JEWISH LIFE IN TURKEY

IN THE XVITH CENTURY

As Reflected in the Legal Writings of
Samuel De Medina

By

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JEWISH LIFE IN TURKEY

IN THE XVIth CENTURY

A responsum, bearing the personal signature of Samuel De Medina, drawn from the collection of responsa made by Hayyim Benveniste (1603–1673) under the title *Keneseth ha-Gedolah.*

To the memory of

BARNETT GUTMAN

AN EXEMPLAR OF TRADITIONAL JEWISH LIVING AND A GENEROUS FRIEND OF THE NEEDY.

Foreword

AS HAS often been pointed out, a large amount of most valuable material about the communal, economic, social and religious life of Jews in various countries during the Middle Ages and in the following period has been preserved in the Responsa. Only by monographs like the present volume can the rich material be made available to the historian who lacks time required for such research. Studies like this prepared by Rabbi Goodblatt are therefore a most welcome addition to our literature. A full account of Jewish life in Turkey in the sixteenth century will have to be based on all the collections of Responsa of the period of which the author consulted two aside from those of the RaSHDaM.

This limitation we can easily understand if we consider that the present volume is written by a very busy Rabbi who has to give all his time to his Congregation and could only devote to his scholarly work scant hours of leisure and his summer vacations during the last fourteen or fifteen years. Working as he had to under such unfavorable conditions and while fulfilling the manifold practical duties of a spiritual leader, the present book testifies to the author's strong determination to continue his studies and to his deep devotion to learning.

Rabbi Goodblatt has studied the Responsa of R. Samuel De Medina very thoroughly and has made use of the rich material contained in them. The result is an interesting characterization of the author and a vivid picture of the conditions prevailing at that time in the community of Salonika. It was a very difficult period due to the clash between the more recent arrivals from Spain and Portugal on the one hand and the old settlers on the other. These conditions created many problems. The present study enriches our information in a most desirable manner. A useful addition to Rabbi Goodblatt's carefully written book is his translation of a selection of Responsa giving the reader a proper conception of the sources from which these materials had to be gleaned.

The present work is a valuable and welcome contribution to a field in which much remains to be done. It is hoped that his example will be followed and that our knowledge about the Jews in different countries and periods will be increased by many further studies in the Responsa literature.

ALEXANDER MARX,
Jacob Schiff Professor of History
Jewish Theological Seminary of America

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Preface

A STUDY of Jewish life in sixteenth century Turkey is not without meaning for twentieth century Jewish life in America. Great as are the differences between the two communities, their similarities are nonetheless basic. Both represent communities resulting from a coalescence of Jews who came from different parts of the world and who brought with them a variety of customs and traditions. Both existed and functioned in the shadow of profound tragedy. The expulsion from Spain, Portugal and various other lands was still fresh in the minds of De Medina and his contemporaries, even as the liquidation of East and Central European Jewry weighs upon our spirit today. We at least can draw strength and hope from the promise of the State of Israel; but Turkish Jewry of the sixteenth century could fall back only upon its inner resources. These inner resources, however, must not be underestimated. The mighty bonds of Jewish Law under which they lived made it possible for them to experience their Jewishness as a living and comforting reality.

This then is the chief lesson that we can learn from the Turkish period of Jewish history: the marvellous vitality of Jewish Law, its flexibility, its usefulness as a source of moral and ethical guidance in meeting new challenges and new opportunities. Jewish Law can be turned into an instrument of progress, self-discipline and community strength. All this can be achieved, as the Jews of Turkey proved, even if a genius is lacking; all that is needed is devotion to the Law and a courageous interpretation of it.

Samuel De Medina gave such leadership to the Jews of sixteenth century Turkey. He had his personal limitations; he certainly was no Maimonides in his grasp of the Law and its principles. But he was a great scholar, an effective leader and a valiant interpreter of the old in an effort to make it applicable to conditions that were new. Learning, courage and, above all, good sense enabled him to make Jewish Law the instrument with which he helped to create unity and establish peace within a community torn by differences and mutual suspicions. De Medina thus made his contribution to the survival of the Jewish people and deserves the niche which he has occupied in the gallery of Jewish worthies.

This study is meant to be a small contribution to the vast subject of the role which the Law and its interpreters have played in the spiritual history of the Jewish people. There is moreover, a tragic timeliness about noting this process as it worked itself out in Salonika. The considerable Jewish communities of Greece are a mere shadow of what they were but a decade ago. What the living Law succeeded in preserving after the calamities of the fifteenth and sixteenth centuries, the inhuman oppressor destroyed in the holocaust of the twentieth. May this study serve in part as a memorial to Salonika's martyrs of the present day.

In the writing of this historical study, I have had recourse to the help and encouragement graciously offered by teachers and friends. I am indebted to Doctor Louis Finkelstein, Chancellor of the Jewish Theological Seminary, for his friendly and sustained encouragement, and to Professor Alexander Marx, my revered teacher, who first aroused my interest in research in Jewish history. Though an exceedingly busy man, Dr. Marx was generous with his time and ever ready to give me such counsel and guidance as was indispensible for completing this study.

I also want to record my thanks to my devoted friends, Dr. Solomon Grayzel, Editor of the Jewish Publication Society, and Dr. Mortimer J. Cohen who read the proofs and improved the literary style of the book. Their stimulating and valuable suggestions were most helpful.

I am also thankful to Dr. Michael Higger, a well-known talmudic scholar, who carefully scrutinized the manuscript and who placed his erudition at my disposal.

I am profoundly grateful to my relative, Jacob C. Gutman, a generous and faithful Jew and a prominent leader in all religious and communal endeavors. Without his aid, the publication of this book might not have been possible.

Above all, I offer heartfelt gratitude to my wife, Doris. Her devotion, sympathetic understanding and patience sustained me during moments of anxiety and amid the countless responsibilities that rest upon the rabbi of an active Congregation.

It is my fervent hope that this modest contribution to Jewish biography and historiography may serve to deepen the reader's interest in the fascinating story of Jewish adjustment and survival, and to fortify him in the adventure of Jewish living.

MORRIS S. GOODBLATT

May 14, 1952

JEWISH LIFE IN TURKEY

IN THE XVITH CENTURY

CHAPTER I

Backgrounds

THE Responsa of Rabbi Samuel De Medina, upon which this study is based, offer a valuable contribution to the history of the Jews in the Ottoman Empire during the greater part of the sixteenth century. The era which these Responsa illuminate saw the tragic decline of Jewish life in Spain and Portugal and the meteoric rise of the prosperous and influential community of Turkish Jewry. It was a period of abrupt change and slow adjustment with its concomitant hardships and challenges.

Equally important is the commanding personality of the author of these Responsa. De Medina, who was born in Salonika at the beginning of the sixteenth century, emerged by the middle of the century as one of the outstanding halakists in European Turkey. He held a position of rabbinic leadership in his native city and molded its religious and social life as well as that of other communities in the Empire. His career coincided with the gradual transformation of Turkish Jewry from chaos and disunity into communal stability and orderliness. He saw Salonika emerge as the spiritual capital of the Balkans.

The value of De Medina's legal writings as source material for the study of Jewish life in Turkey is enhanced by the fact that the Rabbi was naturally unaware of their future significance for the history of the community he was helping to build. Thus the details of the picture of the Jewish community in Turkey are mainly drawn from references, notes, and information deