ In addition to this, Ta-Shma notes that Rosh’s “responsa are almost purely Spanish in character, with ninety percent of its material being composed in Spain, responding to Spanish questioners, and only a scant ten percent come from Ashkenazi provenance.”¹²⁴ Further discussion about the value of responsa literature as a historical source will be provided below as part of an analysis of this body of Rosh’s work.

Elitzur believes that this particular corpus of Rosh is useful in answering some very pressing questions that scholars have: 1) How was it that a thinker so entrenched in Ashkenaz would be accepted as one of the major rabbinic figures – *gedolei ha-dor* – of Spain and 2) to what degree was Rosh “opened” to the Sephardic legacy and to what degree did this legacy impact his path as a legal thinker?¹²⁵ This particular discussion is especially relevant later in this dissertation, when it analyzes the liminal character of Rosh, specifically as he straddled the border between Ashkenaz and Sepharad.

¹²² Elitzur, *Responsa of Rosh*, 18. Cf. Ephraim Kanarfogel, *The Intellectual History and Rabbinic Culture of Medieval Ashkenaz* (Detroit: Wayne State University Press, 2013), 71, where he discusses the unique idiosyncrasies of the Ashkenazi community that did not prioritize saving responsa literature.

¹²³ Freimann, *Rosh*, 89-91. For a more in-depth discussion of the provenance of *Responsa of Rosh*, see Elitzur, *Responsa of Rosh*, 18. The discussion here specifically examines the challenges of deciphering whether a particular responsum of Rosh came from Ashkenaz or Sepharad. It addresses changes that might occur to rulings, and the challenges in attributing this to either a change of locale, or perhaps just a change of legal interpretation independent of a new environment. There are additional questions about whether we indeed have a large cache of Rosh’s Ashkenazi responsa, or if Ashkenazi scholars – acting in character for this period – did not care to preserve these responsa. Judah Galinsky believes that Rosh was interested in preservation more than we might imagine, in agreement with Elitzur’s stance in this section of her dissertation.

¹²⁴ Ta-Shma, *Creativity and Tradition*, 113.

¹²⁵ Elitzur, *Responsa of Rosh*, 33-34.

Orhot Hayyim

Also known as *Hanhagot ha-Rosh* or *Tzava'at ha-Rosh*, this composition is a compilation of 132 suggestions Rosh gives for Jews wishing to lead ethical lives. It is written in a short-hand style and has undergone detailed analysis, both academic and non-academic in nature.¹²⁶ This work will be utilized as a small yet relevant example of Rosh's acknowledgement of social realities in an upcoming section.

Torah Commentary

Of the works that this dissertation addresses, the Torah commentary of Rosh is the most controversial as to its provenance, as the attribution of Rosh's authorship cannot be confirmed definitively. No significant analysis of this document has been undertaken in the academy, with a few mentions given in various works, and with two articles written in the *Revue des Etudes Juives* at the beginning of the 20th century.

Poznanski addresses this work in his book *Introduction to the Exegetes of France*, where he notes the similarities that it shares with the other Tosafist collections of Torah commentary, specifically the *Da'at Zekeinim*.¹²⁷ He states that the only major difference between this commentary, arguably written by Rosh, and the *Da'at Zekeinim* is that “alongside the frequency of comments from Rashi (1040-1105), there is also a plenitude of references to Nahmanides (1194-1270), and further we can suppose that the compiler was of French origin who immigrated

¹²⁶ Freimann, *Rosh*, 98. For a non-academic work, see Asher ben Jehiel, *Orchos Chaim of the Rosh*, ed./trans. Alexander Sternbuch (Brooklyn: ArtScroll Mesorah Publications, 1992).

¹²⁷ Shmuel Poznanski, *Introduction to the Sages of France* (Jerusalem, 1965), CVII-CIX. [Heb.]. The Tosafists, a group that flourished in the twelfth and thirteenth centuries, were composed of the leading rabbinic sages of Germany and France from the circles established by Rashi. The Tosafists compiled an exhaustive commentary on almost every tractate of the Talmud that both critiques and builds upon the commentary of Rashi (but also extends beyond). They engage in the dialectic mode of learning and defend Ashkenazi practice in their writings. Beyond their Talmud commentary, they are also known for their Torah commentaries, such as *Da'at Zekeinim*, *Hadar Zekeinim* and *Moshav Zekeinim*.

to Spain and lived at the end of the 13th century going by the name of Asher, hence the logical attribution to Rosh.”¹²⁸

The dissertation will cite texts from this biblical commentary based on the assumption that much of the material in this commentary, if not all, can be attributed to Rosh either as author or compiler. Even if that is not the case, the commentary represents the ideas of a contemporary of Rosh who came from a similar background. As the ideas expressed about Jews and gentiles are the central concern of this dissertation, the question of attribution is of secondary importance. For further discussion of the question of attribution, see Appendix 1 at the end of this dissertation.

Piskei ha-Rosh

Freimann writes that this particular compilation should be seen as the magnum opus of Rosh, his principal work and contribution to Jewish scholarship, compiled between c.1310 and 1327.¹²⁹

Two alternative names that have been attributed to it are *Hilkhot ha-Rosh* or *Sefer ha-Asheri*. He modeled it on the work of Rabbi Isaac Alfasi (1013-1103), commonly known as Rif, as he was advised to do by his mentor, Maharam.¹³⁰ An interesting facet of this work is the manner in which it unified both the Ashkenazi and Sephardic character of Rosh’s scholarly and halakhic life, with Rif and Maimonides (c.1138- 1204) representing the Sephardic school of learning, and Tosafot as the quintessential Ashkenazi scholars of the High Middle Ages. Freimann discusses how Rosh mastered both sides of this particular division, and managed to strike a remarkable

¹²⁸ Ibid.

¹²⁹ Freimann, *Rosh*, 85. Cf. David Zafrani, “Asheri’s Methodology in Deciding the Law” Dissertation, Tel Aviv University, 1980 [Heb.].

¹³⁰ Elitzur, *Responsa of Rosh*, 7. Choosing to write in this style, modeling on the work of Rif, is another example of Rosh’s liminal character - he is an Ashkenazi scholar using the Sephardic model of Talmud study founded by Rif.

balance between these poles, demonstrated precisely in this work's composition.¹³¹ Rosh believed that with *Piskei ha-Rosh*, he was providing a simple to use and unadulterated guide to the Talmud, something which was sorely lacking, especially in the Sephardic realm.¹³² He believed that his efforts would provide an opportunity for students to wean themselves off of their reliance on Maimonides and Rif, providing budding scholars the necessary information that could help advance their Talmud studies by providing alternative rulings – *pesakim* – that utilize the Tosafot while still considering the differing opinions offered by Rif or Maimonides.¹³³

In terms of formulating a curriculum of study, the intention of *Piskei ha-Rosh* was to be a body of work studied after having already engaged in the Talmudic text and its glosses. As Galinsky writes, “students were first to engage in Talmud study along with Rosh’s *Tosafot*, and only subsequently to devote themselves to the study of the new ‘updated Rif’ – the *Piskei Harosh*, the summary of the laws that led from the Talmudic *sugya* to its practical conclusion.”¹³⁴

Elitzur, in her dissertation, discusses this seminal compendium further. She contends that most of the writing of this work was undertaken in Spain. Rosh wanted to give the Spanish students the important aspects of the Franco-Ashkenazi tradition of legal writings and adjudication.¹³⁵ Elitzur also discusses the debate in scholarship as to what the particular character of these writings was: Is it representative of a synthesis of Ashkenazi legal thought and Sephardic law, in an attempt to balance the two, or is it intended to provide the Spanish realm

¹³¹ Freimann, *Rosh*, 85.

¹³² *Ibid.*, 86.

¹³³ Judah Galinsky, “Ashkenazim in Sepharad: The Rosh and the Tur on the Codification of Jewish Law,” *The Jewish Law Annual*, 2006, pp. 3-23, 7.

¹³⁴ *Ibid.*, 11.

¹³⁵ Elitzur, *Responsa of Rosh*, 30-32.

with Ashkenazi rulings, which Rosh believed to be superior?¹³⁶ In her opinion, the major purpose of this work was to unite the legal literature of Ashkenaz with that of Sepharad, without showing any bias towards any particular tradition.¹³⁷ This echoes the contention of Friemann, who stated that the work “provided [Rosh] the privilege to unite the careful scholarly study of the Ashkenazi rabbis and the [casuistry] of the French Tosafists with the philosophical thought process of the Spanish sages.”¹³⁸ Zafrani, too, subscribes to this notion, believing that through this work Rosh aspired to bequeath the Jewish people a work of legal decisions accepted by all, unlike the one-sided works of his contemporaries Mordechai (written by Rabbi Mordechai ben Hillel, c.1250-1298, Germany; died in the Rindfleisch massacres) and *Hagahot Maimoniyot* (written by Rosh’s teacher, Maharam) that focused only on writings from Ashkenaz.

One final scholar shared this sentiment that Rosh intended his *pesakim* to unify the Ashkenazi and Sephardi realms of legal literature: Menachem Elon. He discusses how “he incorporated ... an almost complete summary of the discussion of the Tosafists and much of the doctrine of his own teacher, Maharam of Rothenburg, together with the rulings and interpretations of the *geonim* and early Spanish authorities, particularly Alfasi; and he declared the law in accordance with the opinion he believed correct.”¹³⁹

Whatever impetus one wishes to assign for writing *Piskei Ha-Rosh*, the nature of the work highlights Rosh’s liminality, existing on a border between Ashkenaz and Sepharad, and will receive further discussion later on in this dissertation.

¹³⁶ Ibid., 32.

¹³⁷ Freimann, *Rosh*, 158-159.

¹³⁸ Ibid.

¹³⁹ Menachem Elon, *Jewish Law: History, Sources, Principles* (Philadelphia: Jewish Publication Society, 1994), 1279.

Tosafot ha-Rosh

The term *Tosafot* describes a class of Ashkenazic commentaries on the Babylonian Talmud, produced in the twelfth and thirteenth centuries by scholars from Ashkenaz from the circles established by Rashi. It sometimes refers colloquially to one collection of such commentaries by medieval Ashkenazic rabbis. In this dissertation, *Tosafot ha-Rosh* should just be understood as Rosh's glosses on the Talmudic text.

In regard to *Tosafot ha-Rosh*, Galinsky writes that “Rosh took it upon himself to edit a set of authorized Tosafot, known as *Tosafot Harosh* or *Shita Larosh*, which also contained the opinions of his teacher R. Meir of Rothenburg, and those of the sages of Spain, Nahmanides and R. Meir Abulafia.”¹⁴⁰ Faur, in his work entitled *Tosafot ha-Rosh le-Masekhet Berakhot*, describes his understanding of the underlying goal of Rosh's work, to “on the one hand, create a definitive set of *Tosafot* that would be free of error ... and on the second hand, to include all of his new thoughts along with those he copied from others in order to have all opinions be present as one definitive text that would aid students of these texts tremendously.”¹⁴¹ Furthermore, Faur explains why Rosh undertook this project, and his explanation has particular relevance to this dissertation. He notes that Rosh “had one other reason for compiling this work. It was known that Rosh wanted to merge the insights of the sages of Ashkenaz with those of the sages of Spain ... Rosh believed that this work would be neither complete nor accepted by the learning community – at least the one in Spain – if the work did not combine the ideas of both regions.”¹⁴² Rosh certainly must have achieved success in his attempt to create a definitive work as his son

¹⁴⁰ Galinsky, “Ashkenazim in Sepharad,” 7. Rabbi Meir Abulafia (c.1170-1244) was a major Sephardic Talmud scholar and legislator.

¹⁴¹ Jose Faur, “Tosafot Ha-Rosh Le-Massekhet Berakhot,” *Proceedings of the American Academy for Jewish Research* 33 (1965): pp. 1-25 [Heb.], 25.

¹⁴² Ibid.

Judah notes to a colleague moving to Spain that “he [need not bring the (works of) *Tosafot*], since we only study the notes of my father, of blessed memory.”¹⁴³

Elitzur notes how Rosh compiled his *tosafot* in preparation for his move to Spain, and it was there that he completed his work.¹⁴⁴ While in Spain, Rosh intended to disseminate these writings, as his “main intention was to give into the hands of Sephardi scholars an organized set of *Tosafot* that were based on the writings of Rabbi Isaac ben Samuel (1115- c.1184), and to add this to the Talmudic learning of the Sephardic *yeshivot*.”¹⁴⁵ The *Tosafot of Rosh* will not receive significant attention in this dissertation, as the main role of that work was not to elucidate new ideas and bring innovations to the field, but rather to collate the opinions of the sages prior to him who he believed did significant work that needed replication, not replacement, occasionally amending the work with the writings of his teacher, Maharam.¹⁴⁶ As Urbach notes, “his *Tosafot* were not widespread, as he did not intend for them to create new thoughts, rather to expose students to the writings of those who wrote before him.”¹⁴⁷ Even though Rosh’s son Judah believed his father’s work had essentially replaced earlier versions of *Tosafot*, Jewish history judged differently, as Urbach points out.

¹⁴³ Faur José, *The Horizontal Society: Understanding the Covenant and Alphabetic Judaism* (Boston: Academic Studies Press, 2010), 368.

¹⁴⁴ Elitzur, *Responsa of Rosh*, 29.

¹⁴⁵ Ibid. Rabbi Isaac ben Samuel the Elder, known as Ri, was a well-known 12th century French *Tosafist*.

¹⁴⁶ Urbach, *The Tosafists*, 596-599. On p. 599 Urbach notes that the value of Rosh’s *Tosafot* extends beyond the *chiddushim* (i.e the novel ideas expressed by Rosh), and rather should be seen as a master work that unifies the ideas of the great sages before his time. Freimann, *Rosh*, 94-95, echoes these sentiments, highlighting that he reproduced material from *Tosafot Shantz* (a version of *Tosafot* collected by Rabbi Samson ben Avraham (c.1150-c.1230) of Sens, France; but also added from Maharam, Spanish authorities and his own.

¹⁴⁷ Urbach, *The Tosafists*, 586-7.

Rosh as a Figure on the Boundaries

This dissertation examines Rosh, in particular his unique life experiences, which rendered him a liminal figure. Each unique facet of his liminality will warrant a separate discussion, and the culmination of these analyses will sufficiently prove his unique status as a figure who existed along multiple borders. The two liminalities that will be looked at in the coming sections are :

- 1) Ashkenaz / Sepharad
- 2) Jewish culture / Christian culture

Ashkenaz / Sepharad: Intra-Jewish Liminality

A fascinating aspect of the life of Rosh is the fact that midway through his life, as a result of the persecution of the Jews in Ashkenaz, he moved to Spain, an area that in many ways differed from his place of origin. There were a few examples outlined above of how one can see this duality in play with regards to Rosh's curricular preferences as well as how he compiled his legal works. Further examples of this Ashkenazi/Sephardic dynamic will be discussed below.

Attitude towards Maimonides: Necessitating Legal Expertise

Renowned for his prowess in the realm of halakhic adjudication, Rosh spent most of his career dealing with issues of Jewish law, both in his original community in Ashkenaz and subsequently upon his arrival in Toledo. Rosh, entrenched in the world of halakha, took this realm very seriously and discussed it with great passion. He demanded rigorous study in order to qualify an individual as someone capable of ruling in cases of Jewish law. One can understand how desire for expertise would be a necessity for Rosh – a legist must be able to see all the angles when dealing with something as serious as Jewish law.

In regard to liminality, it has been argued in scholarship that Rosh adhered to a notably Ashkenazi doctrine, even after emigrating to Spain.¹⁴⁸ One example provided by scholars is his attitude towards the Torah study regimen recommended by the most highly respected Spanish-born rabbi, Maimonides. Rosh effectively says that Maimonides' regimen should not be followed.¹⁴⁹ Rosh seems to be displaying this attitude when he vehemently belittles "those who decide the law on the basis of the books and codes of the great ones, without knowing anything of the Mishnah and Talmud"¹⁵⁰ Elon believes that Rosh's reaction, which he considers one of the most severe reactions to Maimonidean codification methods penned by a medieval rabbi, had significant consequences.¹⁵¹

Rosh's belief that one cannot reach a correct legal decision without directly consulting Talmudic material is a common criticism that was lodged against Maimonides, who claimed that his *Mishneh Torah*, his legal code, could remove the need for talmudic study.¹⁵² Maimonides' position is stated in the introduction to his *Mishneh Torah*, where he famously writes that by studying his halakhic compendium, the reader will "know the oral Torah [Talmud], so that it will be unnecessary to read any other book in between [his code and the written Torah]."¹⁵³ In other words, it would be unnecessary to study the Talmud. Maimonides even goes so far as to say that spending too much time plumbing the depths of Talmudic dialectic is not a worthwhile pursuit.

¹⁴⁸ Although, not uniquely so. There were plenty of Sephardic scholars who took umbrage to Maimonides' flouting the need for the halakhic preamble.

¹⁴⁹ Yosef Kafih, trans. *Iggerot Le-Rabbenu Moshe Ben Maimon*. (Jerusalem, 1972) pp. 126, 134, 136. These letters to his student Joseph ben Judah summarize the Maimonidean position that one [especially average students] can ignore the casuistry of the Talmud and simply refer to Maimonides' compilatory writings.

¹⁵⁰ Galinsky, "Ashkenazim in Sepharad," 9, cites Rosh's responsum 43:12, which critiques this Maimonidean idea. A discussion on whether this can be seen as an Ashkenazi/Sephardi divide will follow later in this chapter, when looking at the liminality of Rosh.

¹⁵¹ Elon, *Jewish Law*, 1226. It still should be noted that Rosh held Maimonides in high esteem.

¹⁵² David Berger, "Judaism and General Culture in Medieval and Early Modern Times." In *Judaism's Encounter with Other Cultures: Rejection or Integration?*, edited by Jacob J. Schacter, (Lanham: Jason Aronson, 1997) p. 82.

¹⁵³ *Introduction to Mishneh Torah* mentioned in Berger, "Judaism and General Culture," 81.

In a letter to a student, Joseph ben Judah, he writes how “if you fritter away your time with commentaries and explanations of talmudic discussions ... time will be wasted and useful results will be diminished.”¹⁵⁴

Evidently Rosh is aware of these notions and felt the need to respond to them, insisting that these recommendations should not be followed. Rosh directly states how “prone to error are those who decide the law in accordance with the words of Maimonides, while not being knowledgeable about the Talmud or knowing the source of his words; they err and permit the prohibited and prohibit the permissible.”¹⁵⁵ This argument, which finds fault in the learning regimen preferred by Maimonides, can be seen as Ashkenazi in nature. According to Rosh, a major flaw in the Maimonidean approach is that individuals who might not be versed enough in Jewish law could rule in error basing their decisions solely on the *Mishneh Torah* or a similar summative legal work. Such errors in judgment do occur in reality according to Rosh, as he mentions in a few places.¹⁵⁶ Elon succinctly states this entire discussion when he writes that “according to [Rosh], the function of a halakhic code is not, as Maimonides thought, to be the sole work that needs to be consulted in determining the law and in rendering decisions; relying solely on such a book for these purposes is likely to lead to a misunderstanding of what has been written in categorical and monolithic form. According to Asheri [=Rosh], the aim of a codificatory work is not to be a self-sufficient source; it is rather to be used in connection with the Talmudic sources of the laws it seeks to summarize. Only by keeping close to the sources of a legal rule can one arrive at the true meaning of the rule stated in the code.”¹⁵⁷

¹⁵⁴ Kafih, *Iggerot*, 134.

¹⁵⁵ Rosh, Responsum 31:9 and is quoted in Galinsky, “Ashkenazim in Sepharad,” 10

¹⁵⁶ Elon, *Jewish Law*, 1227.

¹⁵⁷ Ibid., cf. Rosh, Responsum 94:5.

Legal Liminality: New Homeland, New Rulings

According to Ta-Shma, Rosh stayed true to many of his Ashkenazi customs and relied mainly on Ashkenazi scholarship when it came to his legal decisions. He writes that “for the last seventeen years of his long life, R. Asher lived in Spain acting as chief rabbinic authority for Toledan Jewry, and yet he only seldom mentions a Spanish halakhic authority. Nor does he frequently mention Nahmanides or even the Rashba, the great luminary who actually paved the way for his happy landing in Spain.”¹⁵⁸ Evidently, according to Ta-Shma, Rosh championed Ashkenazi Jewish legal thought almost exclusively. Ta-Shma builds further on this notion and he mentions that Rosh

frequently juxtaposed German customs and habits with those prevalent in Castile, always denying the latter any measure of religious credibility. It is obvious that his spiritual world always remained deeply rooted in German tradition and style and, as is well known, he was ready to fight hard at times for the abolition of Spanish customs that were alien to his German orientation and education; albeit on other occasions he would decide not to fight a hopeless war but rather to keep his own way and let others behave as they would.¹⁵⁹

As a final point attesting to Rosh’s proclivity for Ashkenazi custom despite moving to Spain, Ta-Shma writes that

¹⁵⁸ Ta-Shma, *Creativity and Tradition*, 114. Nahmanides (1194-1270) was a prolific Sephardic sage of the 13th century who authored a biblical commentary, among many other works in different realms. He was the Jewish representative in the Disputation of Barcelona as well. Rashba (1235-1310) was a well-known Spanish sage who was a student of Nahmanides and the leader of Spanish Jewry, specifically serving as the chief rabbi in Barcelona.

¹⁵⁹ Ibid., 116.

R. Asher always remained a German scholar ... and forever preferred the traditions of his German homeland to local Spanish halakhic lore ... but even whenever he failed in his efforts to impose German custom, he did not abandon it but privately kept it ... on such occasions he would plainly express his disregard for Spanish lore. On the other hand, he was ready to accept certain halakhic innovations that he was not used to in Germany ... [like] the surprising royal license to exact capital punishment, which was absolutely outside official German rabbinic practice and tradition.¹⁶⁰

Despite Ta-Shma's argument, it seems that Rosh cannot simply be said to have always adjudicated according to the Ashkenazi custom of his homeland. A closer look at all his writings actually shows that Rosh acquiesced to Spanish rulings in certain instances, yet held fast to Ashkenazi rulings at other times.¹⁶¹ This is indicative of a liminal figure – a character who straddles – and struggles with – a boundary between communities, finding themselves in an “in-between” state, at times leaning towards one realm, at times to another.

As opposed to Ta-Shma, Freimann and Zafrani are both scholars who note that Rosh should not be seen as solely wishing to impose his Ashkenazi rulings on the Sephardic community. Rather, they say, he desired to unite the Ashkenazi and Sephardic legal realms and to find a way to adjudicate on the basis of either tradition on a case-by-case basis. Freimann writes that the “supervisory role assigned to him was to have the opportunity to **unite** the caution of the Ashkenazi rabbis and the intensity of French Tosafists with the philosophic mode of thought of the Sephardim. In this manner he achieved his purpose of uniting the legal literature of Ashkenaz and Sepharad. Specifically in his Talmudic rulings the two schools existed together

¹⁶⁰ Ibid., 123-124.

¹⁶¹ Rosh's liminality vis-a-vis his Ashkenazi origins and eventual role as Sephardic legist will be examined later in this chapter.

and were utilized based on investigations of individual cases.”¹⁶² Concluding similarly, Zafrani does so by drawing from both the Responsa of Rosh as well as Piskei ha-Rosh. He discusses how Rosh only came to rulings based on the information at hand, and this leads to no discernible preference – he can be expected to rule equally according to either Sephardic or Ashkenazi custom on a case-by-case basis.¹⁶³

An examination of a selection of Rosh’s legal writings prove the theoretical model suggested by these latter scholars – that Rosh blends a combination of Ashkenazi and Sephardi legal opinions – to be correct. This reality helps undergird the notions of hybridity and border crossing explained in the previous chapter, and further highlights how one cannot exist at a border without being influenced by both sides. A well-known example of precisely this is found in a responsum of Rosh in regard to capital punishment. Note Rosh’s liminality in the example – he openly muses on the different outcomes these cases will have based on whether the case occurred in Spain or in his homeland of Ashkenaz.

Capital Punishment¹⁶⁴

*I was astounded to be asked about cases of capital punishment because in all the lands that I have heard about, there is no [Jewish] adjudication on capital crimes [since the Jews are forbidden from doing so], but this is only seen here in the land of Spain. I was quite shocked coming here, seeing how they adjudicated capital cases without the presence of the Sanhedrin, but they insist that it is done with the authority of the [local] monarchy. Also, the Jewish judges feel that their actions are saving lives, since they believe more blood would be spilled if the Arabs*¹⁶⁵

¹⁶² Freimann, *Rosh*, 157-159. Emphasis added.

¹⁶³ Zafrani, *Asheri’s Methodology*, 150.

¹⁶⁴ שו"ת הרא"ש כלל יז סימן ה

תשובה: ישאו רוב שלומים, הנעימים והתמימים הנחמדים והנכבדים. הפלאתם לשאלני בדיני נפשות; כי בכל הארצות ששמעתי עליהם, אין דנין דיני נפשות, לולי פה בארץ ספרד. ותמהתי מאד בבאי הלום, איך היו דנין דיני נפשות בלא סנהדרין, ואמרו לי כי הורמנא דמלכא הוא. וגם העדה שופטים להציל, כי כמה דמים היו נשפכים יותר אם היו נדונים ע"י הערבים, והנחתיה להם כמנהגם, אבל מעולם לא הסכמתי עמהם על איבוד נפש

¹⁶⁵ Arabs could be understood as Muslims, or perhaps a veiled reference to a Christian court.

*would adjudicate these cases. Therefore, I let their custom stand, but I never agreed with them on the taking of a life.*¹⁶⁶

This is a clear example of Rosh acceding to local Jewish custom that diverges from the practice in his land of origin. Rosh is coming from a community in Ashkenaz that believed it was impossible for a Jewish tribunal to rule on capital punishment cases as a result both of the fact that the Sanhedrin, the high court in the land of Israel 1300 years before Rosh, was defunct, but also because the government did not allow Jewish communities to do so. Nevertheless, upon immigrating to Spain and now serving as the community legist, he recognizes that it is permissible to rule in these cases based on communal custom. It is also interesting that there are two prongs to the custom that are evident. First, it is the custom of the Jewish community to rule in these cases, and hence Rosh adjusts to the wishes of the Jewish community. Additionally, however, it is interesting to note that by ruling in capital cases, the Jewish community was also mirroring the legal activities of the surrounding non-Jewish communities.¹⁶⁷ Nevertheless, Rosh writes that he, like many rabbis and judges throughout history, took steps to ensure that few if any litigants would face execution.

Purity of Birds

One sees further recognition of his liminal existence – and Rosh’s acceptance of this reality – in a responsum of his that deals with the topic of the kosher status of certain birds. Rosh writes as follows:

But know, that I wouldn’t eat birds which would be kosher according to local tradition because I still abide more on our tradition, and the tradition of our forefathers of blessed memory the sages of Ashkenaz, who received their

¹⁶⁶ When citing complicated halakhic texts from Rosh, I will provide a summary in English and/or a translation of the most critical passage. For those who read Hebrew, I provide the full Hebrew text in the notes.

¹⁶⁷ Yitzhak Baer, *A History of the Jews in Christian Spain*, vol. 1 (Philadelphia: Jewish Publication Society of America, 1961), 318.

*Torah traditions as an inheritance from their forefathers from the days of the destruction of the Temple, and on the traditions of our fathers and sages from France, more than the traditions of this country.*¹⁶⁸

Once again, simply yet clearly, Rosh is creating a clear demarcation between himself and his surrounding community. Although he has become a leader in Toledo, adjudicating for Jews throughout Spain, he still feels separate from them regarding their halakhic decisions. In fact, Rosh defers judgment to the other communal leaders of Spanish origins as a result of this, even though they approached him for his expertise. Here, therefore, is a clear example of Rosh's presence in two worlds, straddling the boundary between two Jewish communities. Although on Spanish soil, he still sees himself personally tied to his Ashkenazi traditions. Of course, echoing the notion that Rosh believes so strongly in adjudicating based on communal custom, we see just this as he enables ruling to be based on custom, not what he would believe would be the "correct" ruling based on his Ashkenazi tradition. In this case, a bird that is deemed kosher in Sephardic lands does not have the same status in Ashkenaz. He seems to rule that ancestral custom rules in this instance, existing in a state where two contradictory rulings can, in fact, be valid.

¹⁶⁸ שו"ת הרא"ש כלל כ סימן כ

שאלת: על החסידה... דע, כי בארצנו, ובספרד, אין אוכלין עוף המקנן על הבתים, ואומרים שהוא מעש' אפרוחים ומאכלו צפרדעים, ולועזין קורין אותו סיגוניא ואנו קורין לו חסידה; כך אנו מקובלין בארצנו. ומה נעשה למקומות שאוכלין אותו, הם יאמרו לך: עוף טהור נאכל במסורת, ואנו מקובלין שהוא טהור. אבל טוב לחקור אחר קבלתם, שמא אדם אחד סמך על חכמתו ובדק בסימניו והכשירו, ואין לסמוך על זה, כי שמא דורס הוא. ועוד, כי יש תשע עשרה מיני עופות טמאים שיש לכל אחד ג' סימני טהרה, ושני מיני עופות טמאים שיש לכל אחד ב' סימני טהרה; הילכך אין לסמוך על עופות על בדיקת סימני טהרה. וכן מצינו בחכמי התלמוד (חולין סב:), שהיו אוכלין עוף והיו סבורין שהוא טהור, כי מצאו לו סימני טהרה, ואחר כך אסרוהו; וכל שכן בדורות הללו, שאין לסמוך על בדיקת עופות. ודע, כי אני לא הייתי אוכל על פי המסורת שלהם, כי אני מחזיק את המסורת שלנו, וקבלת אבותינו ז"ל חכמי אשכנז, שהיתה התורה ירושה להם מאבותיהם מימות החרבן. וכן קבלת אבותינו רבותינו בצרפת, יותר מקבלת בני הארץ הזאת. והא דאמרינן (שם /חולין/ סג:): עוף טהור נאכל במסורת, היינו בעוף שאין אדם מכיר אותו, ואם יבא למקום שאוכלין אותו ויאמרו לו: מקובלין אנו שהוא טהור, יסמוך עליהם ויאכל עמהם. אבל בעוף המקובל מחכמי ישראל שהוא הפחותים מהם, טמא, לא יאכלנו על פי מסורת אחרים.

Another example of Rosh's liminal existence, straddling the borders of Ashkenaz and Sepharad, presents itself in regard to his shifting attitudes towards the realms of philosophy and astronomy. To make a generalization: The fields of philosophy and astronomy did not receive much respect in Ashkenaz, yet they were championed in Sepharad.¹⁶⁹ How this reality manifests itself in the writings of Rosh will be examined now.

Judah Galinsky writes extensively about this topic and provides a number of reasons that explain Rosh's distaste for philosophical pursuits:

1. The pagan origin of philosophic thought disqualifies it as a tool for understanding the Torah of Moses.
2. The premises and methodologies of rationalist thought are inherently different from those of the Torah and therefore cannot be used to interpret the latter.
3. The utilization of concepts and ideas borrowed from an incompatible source can only cause confusion in understanding the true nature of Torah.¹⁷⁰

Rosh initially holds a very negative, "Ashkenazi" opinion about this realm of study. As Galinsky notes, "his initial response and reaction is one we would expect from an Ashkenazic rabbi who had just had a serious encounter with a culture very different from his own."¹⁷¹ David Berger echoes this idea, stating that at first Rosh brought to Spain a "pejorative attitude toward the value of general culture ... the pursuit of such wisdom, he said, leads people away from the fear of God and encourages the vain attempt to integrate alien pursuits with Torah."¹⁷²

¹⁶⁹ For a discussion on Jews and science in the Middle Ages, see Tzvi Langermann, *The Jews and the Sciences in the Middle Ages* (Aldershot: Ashgate, 1999).

¹⁷⁰ Judah Galinsky, "An Ashkenazic Rabbi Encounters Sephardic Culture: R. Asher ben Jehiel's Attitude towards Philosophy and Science," *Jahrbuch des Simon-Dubnow-Instituts / Simon Dubnow Institute Yearbook* 8 (2009): pp. 191-211, 200-201.

¹⁷¹ Ibid., 204.

¹⁷² Berger, "Judaism and General Culture," 111.

A number of communications during this period further display Rosh's initial distaste for these topics. A selection of letters state Rosh's conclusion that "it is forbidden [to study philosophy and science], in this generation, for one's entire life."¹⁷³ The prohibition instituted by Rashba during the controversy about the rationalism of Maimonides recommends that the study of philosophy be avoided until one surpasses a specified age, and hence has reached a level of maturity that will not jeopardize one's faith in the wisdom of the Torah when exposed to foreign wisdom.¹⁷⁴ Rosh goes further and extends his distaste for philosophical sciences by stating that he prefers to forbid this field of study outright, even if one surpasses the 'necessary' age mentioned in the Barcelona Ban.¹⁷⁵

Although some study of philosophy might have been happening in Ashkenaz, it certainly was not common even among elite scholars, and Rosh is simply reflecting this attitude. The fascinating tension arises when Rosh migrates to Toledo. As Galinsky notes, "his anti-philosophical approach could hardly be acceptable in the cultural environment of southern France," or in Spain.¹⁷⁶

As a result of Rosh's recognition of the untenable nature of his position within his new environs, we see a small shift in his opinions; he eventually admits that under certain conditions, one is permitted to study foreign wisdom, even going so far as seeking out a teacher to help him

¹⁷³ Galinsky, "Ashkenazi Rabbi Encounters," 194-5.

¹⁷⁴ The ban of the Rashba has received a fair bit of attention in scholarship. In an effort to curb what was perceived to be too much focus on the study of philosophy, towards the end of his life Rashba wrote a ban – with support from the Tosafists of Northern France and other rabbis in Barcelona – to threaten excommunication for those who study physics or metaphysics (philosophy) before the age of 30. Cf. Freimann, *Rosh*, 31, Berger, "Judaism and General Culture," and Sarachek, Joseph. *Faith and Reason: The Conflict over the Rationalism of Maimonides*. New York: Hermon Pr., 1970.

¹⁷⁵ Freimann, *Rosh*, 40, citing from *Minhat Ken'aot*, Letter 99.

¹⁷⁶ Galinsky, "Ashkenazi Rabbi Encounters," 194-5.

with the study of astronomy.¹⁷⁷ Rosh, navigating cultural borders, recognized the need to adapt to his new surroundings. Galinsky writes that “it demonstrates Rosh’s willingness to endorse a public policy that was plainly at odds with his personal belief. Realizing that his personal position was not acceptable to Provencal society, he adjusted his public pronouncement to the needs of the local population.”¹⁷⁸ More significantly, this episode allows us to see the extent of his willingness to concede on the issue of studying wisdom, in order to preserve unity and peace in the Jewish community.”¹⁷⁹ In another article, Galinsky comments on the evolution of Rosh’s thinking. He writes that “his later response [to these topics] reveals the thought of a man who had reflected deeply about the issue and considered how to express his beliefs in a coherent manner, one that would be acceptable by individuals that did not have the same self-evident notions as his.” Rosh, by accepting the foreign customs and realms of study he now encounters after emigrating to Spain, once again displays his liminal existence, and acts as expected – he defers to local customs to some extent.

Further investigation outlines even more specifics regarding Rosh’s attitude, effectively positioning his eventual stance toward philosophy and astronomy as a middle ground. This balancing of contrary ideas is – to state once again – wholly representative of decisions made by liminal figures. Galinsky explains why a middle-ground position is more representative of Rosh when he writes that

while living in Germany, Rosh had given up ever gaining a true understanding [of astronomy] and contented himself with the traditional exegesis for understanding the

¹⁷⁷ Galinsky’s conclusion tempers this slightly, but nevertheless it is still a significant fact when discussing the liminal character of Rosh.

¹⁷⁸ Although Provence is a region in France, it is in the south, which is often associated with Sephardic values, in contradistinction to the North of France, which is a significant Ashkenazic centre and is considered more anti-philosophic and more oriented to legal writing.

¹⁷⁹ Ibid., 195.

words of the [Talmudic] sages [when they related to astronomical issues], without being able to judge critically their veracity and cogency. However upon his arrival in Spain, Rosh sought someone to teach him the elements of astronomy necessary to understand the various *halakhot* mentioned in the Talmud ... evidently Rosh [was] not interested in astronomy per se, but rather in acquiring a basic introduction to the astronomic principles required for Talmud study.¹⁸⁰

This balance, however, does not minimize the significance of Rosh's acceptance of some form of secular studies, such as astronomy and philosophy. True, Rosh was clearly concerned with halakhic application, as one would expect from an Ashkenazi scholar who never placed significant stock in the study of philosophy or astronomy per se. Regardless, what matters is how his opinion shifted. Freimann, too, contributes to this discussion, and writes how "originally called upon by Abba Mari to rule in a dilemma wherein the study of philosophy was being pitted against the study of Torah, Rosh recognized the need to rule according to a seeming middle-ground, despite his proclivities at the time."¹⁸¹ Freimann notes that Rosh recommended a solution which would return the primacy of learning into the realm of Torah, yet would not force the philosophically inclined to abandon their beloved realm of study.¹⁸² Again, this state of compromise remains representative of a liminal figure who is forced to exist in two, sometimes contrary, intellectual worlds.¹⁸³

¹⁸⁰ Ibid., 207.

¹⁸¹ Freimann, *Rosh*, 30-31. Rabbi Abba Mari ben Moses ben Joseph of Lunel (c.1250 - c.1306) was a Provencal rabbi and the author of *Minhat Ken'aot*. He was an opponent of intertwining rationalist/Maimonidean beliefs with Jewish thought and practice, especially regarding Jewish law. He sought the approbation of Rashba and Rosh in this initiative.

¹⁸² Ibid., n. 40.

¹⁸³ Ibid., n. 44.

Although Rosh made certain admissions regarding the utility of certain “foreign sciences” like philosophy and astronomy, he always insisted that Torah study is of paramount importance. In one of his responsa, he highlights precisely this point, and it encapsulates his liminal tensions. He writes:

*... and our Torah should not be like a frivolous conversation, as it is for you [Sephardic Jews who study] outside knowledge [i.e philosophy], that was rejected by all the wise people of the religion. It should not be used in the realm of Torah and mitzvot that were given by Moses, both as written and oral law. Already people have erroneously attempted to bring legal proofs from outside knowledge in the realm of Torah [, and this should not be done]. The Talmudic literature addresses the appeal of these outside sources of knowledge; they have the power to draw people in. Philosophical study will prevent people from accessing Torah, as you will always have your heart drawn to natural sciences, and one will begin to equate the two fields and attempt to bring proofs from one to the other. This is a problematic process that will lead to error, since they are oppositional to each other, and cannot be thought of in the same vein. Philosophical study and Torah study are not one path. The knowledge of Torah is drawn from the revelation at Sinai, and we use the appropriate traditional means to analyze this corpus, and **this cannot be through the natural sciences**. The science of philosophy is natural, and **great scholars** are found in this realm, but again this should be disassociated from Torah as they are drawn from two different sources - Torah from tradition and philosophy from natural observations...¹⁸⁴*

¹⁸⁴ (9: 55) ויש לי כל בסברא אמיתית של תורת משה רבינו ע"ה, ככל חכמי ספרד הנמצאים בימים האלה, ואף על פי שלא ידעתי מחכמה החיצונית שלכם, בריך רחמנא דשיזבן מינה, כי בא האות והמופת להדיח האדם מיראת השם ותורתו .

Here Rosh displays his liminal character by holding fast to an opinion reflecting his Ashkenazi origins, but also making statements which display some acquiescence to his new cultural surroundings. His Ashkenazi character is on full display when he declares with great certitude that the knowledge of Torah and philosophy lie in totally separate realms, with the Torah tradition clearly possessing an incomparable degree of sanctity for him. The realm of Torah draws its epistemological origins from a tradition that can be traced back to the revelation at Sinai, and this places it on a pedestal above all other realms of knowledge. His opening remarks speak with disdain to those who attempt to bridge philosophical sciences and Torah, an activity engaged in by many Sephardic thinkers, clearly showing that he is not invested in philosophy as a pursuit, and that he places it many rungs below Torah study.

This, however, is not the totality of the passage. Towards the end, his comments show a slightly more positive attitude towards philosophy, and I think it is safe to surmise that this concession, tacked onto the end of his response, is him showing a slight adjustment to his new environs, and is what would be expected of a liminal figure. Rosh still insists upon the separation that should exist between these two realms, yet he mentions that the scholars of the natural sciences are great thinkers in their own right, who have discovered valuable information. Zafrani agrees with this notion, stating that although Rosh insists on separating philosophy from Torah,

לא תהא תורה שלנו כשיחה בטלה שלכם, חכמת הגיונים, אשר הרחיקו כל חכמי הדת נביא ממנה, אות או מופת, לחייב ולזכות ולאסור ולהתיר. והלא חוצבי מקורה לא האמינו במשה, ובמשפטים ובחוקים צדיקים אשר נתנו על ידו, בכתב ובקבלה. ואיך שואבי מימיה יביאו ראיה מהם לחקים ומשפטים של משה רבינו עליו השלום, ולפסוק דינין במשלים שהורגלו בהם בחכמת הגיונים ועל זה אמר החכם: כל באיה לא ישובון, רוצה לומר: כל הבא ונכנס מתחלה בחכמה זו, לא יוכל לצאת ממנה להכנס בלבו חכמת התורה, כי לא יוכל לשוב מחכמה טבעית שהורגל בה, כי לבו תמיד נמשך אחריה. ומחמת זה לא ישיג לעמוד על חכמת התורה, שהיא ארחות חיים, כי יהיה לבו תמיד על חכמת הטבע, ותעלה ברוחו להשוות שתי החכמות יחד, ולהביא ראיה מזו לזו, ומתוך זה יעות המשפט; כי שני הפכים הם, צרות זו לזו, ולא ישכנו במקום אחד
כי חכמת הפילוסופיא וחכמת התורה והמשפטים אינן על דרך אחת. כי חכמת התורה היא קבלה למשה מסיני, והחכם ידרוש בה במדות שנתנה לידרש בהם, ומדמה מילתא למילתא; אף על פי שאין הדברים נמשכים אחר חכמת הטבע, אנו הולכין על פי הקבלה. אבל חכמת הפילוסופיא היא טבעית, וחכמים גדולים היו והעמידו כל דבר על טבעו, ומרוב חכמתם העמיקו שחתו והוצרכו לכפור בתורת משה, לפי שאין כל התורה טבעית, אלא קבלה.

“it is possible that philosophy on its own is not totally invalid (*pasul*/פסול) in his eyes ... if one adheres to certain boundaries, Rosh believes one is permitted to study it.”¹⁸⁵

We see that Rosh adjusts to his new surroundings, and shows further, as was discussed above, how he still remained Ashkenazi in his attitude, touting Torah study as the ultimate path.¹⁸⁶ The clear influence of his surroundings is evident upon him, leading him to quickly seek out a realm of study that was previously of little interest to him. In addition to this, as outlined above, he reformulated a specific belief of his based on the surrounding culture.¹⁸⁷

Through these discussions, one sees that Rosh is unusual when compared to many of his medieval contemporaries: He is an individual who formulated an identity caught between the Sephardic and Ashkenazic worlds and it is not simple to speak of his identity in monolithic terms. His liminal identity borrows from the worlds that he encountered during his lifetime, and the concessions and decisions he made reflect the need to have a fluid identity that navigates the boundaries of existence, both physical and mental.

As has been discussed in the theoretical section on boundary crossing and liminal living, there is a constant give-and-take between the host culture and the new inductee into the host culture. Rosh was in a synergistic relationship with Sephardi culture, both receiving from and giving to his new environs. In this scenario, Rosh occupies Bhabha's third space, the constructed space that forms when an individual exists in a hybrid state along a border. Each side of the border influences and shapes the individual, eventually creating a new state. In Rosh's instance, Bhabha would argue that he cannot be seen as either Ashkenazi or Sephardi. Rather, he would be

¹⁸⁵ Zafrani, *Asheri's Methodology*, 17-19.

¹⁸⁶ I believe that Galinsky downplays the significance of these realities, dismissing them as not being a major deviation from his original stance.

¹⁸⁷ Ibid.

assigned a newly created cultural persona that exists as an amalgamation of both sides, reflecting his existence in a liminal state.¹⁸⁸

In these examples, there is clear recognition from Rosh of the realia of separate Jewish communities with separate customs, and the need – as a liminal figure – to accept the disparate communal rulings as binding and valid. This, I believe, is reflective of what it means to be a successful liminal figure – when one can recognize one’s tradition along with that of a new culture – regardless of one’s practice – one can successfully transition to a new, foreign culture. It is even possible to surmise that Rosh found great success in Spain as a result of his ability to navigate this border. Spain was perhaps even more open to accepting his rulings and legal expertise as a result of his ability to recognize and live with the tensions between his homeland and his new Sephardic milieu.

Beyond the realm of intra-Jewish liminality, Rosh’s encounter with gentile culture by living in an intercultural milieu also yielded a liminal reality that will now be discussed.

Jewish Culture / Gentile Culture

Living in a majority non-Jewish society both during his time in Ashkenaz as well as his subsequent life in Spain, it is evident that he developed a familiarity with the majority culture. This, therefore, is another liminality – he had an aspect of his persona that intimately engaged with knowledge of gentile society. Rosh’s liminality is especially pronounced due to this position as a leader and legist in the Jewish community. As will be seen, I propose that the starkest reflection of his Jewish-gentile liminality comes from his apparent expertise in the realm of non-Jewish law. Certainly, this was an enterprise based entirely on his need to know this in order to

¹⁸⁸ Of course, the ideas of the other theorists beyond Bhabha mentioned in chapter two would apply here as well.

aid the Jewish community, but it is his existence at this cultural border that created the need to even engage in this discussion. Some examples of Rosh and his legal expertise follow.

Gentile Law

According to Freimann, after immigrating, Rosh quickly became an expert in the legal procedures of the gentiles in his new Toledan community. This seems appropriate for Rosh as Freimann also claims that before he moved, “R’ Asher was an expert in the legal system of the gentiles in Germany.”¹⁸⁹ This situation will be given further attention in a later chapter in this dissertation, analyzing the sociological reality it creates, but some textual examples will be cited here for the purposes of showing that Rosh indeed had a liminal existence of sorts regarding his Jewish community and the non-Jewish community. The passage we will consider reads:

*As you asked, when the treasurer comes to the synagogue, to impose a ban (herem) from the king, saying that anyone who knew that there is some [case] against a certain individual, must testify about it to the treasurer. The treasurer also sent after some specific people, requesting that they swear on a [holy] object, whether they know that the individual [who was being investigated] was promiscuous with a gentile, or another crime that incurs the death penalty according to their laws. Know that it is not good [for me] to respond about such matters, as the non-Jews might find out and say that masters of Torah allow Jews to go against their oaths.*¹⁹⁰

¹⁸⁹ Freimann, *Rosh*, 29 n. 27

¹⁹⁰ שו"ת הרא"ש כלל ח סימן י

ששאלת, שהגזבר בא לבית הכנסת להטיל חרם מצד המלך, כל מי שידוע שיש אותו דבר באותו פלוני, שיעיד לפני הגזבר. גם שולח אחר יחידים ומשביעם בנקיטת חפץ, אם יודעים לפלוני שבא על הכותית, או משאר דברים שחייבים עליהם מיתה בדיניהם. דע, אין טוב להשיב על דברים הללו, פן יבולע הדבר לכותים ויאמרו בעלי תורה התירו שיעבור על שבועתם;

In this passage, we see a simple formulation that suggests Rosh knew precisely how the Christian courts would adjudicate in a certain instance, knowing which infractions would “incur the death penalty according to their laws.” Rosh formulates a ruling based on this knowledge, warning his constituents to avoid acting in manners which would actively flout gentile law. His knowledge of said law leads to his ruling in this case. We see that Rosh understood the way that the two legal systems – Jewish and gentile – were intertwined, and which rules would be applied in what cases. This is not necessarily indicative of a deep knowledge and intimate connection to gentile culture, but nevertheless reflects the earnest engagement that was a reality of Rosh’s life.

Another example follows:

A certain Arab left a collateral with a Jew, on the condition that if he does not redeem it from the Jew after a certain time, the object would then belong to the Jew. [The condition also included that] he could then swear that he never possessed any object [that belonged to the Arab], because if he would say the truth [that the Arab had forfeited the item], he would be liable according to the laws of the gentiles. So, after the time has passed, is he permitted to swear that there was never anything [that belonged to the Arab] in his possession?

Response: Know that according to gentile law, a person [who wishes not to return collateral] has to swear that the testimony that he received the collateral is false. I do not permit him to offer such an oath [as it is a lie]. But if he could win the case by swearing, “I have nothing that belongs to him in my possession,” such an oath would be permitted

... [signed] Asher the son of Rabbi Jehiel, may the memory of the righteous be for a blessing.¹⁹¹

Here once again there is knowledge of gentile customs and legal rules, specifically warning against taking a false oath in gentile court that would enable the Jew to keep an object that Jewish law says belongs now to the Jew. Rosh notes that he is familiar with gentile law in this situation and is confident that a gentile court would not accept certain arguments of the Jewish litigant despite the fact that they would win the case in a Jewish court.

Jewish law permits a creditor and debtor to make a condition, as was made here, that if the debt is not repaid by a specific date, the debtor forfeits the collateral. Rosh understands the gentile law in force at this time as giving the creditor the right to repay the debt and get his collateral back even after the deadline. The only way the Jewish creditor will be able to keep the pledge, if the case is adjudicated in a gentile court, would be if he swore (falsely) that he had never received collateral from the debtor. Rosh seems certain that if the creditor – believing that, according to Jewish law, the pledge now belongs to him – simply swore, “I have nothing that belongs to him in my possession,” such an oath would not suffice for the gentile court. Only a false oath, that he never received collateral from the debtor, would win the case.

Again, Rosh shows that he is confident in his ability to know how gentile courts operate, and how a gentile judge would rule in a specific case. He says specifically that if the creditor would swear, “I have nothing that belongs to him in my possession,” the creditor would lose the

¹⁹¹ שו"ת הרא"ש כלל ח סימן טו

ערבי שמשכן משכון ליהודי, בתנאי שאם לא יפדנו לזמן פלוני, שיהיה שלו, ושיוכל להשבע שאין לו בידו כלום; כי אם יאמר האמת, יחייבוהו בדין הכותים; ועבר הזמן, אם יכול לישבע שאין בידו כלום?
דע, כי בדיני הכותים צריך לישבע להכחיש העד שלא משכן לו כלום; וזו השבועה איני מורה בה היתר. אבל אם יוכל להפטר במה שישבע: אין לו בידו משלו כלום, זו שבועה מותרת היא. . . . אשר בן ה"ר יחיאל זצ"ל

case in the gentile court. This knowledge can only arise through strong familiarity, and it is reasonable to suggest that Rosh had precisely that in regard to local gentile law, especially in the area of moneylending, a common Jewish line of work at the time.

The final example of Rosh's demonstration of knowledge of gentile law, reflecting his liminal character, is found in his responsum where his understanding of non-Jewish law actually leads to his providing a lenient ruling in a specific case in *halakha*.¹⁹²

Rosh discusses a case where a Jewish homeowner purchased a house from a non-Jew, a fact which has direct relevance to Rosh's ruling in the case. Rosh states that the Talmudic principle of *hezkat orah* does not apply in an instance where a Jew purchased a non-Jewish house. In tractate *Baba Batra*, the Talmud rules that a Jew is not allowed to add a second floor to his home if it would cast a shadow on his neighbour's home. Rosh states that this is a principle in Jewish law but not in non-Jewish law. Since gentiles do not have this principle in their legal system, Rosh rules that when a Jew purchases a home from a gentile, in a country where gentile law is enforced, the Jewish purchaser has acquired all rights that the previous gentile owner had in the property, including the right to add a floor and cast a shadow on his Jewish neighbour's home. Accordingly, Rosh rules that the new Jewish owner can add a second floor to his new home despite the fact that the addition will cast a shadow on the Jewish neighbour's home. Rosh

¹⁹² Rosh, responsum 18:14

טענת ראובן אינה טענה דאמרינן בפרק חזקת הבתים ישראל הבא מחמת גוי הרי הוא כגוי ואילו בעוד שהיה הבית של גוי אם הגוי רוצה לבנות בפני חלונו של ראובן לא היה ראובן יכול למחות עליו דבדיני גוים אינה חזקה לאורה אלא כך דיניהם שכל אחד פותח לרשות חברו וכשחברו רוצה סותם את אורו בבנין ואפילו החזיק בו כמה שנים ואפילו לקחו מאחר. כך נהגו הגוים בארצנו ואני סבור שכך מנהגם בכל המקומות שאין דין חזקת אורה בין הגוים. וכל כח וזכות שהיה לו לגוי זכה הישראל מן הגוי, ואין ראובן יכול למחות עליו

writes: “all the powers and rights that the gentile had are purchased by the Jew from the gentile in this instance.”¹⁹³ Rosh claims that this “is how the gentiles adjudicated in our land and I am under the impression that that is gentile law in all countries.”

Elitzur comments on this instance how beyond a knowledge of gentile law, Rosh is also displaying his Ashkenazi background. As Elitzur notes, “this is also proof that Rosh was well aware of the law in his environs, and where it stands when placed against the law in other locales ... We can be certain that this response was written during the time that Rosh was in Spain, as he talks about Ashkenaz in the past tense, saying that ‘this is how the nations adjudicated in our land.’”¹⁹⁴ This instance, therefore, shows liminality on two fronts – as a Jew in a gentile world (where Jews had to have knowledge of their legal principles) as well as a Jew occupying the space between Ashkenaz and Sepharad, a reality that displays the complicated nature of Jewish legalism between cultures.

In sum, one sees Rosh as a prodigious writer who had a significant influence on two Jewish communities in his lifetime. What makes this even more fascinating is that his tenures as a communal rabbi occurred in two cities in different cultural spheres – Ashkenaz and Sepharad. This navigation of cultural borders places Rosh in a unique position, fashioning him as a liminal figure who needed to balance two worlds with different approaches to the realm of Jewish scholarship. This chapter outlined the duality he encountered as a Jewish legist navigating two legal realms, Sephardic and gentile, that both differed greatly from the Ashkenazi system of his homeland. To exist in both of these worlds, Rosh needed to know how to navigate their legal systems to reach his full potential as a community leader. In the next chapters, however, a

¹⁹³ Rosh responsa 18:14, 15. The Talmudic reference of this principle is Baba Kama 8b.

¹⁹⁴ Elitzur, 246 --- note that still not in line with Tosafot, so obviously there is intra-regional variation, as we all know.

different form of duality will be examined. Extending beyond non-Jews and their legal systems, Rosh also formulated attitudes towards non-Jews as a whole. Precisely how Rosh feels about this community of “others” amongst whom his Jewish communities in Ashkenaz and Sepharad lived will be the topic of examination in the next two chapters. In this exploration, a duality of collision/conversation vis-à-vis this community of “others” will be established, lending further credence to the portrayal of Rosh as a liminal figure.

Chapter 4

We have now seen the two types of hybridity in Rosh's life: Ashkenaz/Sepharad and Jew/gentile. The previous chapter mainly explored the Jew/gentile hybridity through the lens of the gentile legal system. Starting in this chapter, the rest of the dissertation will further explore that second hybridity, looking at the positive and negative forms of interaction between Jews and non-Jews, or the ways in which the Jewish community related to the community of others that surrounded it. This analysis will be undertaken through the works of Rosh.

Introduction to 'Collision'

The relationship between Jews and their neighbours in the Middle Ages oscillates between the poles of conversation and collision. At times it was tenuous, other times, amicable. This chapter begins an in-depth exploration of this notion through the vantage point of Rosh, focusing first on the realm of 'collision.'

Collision in Medieval Commentaries

The collision aspect of the Jewish-Christian encounter, once the prevailing lens through which scholars observed the Jewish Middle Ages, has only recently undergone significant revision. The shift in recent years, as this dissertation has noted previously, has been to move away from solely focusing on the negative encounters, and instead to focus as well on positive encounters that also were characteristic of the Jewish experience during this era.

Despite this shift in the scholarly approach, to say there were no instances of conflict between Jews and Christians would be disingenuous. As a matter of fact, one can easily pinpoint

many “collisions” throughout the entirety of the Middle Ages, as no period or geographic region was ever wholly devoid of intercommunal strife between Jews and Christians. The need to identify instances where negative encounters occur still remains a task for historians even in our times.¹⁹⁵ The encounters spill into many realms – literature, art, religious texts, political initiatives and more.¹⁹⁶

In these discussions, I will refrain from focusing too strongly on all the examples of ‘collision,’ as it could lead to almost unlimited instances suggestive of a conflict. One could say that any papal bull that is suggestive of anti-Jewish attitude is indicative of a collision, or perhaps any monarchial decree that impedes Jewish life would fall into the same category. The options are plentiful. It is for this reason that this dissertation will focus upon one specific collision that is rooted solely in Jewish literature – theological argumentation against Christians. Of course, a complete examination of medieval Jewish theological polemics would also pose too broad of a topic. There were many forms of anti-Christian Jewish polemics that arose throughout the Middle Ages, but this dissertation will focus specifically on the comments found in Jewish Bible commentaries. The major primary source analysis of this chapter will focus only on the “collision” that occurred in one specific Torah commentary that was written by Rosh.

¹⁹⁵ That said, we can now parse these collisions further – the focus should be less on evaluating events on a good/bad binary and more on placing emphasis on the theological and sociological underpinnings of particular events and their associated primary sources. As an example: Are negative comments about Christians indicative of hatred between communities, or are they perhaps more reflective of the type of primary source being analyzed – a Biblical commentary that is likely to have these negative comments based more on the genre as opposed to actual realia? Beyond this, can we safely say that perceived negative collisions are always inherently “bad”? For example, comments in Jewish sources that disparage sages of other religions based on conversations they had with them still indicate that a conversation was taking place, something which at the very least indicates a relationship. Nuances that can be unlocked by close readings of text have become common in more recent scholarship on this topic, and these practices will continue to be discussed throughout this chapter.

¹⁹⁶ I recognize that texts today could include art, ritual objects, etc. This, however, will focus on the most basic and traditional understanding of texts – the written words compiled into “book” form.

Geographic proximity also plays a major role in understanding polemical interactions. Authors finding themselves in Muslim surroundings could speak openly and freely against Christianity, and vice versa.

This phenomenon is noted by Lasker who, when writing about the early Middle Ages, comments that

it was under Islam that the first Jewish anti-Christian polemical treatises were composed, and most non-polemical Jewish theological and exegetical works included arguments against Christian doctrines. Indeed, one could argue that many of the basic lines of Jewish argumentation against Christianity were already almost fully developed in Islamic countries, having been influenced in some cases by Islam. When Jews in Christian Europe began to compose their own- anti-Christian tracts, either on the offensive against Christianity or in defense of Judaism from attack, they could look to the models which had already been developed in the Islamicate.¹⁹⁷

Lasker notes that the developments in polemics against Christianity were initiated by Jews living under Islam and “by the time Jews in Christian countries began to polemicize in earnest against Christianity, most of the elements of their arguments were already in place ... Islamic countries [were first to offer] a limited, but apt, response to the doctrines of Christianity.”¹⁹⁸ Clearly, geography and temporality also play a significant role and deserve attention in our analysis, further highlighting the need for nuance and critical exploration.

Focusing specifically on Rosh’s remarks, one sees use of unflattering terminology when discussing the “others,” both those contemporaneous with Rosh as well as in the annals of Jewish

¹⁹⁷Daniel J. Lasker, *Jewish Philosophical Polemics against Christianity in the Middle Ages* (Oxford: Littman Library of Jewish Civilization, 2007), xix. Cf. Lasker, Daniel. “The Jewish Critique of Christianity under Islam in the Middle Ages,” *Proceedings of the American Academy for Jewish Research* 57 (1991): 121–53.

¹⁹⁸Lasker, “The Jewish Critique,” 17.

history – gentiles of both past and present. As will be shown, Rosh even makes direct reference to Christianity, the primary “other” with which he had the most direct contact.

Like any conflict, there are two sides in dialogue with each other. In this instance, due to the constraints of this dissertation, we will examine it in a unidirectional fashion – the attitudes of the Jewish community, and eventually specifically those of Rosh, towards the Christian community.¹⁹⁹ This dissertation does not seek to draw broad conclusions about medieval Jewish attitudes to Christianity – all we are analyzing are the negative attitudes presented by Rosh in his Torah commentary and attempting to contextualize and understand them based on his life. Extrapolating these findings and suggesting that they reflect broad Jewish attitudes towards Christianity during this period will be avoided.

There are many Bible commentaries written by Jewish authors that contain negative comments about Christians or about Christian teachings and interpretations, either explicitly or in a veiled manner.²⁰⁰ There also are, of course, commentaries that do not contain any anti-Christian sentiment. After a general discussion about these sources, the commentary of Rosh will be discussed within this broader category. The commentary of Rosh is especially relevant to the conversation since it has received minimal attention in the academy up until this point and can therefore provide scholars with a new source to scrutinize. The four categories that will be explored in this realm of polemics are: 1) defending Judaism against Christological readings of

¹⁹⁹ Of course, there exists an impressive body of scholarship that focuses on Christian-directed clashes against the Jewish populace. For an overview, see Williams, A. Lukyn. *Adversus Judaeos: a Bird's Eye View of Christian Apologiae until the Renaissance* (London: Cambridge Univ. Press, 2012). The various contours of this – arising from the various realms of society expressed through multiple streams of cultural expression – mirror the variegated Jewish ‘collision initiatives’ of which one will be the central focus here.

²⁰⁰ Regarding veiled comments, scholars have discussed these references in an effort to understand precisely how “anti-Christian” these comments should be perceived, if at all. This will be discussed shortly.

the Hebrew Bible, 2) defending Jews against claims that they are immoral, 3) attacking Christians outright, and 4) anti-Christian eschatology.

It is a task of scholars to parse which Bible commentaries indeed contain negative sentiment towards Christians, and which are not attempting to take an anti-Christian stance. In an article discussing the Jewish-Christian encounter in Jewish Bible commentaries in the Middle Ages, Shaye Cohen notes that there is a range of scholarly opinion about the interplay of polemics and exegesis in medieval Jewish Bible commentaries.²⁰¹ Cohen focuses specifically on the works of Rashi (1040-1105), Rashbam (c. 1080- c.1160) and Bekhor Shor (c.1140 - ?). Scholarly opinions range between the belief that polemic against Christianity was a central feature of these commentaries and the belief that it just one of many factors that underlie these Bible commentaries. Cohen argues that of the three scholars, Rashi's commentary on the Torah in fact does not have any polemical undertones, whereas the other two do. The other two commentaries, then, serve as the foundational texts for understanding how a medieval Ashkenazic commentary on the Bible might adopt anti-Christian attitudes.²⁰² After examining some examples from these paradigmatic commentaries, Rosh's work will then be mined in a similar fashion for an anti-Christian attitude.

Cohen notes that "Rashbam explicitly rejects christological exegesis of Scripture, and Bekhor Shor explicitly rejects not only christological exegesis but also some of the core tenets of

²⁰¹ Shaye J.D. Cohen, "Does Rashi's Torah Commentary Respond to Christianity? A Comparison of Rashi with Rashbam and Bekhor Shor" in *The Idea of Biblical Interpretation: Essays in Honor of James L. Kugel*, edited by Hindy Najman and Judith H. Newman (Atlanta: Society of Biblical Literature, 2008), 449-72.

²⁰² There are scholars who argue that Rashi did indeed have polemical intentions. See Avraham Grossman, *Rashi*, trans. Joel A. Linsider (Portland, OR: The Littman Library of Jewish Civilization, 2016), 101-106. Grossman states on p. 101 that "It is generally agreed that there are clear references to [Jewish-Christian] polemic in Rashi's comments on the Song of Songs, Psalms, Isaiah, and the Twelve Prophets. As for the commentary on the Torah, some believe it contains no such references, but I cannot agree with them."

Christianity such as the Trinity and the Virgin Birth. These explicit and unambiguous passages allow us to see the anti-Christian intent of many additional passages that otherwise lack any signs of polemic.”²⁰³ Essentially, Cohen discusses how these biblical scholars continue a tradition of Jewish polemics against central tenets of Christianity in their commentaries. These ideas are not found solely in works specifically written for polemical purposes.

The first example Cohen provides of this is a form of “passive polemic via historical exegesis,” where a passage that Christians traditionally read as containing Christological and messianic ideas is explained by Bekhor Shor and Rashbam as actually having a non-messianic interpretation.²⁰⁴ A passage commonly utilized in this way, Genesis 49:10, describes how “the sceptre shall not depart from Judah, nor the ruler’s staff from between his feet, as long as men come to Shiloh; and unto him shall the obedience of the peoples be.”²⁰⁵

In his Psalms commentary Rashi, too, offers non-messianic interpretations of passages that Christians see as messianic, but Cohen notes that he never does this in his Torah commentary. In fact, Rashi, similar to standard Christian understanding, reads that same passage, Gen 49:10, as dealing with messianic times, even though Bekhor Shor and Rashbam felt that Jews should interpret it non-messianically. David Malkiel also notes that anti-Christian interpretations could regularly be found in the Bible commentary of Rashbam, further bolstering this notion. Malkiel writes that “an anti-Christian polemical strain can be discerned in the interpretations offered by the Jewish literalists of France ... at times the anti-Christian element is

²⁰³ Cohen, “Does Rashi’s Torah Commentary,” 451.

²⁰⁴ It should be noted that this opinion, which obviously contradicts the Christological reading, happens to also contradict some Midrashic interpretations that also give support to a messianic reading.

²⁰⁵ Genesis 49:10, according to Christian understanding, refers to a messianic figure whose coming will end the line of Jewish kings – “the sceptre shall not depart from Judah, until Shiloh [understood as the messiah] comes.”

concealed, whereas at other times sallies are overtly directed at the *minim*, namely, the Christians.”²⁰⁶ More direct examples from these exegetes that highlight the categories above will now be examined.

a) Defending Judaism against Christological readings of the Bible, e.g. comments on Isaiah 53

One characteristic of Jewish polemic in the Middle Ages against Christianity is the need to defend Judaism from Christological readings of the Bible, where Christians claim that prefigurations of the life of Jesus are found in the Jewish canon. During the Middle Ages, Christological (allegorical/typological) readings of the Bible (“Old Testament” in the Christian understanding) served as fundamental theological arguments that verified Christianity’s supersession over Judaism. One popular text that Christians read this way would be the so-called Suffering Servant passages of Isaiah 53.²⁰⁷

The definitive Ashkenazi source on this topic would be the *Sefer Nizzahon ha-Yashan* (SNY).²⁰⁸ In the section on Isaiah, the SNY speaks disparagingly of the Christian attempt to read Jesus into these passages. The author of SNY, seemingly versed in Christian exegesis

²⁰⁶ Malkiel, *Reconstructing Ashkenaz*, 225.

²⁰⁷ The Servant Songs are found in the Book of Isaiah; Isaiah 42:1-4, 49:1-6, 50:4-7 and 52:13-53:12. The last passage in Isaiah 52 and continuing into Isaiah 53 contain the Suffering Servant passages, which are important for Christological interpretations of the Bible in Christianity. Passages like Isaiah 53:12 (“For he exposed himself to death and was numbered among the sinners, whereas he bore the guilt of the many and made intercession for sinners”) has important theological implications.

²⁰⁸ Berger, David. *The Jewish-Christian Debate in the High Middle Ages: A Critical Edition of the Nizzahon Vetus, with an Introduction, Translation, and Commentary*. Philadelphia: Jewish Publication Society of America, 1979. The *Sefer Nizzahon ha-Yashan* commonly translated as “The Old Book of Victory” (although, David Berger believes that “The Old Book of Polemic” would be a more accurate translation), is a polemical work that originated in Ashkenaz during the late 13th century. The author is unknown, although likely it was an Ashkenazi Jew. David Berger, who edited the critical edition of the work and is a leading expert in the field of Jewish-Christian polemics, describes the work as “almost encyclopedic ... an excellent vehicle for an analysis of virtually all the central issues in the Jewish-Christian debate during the twelfth and thirteenth centuries.”

surrounding this passage, points to the descriptions of suffering as in fact disproving the parallel between Jesus and this figure, turning the entire argument on its head. Taking passages such as “surely he has borne our griefs” [Isa. 53:4] and “but he was wounded for our transgressions, bruised for our iniquities” [Isa. 53:5], the author attempts to show that if “our” refers to the Christians, this would be an erroneous reading, as the sin which Jesus accepted death for, according to Christian belief, is the original sin of Adam and Eve. The reading, therefore, suggests that this is not referring to Jesus.²⁰⁹

Another example of an argument is found in the SNY’s analysis of Isaiah 62:2-3; “And the nations shall see your righteousness, and all kings your glory ... and a royal diadem in the hand of your God.” The author states that Christians interpret this as a direct reference to Jesus, which the SNY’s author believes to be unfounded. He believes that the clause “in the hand of your God” implies that this individual has no specific divinity, rather is no different than other men. If one interprets Jesus as the figure in this passage, the implication is simply that he is not a divine figure, rather just an ordinary human.

Furthermore, the author of SNY claims that the classical Christian reading of these passages would exempt Christians from basic morality. The author claims that the clemency that Christians say arises from the suffering of Jesus serves in their theology as *carte blanche* forgiveness for them. This, argues the author of the SNY, shows that the coming of Jesus was in fact detrimental to the world.²¹⁰

Jewish responses to the Suffering Servant Passages in Isaiah were not unique to the SNY. Many other Jewish commentators on this passage also engaged in a polemic with Christianity via

²⁰⁹ The editor of the SNY, David Berger, notes how this argument has a clearer formulation in Joseph ben Nathan Official, *Sefer Yosef HaMeqanne*, ed. J. Rosenthal (Jerusalem: Mekitzei Nirdamim, 1970).

²¹⁰ Berger, *The Jewish-Christian Debate*, 115-116.

hermeneutics. An example of a response with potentially polemical undertones is found in Rashi's commentaries on both the Bible and the Talmud (Sanhedrin 98a) where he addresses the issue.²¹¹ Rashi insists that the "suffering servant" represents the Jewish people and their hardships, not the messiah, and certainly not Jesus. Rashi describes how the ills of the world fell upon Israel, a description that Rembaum believes "refutes the Christian claim that Jesus was the servant of God and comfort[s] Jewish readers with the knowledge that the Jews' suffering served a sacred function."²¹² This stream of thought resonated with Jewish thinkers in the Middle Ages, as Rembaum lists thirty-one exegetes who "follow Rashi's lead in defining the Suffering Servant as the Jewish people suffering in exile."²¹³

A full exploration of Jewish-Christian philosophical polemics where Judaism denies Christological interpretations of the Bible lies beyond the scope of this dissertation.²¹⁴ But one other form of polemic found in Jewish Bible commentaries should be mentioned here. David Berger's discussion in two appendices in his critical edition of the SNY helps focus our attention. In Appendix 1, Berger addresses the use of the plural reference to God in the Hebrew word "*elohim*," which Christians often saw as proof that the Hebrew Bible hints at the multiple persons of the trinity. This topic is already addressed in the Jerusalem Talmud and reverberates through the centuries.²¹⁵ Appendix 4 of Berger's book centres on Christian exegesis of Genesis 18, where "the essence of the Christian argument ... is that the three men who appeared to Abraham in Genesis 18:2 constituted a theophany and that they were the concrete manifestation

²¹¹ Elliott Horowitz, "Isaiah's Suffering Servant and the Jews: From the Nineteenth Century to the Ninth," in *New Perspectives on Jewish-Christian Relations: in Honor of David Berger*, ed. Jacob J. Schacter and Elisheva Carlebach (Leiden: Brill, 2012), pp. 419-436, 423-426.

²¹² Joel E. Rembaum, "The Development of a Jewish Exegetical Tradition Regarding Isaiah 53," *Harvard Theological Review* 75, no. 3 (1982): pp. 289-311, 296.

²¹³ *Ibid.*, 300-301.

²¹⁴ For the most complete treatment of this subject, see Lasker, *Jewish Philosophical Polemics*.

²¹⁵ Berger, *The Jewish-Christian Debate*, Appendix 1.

of the God who appeared in verse 1 ... [a passage] almost tailor-made for a trinitarian exegesis.”²¹⁶ Berger discusses the common readings of the trinity into the Jewish Bible by Christian scholars and the ways in which Jewish Bible exegetes attempted to refute these claims. One famous example is Bekhor Shor’s comment on Deuteronomy 6:4, the *Shema* prayer. Bekhor Shor mocks those Christians who interpreted the passage in a Trinitarian manner (by insisting that “The Lord, Our God, The Lord is one” is a direct reference to the Trinity). To this, *Bekhor Shor* responds by saying that this passage explicitly and unambiguously labels the God of Israel as the sole divine power.

Shaye Cohen provides another example of a direct response to the Christian doctrine of the Trinity in Bekhor Shor’s comment to Genesis 1:26, with specific reference to the phrase “*Let us make man ... in our image, after our likeness.*” Bekhor Shor defends the use of the plural in this sentence, since it understandably could be used as a proof for the multiplicity of the Godhead, thereby agreeing with Christian Trinitarian dogma. Bekhor Shor writes explicitly what a Jew should say to a “Christian [who] says to you that this use of the plural form refers to the Trinity,” giving many syntactical arguments to prove that this statement is fully in line with Jewish tradition, which believes in an indivisible God. He concludes the comment with an openly antagonistic remark. He writes that “one should respond to their [Christians’] foolishness, their claim that Scripture employs a plural form [to hint at] the Trinity, by blunting their teeth [and refuting]: ‘if you agree that the three of them are equal, and of one mind, and all share in one power, why is it necessary for one [aspect] to say to the other “let us make man” as if to inform or invite [the other]? Would it not have been the intention of all of them? Why did one [aspect] presume to invite the others?’ The verse says, ‘God said [singular verb], Let us make

²¹⁶ Ibid., Appendix 4, p.363.

man', [the] meaning [being] that one invites the other. If this is the case, they are not of one mind and according to their [Christian] claims, the text should have said, 'And they said [plural verb], Let us make man,' which would imply that each of them said it together with one thought. Their [the Christians'] words prove to be vain and empty."²¹⁷

Bekhor Shor speaks further on the topic of the Trinity as a false doctrine in his comment on Genesis 19:1, responding to the Christian attempt to read the Trinity into the three angels [men] who appear to Abraham in Genesis 18:1-2. The presence of these three divine beings commonly led Christians to understand it as the three aspects of the Trinity approaching Abraham. In response to this, *Bekhor Shor* cites the passage (Gen 19:1) in which two angels appear to Lot, saying that "from this verse one can refute the *minim* who believe that these three men represent the Trinity. One can refute them by asking where the third one is. Furthermore, it says 'God sent us to destroy' – so which aspect sent? Are they not equal, and hence one cannot command the others?" Bekhor Shor is attempting to use his hermeneutical skills and close textual readings to dismiss the interpretations offered by Christian scholars.

This topic, reading the Trinity or the multiplicity of God into Jewish texts, remained a hallmark of Christian interpretation in the Middle Ages (and beyond) and fueled a significant amount of Jewish polemic. One such example, brought by Rosh, will be discussed later in this chapter.

²¹⁷ Bekhor Shor, Joseph. *Perushei Rabbi Joseph Bekhor Shor 'Al Ha-Torah*. Edited by Yehoshafat Nevo (Jerusalem: Mossad ha-Rav Kook, 1994), 5-6 [Heb.].

b) Defending Jews against claims that Jews are or have always been immoral, e.g.

Rashbam on Exodus 3

Another category of Christian polemic that Jewish authors needed to defend against was the notion that Jews universally and throughout history have been immoral individuals. One commentator, Rashbam, provides a classic example of this polemic in his commentary to Exodus 3:22.²¹⁸ In this passage, God promises that the Egyptians will provide the Israelites with gifts before they depart Egypt. God encourages the people to ask for, or perhaps to borrow, these gifts, the Torah telling us in verse 21 that God would make the Egyptians favourably disposed towards the Israelites so that they would not refuse such requests. According to Rashbam, the verb שאל in the same sense as here occurs also in Psalms 2:8 שאל ממני ואתנה גוים נחלתך, “Ask it of me, and I will make the nations your domain.” This, Rashbam writes, is the principal meaning of the verse and it effectively silences the heretics who speak of the Jews borrowing and not giving back these trinkets. Accordingly, Rashbam insists that the original giving of the objects was “a full and total gift.”²¹⁹

Martin Lockshin states that this comment is a conscious effort on the part of Rashbam to defend the behaviour of the Jews in this biblical story. In his comment, Rashbam explains that Jews did not borrow these objects from the Egyptians; they asked for them as outright gifts. Since the Jews never suggested that they would return the objects that were given to them by the non-Jews (and there was no reason to, as they were gifts), the Jews were not guilty of deceit or theft, as many Christians claimed. This comment extends beyond being a justification of the

²¹⁸ ושאלה אשה משכנתה - במתנה גמורה וחלוטה. שהרי כתוב: ונתתי את חן העם - כמו: שאל ממני ואתנה נחלתך. זהו עיקר פשוטו ותשובה למינים

²¹⁹ Martin Lockshin. *Perush Ha-Torah Le-Rabbenu Shmuel Ben Meir* (Jerusalem: Horeb, 2009), 182 [Heb.].

actions of the Israelites of the Bible. It is a response to claims made by “heretics” – Christians in this case – who accuse Jews of borrowing objects and not returning them, in contemporary times. Rashbam, therefore, takes it upon himself to show that the understanding of the text is in fact one which shows that the Jews were acting morally. Rashbam, too, would necessarily extrapolate this notion to his contemporary situation, and claim that Christian claims are unfounded and that one should not consider immorality an inherently Jewish trait.²²⁰

c) Attacking Christians e.g. Bekhor Shor on Deuteronomy 18:15

The previous two categories have involved Jews taking a defensive stance. But at times Jews also went on the offensive in their Bible commentaries. Of all the medieval exegetes in Ashkenaz, *Bekhor Shor* is noted for his openly vituperative comments against Christianity and its doctrines. Overall, it is the category of allegory in the Bible that irks *Bekhor Shor* to the largest degree, and it is on this topic that many of his attacks against Christianity are based. It is in particular in regard to the allegorization of Jewish law and doctrine – a trend common amongst Christian thinkers – that undergirds some of his better known anti-Christian comments.²²¹

Bekhor Shor provides other criticisms of Christianity, specifically in the realm of theology. In his commentary on Deuteronomy 18:15, Bekhor Shor speaks his mind about the alleged divine origins of Jesus, effectively attacking an essential claim of Christians on an understandably sensitive topic. He writes that the Bible demands that a prophet be: “of proper lineage, with a father and a mother, and not that his mother conceived in an illicit manner. The

²²⁰ See the introduction to David Berger’s edition of *Sefer Nizzahon ha-Yashan* for a discussion surrounding the idea of Jewish morality and polemics in the Middle Ages.

²²¹ Berger, *The Jewish-Christian Debate*, Appendix 3, has a discussion of “Law as Allegory.” One example can be found in Galatians 5:2, where Paul takes an anti-circumcision stance, understanding the requirement to be allegorical.

text teaches us that God would cause his Presence to rest only upon the families of Israel that have proper lineage.”²²²

In this passage, Bekhor Shor is making a clear reference to Jesus, insisting that he could be considered a legitimate “king” only if he was born from a “proper” marriage that provides a “proper” lineage. Basing Jesus’ lineage on the claims of *Toledot Yeshu*, which argues that Jesus was conceived through illicit sexual activities, Bekhor Shor argues that the kingship of Jesus is impossible.²²³

SNY’s outspoken criticism of Christianity is a hallmark of this work. One form of attack it employs is similar to Bekhor Shor’s comment on Jesus’ lineage. Many passages in SNY call Jesus’ divinity into question and openly mock his status amongst Christians as a messianic and divine figure. One passage, which interestingly shows the breadth of knowledge of the SNY’s author in regard to Christian dogma, tradition and culture, is #229, which states that “You can also refute the heretic by asking him how he can say that one who was born was divine. After all, no one born from a woman can be without sin, as David said, ‘Indeed I was born with iniquity; with sin my mother conceived me’ [Ps. 51:7].”²²⁴ The author of SNY in a sense shows off by quoting that verse from Psalms in Latin in his Hebrew book, as if to say that even Christians who

²²² Commentary to Deut 18:15

מקרבך מאחיד כמוני. מיוחס, מאב ואם, ולא שאמו משתקתו מפני שבא דרך זימה (להזיהום) [להזהירם] שאין הקב"ה משרה שכינתו אלא על המשפחות המיוחסות שבישראל [קדושין ע, סע"ב]:

²²³ Berger, *The Jewish-Christian Debate*, 76. *Sefer Toledot Yeshu* (in English: *The Book of the Life [Generations/Lineage] of Jesus*) is a scurrilous biographical account of Jesus’ life, written by a Jewish author from a marked anti-Christian perspective. The work began as a collection of oral, folkloric tales, until its eventual collation into literary form. Due to its oral nature, there is no consensus on the exact dating of the work, yet early anti-Jesus narratives were known to be circulating in the Jewish community during Late Antiquity. The work describes Jesus as having an illegitimate birth, disgraceful death, and overall engaging in heretical activities. For a scholarly critical edition, see Peter Schafer, and Michael Meerson, eds. transl. *Toledot Yeshu: The Life Story of Jesus: Two Volumes and Database* (Tübingen: Mohr Siebeck, 2014).

²²⁴ All biblical translations are taken from the Jewish Publication Society (JPS) translation. The specific Bible used is Adele Berlin and Marc Z. Brettler, eds., *The Jewish Study Bible* (Oxford: Oxford University Press, 2014).

can't read Hebrew should be able to understand this idea.²²⁵ This is but one passage of many that demonstrate disdain towards Jesus; in this particular instance, his divinity is called into question. This theme is common in medieval Jewish polemical literature.

There is one further category that will be discussed that helps round out the introductory picture of Jewish-Christian polemics in the Middle Ages, the notion of the upcoming vengeance that will be directed against non-Jews during the eschaton.

e) Some “vengeance is coming on the gentiles very soon” texts from before Rosh

The idea of a vengeful redemption in Jewish eschatology is found in many sources early in the Jewish canon, the Bible and Midrash for example. One passage, from a Midrash cited in *Yalqut Shim'oni*, covers both categories, stating that ““God will execute judgment among the nations, filling them with corpses’ [Ps 110:7],’ with the Midrashic explication insisting that as a result of killing Jews, the nations of the world will suffer the vengeance of God in retribution.²²⁶ This model, what Yuval labels the “vengeful redemption” model, is one of two paradigms of eschatological hopes found in Jewish writings of the Middle Ages, and it will be relevant in the discussion of Rosh later on in this dissertation and will be discussed at length in that section.

²²⁵ SNY writes in Hebrew characters. And this is the Latin: “*Ecce enim in peccatis conceptus sum et in iniquitatem concepit me mater mea*” (English translation: *Indeed, behold I was born in sin and my mother conceived me in iniquity*).

²²⁶ Israel Jacob. Yuval, *Two Nations in Your Womb: Perceptions of Jews and Christians in Late Antiquity and the Middle Ages*, trans. Barbara Harshav and Jonathan Chipman (Berkeley: University of California Press, 2008), 95.

Introduction to Collision in the Commentary of Rosh

i) General Negative comments about Gentiles in Commentary of Rosh

With this understanding of the background, now the focus will be on the Torah commentary of Rosh. Each of the comments analyzed below falls under the categories outlined above, representative of the wide range of critiques that Rosh lodged against the Christians in his commentary on the Bible.

As a general note regarding definition of terms, there are many words that are used to denote a non-Jew in the commentary of Rosh, and Jewish Bible commentaries in general. Much scholarship has been devoted to decoding precisely which group of non-Jews is being defined in each term, and a specific distillation of these ideas is beyond the scope of this dissertation.²²⁷ That said, it is relevant to analyze on a case by case basis the potential target of Rosh's ire, in an attempt to understand his specific intentions. This will be done in each of the sources below, as each text needs to be considered in its own right, and this will aid in providing further context for Rosh's comments.

In this work, one observes layered and complicated categories of gentile, which makes it difficult for the reader to understand precisely against whom the invectives are intended. One subset of gentile identity is the general category of gentiles as referred to in the Bible. Reference to these gentiles is commonly found in Jewish polemical writings, suggesting cultural collision, but not always indicative of actual animus towards any specific living community. This 'biblical gentile' category may not refer to any contemporary communities; it may merely echo the

²²⁷ For a discussion on the challenges of identifying classes of individuals in polemics, see Kimelman, Reuven. "Birkat Ha-Minim and the Lack of Evidence for an Anti-Christian Jewish Prayer in Late Antiquity." In *Jewish and Christian Self-Definition*, edited by E. P. Sanders (London: SCM Press, 1981), 2:226–44.

historical ‘collision’ that is found in early Jewish literature regarding a variety of outside cultures. At other times, the references can be more specific, referring to aspects of a particular community, leaving no doubt to whom the negative comments are directed. Examples of these will also be observed in the textual analysis that follows.

In Rosh’s commentary on the Bible, the first example of cultural collision is connected to a biblical passage where Rosh mentions that the “nations of the world” might think disparagingly of the Jewish community based on the marriage laws found in the Bible and rabbinic literature. Rosh describes:

*... Regarding that the nations of the world mock how we marry our relatives, e.g. [the Jewish law that permits a man to marry] his brother’s daughter or his sister’s daughter [or a first cousin] ...*²²⁸

Here we see an instance of collision, albeit a minor one.²²⁹ In this passage, Rosh mentions that other nations ridiculed Jewish marriage practices, specifically the permissibility of marrying a niece or first cousin. Rosh’s response shows that this practice is clearly permitted by the Bible

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רא"ש ויקרא פרק טז: כב
על מה שמונין ומביישין אותנו האומות איך אנו נושאים קרובותינו בנות אחינו ובנות אחיותינו. יש תשובה נצחת
להשיב להם הלא צוה הקדוש ברוך הוא לבנות צלפחד שינשאו לבני דודיהם גם בנביאים מצי' שכלב נתן בתו לעתניאל
אחיו ויש תימא איך הותר לקחת קרובתו והלא הזהיר רחמנא שלא לקחת את דודתו ומה לי האי ומה לי האי והנה הוא
דודה ומה הפרש ביניהם. וי"ל שנתנה האשה לאיש לשרתו ואם ישמש בדודתו יפגום כבוד אביו ואמו ולכך הזהיר עליו
לבלתי יקח דודתו אבל עליה לא הזהיר שלא לקחת דוד' כי הוא לא ניתן לשמש אשתו

²²⁹ This passage also fits into the category mentioned above of “immoral Jewish practice” and the need to defend against that.

and makes sense, thus removing Jewish law and practice from a negative light, since Christians, who might be making this complaint about Jewish law, also accept the Bible as authoritative. Again, although a minor example of collision, it clearly shows that Jews are interacting with non-Jews in conversation, and at times these conversations are argumentative, or worse, in nature. Christians claimed that Jews inappropriately married close relatives, and Rosh used his Bible commentary to defend Jews from this charge of immoral behaviour.²³⁰

The next passage is a clearer example of collision between the communities. Based on the language used by Rosh, it is a comment that specifically targets the Christian community and therefore bears greater significance in our context. Rosh writes:

... Why would God create [false] prophets who are able to perform signs and wonders [as implied by Deut 13:3], when they could end up leading His children [the Jews] astray? The verse (Deut 13:4 explains, "It is because the Lord is testing you" [to make sure you remain on the path and heed his commandments]. A fortiori, the Jews should not listen to those prophets who perform wonders through the use of magic ... ²³¹

²³⁰ According to Canon Law, marrying one's cousin is considered an invalid marriage. The laws concerning consanguinity and marriage in Christianity began to crystallize in the Middle Ages, providing Rosh's polemical comment an interesting context. For more information about parameters of consanguinity and marriage in Christianity see Robert Cirivilleri, "Marriage and Canon Law: Consanguinity, Affinity and the Medieval Church: (996-1215)," Master's Thesis, San Jose State University, 2000.

²³¹ רא"ש דברים פרק יג

(ג) ובא האות. תניא א"ר עקיבא ח"ו שאין הקדוש ברוך הוא מעמיד חמה לנביאי השקר אלא כנגד חנניה בן עזור דברו)

הנביאים שבתחלתו נביא אמת וה"ק כי יקום בקרבך נביא אמת ונתן אליך אות או מופת ובא האות והמופת אשר ידבר

עכשיו הוא מתנבא בשם ע"ז ואו' לסמוך על דבריו ראו שאמת אני מדבר שהרי כמה אותות ומופתים עשיתי לעיניכם לא

In this passage, Rosh is offering a veiled reference to Jesus with clear polemical intentions. Rosh is commenting on a biblical text concerning a false prophet who succeeds in producing a sign or miracle as proof of their legitimacy. Rosh explains that the Bible specifically says that one should not be fooled by the miracles performed by such an individual. He cites the biblical story of Hananiah ben Azor as an example of a false prophet.²³² Rosh then mentions a more dangerous false prophet in the latter portion of his comment, giving a fortiori advice not to listen to “those prophets who begin their prophecies with magic.” This is a veiled reference to Jesus, as early Jewish oral tradition crafted a polemical narrative surrounding Jesus’ engagement in the magical arts.

Some famous examples that created this association are found in the Babylonian Talmud.²³³ The first source, Sanhedrin 107b, describes Jesus as a wayward disciple and ends with the claim that “Jesus the Nazarene practiced magic and deceived and led Israel astray.”²³⁴ Sanhedrin 43a echoes these sentiments, accusing Jesus of sorcery and listing it as a reason for his eventual execution. The passage states that an announcement was made before his execution that “Jesus the Nazarene is going forth to be stoned because he practiced sorcery (*kishshef*) and instigated and seduced Israel [to idolatry].”²³⁵ A final association made between magic and Jesus is seen in the Babylonian Talmud, once again, but this time it refers to the association of the

תשמעו בשביל זה אל דברי הנביא ההוא. וא"ת הואיל וסופו לקלקל למה עשאו הקדוש ברוך הוא נביא פן יטעה את בניו

לכך כתיב כי מנסה ה' אלהיכם אתכם וכ"ש שאין לו לשמוע לאותם הנביאים הנעשים מתחלתם ע"י כשפים

²³² See Jeremiah 28 for the story of Hananiah’s encounter with Jeremiah, false prophecy, and eventual death.

²³³ For a definitive treatment of Jesus in the Talmud, see Peter Schäfer, *Jesus in the Talmud* (Princeton: Princeton University Press, 2009).

²³⁴ Sources drawn from the Babylonian Talmud are taken from the Bar-Ilan Responsa Project.

²³⁵ Schäfer, *Jesus in the Talmud*, 64. Mishnah Sanhedrin 6:1.

invocation of the name of Jesus with magical phenomena.²³⁶ The many references associating Jesus with magic indicate that it was considered by Jewish thinkers a hallmark of his prophetic career. For this reason, it is sensible to assume that Rosh's reference to a false prophet who proved his prophetic powers through magic is a reference to Jesus.

Further polemical references are found in Rosh's discussion of the Biblical story in which the sons of Jacob convinced a city of gentiles to undertake circumcision – to their eventual detriment (Genesis 34).²³⁷ Rosh comments as follows:

*... How is it that the sons of Jacob deceived [Shechem, Hamor, and their men] after they obeyed and circumcised themselves? It is understandable if we understand that the gentiles regretted the fact that they had been circumcised. And the word **ke'ev** in the passage proves this, since the word is associated with idol worship, [and it implies that they engaged in this sinful worship afterwards which warranted their destruction] ...*²³⁸

In this comment, Rosh discusses a biblical story that other commentators also have noted as being morally challenging, the “great deception” that the sons of Jacob committed against Shechem, Hamor, and their men by attacking them when they were vulnerable post-circumcision. By agreeing to become circumcised, the Shechem, Hamor, and their men placed

²³⁶ Ibid., 60-61. PT AZ 2:2/7.

²³⁷ The story of the capture of Dinah, and the circumcision of Shechem, Hamor, and their men is found in Genesis 34.

²³⁸ רא"ש בראשית פרק לד

(כה) ויהי ביום הג'. בהיותם כואבים. תימא הוא איך עשו בני יעקב מרמה גדולה כזאת אחר אשר שמעו להם לימול (

הרגום ביום הג'. וי"ל שהיו מתחרטין ממצות מילה ולשון כואבים משמעו מוכיח על זה שכן מצינו לשון כאב גבי ע"ז

themselves in a position of weakness, and Simeon and Levi attacked them in their weakened state. To many readers of this text, this would be a patently immoral act. This lapse in morality is perhaps even more egregious, as the perpetrators of the act, the sons of Jacob, are figures that rabbinic discourse would lead us to believe are moral and righteous.²³⁹ This comment, therefore, falls into the category mentioned above where a Jewish exegete is defending the Jewish people from the perception of their lack of morality, as might be inferred from a close reading of the Bible, likely Christians in this case. Since non-Jewish readers might project this assessment onto contemporary Jews, Rosh resorts to the apologetics we see in his comment on this passage.

In order to engage in this defence, Rosh provides his readers a different interpretation of this biblical tale. In his commentary, Rosh defers criticism by giving an unusual definition for the word *ke'ev*, generally translated as “pain.” Rosh tells us that there are examples in biblical literature that suggest that the meaning of this word is actually *avodah zarah*, i.e. idolatry. In the eyes of the Torah, *avodah zarah* is a hallmark of gentiles and is discussed quite disparagingly every time it is invoked in Jewish writings. Here, Rosh explains that had the gentiles kept to their word and agreed to become like Jacob’s kin, there would have been no retaliation by Jacob’s sons.²⁴⁰ The fact that the gentiles regretted their actions and reverted back to their idolatrous ways led Jacob’s sons to lash out. To understand the implications of Rosh’s comment, one should understand that rabbis both before and during Rosh’s time saw *avodah zarah* as the practice of all gentiles. As a result, one might think Rosh is suggesting that there is justification to act aggressively towards gentile communities that practice idolatry. In addition, this could perhaps be construed as a reversal of the accusation that the non-Jews had about Jews. The

²³⁹ See, for example, the great honour extended to the tribe of Levi throughout the Bible. One example in the biblical text refers to Levites as “a gift” in Numbers 18:6.

²⁴⁰ Further, this would have even been a positive encounter between Jews and non-Jews if the latter had kept their word.

gentiles allegedly reneged on their deal that they would give up idolatry, thus reversing the charge that Jews could not be trusted to keep their commitments. This can be seen as another example of how this Torah commentary reflects a negative attitude towards non-Jews.

In this next comment from Leviticus, Rosh is clearly participating in the realm of polemics, commenting on how the Bible uses a specific word when mentioning the sacrifices in order that the *minim* “won’t be given an opportunity to disparage us.” This notion of “opportunities to disparage” echoes the first source provided in this section, again displaying that conversations that were at times charged occurred between the communities. The comment reads as follows:

... It is written in Torat Kohanim [Midrash on Leviticus – Sifra] that whenever the Bible refers to God in the context of sacrifices it utilizes the name Y-H-V-H so that the heretics cannot be given an opportunity to challenge us, for if the name Elohim would be used perhaps they would say that there are two powers ... ²⁴¹

In this instance, Rosh is simply quoting a midrash that addresses a notion that has relevance in the realm of Jewish-Christian polemics, specifically the grammatically plural form of the word *elohim* that is used about God.²⁴² Since Rosh quotes a midrash here, without giving

²⁴¹ (רא"ש ויקרא פרק א ג)
איתא בת"כ כל מקום שנזכר השם בקרבן אמור ביו"ד ה"א וא"ו ה"א שלא ליתן למינים מקום לרדות בנו פירוש
לשלוט שאם יזכיר אלהים אולי יאמרו שתי רשויות הם

²⁴² This argument has already been mentioned above when discussing the polemics surrounding the concept of God’s multiplicity, specifically when relating to Christian dogma.

any more specific information about precisely who the minim “heretics” he is referring to are, it is impossible to conclude whether or not Rosh intended this to be a direct attack against the Christians in his direct environs. All that we can be certain of is that Rosh is condemning the notion of finding multiplicity in God and using the *midrashic* passage to show why YHVH was used as the name of God in the context of sacrifices.²⁴³ Seeing a connection here to his own historical situation is possible but not required.

Another example of Rosh demonstrating “collision” is found in the passage below:

... and the cursed heretics insolently claim that Jacob admitted his guilt to Esau regarding [stealing the] blessings, as he did not use [the expected word] ‘gift’²⁴⁴

²⁴³ Many examples exist regarding this polemical point that Christians sought biblical examples to show the plurality of God, as has already been stated above. There are other examples even beyond our earlier citations that have more of a trinitarian focus. Here, when discussing how the word *Elohim* represents duality, *Sefer Nizzahon ha-Yashan* (SNY) makes reference to this already with its comment on Genesis 1:1 stating that “the apostates may say: Why is this the word ‘God’ written in the plural form *Elohim* when it should have been written in the singular form *Eloah*? Surely it is because there are two – father and son.” The SNY goes on to refute this argument. Additional discussion of this topic is found earlier in this chapter.

רא"ש בראשית פרק לג²⁴⁴
המינים ארורים פוקרים ואומרים שהודה יעקב לעשו על הברכות שלא אמר את מנחתי. 'יא) קח נא את ברכתי וגו'
וזריתי פרש על פניהם כתיב אשר הובאת לך משמע המובא בידים שיש בו ממש ויהינן להו כלהו טעותיהו לפי שגער
בו הקב"ה ואמר לו אני אל שדי פרה ורבה כלו' לא עליך לתתם כי אם לי שהבטחתי לאבותיך עלי לקיים ולך אני אקיים
מה שנדרתי להם והמלאך ברכו שם אחר מעשה זה וגם יצחק אמר לו גם ברוך יהיה ובהפרדו ללכת לחרון ברכו בג'
ברכות בג' מקומות ונתן לו ברכת אבותיו ועוד דכתיב ויפצר בו ויקח ואלו כן היה נוטלם עשו ברצון שהרי נראה לו
שנטלם יעקב במרמה ותשובתם נשאר מעל

Here Rosh comments on the reunion of Jacob and Esau, when Jacob showers Esau with gifts and prostrates himself in front of him as a sign of subservience and goodwill.²⁴⁵ Jacob, when speaking to Esau, says “‘please accept *birkhati* which has been brought to you; for God has favoured me and I have plenty.’ And he urged him, and he took it” (Genesis 33: 1-16).²⁴⁶

In his comment, Rosh quotes an idea that is found among the “cursed heretics” that Jacob deliberately used the word *birkhati*, “my blessing” and not the word “gift” to describe what he offers his brother, since he is returning the firstborn blessing that he stole to its rightful owner, Esau. This comment, to Rosh, is anathema, and he dismisses it outright as the musings of cursed individuals with invalid opinions. In this instance, it is certain that these *minim* would be Christians, as it is likely that they would be the ones to engage with the biblical text in earnest. Additionally, when we consider the theme of Christian supersessionism, this comment has particular relevance to the Christian community. The notion that Jacob would return the birthright, the mark of his chosenness, to Esau, could clearly play into the Christian notion that Christianity has effectively replaced Judaism. This is precisely why this comment offends Rosh to such a strong degree, and once again he pushes back against an idea that he rejects as historical revisionism and poor exegesis.²⁴⁷

²⁴⁵ Interestingly, although Rosh takes umbrage with this understanding of the passage, Nahum Sarna, in his commentary on Genesis, offers this as a valid position: “by a change of terminology from Hebrew *minhah*, previously used five times, to *berakhah* ‘blessing, gift,’ Jacob signals to Esau that the present is in a way a reparation for the purloining of the paternal blessing twenty years earlier.” One can absolutely see in this difference between Sarna and Rosh a microcosm of the social realities facing Jews in the Middle Ages versus our contemporary era – now, with more amicable relations between the Jewish and Christian communities, the bandwidth for interpretation is seemingly greater. See Nahum M. Sarna, *The JPS Torah Commentary: Genesis* (Philadelphia: Jewish Publication Society, 1991) p. 230.

²⁴⁶ Genesis 33:11

²⁴⁷ This comment, therefore, would be one which read Jacob as the prototypical Jew in his penchant for cheating and subterfuge. There were other Christian views of Jacob that equated him with the Christians, but clearly these *minim* did not accept this reading. For a discussion of the history of the symbolism of Esau, Edom and Jacob as seen in the exegesis of Judaism and Christianity in Late Antiquity, and the changes these ideas underwent leading into the Middle Ages, see Gerson Cohen, “Esau as Symbol in Early Medieval Thought,” in *Jewish Medieval and Renaissance Studies*, ed. Alexander Altmann (Cambridge: Harvard University, 1967), pp. 19-48.

Rosh anticipates the coming redemption, insisting that it is only a matter of time until the Jewish exile will end. The next two statements that will now be discussed say precisely this. Although at first glance they are seemingly referring to the general category of gentiles, further analysis suggests that they are likely referring to his contemporary times, specifically the Christian exile Rosh experienced firsthand. Rosh wishes to instill hope in his readers and help them recognize that the current situation which places Jews in the hands of the Christians, is simply a temporary fate until God redeems his chosen people. Due to their similarities, the next two passages will be explained together:

*... For most of the time, the younger brother will serve [the older son, who is Esau, who represents Christianity. The older, will have the upper hand] as dictated by our sins, until the Lord will redeem us from this fate ...*²⁴⁸

*... If you do not properly tithe you will be afflicted by Esau [Christianity] year after year ...*²⁴⁹

These comments speak disparagingly of Christianity, basically seeing it as a punishment that the Jewish people suffer due to improper observance of the *mitzvot*. The idea that Jewish suffering can be explained by their failure to observe God's law properly originates in the Bible

רא"ש בראשית פרק כה²⁴⁸
 (כג) רב יעבוד צעיר כתיב גבי לידת יעקב ועשו. הפשט רב זמן יעבוד צעיר ובעוונות נתקיים בנו עד ירחם אב הרחמן)

רא"ש דברים פרק יד²⁴⁹
 ועוד אם אתה מעשר כראוי תבואת זרעך ואם לאו היוצא השדה שנה שנה זהו עשו דכתי' ויבוא עשו
 Although medieval Jews did not observe tithing laws, it can still be said that Jews are now subjects of Esau/Rome/Christianity as a result of failure to observe tithe laws in an earlier era.

and is found in rabbinic sources in various forms. Identifying Esau as the one who enforces the punishment of the Israelites, however, is less commonly found, and it is clearly an example of Rosh linking a biblically mandated punishment to contemporary reality. Here, in both instances, Rosh draws upon Esau, the character who serves as the paradigmatic metonym for Christianity in medieval Jewish writing, as the one responsible for the Jews' punishment. Rosh saw this comparison as apt for his day, as many of the difficulties faced by Rosh during this period were at the hands of Christian persecutors. Therefore, in this context, Rosh is simply explaining that a lack of proper observance has led to the current reality faced by the Jewish people.

As a final comment, it should be noted how there is a notion of perpetuity contained in the second comment, as seen in the phrase “year-after-year.” The intentions of Rosh are clear – improvement can come through one act only – a return to observance of the mitzvot in the proper manner. Through this suggestion, Rosh removes the current reality of the Jewish people under Christianity from a political / temporal existence and moves it solely into the realm of the cosmic – the need for a return to divine commandments as the only remedy to achieve the desired results.

In all the previous examples, veiled references to Christianity have been employed, and it is up to the reader to understand the more precise intention behind the wording of Rosh. In the next examples, there is no subterfuge at play, and Rosh explicitly names the Christian community in his comment. Rosh writes as follows:

... In our world today, we experience both blessing and curse, but in messianic times, everything will be a blessing. A certain *min* [gentile, heretic] posed a question to Rabbi Natan ben Meshullam asking why this exile has been extended upon you [Jews] longer than the Babylonian Exile [which was because] the Jews then performed idolatry, and for Jews there is no sin worse than idolatry [so logically the current exile should not extend longer than that]! Rabbi Natan ben Meshullam responded that in the [days of the] First Temple, the Jews sinned with idols and *asheirah* trees and other objects that are of little consequence, but regarding the [current] exile after the Second Temple, the Jews made themselves into objects of idolatry.²⁵⁰ The Jews misinterpreted their prophecies and said that they referred to idolatry ... this directly resulted in the affliction of a long and extended exile ...²⁵¹

In contrast to previous instances, where applicability to Christianity ranged from unlikely to feasible, in this comment Rosh is clearly referring to the Christian religion, specifically the earliest years of Christianity. Rosh recognizes that the formulation of Christianity is an offshoot of Judaism that formed during the Second Temple period, when a group of Jews went astray, from Rosh's perspective, by following a false messiah.²⁵² Rosh believes that this terrible sin

²⁵⁰ The rabbi mentioned in this source, Rabbi Natan ben Meshullam, is mentioned in Urbach, *The Tosafists*, p. 129 as the son of the more widely known Rabbi Meshullam ben Natan (born in Narbonne in 1120). Urbach mentions that he is most widely known for his polemical encounters with Christians, aligning with our source.

²⁵¹ רא"ש דברים פרק יא היום ברכה וקללה. היום בעוה"ז הם ברכה וקללה אבל לימות המשיח הם כלם ברכה ושאל מין א' לר' נתן בר' משולם למה האריך גלות זה עליכם יותר מגלות בבל שעבדו ע"ז ואין לך עון חמור מע"ז והשיב לו בבית א' עשו צלמים ואשרות ודברי הבליים שאינם של קיימא אבל בבית ב' שעשו עצמן ישראל ע"ז שהפכו הנבואות עליהם וקבעום לע"ז ... לקו בגלות ארוך וקבוע

²⁵² Scholarship has moved beyond this simplistic understanding, adopting new notions that see Judaism and Christianity more as siblings than possessing a mother/daughter relationship. Regardless, in the days of Rosh, it is safe to assume that the Jewish intelligentsia understood that Christianity was an (erroneous) offshoot of Judaism. For further reading on the parting of the ways of Judaism and Christianity, see Alan F. Segal, *Rebecca's Children: Judaism and Christianity in the Roman World* (Cambridge: Harvard University Press, 1986), Adam H. Becker and Annette Yoshiko Reed, eds., *The Ways That Never Parted: Jews and Christians in Late Antiquity and the Early Middle Ages* (Minneapolis: Fortress Press, 2007) and Daniel Boyarin, *Border Lines: The Partition of Judaeo-Christianity* (Philadelphia: University of Pennsylvania Press, 2010).

began when a group of Jews began practicing idolatry, as they “reinterpreted their prophecies” and made this new form of religious observance the focal point of said prophecies. They made a human being the focus of worship, which to Rosh, was heretical. It was because of this group – the early Christians, most of whom were Jews – that the Jewish people as a whole suffered an extended exile. Rosh argued that since such a serious threat to Judaism arose internally, the stricter punishment of an extended exile was appropriate.

Rosh’s comment is unique in the literature and has not received significant attention in scholarship. As mentioned, he blames the early Jews who founded Christianity for the length of the current Jewish exile, an idea not commonly found in other Jewish polemicists. That said, there is a nod to this concept in the medieval Jewish polemic *Sefer Nizzahon ha-Yashan* (SNY). According to currently accepted dating, the lifetime of Rosh corresponds roughly with the time that scholars assume that *SNY* was written.

The editor of *SNY* and its translation, David Berger, did find this interpretation in one source outside of *SNY*, which he refers to in a brief article.²⁵³ Whether or not this explanation is original to Rosh, it still represents an interesting idea that was not often found in polemical literature.²⁵⁴ This comment reflects a distaste towards Christianity in that it sees its creation as being directly responsible for the extended exile that the Jewish people are currently experiencing.

²⁵³ David Berger, “Towards the Clarification of a Difficult Passage in R. Joseph Kara's Commentary to Isaiah,” *Tsiyon*, 1987, pp. 114-116 n. 6 [Heb.].

²⁵⁴ J.M. Rosenthal, *Mehqarim Umeqorot* (Jerusalem, 1967), 396-397. The source is the polemical work *Edut Hashem Ne’emenah* written by Rabbi Solomon ben Moses de Rossi, who lived in the second half of the 13th century in Italy. As mentioned, the overlapping dates are suggestive, yet cannot yield definitive answers to the question of where this claim first originated. This notion seemingly runs parallel with Augustine’s claim that Jews are suffering a long exile because they rejected Jesus. Here, according to this Jewish interpretation, Jesus is also responsible for the exile, yet in a totally different – almost reverse – manner.

In the next passage from the commentary on Deuteronomy, there is another discussion of the deities of non-Jews. This comment is less specific, as instead of talking about Christian theology, it refers to a more general class of gentiles and their worship of material objects. Nevertheless, the crux of the argument is the same: the powerlessness of the non-Jewish deities. Basing his comment on Deuteronomy 14:1, which states that “you [the Israelites] are children of the Lord your God. You shall not gash yourselves or shave the front of your heads because of the dead,” Rosh writes:

*... If the physical father of a Jew perishes, you should not gash yourself as you are not really an orphan, since you have a Father in Heaven who is still alive. The gentiles, however, should gash themselves when their father dies since they do not have another father, simply trees and rocks that have no power...*²⁵⁵

Clearly this passage directly attacks the beliefs of gentiles. This comment is not unique, however; its concluding idea simply reiterates Jeremiah 2:27.²⁵⁶ This passage refers negatively to the theological beliefs of gentiles, stating that those who believe in false deities (described as material objects) find themselves in an unfortunate situation upon the death of a father. They find themselves turning to the rocks and trees (i.e. their deities) for solace as a replacement father figure, which Rosh claims is clearly impossible.

²⁵⁵ רא"ש דברים פרק יד

(א) בנים אתם לה' אלהיכם. ולכך אם מת אביכם מב"ו לא תתגודדו שהרי אינכם יתומים בכך כי יש לכם עוד אב שהוא (חי וקים יתברך אך הגוי כשמת אביו יש לו להתגודד שאין לו עוד אב כ"א עציו ואבניו שאין בהם מועיל דכתיב אומרים לעץ אבי אתה ולאבן את ילדתנו

²⁵⁶ They said to wood, “You are my father,” to stone, “You gave birth to me,” While to Me they turned their backs and not their faces. But in the hour of calamity they cry, “Arise and save us!”

The next comment from Rosh pivots from the discussion of non-Jewish deities to that of non-Jews in general. His comment, as will be seen, is quite acerbic. Basing himself on the passage in Deuteronomy 33:3, which says that “[God] loves [all] the peoples, all his holy ones,” Rosh writes:

*... When talking about love for the nations of the world, you do not find [divine love] for any individuals, except for the holy ones, who gave themselves over to God and converted [to Judaism] ...*²⁵⁷

Here Rosh writes sharply, essentially saying that no gentiles – outside of those who convert – are loved by God. This broad dismissal of the goodness of gentiles is a fairly idiosyncratic comment and has few precedents in other biblical commentaries. It is one thing to dismiss certain gentiles, such as those in the upper echelons of society who might oppress their Jewish neighbours, but his dismissal of the goodness of all non-converted gentiles is extreme and is not reflective of common Jewish rhetoric.²⁵⁸ Rosh shares another anti-gentile remark, stating:

²⁵⁷ רא"ש דברים פרק לג

(ג) אף חובב עמים כל קדושיו. אף כשאתה בא להזכיר חביבות האומות כל קדושיו אין אתה מוצא בהם אלא הקדושים)

שנותנין עצמן בידך ומתגיירים והם באין לשום עצמן בידך תוכו כולם נתמצעו תחת רגליו בתחתית הר סיני שכולם

קבלו יראתך

²⁵⁸ Interestingly, this is a reversal of the Christian dictum that there is “no salvation outside of the Church,” (Latin: *extra ecclesiam nulla salus*). This axiom finds its origins already in the Early Church and continued to be significant in the Middle Ages.

*... A midrash speaks of how the sinners of Israel other than those individuals who had relations with a gentile woman can be saved from **gehinom** with a more lenient sentence ...*²⁵⁹

In this short reference, sexual relations with a gentile woman are treated significantly worse than other sins, casting gentiles in a disparaging light. Although Rosh is echoing a comment made in BT Eruvin 19a that says relations with a non-Jewish woman result in spending eternity in gehinom, it is a one of the harshest formulations of the punishment for this transgression, and it is telling that Rosh chooses to cite it in his commentary.

There is another comment that Rosh offers on the book of Numbers where he is especially accusatory against a specific class of gentiles – those that make up the leaders of their society. Rosh writes:

... In order to refute the claim that perhaps the gentiles might lodge against God and the Jews that God gave righteous kings and sages only to the Jews, God had the foresight to provide the nations of the world a similar calibre of leadership – Solomon had a parallel in Nebuchadnezzar – however Solomon built the Temple, Nebuchadnezzar rebelled and destroyed it. David had a

²⁵⁹ רא"ש בראשית פרק טו

ועוד מצאתי סייג למדרש הזה במסכת עירובין על מה שאמר אברהם מוציא פושעי ישראל מגיהנם מלאת י"ב חדש לבד מן הבא על הגויה דלא מבשקר ליה פירוש אינו מכירו דמשכא ליה עורלתיה ויש לתמוה מאי שנא אברהם יותר משאר אבות והלא מצינו על אותה דרשא כי אברהם לא ידענו וישראל לא יכירו פ' ר' עקיבא כי עתיד יצחק לעזור ולגאול את ישראל אלא למאי שפירשנו ניחא שיש טענה מספקת בפי אברהם לפני השם שיאמר תנאי ואמנה היו דברינו שלא ישתקעו בני בגיהנם וטענתו טענת בריא

*parallel in Haman; both were given great wealth, yet Haman rebelled and wanted to decimate the Jews. Moses had greatness as a prophet and leader and had a parallel in Balaam as a leader and prophet for the other nations of the world. Yet we can see the difference – the prophets and leaders of Israel sought to distance the nations of the world from sin, and, in contrast, the prophets and leaders of the nations of the world encouraged transgressions, as we see with Balaam ...*²⁶⁰

In this comment, Rosh points out that one should find fault not only in the general gentile populace, as discussed above, but also in the individuals who have led gentile society since biblical times.

Rosh notes that the political upper classes and royalty – embodied in his example by Nebuchadnezzar – possess a degree of wisdom, so that the gentiles cannot complain that God favoured the Jewish kings over the gentile ones. Nevertheless, despite the fact that God provided these gentile kings with powers, they eventually committed sins and lashed out against Israel, such as when Nebuchadnezzar destroyed the First Temple. Although there is no direct mention

²⁶⁰ רא"ש במדבר פרק כד

הצור תמים פעלו כי כל דרכיו משפט לא הניח הקדוש ברוך הוא פתחון פה לאו"ה לעת"ל לו' שאתה ריחקתנו ולא נתת

לנו תורה ונביאים כמו שנתת לישראל מה עשה הקדוש ברוך הוא כמו שהעמיד מלכים חכמים ונבונים לישראל כך

העמיד לאו"ה העמיד שלמה מלך על כל הארץ כן עשה לנבוכדנצר שכתוב בו וגם את חית השדה נתתי לו לעבדו. זה

בנה בהמ"ק ואמר כמה רננות ותחנונים וזה החריבו וחירף וגידף ואמר אעלה על במותי עב אדמה לעליון. נתן לדוד

עושר ולקח הבית לשמו. ונתן להמן עושר ורצה אומה שלימה לטבוח כיוצא בו העמיד משה לישראל שהיה מנהיג עמו

והיה מדבר עמו כל זמן שירצה והעמיד בלעם לאומות העולם. ובא וראה מה בין ישראל ונביאים שלהם לנביאי או"ה.

נביאי ישראל מזהירים את האומות על העבירות ונביאי האומות מעמידין להם וכן עשה בלעם

of Rosh's contemporary era here, it is easy to surmise that he extrapolated from this lesson towards his own times. Rosh suggests that, although God must have bestowed wisdom upon the Christian kings of his day, they nevertheless commit atrocities. In this instance, perhaps Rosh is alluding to some of the tribulations he encountered in his own lifetime that were mentioned in the background section above.²⁶¹

Rosh comments negatively not only on temporal gentile power but on religious gentile power as well. In this regard, Balaam serves as the paradigm for a gentile religious class to whom God provided great gifts, which they subsequently squander by sinning against the Jewish people. Rosh then takes this opportunity to draw a general conclusion on the difference between Jewish and gentile prophets – the former lead the nations of the world away from sin whereas the latter further entrench the nations of the world in sin.²⁶²

The specific reference to Balaam here may be significant, as Balaam and Jesus are often linked in Jewish polemical literature, in many instances predating Rosh.²⁶³ The connection between Jesus and Balaam that is alluded to in this passage can be approached from two perspectives, one that is undeniable and one that is still debated in scholarship. The first position, simply a statement of facts, is that Jesus and Balaam appear together in various places in Talmudic literature, suggesting similarities between them that perhaps are being drawn upon in our comment. Passages such as Sanhedrin 106A in the Babylonian Talmud that discuss soothsayers and their punishments categorize Jesus and Balaam together. It is certainly not a

²⁶¹ See all references in chapter 2 to the challenges that Rosh encountered throughout his life in Germany, which directly caused his eventual Spanish migration.

²⁶² In the context of Jesus, we saw earlier the reference to the long exile being a direct result of a prophet leading non-Jews astray. Jesus, of course, was Jewish, yet Rosh certainly would classify him as a non-Jewish prophet, hence the connection stands.

²⁶³ Yuval, *Two Nations*, 292. The Biblical account of Balaam is found in Numbers 22-24, but the tradition of his punishment is based on Numbers 31:8.

stretch to say that these Talmudic passages, which Rosh was certainly familiar with, could have influenced him to make mention of Balaam when he was ultimately trying to disparage Jesus.

As for the other connection, which is more tenuous, some scholars, most notably Abraham Geiger and Israel Yuval, have argued that mention of Balaam in certain places is actually code for Jesus.²⁶⁴ The reason behind this coding in rabbinic texts is that censorship of Jewish texts and fear of Christian retribution was a reality of the Middle Ages, hence “Balaam” needed to be used in place of Jesus if one wished to make negative comments about him.²⁶⁵ Although certain scholars, such as David Berger and Louis Ginzberg, have argued against this understanding, it nevertheless is still open to debate.²⁶⁶ Regardless, the possibility certainly remains that Rosh is targeting Jesus by disparaging Balaam.²⁶⁷

The notion of sinning, in this instance, would clearly fit with the common pre-modern Jewish narrative about Jesus as well. As will be seen in another comment, Rosh believes the prophecies of Jesus led to egregious sins, the worship of him and the abrogation of the Torah. In the next category of polemics, Rosh overtly disparages the Christian faith and actually lobbies for harm and destruction to come to Christians in the form of vengeful redemption.

Messianic Considerations: Vengeful vs. Redemptive²⁶⁸

Before engaging in the next set of primary sources, a brief introduction regarding the classification of sources of this nature will be provided. Throughout his commentary, Rosh

²⁶⁴ Ibid., n. 101

²⁶⁵ For various examples of Jesus and Balaam placed in close proximity to each other, or used interchangeably, see Schäfer, *Jesus in the Talmud*, 31-33, 84-92, among others.

²⁶⁶ David Berger, “Three Typological Themes in Early Jewish Messianism: Messiah Son of Joseph, Rabbinic Calculations, and the Figure of Armilus,” *AJS Review* 10, no. 2 (1985): pp. 141-164.

²⁶⁷ Joshua Garroway, “Balaam the Seducer of Jews and an Early Christian Polemic,” *TheTorah.com*, 2017, <https://thetorah.com/balaam-the-seducer-of-jews-and-an-early-christian-polemic/>.

²⁶⁸ For a definitive treatment of this topic, see Yuval, *Two Nations*, 92-134.

aligns himself with a particular stance on eschatological polemics. Seeing Rosh's attitude in this realm helps shed further light on his liminal character, hearkening back to the previous chapter where a distinction was made between Ashkenazi and Sephardic cultural character. In regard to eschatology, Ashkenaz and Sepharad took two different stances, and Rosh situated himself more in the camp of his Ashkenazi roots.

Israel Yuval, in his *Two Nations in Your Womb: Perceptions of Jews and Christians in Late Antiquity and the Middle Ages*, fleshes out two different directions of Jewish eschatology during Late Antiquity and the Middle Ages. As Yuval notes, "the events in the messianic era serve as the key to understanding Jewish apologetics in the present."²⁶⁹ In our particular era of the Middle Ages, messianic narratives function under the auspices of the stark reality Jews faced – their Temple is destroyed, and non-Jewish nations are currently occupying the seats of political power. Though this is true throughout the Jewish world, different Jewish societies fashioned their own unique responses to their realities, as this section will show. Yuval refers to the two narratives as *vengeful redemption* (most commonly found in Ashkenaz) and *proselytizing redemption* (most commonly found in Sepharad).

Vengeful redemption is found in many medieval sources, taking on various shapes and nuances. Yet, all echo some of the ideas of the following passage from the *SNY*:

The [final] redemption ... will involve the ruin, destruction, killing and eradication of all the nations: they, and the angels who watch over them from above, and their gods ... The Blessed, Holy One will destroy all nations except Israel.

²⁶⁹ Yuval, *Two Nations*, 93.

In contrast to this approach of *SNY*, Yuval uses a comment from Rabbi Meir ben Shimon of Narbonne's *Milhemet Mitzvah* as the prototypical example of the Sephardic proselytizing redemption. Rabbi Meir writes:

at the End [of Days] there will be great signs and wonders that He will do with us, lifting us up, so that all the nations will turn to our faith and declare that what they inherited from their fathers was a lie ... For all the peoples will turn to the faith of the honoured God through the many wonders they will see when the Lord will deliver us from this Exile.²⁷⁰

Rabbi Meir ben Shimon believes that any bloodshed during this period will only be enacted against evil individuals and oppressors; not all gentiles will be targeted. This, therefore, succinctly describes the difference between the two approaches. We see two writers, roughly contemporaneous with one another, taking drastically different approaches to their understanding of the messianic redemption. Yuval, as mentioned, refers to these two models – as this dissertation will do as well – as “vengeful redemption” and “proselytizing redemption.”

For the purposes of understanding Rosh's attitude towards eschatology, it is notable that his liminality here was not impacted by his Sephardic milieu. He relies heavily on Ashkenazi tradition in his commentary, where, as Yuval writes, “the dominant view in Ashkenaz saw the annihilation of the gentiles as a principal component of the messianic vision.”²⁷¹

The writings of Rosh take that stance on this topic. He remains staunchly Ashkenazi in character in regard to his redemptive narrative, despite finding himself as a rabbinic figure in a

²⁷⁰ Yuval, *Two Nations*, 93.

²⁷¹ *Ibid.*, 95.

Sephardic context. Here, it seems that his border-crossing had minimal impact on his eschatological views. The idea of *vengeful redemption* will be our focus in the coming section, beginning with the following comment:

*... In this world, the nations shall be destroyed little by little, but in the world to come, I [God] will burn up [the nations] in one fell swoop ...*²⁷²

In this passage, Rosh quotes a passage discussing gentiles negatively from the midrashic collection *Bemidbar Rabbah*. Although this means that this comment is not unique to Rosh, it nevertheless is telling that his interpretation of this biblical verse includes this passage, which is not found commonly in the writings of other exegetes. One can therefore find it meaningful that Rosh felt it necessary to pinpoint a passage that is vehemently anti-gentile for use in his commentary.²⁷³

Rosh references the destructive future that will be wrought upon the nations of the world in an upcoming messianic era, what Rosh refers to as the “future to come.” He states that during the current era, there are minor injuries to the other nations, a gradual humiliation that occurs. This can certainly be assumed to be a generalized reflection on the current world Rosh inhabits, and the long list of persecutions of Christians that can be observed throughout the annals of

²⁷² רא"ש במדבר פרק כא

(לה) ויכו אותו ואת בניו ואת כל עמו. בנו כתיב חסר יו"ד שהיה לו בן קשה ממנו אמר הקדוש ברוך הוא למשה (

בעו"הז מכלים את האומות קימעא קימעא אבל לעת"ל אני מבערן מן העולם בבת אחת שנאמר ויהיו עמים משרפות סיד

:קוצים כסוחים וכו

²⁷³ This, in conjunction with other sources seen in this chapter, shows that at times Rosh chose to use some very challenging and acerbic comments.

history. Rosh assures his readers, however, that God will be sure to bring a painful future to those outside of the Jewish nation, providing the Jews with a note of hope and redemption.

Continuing this theme, Rosh writes:

*... This is similar to the nations of the world who struck out against the throne of glory and they destroyed God's home and burned His Temple. In the end, it will be the Blessed One who will wipe out their memory [destroy them]...*²⁷⁴

In this quotation, Rosh is once again speaking negatively of gentiles, this time using the commonly used term “nations of the world.” Rosh invokes eschatological retribution, discussing how those nations that stretched out their hands against the throne of God and destroyed his Temple will in the end have their memory blotted out via divine punishment. Although the generalized reference in this text alludes to the Romans, who destroyed the Second Temple, Rome is often directly connected by Jewish writers to Christianity, and this is therefore another example of Rosh predicting a grisly end for Christianity and its adherents.²⁷⁵

The next example, once again, speaks disparagingly of the gentiles, predicting a negative end for them at the hands of the Israelites:

²⁷⁴ Deut22

(ו) כי יקרא קן צפור לפניך. לכך נסמכו פרשיות הללו לומר מצוה גוררת מצוה שע"י שלוח הקן יזכה לאורך ימים) ושיבנה בית חדש ויעשה בו מעקה. ד"א כי יקרא קן צפור לפניך זש"ה קורא דגר ולא ילד עושה עושר ולא וכו' מה כתיב אחרייו כסא כבוד מרום מראשון מקום מקדשינו מה ענין זה לזה לומר לך שהקורא הזה גזל בצים משאר עופות וישב עליהם עד שיצאו מקליפתן והם עולין עליו ומורטין כנפיו וכשרוצה לברוח אינו יכול ומוצא אותו חיה או שרץ ואוכלו מי גרם לו זה על שגזל הבצים שאינן שלו כך או"ה שפשטו ידיהם בכסא הכבוד והחריבו ביתו ושרפו היכלו ל:סוף הקדוש ברוך הוא יאבד זכרם:

²⁷⁵ For a discussion of Rome's connection to Esau, see Cohen, *Esau as Symbol*.

*... The Israelites will spill the blood of the nations of the world just as the nations of the world had spilled the blood of the Israelites ...*²⁷⁶

The Biblical passage (Deuteronomy 32:43) is openly discussing the redemptive process, insisting that the blood of the Israelites will be avenged during the end days and that those who wronged Israel will receive their comeuppance. Rosh writes that “the Israelites [**themselves**] will spill the blood of the nations similar to how these nations spilled the blood of the Israelites.” This source exhibits significant vitriol, even assigning the actual act of destruction to the Jews themselves, which is a change from the norm that usually describes God as the prime actor in that regard. Afterwards, Rosh provides the prooftext for this invective from Ezekiel 25:14, which states that “[God] will unleash [his] vengeance upon *Edom*. ” This reference to *Edom* is common in medieval Jewish literature, and it is almost always used as a reference to indicate Christianity.²⁷⁷ In this instance, it is certainly the case that Rosh is reflecting on his contemporary times, in which there were examples of Christians spilling the blood of Jews. According to this prophetic statement, therefore, the Christians will receive retribution in a violent manner, divine payback for the decimation of various Jewish communities at the hands of Christian zealots.

Another quotation once again discusses the notion of vengeance. Rosh writes:

רא"ש דברים פרק לב²⁷⁶

כפר אדמתו עמו ישראל עמו כפרו אדמתו של הקדוש ברוך הוא דכתיב ולא רץ לא יכופר כי אם בדם שופכו וישראל ישפכו דמן של אומות כמו ששפכו דמן של ישראל דכתיב ונתתי נקמתי באדום ביד עמי ישראל וא"כ עמי יכפרו אדמתו ועוד כל המקראות של מעלה לישראל

²⁷⁷ Jewish writers tend to use Edom and Esau interchangeably, based on Genesis 36:1 which equates the two terms.

... The blood of His servants will result in vengeance, the blood of God's enemies will be spilled just as they spilled the blood of Israel - they will be unable to deny that, and they will be judged just as they acted towards Israel - they targeted righteous ones and spilled blood upon the *porphyra* ...²⁷⁸

Here is another reference to an end of days redemption for the Jewish people. In this instance, the theme of revenge is highlighted, discussing how retribution will be unleashed upon the gentiles: "their blood will be spilled just as they spilled the blood of Israel." The outcome of this is that the Jews will eventually be praised as the chosen nation of God by the nations of the world, with the holy martyrs of the past being avenged. Additionally, for many gentiles, "they will be unable to deny [the accusation], and they will each be judged by how they acted against Israel." In this comment, Rosh refers to the *porphyron*, which is a garment that God wears and which appears frequently in Ashkenazi vengeance works. Israel Yuval notes that this image appears in at least nine *piyyutim* [liturgical poems] originating in Ashkenaz, all sharing the same

רא"ש דברים פרק לב²⁷⁸
 (מג) הרנינו גוים עמו. אז ישבחו הגוים עמו של הקדוש ברוך הוא ויאמרו אשרי העם שככה לו שהקב"ה נפרע מצריהם (כדמפרש ואזיל. כי דם עבדיו יקום ונקם ישיב לצריו שישפוך דמן כמו ששפכו דמן של ישראל זש"ה ידין בגוים מלא גויות שעתיד הקדוש ברוך הוא לו' לאומות למה שפכתן דמן של יש' כו"כ והם ירצו לכפור שלא עשו והקב"ה מראה להם מלבושיהם שצייר בהם כל הקדושים קצת נקדשו ובאיזה דין דנום להאומות ואז כשיראו מלבושיו שהוא מלא גויות פי' מלא גופות הצדיקים לא יוכלו לכפור ואז ידין לכל א' כמו שעשו לישראל וזהו שיסד הפייט התאזר בקדושים וכן בעקידה אל דומה לבי לדמי גם לפורפירך מלא גויות

See Yuval, *Two Nations*, 95-97 and 197-198 for further information about the *porphyron* and its significance in Ashkenazi accounts of vengeful redemption.

theme of Jewish blood spilling on God's cloak (*porphyron*), and the subsequent spurring to retribution.²⁷⁹ This image is so significant, Yuval writes, that it is "one of the strongest symbols of Jewish martyrdom in Germany, its function being to evoke the wrath of the vengeful God."²⁸⁰ It highlights the notion, which Yuval discusses, that "the drops of blood of the martyrs are counted one by one and are sprayed on the garment of God, known as his *porphyron*, so that it may serve as the *corpus delicti* to punish the killers on Judgment Day."²⁸¹ Rosh, by invoking this particular trope, is clearly associating his eschatological worldview with his Ashkenazi roots, anticipating vengeance in the end of days. Rosh continues on the topic of messianic redemption in the next source as well.

The next example comes from his commentary on the book of Genesis and reflects on the gift that the patriarch Jacob gives to Esau in the biblical narrative. This gift-giving event was, as mentioned, referred to in Rosh's comment on Genesis 32:11, perhaps exhibiting how this particular idea was one of prominence in the minds of Jews and Christians engaging in polemical conversations. The comment itself, also, similar to the passage above, describes eschatological comeuppance. Rosh writes:

*... The gift that Jacob gave Esau will be returned, how much more so all that the nations of the world took from the Jews by force will be returned in the upcoming messianic redemption ...*²⁸²

²⁷⁹ Ibid. This trope of bloodstained garments echoes Isaiah 63:1-6.

²⁸⁰ Ibid., 197.

²⁸¹ Ibid., 95-97

²⁸² רא"ש בראשית פרק לה

איתא בשוחר טוב מלכי תרשיש ואיים מנחה ישיבו יביאו לא נאמר אלא ישיבו מה שנתן יעקב לעשו ק"ו מה שאנסו

להם האומות ששיבו בעגלא:

In this instance, Rosh is reflecting on his contemporaneous situation, in regard to the idea of the return of property through a redemptive process. Although the work does not mention messianic notions directly, the reference to a future hope, using the word, “*ba-’agala*,” which alludes to a traditional Jewish passage, the *Kaddish* prayer, invokes a messianic yearning. What Rosh is perhaps mentioning here is that the persecutions of his day have led to the seizure of property by gentile authorities, and he writes that these objects will be returned in the upcoming messianic redemption.²⁸³

In this passage, Rosh could be alluding to many historical occurrences. The seizure of property was commonplace during the many exiles that the Jews had already undergone throughout Europe, or even simply through the acts of mercurial rulers who were looking to bolster their coffers through punitive taxation or other tactics.²⁸⁴ In addition, it is worthwhile to bear in mind that Rosh, who himself had fled his home in Ashkenaz under pressure from the gentile government, could be referring to the seizure of his capital by the local government upon his emigration to Spain.

Furthermore, in the biblical account that Rosh is commenting upon, Genesis 33, Jacob approaches Esau with numerous gifts in an attempt to appease Esau’s anger, which arose as a result of Jacob’s stealing his firstborn blessing.²⁸⁵ Even in this instance, where Jacob parted willingly with his objects, he will nevertheless have them returned through some redemptive process. In the case of Rosh’s day and in similar European persecutions that likely influenced Rosh’s writing – in Rosh’s eyes, Christians took Jewish objects illegitimately, and I believe that Rosh is suggesting that these objects will be returned through a different process. In this

²⁸³ See reference to *Codex Diplomaticus* in chapter 1, as one small example.

²⁸⁴ Cohen, *Under Crescent and Cross*.

²⁸⁵ Entire account in Genesis 33:1-20.

understanding, Rosh certainly envisions the gentiles receiving recompense for the suffering they forced upon the Jewish people via their misdeeds (*she'ansu*) and the Messiah would correct this injustice.

In this chapter, one can see how Rosh's Torah commentary fashions an impression that the Jewish community harbours negative sentiments to the culture of "others" that surround it throughout history. This, however, is not the full picture, as the upcoming chapter will focus on an entirely different approach of Rosh to the Christian community, a duality engendered by the hybrid persona discussed throughout this dissertation. The other side of this duality, where Rosh promulgates a positive attitude towards surrounding non-Jewish society, will now be explored via examination of his legal writings.

Chapter 5

As discussed in the previous chapter, the Torah commentary of Rosh displays a seemingly unrelenting distrust of non-Jews, at times even describing the severe punishments they will receive at the eschaton. This chapter, however, adds a different vantage point to the discussion, showing that amidst all the ‘collision’, ‘conversation’ occurred as well. A microcosm of this duality can be represented by a question sent to Rosh that is recorded in *Responsa of Rosh*, the work that will be the primary text discussed in this chapter. The problem posed to Rosh involved a Jewish woman who was abducted and held captive by Christians and now wishes to return to her husband. The questioner mentions:

*... And afterwards, her husband walked with a knight and a priest, to the village where all this transpired [i.e. the presumed crime] and the local priest said that everything was done against her will ... and that anything that she did, she did only to save her life. The knight added that nothing should be done to her [i.e., she should not be held accountable, she is innocent] and the priest who accompanied the knight and husband [agreed to her innocence]...*²⁸⁶

The question posed to Rosh involves the legal status of a woman who is suspected of being taken forcefully – and presumably raped – by a band of gentile criminals. The questioner wants to know the halakhic status of the victim in this morally challenging case.²⁸⁷ Regardless

²⁸⁶ *Responsa of Rosh*, 32:5.

ויהי בערב לקח כומר אחד את הנערה והיתה כל הלילה בבית עבודתם עם הבן ולא היתה הנערה עמה ובבקר שלח לה בעלה קרן אחד להחזירה אליו והלכה וחזרה עם הקרוני ועם הבן ולא היתה הנערה עמה אך היתה עם הגוים יחידה בדרך אז הלך בעלה עם פרש אחד ועם כומר לבקר שנעשה לה כל זה ואמר הכומר מן הכפר כל אשר נעשה היה בעל כרחו הן במסגד שלהם הן בחוץ וזה אני מעיד שע"י הכאות ופצעים ולהציל את נפשה נעשה הכל ואמר הפרש מעתה אין לה לעשות מאומה כי העובדי כוכבים אמרו (שהחליפה) [שתחליף] ורצו לשרפה וכן אמר הכומר שלא לעשות לה מאומה.

²⁸⁷ Although Rosh rules in favour of stringency in this specific case as compared to the more lenient position of the *Or Zarua*, this has minimal relevance when looking at this source as more of a historical reality.

of the details of the case, the described scenario is notable from a sociological perspective, and fits precisely with the notion of ‘collision/conversation’. There is no doubt that the band of non-Jewish criminals represent the ‘collision’ side of the divide, a clear indicator of the challenging realities faced by Jews during the Middle Ages, as described in the previous chapter. What follows, however, is a description of the support received by the woman’s husband from local Christians and reflects a significantly different reality.

First, it should be noted that the encounters are “with a knight and with a priest ... and [another] local priest.”²⁸⁸ In this instance, it is not only Christians showing support and a clear relationship with the Jewish man, but elite-class Christians who want to help uncover what transpired, as well as to defend the honour of the Jewish woman, by acknowledging the evil acts committed by their fellow Christians.

As to what this means regarding social realities, we see that the Jew is willing to seek aid from Christian authorities and must have had a relationship with them beforehand. A situation is described where the Christians travel with the Jewish individual and seek out finer details of the case together, a clear display of a desire to help. A solid relationship is further suggested by the Christian willingness to help and to speak negatively of fellow Christians in order to defend the character of the Jewish woman. This is a likely reflection of a daily reality; one often sees such cross-communal dialogue as well as a noted willingness of the communities to provide help to one another when called upon.²⁸⁹

²⁸⁸ Knights and clergy represent the upper echelons of society when considering the medieval tripartite class division of society.

²⁸⁹ Of course, it should be noted that a band of gentiles committed the crime, and other gentiles wished to burn the woman. This, however, is tangential, as clearly ill-meaning gentiles existed and this comment is not attempting to hide this. Nevertheless, in addition to these individuals, there are also select gentiles who are willing to help Jews when they can in a seemingly genuine fashion.

Thus, as represented in this source, Jewish life in the Christian Middle Ages for Rosh reflected this duality of collision and conversation. The previous chapter examined how Rosh exemplified the ‘collision’ part of this divide, and the upcoming chapter will show that ‘conversation’ was an equally important part of his reality.

Introduction to ‘Conversation’

As opposed to the wholly negative ‘collision’ interactions outlined previously, this chapter will present a different picture of the complex encounters of Jews and Christians in the Middle Ages. This tension in the medieval Jewish-Christian encounter has only received significant attention in recent years, as scholarship has attempted to fashion a more nuanced understanding of these relationships.²⁹⁰ Research conducted in this manner is a direct result of the distancing from the “lachrymose” portrayal of Jewish history that Salo Baron argued was overstated.²⁹¹

This dissertation will use the writings of Rosh to help further understand this complicated relationship. As is the case with microhistories, the reality that Rosh faced will be refracted solely through the lens of his particular era and locale. We have already observed how Rosh’s writings reflect the ‘collision’ aspect of the encounter. Now, examples in his writing that are indicative of a more congenial relationship with the Christian community will be presented, representing the ‘conversation’ aspect of the Jewish-Christian encounter.²⁹²

²⁹⁰ Sources are plentiful, as discussed in previous chapters.

²⁹¹ Salo Baron, “Newer Emphases in Jewish History,” *Jewish Social Studies* 25, no. 4 (1963): 245-258.

²⁹² Of course, textual artefacts represent only one realm of this engagement, as has been discussed.

‘Conversation’ in Medieval Jewish History: Developments in Scholarship

A major work written in the nascent stages of the ‘conversation’ approach, and ground-breaking in its understanding of the historical study of the Jewish people, is Jacob Katz’s *Exclusiveness and Tolerance*.²⁹³ Marcus notes that Katz was not the first individual to take a sociological approach to Jewish history, but nevertheless, he was a revolutionary, as he “innovated a social science approach to Jewish history that was new and controversial ... writing the ‘real social history of the Jews’.”²⁹⁴ Katz’s work marked a watershed moment in the history of Jewish historiography; from then on, a concerted effort was made to use sociological principles that enable scholars to unpack societal realities of a particular era.²⁹⁵

In the English version of his book, Katz takes a more apologetic approach to his explanation of the Jewish attitude towards gentiles in the Middle Ages, seeing an almost teleological development in Jewish-gentile relations that centres upon tolerance and understanding, an outgrowth of a common morality that Katz claims Jewish writers recognized in contemporary Christians. Overall, Katz suggests a diachronic approach to the reading of rabbinic legal texts. He focuses on many texts in the realm of transactional economics, concluding that the need to rationalize halakhic precepts to fit a more accommodating and

²⁹³ Jacob Katz, *Exclusiveness and Tolerance: Studies in Jewish-Gentile Relations in Medieval and Modern Times* (New York: Behrman House, 1983).

²⁹⁴ Ivan G. Marcus, “Israeli Medieval Jewish Historiography: From Nationalist Positivism to New Cultural and Social Histories,” *Jewish Studies Quarterly* 17, no. 3 (2010): pp. 244-285, 265. Although Marcus challenges how ‘revolutionary’ Katz’s theories actually were, especially in comparison to the historiographical trends of today, he is nevertheless one of the most influential Jewish medievalists.

²⁹⁵ Although Katz brought new reforms to Jewish scholarship with his ‘social history’ approach, he still adhered to a more insular model of Jewish culture than is currently popular. More recent scholarship has moved on to incorporate many ideas of hybridity and postmodernism (see chapter 2), moving beyond Katz’s description of minimal outside influence. For more on this see Rosman, *How Jewish*, pp. 85-88, 168-181.

modern society was indicative of the medieval rabbinic approach, a result of the necessitated conversation that was occurring between the two communities.²⁹⁶ This observation, particularly the recognition of the importance of economics and the smooth functioning of society, is something that is relevant to the writings of Rosh as well as most other scholars writing positively of the Christian populace. Regardless of theological attitudes, there is a practical reality that necessitates positive relationships as a baseline.

Katz discusses two now well-known instances of this rabbinic determination that it is necessary to relax halakhic boundaries, one coming from the school of the Tosafists, the other from Rabbi Menachem Meiri of Provence. These examples have become paradigmatic in the study of this topic and will therefore be discussed briefly here.

In the Tosafist instance, Katz shows that there was a relaxation of the categorization of Christians as “idolaters” or polytheists, a classification that continued to be debated throughout the Middle Ages. A major point that Katz makes is that “Ashkenazi Jewry developed its customs by adjusting itself to prevailing conditions without having full regard for the niceties of the demands of Halakha ... the work of the Tosafists can be summed up as an attempt to reconcile the various halakhic sources amongst themselves and also with contemporary accepted usage.”²⁹⁷ Katz notes that this development arose from the fact that the restrictions on Jewish contact with gentiles were being disregarded, and the Tosafists recognized a need to reinterpret halakha of their day in light of the developments that society necessitated.²⁹⁸ This practical approach is one that reverberated in halakhic regulations in the following years.

²⁹⁶ Marcus, *Israeli Medieval*, 273.

²⁹⁷ Katz, *Exclusiveness and Tolerance*, 29.

²⁹⁸ For a brief essay that examines the notion of the methodology in creating halakhic change both in the Middle Ages and contemporary times, see David Berger, “Texts, Values and Historical Change: Reflections on the Dynamics of Jewish Law,” in *Radical Responsibility: Celebrating the Thoughts of Chief Rabbi Lord Jonathan Sacks*, ed. Michael J. Harris, Daniel Rynhold, and Tamra Wright (Jerusalem: Maggid Books, 2012), pp. 201-216.

Another famous example where a Jewish scholar refashioned halakhic norms because of contemporary reality is the case of Rabbi Menachem Meiri. Meiri espoused a doctrine of unprecedented religious tolerance toward Christianity while still placing limitations on the amount of permissible interaction.²⁹⁹ He states in *Beit ha-Bechira* that one must assign a positive, non-idolatrous status to the Christians (and Muslims) of his day, a reflection of his belief that postulates of faith and morality are common to the surrounding gentile nations. Meiri posits that these faiths have significantly more in common – from a moral and theological standpoint – with contemporary Jewry than with the idolaters of the past.³⁰⁰ Reflecting on this, David Berger notes:

ha-Meiri [formulated] a wholly novel halakhic category which roughly means civilized people, a category which helped to exempt Christians from a series of discriminatory talmudic statements. While this is not a case of incorporating an external value or doctrine into Rabbinic law – the Christendom that ha-Meiri knew had hardly developed a theory of religious toleration – it probably is an instance of re-examining *halakhah* and Jewish values in light of habits of mind developed by exposure to a culture shared with the gentile environment. Once again, the core of the Torah was touched – or its deeper meaning revealed – through insights inspired by involvement in general culture.³⁰¹

²⁹⁹ Katz, *Exclusiveness and Tolerance*, 124-125.

³⁰⁰ Ibid., 115-125. For actual text, see Meiri, *Beth Ha-Behirah on Avodah Zarah*, ed. A. Schreiber, 1944, pp. 39, 46, 591.

³⁰¹ David Berger, “Judaism and General Culture in Medieval and Early Modern Times,” in *Judaism's Encounter with Other Cultures: Rejection or Integration?*, ed. Jacob J. Schacter (Lanham: Jason Aronson, 1997), pp. 60-141, 108.

Other examples that highlight this phenomenon can be found scattered through rabbinic literature. They will serve as a foundational understanding for much of the analysis found in this section of the dissertation.

If Katz's work is a watershed moment in acknowledging nuance in the realm of Jewish-Christian relations, a more recent work that exemplifies Katz's ideas being taken to an extreme position perhaps represents a new watershed moment in this particular conversation. Jonathan Elukin's *Living Together, Living Apart* promotes a particular pole on the spectrum of the 'conversation' category found in Jewish-Christian relations during the Middle Ages.³⁰² Elukin's work aims at removing the notion of the persecuting society from medieval Europe, something that he believes "reduces the Jewish experience to a one dimensional narrative of victimization."³⁰³ This desire goes beyond the position of his predecessors, Baron and Katz. Instead of focusing on the negative interactions between Jews and Christians throughout medieval Europe during the High Middle Ages, Elukin points out that observing Jewish society on a more microcosmic level – focusing on personal relations and local encounters commonplace in daily life between Jews and Christians in the Middle Age – would lead to the discovery of a gamut of positive interactions to be mined from the available historical sources. Elukin's overly positive look, however, was challenged by David Nirenberg in an article in *The New Republic*, insisting that although one might see many instances of positive encounters between Jews and Christians, it would be a historical injustice to be dismissive of the negative relations that certainly existed. Nirenberg lambasted Elukin for providing an unscholarly, one-sided and

³⁰² Jonathan M. Elukin, *Living Together, Living Apart: Rethinking Jewish-Christian Relations in the Middle Ages (Jews, Christians, and Muslims from the Ancient to the Modern World)* (Princeton: Princeton University Press, 2007).

³⁰³ Elukin, *Living Together*, 4.

cherry-picked account of the Jewish-Christian encounter. Nirenberg concludes by stating that he does not “mean to reduce Judaism to its tears, or to suggest that revisionism [what Elukin engages in] in scholarship should cease – that we should stop rethinking the past or harnessing history for present needs. Not at all. To twist a dictum of Walter Benjamin’s, in order for history to be made vital, we must feed the living with the blood of the past. The question is only whether historians have any special responsibility to the evidentiary body of the past, or whether, like vampires, they may feast at will.”³⁰⁴ Nirenberg, clearly, believed that Elukin argued beyond the actual evidence, and would likely suggest a more middle-ground approach, as this dissertation takes, showing both realms of Jewish-Christian dialogue in the Middle Ages, its hybrid form, if you will.

A recent work, Robert Chazan’s *Refugees or Migrants*, provides an excellent example of a scholar finding a balance between the poles of the opinions mentioned above. In this work, Chazan states that he intends to “challenge the consensus ... that Jews have suffered an extraordinary level of majority maltreatment, which has occasioned constant population movement resultant from governmental expulsion, hostile legislation, and popular animosity and violence.”³⁰⁵ Chazan admits that it is indisputable that challenging social realities often forced Jews to relocate in the past. He says, however, that it is important to recognize that there are times when Jewish relocation was an internal choice not based on challenging external factors. This nuanced position, which scrutinizes specific instances and avoids sweeping conclusions, is

³⁰⁴ David Nirenberg, “Hope’s Mistakes,” *The New Republic*, February 13, 2008, <https://newrepublic.com/article/62288/hopes-mistakes>. For an example of another scholar sharing Nirenberg’s sentiments, see Daniel Lasker, Review of *Living Together, Living Apart: Rethinking Jewish-Christian Relations in the Middle Ages*, by Jonathan Elukin, *Hebrew Political Studies* 2,4 (2007): 474-478.

³⁰⁵ Chazan, Robert, *Refugees or Migrants: Pre-Modern Jewish Population Movement* (New Haven: Yale University Press), 2018, 4.

certainly in line with the direction of historiographical research in the current era of Jewish scholarship.

Overall, this brief look at some works in the realm of ‘conversation’ merely scratches the surface of the scholarship in this field. This dissertation – focusing on Rosh – is more interested in his contributions to this particular facet of Jewish-Christian relations during the Middle Ages. Overall, it will be shown that Rosh’s approach continued in the legacy of his rabbinic forebears from Ashkenaz, yet it contained original nuances that place his position as one that is worthy of study.

Rosh and ‘Conversation’

In Rosh’s legal and ethical writings, works that I have labeled as the “practical” category of his corpus, one finds an attitude towards the Christian community that can also be found in the writings of his predecessors, the Tosafists.³⁰⁶ Rosh’s ethical and legal writings inevitably reflect practical concessions necessitated by the diasporic condition of the Jewish people. Additionally, a legal work that dictates how one is to act with non-Jews in business theoretically has ramifications through all historical periods, since Jews engaged with non-Jews in business transactions throughout the period of the Jewish Diaspora. Legal writings, furthermore, differ from theological ones, where a statement presented regarding non-Jews will often not have direct impact on behaviour.

Here, discussions of practical life reflect the associations with non-Jewish others who really existed and whom Jews encountered on a daily basis. This is – at its root – a major

³⁰⁶ Halakhic writings, especially responsa literature, are often reflective of historical realities and can serve as valuable artefacts to help understand various eras through primary source analysis. See the discussion in chapter 3 on this topic and also Soloveitchik, *Shu”t [Responsa] as History*.

difference between attitudes reflected in legal versus theological writings. This distinction was not unique to Rosh – rabbinic scholars all engaged in their respective societies and recognized that regardless of theological considerations, their survival in general society hinged upon the need to foster good relations between communities. What, therefore, can be gleaned regarding our understanding of the contemporary realities that Rosh faced within his context?

Moshe Rosman, though discussing the Polish-Jewish community in the Early Modern Period, notes a similar distinction between a proposed, theoretical persona that might be attributed to a group of individuals, in contrast with the realia that existed in everyday society. He writes that “it has been observed that in Polish culture there was a range of attitudes towards the Jews across sectors of society and often a duality when comparing theory with practice. Examination of Jewish sources shows a similarly complex situation in Jewish culture relative to Christians in the Polish-Lithuanian Commonwealth.”³⁰⁷ This quotation shows precisely what I am attempting to argue about this earlier period – a duality can be found between theory and practice. In this case, exegetical and theological writings represent theory, while halakhic writings – and similar texts couched in the practical and legal realm – teach us about the daily reality. Rosman comments further that “while the theoretical non-Jew was typically a monolithic, threatening character, real non-Jewish people came from a variety of social categories and were encountered in numerous contexts. In some they were feared and hated, in others they were dealt with matter-of-factly, learned from, even liked and trusted.”³⁰⁸ The interplay of these factors and historical realities – as well as how they manifest themselves – will be the focal point of this chapter.

³⁰⁷ Rosman, *How Jewish*, 143.

³⁰⁸ *Ibid.*, 144.

Embodied within the attitude split between theological and legal works is the idea of the dichotomous nature of the Jewish-Christian experience during the Middle Ages. This reality, as scholarship has shown, is a true hallmark of the Jewish-Christian encounter.³⁰⁹ It ties into the underlying thesis of the ‘hybrid community’ of the Jews in the Middle Ages, as discussed in the second chapter of this dissertation. In essence, the situation that arose in the Ashkenazi Middle Ages is one of close communal contact and relations between Jews and Christians, a necessary reality of daily living in the Middle Ages. As a result of this living on a communal boundary, the realities outlined in the first chapter on hybridity along borders arose. This reality, I believe, is seen in the halakhic works that reflect the practical daily routine and existence of Jews and Christians in the Middle Ages.

This chapter analyzes two works of Rosh that are relevant to this presentation. One is the *Orhot Hayyim*, which Rosh and his successors labelled as a “guidebook for daily life,” and the other is *Responsa of Rosh*. These works are the best we have of Rosh’s writings that show the day-to-day realities of his life, and the practical realities he faced when encountering a non-Jewish “other.”

The *Orhot Hayyim*

The *Orhot Hayyim* is ostensibly the work Rosh is most commonly associated with, despite representing a small fraction of his prodigious writings. It falls into the category of *mussar* (ethical) instruction, outlining what Rosh believes to be appropriate conduct in daily life, with

³⁰⁹ One just needs to look at the titles of some of the books used in this dissertation to see how integral this duality is to the Jewish experience of the Middle Ages. For example, David Berger’s collected essays: *Collision and Conversation*, Katz’s *Exclusiveness and Tolerance*, and Elukin’s *Living Together, Living Apart*. There are many other examples.

the original intention of serving as an ethical will for his sons.³¹⁰ The work is divided into seven chapters, each containing precepts grouped according to the nature of their instruction, with the intention of helping the readers “bring great good [into their lives] ... [by] taking note of these matters.”³¹¹

As the *Orhot Hayyim* is essentially fashioned to be a guidebook for how Jews should conduct themselves in their daily lives, it stands to reason that this would serve as an excellent resource for understanding how Rosh believes one should deal with communities outside the Jewish purview. Though by no means a focal point, Rosh makes three remarks regarding conduct towards gentile communities, and these, as we shall see, accurately reflects the attitude he espouses in his legal and practical writings.³¹²

In all three instances that mention gentiles, Rosh clearly states that one needs to treat them in a fair and respectable manner. These three passages are as follows:³¹³

*104) Do not deceive any gentile, for there is no gentile that does not have a moment of power, and they harbour their anger forever.*³¹⁴

129) Lies shall not leave your mouth. Be straight with all people, even with gentiles.

³¹⁰ Freimann, *Rosh*, 97-98. The general target of these *mussar* works was generally the non-elite class of Jews, those who were looking for everyday advice and were unable to comb through halakhic materials to decide best conduct. These, therefore, were meant for regular consumption; and I stress, therefore, how something contained in this work is likely reflective of how Rosh would recommend the average Jew operates in the vagaries of daily life.

³¹¹ At the conclusion of chapter 7.

³¹² As will be demonstrated in his larger legal work, *Responsa of Rosh*.

³¹³ Text taken from the Bar-Ilan Responsa Project.

קד. אל תונה לשום נכרי כי אין נכרי שאין לו שעה ועברתם שמורה נצח.
קכט. אל תוציא מפיד דבר שקר וכזב והי' נאמן לכל אדם ואפי' לנכרי
קל. אל תתעצל להקדים שלום לכל אדם ואפי' לנכרי מפני דרכי שלום.

³¹⁴ The last clause here is an allusion to Amos 1:11.

*130) Do not be lax to greet any person before he greets you. This applies even to a gentile in order to promote the path of peace.*³¹⁵

It is significant that an individual who had undergone significant hardship at the hands of the gentiles nevertheless insisted upon positive interactions with gentiles in day-to-day life.³¹⁶ Though the advice that Rosh offers seems banal, understanding it in the context of his life renders it more telling.

In clause #130, Rosh invokes the notion of preserving *darkhei shalom* as one of the reasons why the precept should be meticulously observed.³¹⁷ Constant contact between communities, therefore, suggests the need for co-existence, and it is precisely this which Rosh is insistent upon when formulating his guide for daily conduct. The clause also suggests that this is a reality that presented itself often, suggesting that it was common for gentiles and Jews to greet each other, reflecting an atmosphere of friendship and camaraderie.³¹⁸

Clause #134 is perhaps the least suggestive, yet it nevertheless deserves mention. Rosh writes that wronging a gentile could lead to repercussions when these gentiles might find themselves in a position of power, and seek retribution against the Jew – or Jews – who wronged them. Although this statement is less liberal, as self-interest is the reason for treating gentiles

³¹⁵ This is a reference to the text in BT Berakhot 17a.

³¹⁶ See chapter one for further elucidation of Rosh's hardships.

³¹⁷ *Mipnei darkhei shalom* (for the sake of the ways of peace) and *mipnei eivah* (for the sake of preventing enmity) are two clauses cited in Jewish literature often in the context of Jewish-gentile relations. Both principles, similar in function, are often quoted as reasons for ruling in a specific manner regarding how to act towards non-Jews. These laws are useful in ruling in a manner that promotes social cohesion. For more information, see Crane, Jonathan K. "Because . . . Justifying Law/Rationalizing Ethics" *Journal of the Society of Christian Ethics* 25, no. 1 (2005): 55–77.

³¹⁸ A question that applies to the *Orhot Hayyim* is whether the instructions that do not specifically mention gentiles nevertheless include them, and this can clearly be a matter of debate. It is noteworthy that Rosh frames many of these rules of daily conduct by beginning with principle #104 targeting gentiles, and then does not mention them again until the final two clauses, #129 and #130.

with respect, it is nevertheless worthy of mention as the everyday reality of this statement is that Rosh encourages congeniality to gentiles.

Lastly, clause #129 reflects an idea that is easily associated with running a congenial society – the idea of truthfulness. Rosh expects Jews to be truthful in their dealings, reflecting the idea that society can function only when there is a level of trust between members of the society.³¹⁹ Truthfulness is required of moral individuals, and the bounds of morality even stretch towards the requirement of truthfulness with gentiles, a notion which is not always straightforward in halakhic literature.³²⁰ Rosh, nevertheless, is cognizant of the society and reality in which he finds himself and is insistent that one should always promote truthfulness with gentiles, as this is the moral act that enables society to function at its best.

Since Rosh wrote *Orhot Hayyim* as a guidebook for daily conduct in one's life, the ultimate question is whether these ethical guidelines indeed permeated the daily behaviour of Rosh and his coreligionists. Although an ethnography of this community is impossible for obvious reasons, the next best endeavour that can be undertaken, I believe, is locating a source that serves as a foundational text for this exploration. Although *Orchot Chayim* has some interesting tidbits, its brevity makes drawing sweeping conclusions impossible. On this note, I believe that *Responsa of Rosh*, which will be discussed in brief in the upcoming section, serves well in this regard due to both the nature of responsa literature and the role it plays as a historical source, as well as the fact that there are simply many more examples of Jewish-gentile interactions recorded there.

³¹⁹ A selection of sources later in this chapter discusses the major trust factor that could be found between Jews and Christians, perhaps highlighting this clause.

³²⁰ One can find references throughout Jewish legal literature, starting with the Talmud, and continuing with the *medieval rabbis*, that suggest that it may be permissible at times to be unethical towards a non-Jew. In contrast to this, many laws and legal revisions have since been instituted to prevent these situations from arising.

Responsa of Rosh

a) Introduction: Responsa as Historical Texts

Responsa literature (Hebrew: *She'elot u'Teshuvot*, lit. questions and answers) is a category of rabbinic texts where community members would reach out, via letters, to legal scholars, asking how to navigate complicated problems in Jewish law. This phenomenon is referenced as early as in the Babylonian Talmud, but became a significant genre of legal literature in the Geonic period (i.e. in the last centuries of the first millennium), with a crystallization of form occurring with the rise of the *Rishonim* in the Middle Ages (i.e. in the first centuries of the second millennium).³²¹ It remains prevalent up until today as a means of disseminating rabbinic legal rulings. A quick analysis of the responsa genre as a source for historical and sociological research will now be undertaken, focusing mainly on Haym Soloveitchik's *Responsa Literature as Historical Source*. As Soloveitchik avers, "everything that is leftover from the past is merely a remnant ... knowing the past [therefore] is knowing remnants."³²² In his work, Soloveitchik attempts to understand precisely how successful these remnants from the past are at helping us understand the historical *Zeitgeist* they are a part of. Analyzing a specific question about how the Jewish community organized itself during the early modern period, Soloveitchik notes that one observes new attitudes arising in the responsa he scrutinizes. This leads Soloveitchik to questioning precisely why attitudes seem to be changing in the legal record. Proceeding in this manner, Soloveitchik believes, is how we can read historical realities into primary sources such as responsa. As Soloveitchik states, this enables us to see that "the law didn't change in our particular example,

³²¹ "Responsa," in *Encyclopaedia Judaica* 17(2), eds. Fred Skolnik and Michael Berenbaum, 228–39. Cf. Soloveitchik, *Responsa as History*.

³²² Soloveitchik, *Responsa as History*, 127.

nor did the nature of humans. Rather, it was the spiritual/knowledge climate (*zeitgeist*) that has changed! Only half of the work of a historian is done if she explicates the technical aspects of a historical source yet fails to uncover particularly why the individuals of the period obey specifically this principle now, why they accepted its yoke ... And we can't understand the rule of the law without understanding the realia of a particular time period and the mentality contained therein. Once [the historian] starts to understand this, they can understand the sources.”³²³

On the same topic, Moshe Rosman notes “[that] responsa are good source for historical reality,” explaining how various social interactions can often be read into them, as they are as close as we can get to the social realities that present themselves in communities of the past.³²⁴ Here we have two scholars, and many more would agree with their statements, insisting on the importance of responsa as a window into the realities in the communities where they were written.

Soloveitchik and Rosman’s writings have relevance to the genre in general. Their methodologies will be applied to *Responsa of Rosh*, the collection of responsa written by the central figure of this dissertation. Texts within this collection reflect sociological realities that led to new approaches in halakhic adjudication. They reflect attitudes and ideas, recognition of communal relations, and have societal reflections that are relevant to the intellectual historian. What, precisely, is being done in recognition of these realities? In the sections that follow, the sources will help us understand the communal realia.

³²³ Ibid.

³²⁴ Rosman, *How Jewish*, 148.

As discussed, hybridity is the underlying factor that undergirds cultural relationships, and the dialogue that occurs is a reflection of the state of hybridity across communal and cultural borders. As we shall see, these sources reflect positive relations between Jews and the non-Jewish other. Rosman succinctly mentions this reality – one that is arguably found in all legal works: “when [a Jewish scholar] took sides in a halakhic dispute, [there was] necessarily something of his own society’s problems influencing him.”³²⁵

Responsa of Rosh is one of Rosh’s most significant works, a text for which he was often known both during his lifetime and afterwards. Contained in this collection of responsa are many examples that display the close quarters in which the Jewish and Christian communities lived, interacted and co-existed. Here, in contrast to a biblical commentary, we begin to see the altered rhetoric that portrays gentiles as a class of individuals who deserve neighbourly treatment, often to the point where legists establish halakhic boundaries to prevent *eivah*, and subsequently avoid negative communal relations.³²⁶

The sources that I will highlight reflect the collaborative community that existed during Rosh’s time. After establishing the reality of positive communal relations, the dissertation will engage in an examination of how one can synthesize these two seemingly opposite bodies of work when placed in the context of the particular location and time in which Rosh lived.

The sources that will be examined will also be evaluated on the basis of how conclusive an argument can be drawn to infer sociological norms from the responsa. There are instances where a conclusion can strongly reflect a trend, while others might be less definitive.

³²⁵ Ibid.,136. For references to the debate surrounding the efficacy of responsa as a historical source, see Jay Berkovitz, *Law's Dominion: Jewish Community, Religion and Family in Early Modern Metz* (Brill, 2020), p. 25, n. 14.

³²⁶ See footnote 317 for an explanation of *eivah*.

Two final notes on using these responsa as social barometers: although communal realia are being demonstrated, it is tenuous to draw sweeping conclusions from any primary texts about a complex social fabric. Second, when reading these texts, it is important to recognize that Rosh at times can be seen as adopting an interesting position by not saying anything at all (argument from silence). Often in these cases, there is mention of a particular situation that Rosh accepts as commonplace, warranting no comment. This is telling when these seemingly commonplace scenarios involve relationships with gentiles that may have occurred frequently in Rosh's community. These details will be pointed out as we analyze the individual texts.

b) The Sources

The first selection of sources that will be examined come from the realm of legal decisions that centre around Jewish laws concerning baking and cooking – categories that can have complicated legal prescriptions in medieval Jewish circles, especially when a gentile takes part in the food preparation process. These issues are discussed in the legal writings of the period, and clearly the members of Rosh's community were involved in this conversation as well.³²⁷

In the first passage that will be examined, Rosh echoes his teacher, Maharam. His halakhic reasoning often is not novel; rather, it is another point on an established chronological continuum. The most important fact, however, is that this continuum exists – here we have Jewish legists who encourage movement towards a degree of leniency regarding conduct when encountering gentiles.³²⁸

³²⁷ One example of this found in various sources discusses the use of communal ovens in Ashkenazi communities during the Middle Ages. See Norman Roth, *Daily Life of Jews in the Middle Ages* (New York: Routledge, 2005), 66.

³²⁸ In the case of Maharam and Rosh, it should be noted that they are by no means considered 'lenient' legists.

The first source actually does not come from Rosh's responsa but from *Tosafot ha-Rosh*. Although this is not part of his responsa literature, the topic and conversation bear direct relevance to this conversation, so it has been included. The bulk of the sources which follow will be from Rosh's responsa, as discussed.

*... [And nevertheless using the utensil after the cooking of gentiles is not forbidden {by Jewish law}], and even though the Ba'al ha-Terumot [an earlier Ashkenazi scholar] wrote with regards to **fanda** that is made by gentiles that the bread that is cooked with the dish should be prohibited as a result of the fats and oils of the fish, it is a different situation described there since the objects are being cooked together as one unit. And so, it is a commonplace custom that gentile maids working in Jewish homes during Lent cook in our pots [which we would imagine would be problematic due to the legal problems with gentile cooking], and we did not hear anything ever said by the sages of Ashkenaz [that would imply that, after this common occurrence,] that further cooking would not be done with these utensils. In this instance where the halakhic reasoning is uncertain, custom prevails and we act with leniency...*³²⁹

³²⁹ תוספות הרא"ש מסכת עבודה זרה דף מ עמוד א

ואף על פי שבעל התרומות כתב דפנדא של גויים של דגים שאף הלחם אסור מפני שומן הדגים, שאני התם שתבשיל אחד הוא ונתבשל ביחד וידוע ממשות הדגים בפת, וכן מנהג פשוט אשר שפחות גויות העומדות בבתי ישראל בימי עינוי שלהן עושות מדורות ומבשלות תבשילן, ולא שמענו מכל גדולי אשכנז שפירשו מכליהן, ובמקום שהלכה רופפת הלך אחר המנהג וכל שכן שאין כאן רפיון.

This case is significant as it reflects on Jewish-Christian relations that played a role in Rosh's legal decisions. First, this case shows evidence of close relations between Jews and Christians. In this instance, despite the fact that Jews have very strict rules regarding what renders utensils 'kosher', a legal loophole exists that permits non-Jews to use Jewish utensils, likely a reflection of it being a common occurrence, and therefore suggests positive relations. I believe that if non-Jewish help is cooking their own foods in a Jewish home, using Jewish utensils, this suggests a degree of camaraderie that goes beyond simply 'hired help.' This, therefore, is likely an acquiescence to sociological realities, evidence that close working conditions from cultural contact result in changing attitudes and new legal understandings.³³⁰

In the same source, an interesting phrase is mentioned that further suggests Rosh's knowledge of non-Jewish culture, specifically that of a Christian observance. There is reason to believe that "yemei 'inui'" is a reference to Lent, and the cooking taking place in the Jewish kitchen is actually done by the Christian help to break the Lent fast that would be observed until the afternoon.³³¹ Rosh, here, recognizes the needs of his non-Jewish contemporaries during this period of fasting, and finds no issue with their cooking as necessitated by their religious requirements. He has knowledge of the Christian calendar, another fact which clearly suggests communal relations.

³³⁰ This example also shows another instance of legal ruling following *minhag* (custom), which is something that Rosh is wont to do as seen in chapter 2.

³³¹ Stephen Loughlin, "Thomas Aquinas and the Importance of Fasting to the Christian Life," *Pro Ecclesia: A Journal of Catholic and Evangelical Theology* 17, no. 3 (2008): pp. 343-361, 351.

Before continuing, this knowledge of Rosh regarding Lent can be unpacked further, specifically when looking at a comment from his son, Rabbi Jacob [known as “*Tur*”], who quotes a responsum from Rosh that has since been lost. *Tur* writes:³³²

... I paid attention, since this year Lent was just before Passover, and there was also a dry spell, and they couldn't plow, so very little planting of wheat occurred [before Passover] ... [to know the status of the planted wheat] they should ask the [non-Jewish] farmers, and if they say they planted the majority before Passover it is permitted, and if not, it is forbidden. I also remember from my youth two or three times that Lent [the non-Jewish yemei 'inui] around Passover, and my father [ruled on this matter based on that knowledge of the Christian calendar].”³³³

It is clear that Rosh and *Tur* recognize the importance of having awareness of Christian holidays, as knowing these days has ramifications in Jewish law as well. Knowledge of this kind arises only through communal interaction and cohesion, and, as noted above, reflects the idea that intermingling existed between both communities and positive relations arose. In this instance, understanding when the gentiles planted the wheat crops is integral to proper

³³² Jacob ben Asher (c.1269-c.1343) is the son of Rosh and is known more commonly as *Tur*. The name *Tur* is derived from his major work, the *Arba'ah Turim* (“Four Columns”). The *Arba'ah Turim* is a legal codex that remains in use until today as a halakhic compendium.

³³³ טור יורה דעה הלכות חדש סימן רצג

כתב א"א הרא"ש ז"ל בתשובה ודאי בכל השנים אין לחוש מספק על התבואה לאוסרה ב[שמא לא נשרשה קודם דסמינן ארובא שנשרשה קודם לעומר ועוד שהוא ספק ספיקא שמא היא מתבואת שנה שעברה ואפילו היא מתבואת שנה זו שמא נשרשה לפני העומר ועתה לפני הפסח נתתי אל לבי יען ג] שימי עינוי הנכרים היה בפרוס הפסח ד] וגם עת הגריד היה ולא יכלו לחרוש ומיעוטא דמיעוטא זרעו לפני הפסח ולא מלאני לבי לאסור אולי לא ישמעו לי ואני משיב לשואלים ידרשו מאת עובדי האדמה ה[אם יאמרו שהרוב נשרש לפני הפסח מותר ואם לאו אסור וגם אני זוכר מנעורי פעמים ושליש שימי עינוי הנכרים היה בפרוס הפסח שרבותי נהגו איסור אבל לא הורו הלכה למעשה לאיסור ו] ואהא: סמינן ואני מורה איסור דמוטב שיהיו שוגגין ואל יהיו מזידין והחדד יפריש ע"כ

observance of the Jewish legal precept of *hadash* (new crops), which requires one to wait after the initial planting of a grain until the second day of Passover when it becomes fit for consumption. This law becomes problematic for Jews if the wheat isn't planted until after Passover. Rosh, therefore, stresses the importance of knowing when the grain being sold in the market was planted. Based on his understanding of Christian culture, he knows that if Lent falls just before Passover, it is unlikely that the Christian farmers planted the wheat at that time.³³⁴

An additional facet of this responsum is that Rosh advises individual Jews to ask the Christian farmers themselves about the dates that they planted certain crops, and the response that they would receive would have practical ramifications for how these Jews would navigate this facet of Jewish law surrounding produce. Here, then, it is obvious that a certain amount of trust is being placed on the Christian farmers, relying on their truthful responses, in order to adjudicate a question of Jewish law. This, too, reflects a positive relationship, and shows that the communal relations extended beyond antagonism.

The next example discusses legal decisions surrounding whether Jews can consume certain items cooked or baked by gentiles, and some interesting scenarios that arise as a result of these discussions. Rosh writes:

(N.B. Due to the complicated nature of this text, the Hebrew is provided in the footnote, and only a summary will be provided in English)

Rosh discusses the status of bread baked by a non-Jew who mixed eggs into the dough.

Ashkenazic authorities had ruled that bread baked by non-Jews would be considered kosher, but

³³⁴ The biblical passage that codifies this law is Leviticus 23:14 - "Until that very day [the first day of the *omer* period, i.e. the second day of Passover], you shall eat no bread or parched grain or fresh ears; it is a law for all time throughout the ages in all your settlements."

*not other foods. Eggs are among the foods that a Jew would not be allowed to consume if cooked by a gentile. The famous Ashkenazic sage, whom Rosh generally follows, Rabbenu Tam, ruled accordingly that bread made with eggs by a non-Jew was not kosher. Rosh disagrees and bends over backwards to prove that it is kosher. He writes, inter alia: "We always buy eggs from a gentile, without verifying that the eggs are from a kosher bird since we rely on the reality that most bird eggs encountered in day-to-day life are from pure [kosher] birds. And we also buy from them [gentile] bread that is kneaded with eggs. First, we do not have doubt about the status of the eggs as impure, so there is nothing wrong in that regard. Additionally, a similar rationale applies with spots of blood being in the eggs – which would make the eggs 'impure' and hence render the bread not permissible according to the rabbis. However, we also have no concern about blood, since most eggs do not have blood spots within." He argues further that bread that has eggs mixed into the dough should have the lenient status of bread, and not the stringent status of other items cooked by a gentile.*³³⁵

³³⁵ תוספות הרא"ש מסכת חולין דף סד עמוד א

ומה שאנו לוקחים ביצים מן הגוי אף על פי שאינו אומר של עוף פלוני טהור הוא אנו סומכין על רוב ביצים המצויות בינינו שהם של עופות טהורין, ומה שאנו לוקחין מהם פת הנילוש בביצים ולא חיישינן דילמא ביצים טרופות היו ולקחן מישראל דדוקא היכא דחזינן שהם טרופות חיישינן דאיכא ריעותא אבל לא חיישינן שמא היו טרופות ולא חיישינן שמא היה בהם דם דרוב ביצים אין בהם דם, ומעשים בכל יום שאנו אוכלים ביצה מגולגלת אף על פי שאינו יכול לבדוק. ור"ת היה רוצה לאסור פת של גוים הנילוש בביצים משום בישולי גוים, אף על גב דאמרינן בירושלמי פת עמעמו עליו והתירוהו, כיון דנילוש בביצים אסור מטעם שלקות ולא היה בכלל היתר פת, דשתי גזרות היו דגזרת פת היתה מ"ח דבר דגזור ב"ש וב"ה וגזירת שלקות קדמה הרבה דבפרק אין מעמידין בעי למימר דהוי דאורייתא ומסיק קרא אסמכתא בעלמא הוא וב"ח היו הכל בקיין כדאמרינן בפרק אין מעמידין שפשט איסורן בכל ישראל, ועוד האידנא אנו נוהגים היתר בפת של גוים ואיסורא בשלקות. ומיהו נראה דאע"ג דהלכה כמאן דאסר ביצים משום בישולי גוים דתניא כותיה בפרק אין מעמידין מ"מ עיסה שנילושה בביצים אין לאסור דקמחא עיקר מדמברכינן עליו המוציא ואנן סמכינן בפת אהיתר דירושלמי, ואמרינן בפרק אין מעמידין קרבי דגים אין בהן משום בישולי גוים ואי עבדיה גוי כסא דהרסנא אסיר פשיטא מהו דתימא הרסנא עיקר קמ"ל קימחא עיקר משמע דאי הרסנא עיקר היה מותר אף על גב דקמח מעורב

In this instance, we see how Rosh wishes to show that this combination of bread and eggs would have a permitted status, and hence would be fitting for a Jew adhering to kosher standards to eat. Close analysis of the source shows a disagreement between Rosh and Rabbeinu Tam, and it is notable that Rosh takes a more lenient position. This departure from Rabbeinu Tam is somewhat uncharacteristic for Rosh, who couched many of his legal decisions on the previous rulings of the Ashkenazi Tosafists, and Rabbeinu Tam was, arguably, the most famous and most highly respected Tosafist. This, perhaps, shows how he is reacting to a need of his current community. Of course, Rosh bases it on a premise in halakha, something he refers to as the *heter Yerushalmi*, yet the underlying factors I believe, are clear: Rosh rules in direct opposition to Rabbeinu Tam as a result of close contact between Jews and gentiles in the realm of baking. Ruling otherwise in this instance would create an unnecessary challenge for Jews looking to purchase bread on a daily basis. Clearly Jews and Christians exist in an intertwined relationship where the reliance on non-Jewish bread requires a halakhic leniency to make it easier for Jews to adhere to laws of kashrut.

A third and final source, this also in the realm of baking, further cements the notion that communal baking was occurring. Rosh writes a response to a question³³⁶ that states that

*a certain Jewish woman gathered her dough to prepare loaves in the house of a non-Jew, and the truth is that the non-Jew rolled them...*³³⁷

בו, ומטעם זה אין להתיר עיסה של פשטידא של דגים שאפאה גוי שהשמנונית היא בעין על העיסה וגם שומן של דגים נאסר משום בישולי גויים קודם שנתערב בעיסה ולא דמי לעיסה הנילושה שהביצים בטלים מתחלה ולא נאסרו מעולם.

³³⁶ The question posed had to do with the intricacies of the rabbinic laws of *halah* (based on Numbers 15: 17-21). The specific question and answer are not of interest for our discussion, but the facts of the case are.

³³⁷ שו"ת הרא"ש כלל ב סימן ב

תשובה: עילנא בבר לפני מלא דבר (לשון זה בגמרא. בפרק במה בהמה דף נ"ו, ופירוש: חכם בתורה) ואני דן לפניך

בקרקע, מורי ה"ר יעקב בר אורי. אשר שאלת וז"ל: יהודית אחת עורכה עיסתה לתקן ככרות בבית הא"י, והאמת

This source provides evidence of Jews baking together with gentiles, an activity that also shows friendly communal ties. Not only are the Jews and non-Jews baking together, but they are actually doing it in the gentile home, with the Jew seemingly finding no difficulty in finding herself in the personal and intimate boundaries of the gentile's home space. In addition to the spatial reality, the gentile is an active part of the baking process. This suggests that friendly relations were not unheard of in this era; Rosh not only does not chastise this behaviour, he just ignores it completely.

These three sources discussing cooking and baking point towards one idea – Jews and non-Jews were coming together in various ways, and Jewish law needed to create space for these inter-communal relationships.

The next sources that will be discussed fall into the category of “legal loopholes” and show instances of gentiles in Rosh's milieu helping Jews circumnavigate certain strictures in Jewish law. This could suggest close ties between the Jewish and Christian community, or, at a minimum, a degree of trust that arises from living in close proximity. For the first example, we see the utilization of a legal loophole to avoid a creditor. Rosh writes:

שהא"י גלגל, ועד שתקנה שש ככרות אמרה: אוי ששכחתי שלא הפרשתי חלה, והפרישה חלה מן העיסה שנשארת

בעריבה

*... And I have seen in a number of instances where Jews write over their entire wealth **either to a Jew or to a gentile**. Then they borrow money. When the creditor comes to collect, they take out the document that proves that they no longer have assets, claiming that they now belong to somebody else. Everyone can see that even though they had transferred their assets on paper to someone else, they were still asserting control over and managing those assets. They never really relinquished ownership.... (emphasis added)*³³⁸

This is a small example that further displays the trust and close relations that existed between Jews and some Christians. In this instance, a problem comes before Rosh in the case of a Jew hiding assets by writing a document that assigns them as a gift to “Jews or to the gentiles.” This action is done by people conniving to avoid debt repayment. Note the nonchalance of this question, as well as the response of Rosh who, while very upset about the Jews’ conniving behaviour, does not seem to find anything strange in the fact that a Jew trusts a gentile sufficiently to make them the titular holder of all the Jew’s assets. This interaction suggests there is a level of trust and understanding found between Jews and gentiles in Rosh’s world. Clearly, there must be a strong level of trust between parties, as the gentile would hold all the power in this interaction and the Jew who signed over their assets is fully reliant on the trustworthiness of the gentile party. A perpetual lack of trust could never lead to a reality like this.

The next example, dealing with specific laws related to first-born animals, provides further evidence of Christians helping Jews take advantage of loopholes in Jewish law. The level

³³⁸ שו"ת הרא"ש כלל עה סימן ג

ועל זה נאמר: צדק צדק תרדוף (סנהד*רין לב:), ואמרו חכמים: דין אמת לאמתו, לאפוקי מרומה. ויען אשר ראיתי מקצת אנשים אשר כותבים נכסיהם ליהודים, או לגוים, ואחר כך לוין מעות, וכשבא המלוה לגבות חובו מנכסיו, מצוה להוציא השטר ותולה נכסיו באחרים; והכל רואין, אף על פי שכתב נכסיו לאחרים, הוא מוחזק בהם ונושא ונותן בהם ומעולם לא יצאו מרשות

of trust on display throughout the process that enables that loophole to be utilized suggests that non-antagonistic relationships existed between the communities. Rosh writes:

Bekhor Beheimah #6

*And today ... when we are not so skilled in the method of Rav Yehuda [that enabled us to render a firstborn animal fetus unfit to be qualified as a bekhor, and thus allow it to remain the property of the owner] ... it is better to ask a non-Jew to purchase part of the animal, [letting this fictitious sale enable the Jew to get around the law surrounding the firstborn].*³³⁹

³³⁹ שו"ת הרא"ש כלל מט סימן ב

ואסור לגרום בו מום כדתניא כל מום לא יהיה בו אין לי אלא שלא יהיה מנין שלא יגרום לו ע"י דבר אחר שלא יביא בצק או דבלה ויניח באזנו כדי שיבא הכלב ויטלנו ת"ל כל מום ואם הטיל בו גוי מום אם לדעת ישראל אסור ואם לאו מותר כדתנן (בכורות ה ג) מעשה בזכר של רחלים ושערו מדולדל ראהו קסדור אחד ואמר מה טיבו של זה ואמרו לו בכור הוא ואין נשחט אלא במום נטל פגיון אחד וצרם אזנו ובא מעשה לפני חכמים והתירוהו ראה שהתירוהו הלך וצרם אזני בכורות אחרים ובא מעשה לפני חכמים ואסרו זה הכלל כל שלדעתו אסור שלא לדעתו מותר ולכשילוד בו מום יביאנו אצל חכם לראות אם הוא מום קבוע לישחט עליו והחכם ישאל איך נפל בו המום וצריך הכהן להביא עדות שמום זה נפל מעצמו כי נחשדו כהנים להטיל מום בבכור ואפילו בנו ובתו נאמנין להעיד שמעצמו נפל המום אבל לא אשתו דאשתו כגופו ועד מפי עד כשר והאידנא שאין חכם מומחה צריך ג' להתיר בכור ואין מתירין אלא במום מובהק אבל לא בדוקין שבעין וכיוצא בהן שאין בקיאיין האידנא ואם ימצא טרפה יקבר העור והבשר ואם הוא כשר יכול להאכילו אף לגוי ומצוה להפקיע קדושת בכור קודם שיצא לאויר העולם שלא יבא להכשל בו בגיזה ועבודה והא דאמרין בפרק בתרא דבכורות (נ"ג) דמעשר בהמה בטלו בזמן הזה משום תקלה ופריך אי הכי בכור נמי בכור בדין תליא מילתא מרחם קדוש הכי קאמרין ליקנינהו לאודניהו לגוי דלא ליקדש מעיקרא אפשר כדבר יהודה דאמר רב יהודה מותר לאדם להטיל מום בבכור קודם שיצא לאויר העולם ובהכי עדיף טפי דלא מפקיע מקדושת בכורה לגמרי והאידנא דלא בקיאינן למעבד כדבר יהודה לפי שצריך דקדוק ועיון גדול להטיל בו מום קודם שיצא רוב ראשו ואף על גב דגדיא באודנא ואימרא בשיפוטניה טוב יותר להפקיע קדושת בכור לגמרי ולהקנות האזן לגוי ממה שיבא לידי תקלה והא דאמרין בבכורות (ג') רב מרי בר רחל הויא ליה חיותא הוה מקנה אודניהו לגוי ואסר להו בגיזה ועבודה ויהיב להו לכהנים וכלאי חיותא דרב מרי בר רחל ומאחר דאסר להו בגיזה ועבודה ויהיב לכהנים אמאי מקנה לאודניהו לגוי דילמא אתי בהו לידי תקלה אי הכי אמאי כלאי חיותא משום דמפקע להו מקדושתיהו והא אמר רב יהודה מותר להטיל מום בבכור קודם שיצא לאויר העולם התם משום קדושת מזבח מפקע ליה מקדושת כהן לא מפקע ליה ואי בעית אימא רב מרי בר רחל ידע לאקנויי קנין גמור וכולי עלמא לא ידעי וחזי ליה איניש אחרינא וסבר רב מרי בר רחל מילתא בעלמא הוא דעבד ואתי בהו לידי תקלה והאידנא אומר ר"ת ז"ל שטוב להקנות לגוי שלא יבא לידי תקלה ואף על גב דחזינן שנענש רב מרי בר רחל דכלאי חיותא משום דרב מרי היה מקנה לגוי און העובר עצמו ואיכא הפקעה בגוף העובר אבל אם הקנה לגוי און האם אין חשש עונש בדבר וכן מוכח שהיה מקנה און העובר מדקאמר ומקנה לאודניהו ואסר להו בגיזה ועבודה ויהיב להו לכהנים אלמא דכל זה בעובר איירי עוד היה אומר ר"י בימי רב מרי שהיו בקיאיין לעשות כרב יהודה להטיל בו מום קודם שיצא לאויר העולם אסור לעשות על ידי הפקעה אבל האידנא שאין אנו בקיאיין בכך מוטב שיקנה לגוי משיבא לידי תקלה וכן מוכח בההיא דפרק בתרא דבכורות (נ"ג) דאי לאו דאפשר לעשות כדבר יהודה היה לנו ליתקן שימכר לגוי משום חשש תקלה ולדין שאין אנו בקיאיין הוי כאי אפשר ולאידך לישנא נמי דקאמר דנענש רב מרי משום דכולי עלמא לא ידעי לאקנויי י"ל נמי דרב מרי שהיה יודע לעשות כרב יהודה לא היה לו לעשות דבר שיכולים לטעות אבל לדין לא אפשר בענין אחר ועוד היה אומר ר"ת ז"ל דרב מרי לא היה מקנה און העובר לגוי דהא הוי דבר שלא בא לעולם אלא מקנה הבהמה לאזני עוברה והוי כמו דקל לפירותיו וטעי אינשי וסברי דאון העובר הוה מקנה והוי כפירות דקל ואתו לידי תקלה אבל אם מקנה און האמהות שרי דלא אתו למטעי הילכך טוב להקנות און האמהות לגוי ולפרש"י שפירש דמעות קונות בגוי צריך למכור לו בכסף און האם ולרבינו תם ז"ל שפסק דמשיכה בגוי קונה צריך למשוך הגוי הבהמה לרשותו או לסימטא הילכך להסתלק מספק היה צריך שיתן הגוי דמים גם שימשוך הבהמה לרשותו ומחזור שבכלל הוא לקבל פרוטה מהגוי ויקנה לו מקום שהבהמות עומדות שם ויקנה לו אזנה והכהנים והלוים פטורין מבכור (צ"ל חייבין בבכור) בהמה טהורה

In this source, Rosh presents halakhic discussion around the laws requiring firstborn animals to be handed over to the priests, as biblical law requires.³⁴⁰ In order to circumvent this commandment, two loopholes arose: either the animal would be declared “blemished,” and thus not worthy to be given to the priest, or the animal would be exempted because it was not owned in full by a Jew. In the Middle Ages, when most priestly laws of Judaism were in abeyance, these loopholes were sought out regularly, and this informs the discussion in the response of Rosh above.

Here, there is lengthy discussion about the loophole of declaring the animal “blemished,” and Rosh discusses the challenges with this solution, even with a non-Jew blemishing the animal. Afterwards, Rosh discusses another loophole that is effective whereby a non-Jew purchased a share of the animal in a fictitious sale. Presumably the animal would be returned to the actual, Jewish owner at a later date.

This discussion reflects a degree of camaraderie existing between communities that renders it possible to navigate the legal space together, the Jews attempting to maximize benefit by maintaining trust in gentile partners. In this fictitious sale, the Jew is assuming a high degree of risk unless they are confident that the non-Jew will honour their end of the deal and return the animal at a later date. In theory, the non-Jew would have the legal right to take full ownership of a share of the animal and could leave the Jewish party in a challenging position. The value of animals in the Middle Ages was high, so this text reflects a level of trust and friendship that extends beyond minor acquaintance.

³⁴⁰ Leviticus 27:26-27 - “Howbeit the firstling among beasts, which is born as a firstling to the Lord, no man shall sanctify it; whether it be ox or sheep, it is the Lord’s. And if it be of an unclean beast, then he shall ransom it according to thy valuation, and shall add unto it the fifth part thereof; or if it be not redeemed, then it shall be sold according to thy valuation.”

These examples show how at times non-Jews encountered Jewish law through their connections to the Jewish community, and even served a role that helped Jews navigate the legal spaces they faced frequently. The next section looks at the opposite encounter, when Jews would encounter non-Jewish law, and how they attempted to navigate that space.

c) The Encounter with Non-Jewish Law

Discussing encounters, or even acceptance, of non-Jewish law in Jewish communities warrants a brief mention of the Talmudic dictum, *dina de-malkhuta dina* (“the law of the kingdom is the law”). This principle of the third-century talmudic sage Samuel is mentioned four times in the Talmud, and “it affirms the authority of the gentile ruler to enforce certain laws pertaining strictly to financial matters ... such as the collection of customs and taxes and the promulgation of land ordinances.”³⁴¹ The social reality this dictum reflects, a deference of Jewish legists to the ruling power, suggests a certain degree of positive relations as well as the necessity for Jewish scholars to, at the very least, familiarize themselves with gentile law. Specifically reflecting on the Middle Ages, Jacob Schacter writes that this “served the very important function of formulating a framework for behavior within the Jewish community and is central for an understanding of the dynamics of much of Jewish life throughout the Middle Ages.”³⁴² The oscillation between legal autonomy and acquiescing to state rule represents an important consideration of Jewish legists in the Middle Ages and the tenuous balance necessary in their legal writings.

³⁴¹ Biale, *Power and Powerlessness in Jewish History*, p 54. The references in the Talmud are: BT Nedarim 28a; Gittin 10b; Baba Kama 113a-b; Baba Batra 54b-55a. For a definitive treatment, see Shmuel Shilo, *Dina De-Malkhuta Dina* (Jerusalem: Jerusalem Academic Press, 1974) [Heb.].

³⁴² J.J. Schacter, “Dina De-Malkhuta Dina,” *Dine Israel* VIII (1977): pp. 77-95.

Jewish use of gentile courts is a topic that has received significant attention in scholarship, and it will be briefly discussed in this section. Kanarfogel notes that using gentile courts was commonly done for monetary matters, yet this practice was deemed unacceptable through a “super-communal ordinance promulgated at a synod in Troyes around the year 1150.”³⁴³ This prohibition was endorsed by notable rabbinic figures of the period, specifically the communal *dayyanim* (judges) and *halakhists* Raban of Mainz, R. Eliezer ben Samson of Cologne, Rabbenu Tam, and Rashbam. In specific detail, this ordinance forbids any Jew from bringing “litigation against another Jew before non-Jewish courts, and it forbids a Jew from using any connection to these courts and the secular authorities to his advantage in his case against another Jew.”³⁴⁴ This line of thinking persisted for centuries to come, when use of *arka’ot* – gentile courts – was consistently forbidden by Ashkenazi communal leaders. But, how reflective are these legal pronouncements of the reality of Rosh’s community? As can often be observed when comparing text to reality, stringencies are not always fully observed. Rosh’s writings demonstrate that Jews are not necessarily acting in accordance with these prohibitions, and Rosh is required to pivot and consider his own legal decisions in light of communal norms.

In one responsum, we see a case where it appears that Rosh is advocating for a stance that embraces Christian legal adjudication more broadly than what the Talmud would advocate on the basis of *dina de-malkhuta dina*, acceding to the local secular law. Rosh writes:

... And I asked him: if the Ishmaelite ruled [in a non-Jewish court] in accordance with the decree of the king, what would the ruling be? And he said that it would be as I wrote above. So I

³⁴³ Kanarfogel, *Intellectual History*, 72

³⁴⁴ Ibid.

*say that the ruling should be [in accordance with what the non-Jewish court would rule here] since dina de-malkhuta dina [the law is that of the ruling body politic]*³⁴⁵

The complicated details of this case are beyond the scope of this dissertation, but to quickly summarize, the question posed to Rosh hinges on what the ruling in Jewish law would be if there is a purchase from a non-Jew – whether or not the Jew would acquire all the rights that the non-Jew previously had under non-Jewish law.³⁴⁶ In this instance, Rosh felt that the Jew had purchased from the non-Jew the rights that the non-Jew had, so he decided to inquire in a non-Jewish court what the law would dictate according to the law of the king. In this instance, once Rosh knew how the king would rule [i.e. what local law would dictate], that satisfied him and he ruled accordingly, citing *dina de-malkhuta dina*. Rosh, by acquiescing to the ruling, shows that there is legal weight to the decision of the non-Jewish court.

The first factor of interest, as discussed above, is the notion that gentile courts were considered valid courts of law for Jewish parties under certain circumstances. This, if nothing else, shows that there is a respectful relationship that exists between communities, and certainly implies social cohesion.

Another subtle point can be found in a response that Rosh gives regarding the question whether a Jewish individual who continually refuses to answer a claim against him in front of a Jewish court can be sued by his accuser in a non-Jewish court. Rosh writes:

³⁴⁵ שו"ת הרא"ש כלל יח סימן ג

תשובה: יראה לי, מה שתובעין לשמעון השנים שדר ראובן בבית, חייב ראובן לפרוע לשמעון, דהיינו אחריות דאיתא ליה מחמתיה. אבל אם שמעון דר בבית, ומנכין לו אותו השכר, אין ראובן חייב לפרוע לשמעון; שכל הזכות שהיה לו על הישמעאלי מכר לשמעון, וקבל עליו אחריות, ואף אם היה בידו היו מנכין לו. ואם תאמר שלא כדין עושין לו, שדין הוא שישראל לוקח רבית מן הישמעאלי, כך נהגו עד הנה, וראובן קבל עליו אחריות; מכל מקום, האי אחריות לאו מחמתיה דראובן קאתי. ועוד, דנראה כרבית שהיה נותן לו בשביל בטול מעותיו. ועתה שאלתיו: אם היה הישמעאלי בא בגזרת המלך, מהו הדין? ואמר לי, שהדין כמו שכתוב למעלה; דדינא דמלכותא דינא, והאי הוי כמו דינא דמלכותא

³⁴⁶ This source echoes the earlier reference to the laws surrounding light when building new homes mentioned in chapter 2.

*... It should be noted that in the instance where a Jewish party is attempting to escape adjudication in Jewish courts, and one is at a loss as to how to bring this individual to justice, this is a situation where it would then be permitted to bring the case to a non-Jewish court. This is to be the course of action only if the individual has repeatedly shown that he cannot be trusted to agree to terms that would be ruled by a Jewish court...*³⁴⁷

Rosh makes reference to this situation other times in his responsa, suggesting that he is describing an event that occurred at least with some regularity.³⁴⁸ Although the case here involves one Jew who is looking to flout Jewish law and to escape halakhic adjudication, this does not diminish the reality that the other Jewish litigant is seeking legal resolution in a gentile court. This reality could reflect positive communal relations between Jews and non-Jews. Although the change of venue to a gentile court is made out of desperation, the desire and willingness to appear there suggests that a Jew would be welcome to do so. In this particular case, Rosh demonstrates a familiarity with gentile courts, seemingly projecting the idea that gentile courts would be a fair compromise, or at the very least provide a viable solution in a legal deadlock. Here, therefore, is perhaps recognition on a small level of some legitimacy for the gentile courts, again a reality that might not have been obvious at first glance when analyzing Jewish-Christian relations in the Middle Ages. Of course, Rosh would never default to Christian adjudication. Another text that echoes the legal realities the Jews faced as a minority population in Christian lands follows.

³⁴⁷ שו"ת הרא"ש כלל יח סימן ד

תשובה: דעו לכם, שכתבתי כמה פעמים על שטרות שכתוב בהן: בין בדיני ישראל בין בדיני האומות, שלא נעשה תנאי זה אלא אם ידחה הנתבע עצמו שלא לירד עמו לדיני ישראל, ויצטרך התובע לטרוח ולכופו ע"י דיני ישראל שיעשה לו דין, אז יש לו רשות לתבעו בדיני האומות. אבל כל זמן שאומר הנתבע: אני מזומן לירד עמך בדיני ישראל ולעשות ככל אשר יצווני, אין התובע רשאי להביאו לפני הערכאות. כי רבותינו תקנו לשון זה לשופרא דשטרא, שלא יצטרך התובע להוציא מנה על מנה כדי לכופו שיעשה לו דין; אבל בעודו מזומן לעשות דין לפני דיני ישראל, אין התובע רשאי להביאו לפני ערכאות. וגם דיני ישראל לא ידונו לו אלא דין תורה. אשר בן ה"ר יחיאל ז"ל

³⁴⁸ Cf. שו"ת הרא"ש כלל יז סימן ח as another example of this.

*... There was a difficult legal case that arose and it kept switching back between Jewish and non-Jewish courts for adjudication [a testament to how difficult the case was]. This matter was so well known within the communities that it eventually became known to the queen, and she chose me [Rosh] to rule in this case based on my expertise. I, too, found this challenging, as many knowledgeable sages before me did as well, and how should I be expected to enter into the fray? Nevertheless, I shall, so that I can please the queen – may she be protected – and of course her will must be achieved. And I pray to God that He aids me in adjudicating correctly ...*³⁴⁹

This text tells of a difficult judicial situation that arose between two (presumably wealthy) Jews. Once again, writing about this case in an off-hand manner, Rosh talks about how both Jewish and Christian courts attempted to find a solution. Afterwards, when this tactic failed, the scholars then brought the issue to the queen for a final say.

Regardless of the content of the situation, the dialogue that surrounds this instance is fascinating. There is a suggestion of mutual respect concerning legal matters, seemingly even if there were no Christians involved in the case. Afterwards, when this route failed, the queen was consulted. Subsequently, the queen instructed the parties to approach Rosh for his expert legal opinion and asked Rosh to make use of the previous summaries of the case prepared by the gentile and the Jewish courts.

³⁴⁹ שו"ת הרא"ש כלל קז סימן ו

על אודות דברי ריבנות שנתעצמו בהם רבי שלמה בן אלבגל ורבי ישראל בן אלהדאד זה ימים ושנים, והוחלפו כמה מונים, מדין ישראל לדין אומות העולם ומדין אומות העולם לדין ישראל. ועתה נתגלגל הדבר שבאו הלום, בציר גבירתנו המלכה, מב"ת =מנשים באוהל תבורך=, והביאו לי כתבה, שהיא צוה עלי שאקח כל שטרי הטענות שנעשו בזאת התביעה בפני המוקדמים של ויליאריאל ובלדוליר, לפני הרב רבי משה'ן חביב, ושאדון על פי טענותיהם הללו, ממה שיראה לי מקו היושר והאמת. גם כי קשה לי במאד מאד להשתדל בדין קשה כזה, שנתגלגל זה כמה ימים לפני אנשים יקרים ונכבדים, חכמי ישראל וחכמי האומות, וגם כי המה בעלי דינים קשים, ולא נתקררה ולא נתישבה דעתם בכל דברי חכמים אשר השתדלו לדון ביניהם עד היום הזה, ואיך אכנס אני ללקט עוללות בצירי האדירים, מכל מקום אני את פי גבירתנו המלכה, מב"ת =מנשים באוהל תבורך=, אשמור, ואת מאמרה אני צריך לקיים. ומבקש אני מהאל שופט צדק, שיהא בעזרי לזרות ולהבר תבן מהבר, ויערה רוח קדשו ממרום עלי לדון דין אמת לאמתו

An interesting issue is the role of the queen and her connection to Jewish adjudication. One should not be distracted by the flowery and flattering language that is used in reference to the queen, as this was common practice and social convention, and thus need not reflect Rosh's real attitude. It may simply reflect Rosh's politically motivated sycophantic attitude to the monarch.³⁵⁰ What is interesting and relevant in this passage, however, is the suggestion that the queen possessed a knowledge of the leading Jewish scholars of the era. This is not to say only that she knew who could adjudicate with the most success in the case, but rather that she knew who the respected community leaders were and therefore decided to turn to one – Rosh.

In addition to the focus placed on the queen, Rosh mentions the “wise men of the gentiles,” which is a suggestive phrase on its own. It seems to imply that Rosh recognizes that wisdom can be found among gentile scholars. Before ruling, Rosh makes sure to look through the “lower court adjudication” that occurred in the gentile realm, and only afterwards attempts to rule. This shows that he may believe that something of value could be gleaned from the gentile court documents. In fact, Rosh categorizes these gentile scholars as “dear and respected [individuals],” a phrase that suggests an even deeper connection to these gentile scholars especially considering the use of the same descriptor for both them and the aforementioned Jewish sages. This entire text suggests some form of partnership between the parties, and a fluid boundary seemingly existed at least in certain legal matters.³⁵¹

This passage suggests, therefore, that there is significant cross-dialogue between communities. Although approaching the queen might not be so indicative – as this would be a

³⁵⁰ References like this are perhaps even necessary as a result of the known phenomenon of Christians reading Jewish writings, and therefore it might simply be a precautionary measure.

³⁵¹ In this context it is possible that Rosh applied these words of praise only to the Jewish scholars who had attempted to adjudicate the case beforehand. I believe it makes sense in this context to read his words as applying to the gentile scholars as well.

way to get a final resolution to a long-lasting problem, since subjects cannot ignore the rulings of the queen – the fact that the litigants had brought the case to a Christian court in an attempt to reach a final ruling is telling.³⁵²

Another responsum highlights this, as a figure no less than the mayor of a city is called upon to enforce a ruling of Rosh in a particularly difficult case with significant repercussions for the plaintiff and defendant. It once again shows communal ties, as well as the use of non-Jewish courts to get rulings in complicated legal cases. Rosh writes:

... the letter that I sent to that fool [lit: brainless person...], if he does not repent, I instruct you and the entire congregation to excommunicate him ... and to distance from him and to separate him from the community of Israel. Things of this nature require resolution, so that more fools will not annul the Torah of Moses. If he maintains his rebellious position, and won't accept the ruling of his banishment, I decree upon him with the authority of our master the king, that he should pay one thousand zuz to the ruler of the city (mayor?).³⁵³ And I decree upon you, Rabbi Jacob, that you should give this letter to the ruler of the city, so that he will collect this aforementioned fine from him. If all of this does not prove useful, you are required to let me know. And this writ of excommunication should be in all the communities of Spain, and he should be declared to have committed a capital crime like that of a rebellious scholar [as if he ignored

³⁵² A relationship with the monarchy is not out of place in the Jewish community, even previously in Rosh's family. For one example, see Freimann who notes on p. 15, nn. 10,11 that Rabbi Elyakim, who lived in Mainz and was a relative of Rosh, "had a distinguished connection with the head of state that even freed him from payment of his taxes." Freimann notes that Elyakim eventually ended up paying taxes so as not to separate himself from the general community. Rabbi Yehuda, son of Rosh, notes in his ethical will that Elyakim "was [a member of] the house of his regent and everything was within his grasp."

³⁵³ Zuz is a reference to a Talmudic coin. It is difficult to know what coin from Rosh's time is being referred to in this penalty.

*the ruling of the supreme court in Jerusalem] because we are required to give up our life for the Torah of God, and to extinguish this evil from our midst ...*³⁵⁴

In this source, Rosh displays his relationship with the gentile community. First, his willingness to work closely with the gentile political authorities is on display. He clearly knows which individuals to contact and how to formulate the wording of the penalty that would ensure compliance by all parties. Second, he shows that he is willing to involve gentile authorities in religious matters, if need be. In the instance of a reticent individual, Rosh finds it permissible to appeal to local gentile authorities and place the matter in their hands.

Before conclusion of this chapter, it would be warranted to revisit the construct set up in chapter 4 and chapter 5 of collision/conversation, and analyze it through the lens of liminality. As the notion of liminality plays a significant role in the many interactions Rosh had with his environs and colleagues, as has been discussed, it is worthwhile to note that the entire enterprise outlined in these previous two chapters can also be representative of a liminal state.

The liminal state of collision/conversation is representative of this duality that Jewish scholarship often attributes to the Jewish experience as a whole – one needs look no further than David Berger's appropriately titled *Cultures in Collision and Conversation* as well as Jacob Katz's *Exclusiveness and Tolerance* to see examples of how this duality has often been portrayed as representative of the Jewish experience throughout the course of history. Although one must be cautious with this sweeping statement, as it would be challenging to create a definitive rubric

³⁵⁴ שו"ת הרא"ש כלל כא סימן ט

שלומך יהי נצח, החכם רבי יעקב ס"ט בר יצחק ט"ע. הכתב ששלחתי לאותו חסר מוח, ואתה ואחר תנוס לו, ואם לא יחזור בו אני מתרה בך ואת כל הקהל שינהגו בו נידוי, באותו המשוגע יעקב בר משה, וירחיקוהו ויבדילוהו מעדת ישראל. כל דבר זה צריך חיזוק, שלא יבא כל שוטה חסר דעת לבטל תורת מרע"ה. ואם יעמוד במרדו, ולא ינהוג דין מנודה בעצמו, אני גוזר עליו במצות אדונינו המלך יר"ה, שיתן אלף זוז למושל העיר. ואני גוזר עליך, ר"י = רבי יעקב =, שתמסור כתבי זה למושל העיר, שיגבה ממנו קנס הנזכר. ואם כל זה לא יועיל, גוזרני עליך שתודיעני הכל. ומצוה לנדותו בכל הקהלות ספרד, וגם ידונו אותו למות בדין זקן ממרה; כי אנו חייבין למסור נפשותינו על תורת האלהים, ולבער עושה הרעה מקרבינו. ואתה שלום וכ"א = וכל אשר = ל"ש = לך שלום =, כנפש ד"ש = דורש שלומך = וטובתך, אשר בן ה"ר יחיאל זצ"ל.

for the historical Jewish experience, there is nonetheless something to be said about this reality at least presenting itself in specific historical moments. In the case of this dissertation, this would be Rosh and his direct environs. Therefore, to conclude, this should be noted as another liminal state Rosh inhabits, as has been suggested – he is an individual that expresses his reality through his writings, and these writings reflect a tension of his experience vis-à-vis non-Jewish culture that both embraces it in dialogue, but also pushes back upon it confrontationally.

In summation, this chapter has provided the “conversation” to the “collision” that was offered in chapter 4. It is now, with both sides of the equation discussed, that one can appreciate the full nuance of Rosh’s position towards the surrounding society of “others” he was in constant contact with.

Chapter 6 - Conclusion

The previous two chapters provided an outline of the collision and conversation narrative that underlies Jewish-Christian relations in the Middle Ages. It provided specific context in the figure of Rosh, refracted through his Bible commentary as well as his legal literature. As one sees, there is a stark bifurcation of opinion regarding non-Jews when comparing both works, representing a microcosm of the dual experience Rosh encountered in the community of the “others” he frequently encountered. Balancing negative experiences and positive experiences is a reality that Rosh faced throughout his life, and in a way the works cited provide a window into that lived experience. All of this leads to our understanding of Rosh as a liminal figure. In recent years critical theory has provided an array of tools to further understand these figures, and this dissertation has made a modest attempt at using them in order to further contextualize and understand Rosh’s experience.

In the past, narratives speaking to a challenging existence, fraught with danger, served as the focal points of the Jewish experience in the Middle Ages. Recent years, however, have pushed beyond this narrative, showing that a more nuanced view of this period in Jewish history is required. Research shows that the Jewish community, once believed to be hermetically sealed off from its non-Jewish neighbours, displays more instances of osmosis and influence than earlier scholars might have thought. In recent years, building on this trend of nuance and investigation, incorporating ideas rooted in critical theory has become *de rigueur* for select scholars of Judaism in the Middle Ages. This phenomenon first met resistance but has since become more accepted in the academy.

In line with more modern sensibilities in scholarship, as well, has been the postmodernist push to avoid sweeping narratives and instead to focus on individuals and their direct communities. Beyond providing a window into individual lives, these microhistories also enable scholars to focus on histories outside of the elite class. Interest in the social history of “everyday” people has also helped build a more robust image of society that can also help provide historical context for these “well-known” figures. Overall, it enables us to create a synchronic image of a point in history, to the best of our ability, using the resources available to us from a range of disciplines.

This dissertation engages in precisely this activity. Through Rosh and his writings, we have crafted an image of his society and how it made efforts to engage with an outside culture. Additionally, it recognized the challenges that close contact with non-Jews yielded, based on historical circumstances. With his legal writings representing the ‘conversation’ aspect and his biblical commentary symbolizing the ‘collision,’ these textual artefacts reflected two sides of a continuum, as well as the instances that fall between the poles. Underlying all of this textual analysis lies the concept of Rosh as a liminal figure, the point of focus in chapter 3, informed by the theoretical foundations provided in chapter 2. Beyond his liminal encounters with gentiles, his intra-Jewish liminality also received attention in this dissertation, reflecting his unique situation of serving as a rabbinic leader in communities in both Ashkenaz and Sepharad.

The entirety of this dissertation focused on textual remnants, and specific ones at that. Aside from a few exceptions, all sources were drawn either from Rosh’s biblical commentary or his responsa. If one wishes to provide an even fuller picture, the next step would be to investigate further writings of Rosh and see if they can provide additional support for his liminal character. Research can also proceed beyond the realm of written works, intertwining other fields of Jewish

cultural production to create an even fuller picture. Spreading the investigation too wide, however, might formulate a more macro view of the Jewish experience, which is better to avoid. Perhaps limiting the inquiry solely to Rosh's environs would provide a new context that could complement the textual study attempted in this dissertation.

As scholars continue to intertwine new fields of study and find new avenues of source analysis, the realms of social and intellectual history in the Jewish Middle Ages provide a fuller understanding of the lived experience during this time. Here, using Rosh as an anchor, this dissertation sought to provide precisely this, a fuller picture of Jewish-Christian relations in the Middle Ages, specific to the world of Rosh.

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Appendix 1 - Did Rosh Write the Torah Commentary

Attributed to Him?

Commentary Controversy

This dissertation is an analysis of the writings of a major rabbinic figure of the Middle Ages, Rosh, looking primarily at his Torah commentary and responsa collection to better understand his cultural milieu. There has been scant discussion of the provenance of his Torah commentary in scholarship, just as the work itself has generally been ignored. As it stands now, there is no clear scholarly consensus as to whether Rosh actually authored this commentary. There are arguments for both positions, as this appendix will explain.

The scholar who wrote the definitive biography of Rosh, Abraham Freimann, examines this question while drawing upon many sources. He concludes his analysis in a manner which certainly does not help reach a resolution, as he simply notes that his sources seem to lead to opposing conclusions.³⁵⁵ Engaging in a quick look at the regnant scholarly analysis on the topic yields a conclusion similar to that of Freimann: the opinions are currently mixed.

Chida (1724-1806), a well-known early modern rabbi, scholar and bibliophile, notes that he saw the manuscript of the Torah commentary first hand and can definitively attribute it to Rosh. Poznanski, a respected scholar from the early twentieth century, also addresses the authorship issue and notes the similarities that it shares with other Tosafist Torah commentaries, specifically the *Da'at Zekeinim*. Although a full comparison between these two works is beyond

³⁵⁵ Freimann 96-97, where writes that “it is difficult to establish the extent of Rabbi Asher’s contribution to this commentary attributed to him, if there was even any at all.”

the scope of this section, this fact has been noted by early scholars and has fueled much of the discussion concerning the commentary's provenance.³⁵⁶

Poznanski's comments are found in his *Introduction to the Exegetes of France*, written during the early twentieth century. He does not find any significant reason to oppose the idea that this commentary was in fact written by Rosh. Despite the similarities with *Da'at Zekeinim*, he writes that "the commentary is equal in its characteristics to the other Tosafist collections, especially similar in many comments to the *Da'at Zekeinim*, different from this only that alongside the frequency of comments from Rashi, there is also a plenitude of references to [the Spanish Jewish scholar] Nahmanides. Furthermore, we can assume that the compiler was of French origin, immigrated to Spain, and lived at the end of the 13th century going by the name of Asher, hence the logical attribution to Rosh."³⁵⁷ According to Poznanski, the comments from *Da'at Zekeinim* and Rashi, in addition to the frequent mention of Nahmanides, seem to indicate that the author of this text was a scholar who spent significant time in both Ashkenaz and Sepharad. In addition, the fact that the author's name is Asher leads Poznanski to what he believes the logical conclusion is: This work (at least in part) could certainly be attributed to Rosh, although he hesitates to reach a definite conclusion. In sum, in contrast to Chida, who believed the commentary was that of Rosh *in toto*, Poznanski believes that a majority can be attributed to Rosh, but not all – a slightly tempered view.

Other scholars, however, deviate from Poznanski's view, and prefer not to attribute the commentary to Rosh. Kanarfogel, for instance, notes how "it is possible that this work emanated from northern France rather than from Germany," and suggests that the work should not be

³⁵⁶ The relevant portions will be mentioned, however, since they shed light on the question whether Rosh did indeed write portions of this commentary.

³⁵⁷ Poznanski, *Introduction*, CVII-CIX

attributed to Rabbi Asher.³⁵⁸ Freimann, too, among the seemingly inconsistent answers he found in the scholarship prior to him, finds a more convincing case that although it is possible that Rosh wrote some of the commentary, it is likely not a large part.³⁵⁹

A full treatment of this subject requires an analysis of two articles written on this subject, easily the most definitive and well-researched writings on the issue. Both articles appeared in the early 1900's in the journal *Revue des Etudes Juives*, where two scholars, Aptowitzer and Lieber, engaged in a debate on whether or not one could attribute this commentary to Rosh.³⁶⁰

i) Questioning Attribution to Rosh

Aptowitzer strongly disagrees with attributing the commentary to Rosh. He claims that the basis for the attribution comes from the copyist of the first known surviving manuscript of this work, dated 1504, just about two centuries after Rosh's death. Aptowitzer, however, marshals arguments against this claim.

He claims that it is impossible to believe that Rosh's son, Jacob ben Asher, who wrote a well-known Torah commentary, the *Ba'al ha-Turim*, would make no reference to his father's commentary. (The *Ba'al ha-turim* never quotes the commentary that some attribute to Rosh.)

This is not to say, however, that there are no references specifically to his father; there are a total of twenty-one individual mentions. It may be the case that the son learned from his father orally, and not from his father's written commentary.³⁶¹

³⁵⁸ Kanarfogel, *Intellectual History*, 273 n. 253

³⁵⁹ This is contrasted with Poznanski, who also believed in a mixed provenance, yet was willing to attribute a larger role to Rosh than Freimann seemingly was.

³⁶⁰ The two articles are V. Aptowitzer, "Le Commentaire du Pentateuque Attribue a R. Ascher ben Yehiel," *Revue des Etudes Juives* 51, (1905): 59-86 and M. Lieber, "Le Commentaire du Pentateuque Attribue a R. Ascher b. Yehiel," *Revue des Etudes Juives* 54, (1906): 64-101.

³⁶¹ In addition to these points, Chidah also states that one could believe that, remaining in Ashkenaz, Jacob was never exposed to his father's commentary which was penned in Spain and never left Sephardic lands, but this is

ii) Arguing for Attribution to Rosh

Lieber wrote a rejoinder shortly after Aptowitzer's article appeared. Although Lieber writes that one cannot definitively state that the Torah commentary *in toto* is written by Rosh, he argues that there are many reasons to believe that Rosh and his ideas constitute a significant portion of the commentary.

In the conclusion of his article, Lieber argues that one can successfully determine that the writer of the commentary lived in the Spanish surroundings of Rosh, contemporaneous to him as well.³⁶² Concluding this, Lieber asserts that it was not simply an individual in the environs of Rosh, but Rosh himself. To perform this task, Lieber sets out to evaluate the precise extent that Rosh played in the writing and compilation of this work.

One caveat that is obvious from the onset of reading the commentary is that the Tosafist Bible commentaries significantly influence this work, as there are many comments taken from these works verbatim. Regardless, Lieber believes this is not suggestive of anything that would deny Rosh authorship of this work, as these Tosafist collections are cited by many scholars contemporaneous with Rosh. Rosh himself followed Tosafist teachings in halakha almost all the time. Even his comments on the Talmud are often verbatim or near verbatim citations of earlier Tosafist commentaries, so there is no reason to say that he would not behave the same way in his Torah commentary. Accordingly, Lieber points out that Rabbi Asher, who "imported to Spain the science and method of the Franco-German schools and wrote several *Tosafot* himself could have brought with him exegetical explanations, and these explanations could have been put into

seemingly untenable due to our knowledge that Jacob eventually did emigrate to Spain where he lived until the end of his life. Then again, Jacob may have written his commentary before he moved to Spain.

³⁶² Lieber, *Le Commentaire*, 92. The major point of identification is the list of rabbinic figures used within the commentary that point to a specific milieu.

writing by one of his students, [suggesting no issues] with attributing the work to him.”³⁶³ Lieber seems to believe that Rosh would certainly fill a commentary with these quotations from the Tosafist commentaries, and this poses no problem for the attribution of the commentary to Rosh.

As for Aptowitzer’s proof from the fact that Rabbi Jacob, Rosh’s son, never cited the work, Lieber asserts that this decision is fully tenable if one appreciates the precise style of Rabbi Jacob’s commentary, which was different from the commentary attributed to Rosh.³⁶⁴ Accordingly, he sees it as totally understandable that Rabbi Jacob “very rarely reproduces, and never textually, the explanations from the commentary of Rosh.”³⁶⁵

iii) Synthesis

A middle-ground approach represents the most likely determination. Rosh probably wrote a portion of these comments, but he or the editor of the commentary also drew generously from Tosafist Torah commentaries. Considering Rosh’s very positive feelings for the Tosafists, he may well be the one who compiled the entire collection.

What is not in question is that this commentary comes from the time period when Rosh was active and is indicative of the realities of his time. These comments, even if perhaps penned either by another individual rabbi or a collection of rabbis, were from the sphere of the intelligentsia, and their comments reflect what would commonly be seen in a Torah commentary during the High Middle Ages that contained both veiled and covert attacks against other religions.

³⁶³ Lieber, *Le Commentaire*, 92.

³⁶⁴ As shown above. Aptowitzer believes strongly in the strength of this claim.

³⁶⁵ Lieber, *Le Commentaire*, 92. Also, the lack of reference to Masoretic subtleties, which Jacob ben Asher otherwise often mentioned, gives further reason why he might have distanced himself from this work.

The author of the commentary is clearly a Jew comfortable with the teachings of Ashkenaz and of Sepharad, as Rosh was, and without a doubt lived when Rosh lived. Lieber's arguments for the attribution to Rosh seem reasonable to me. But, even if Aptowitzer is correct, we are dealing with the work of another liminal Jew who was Rosh's contemporary.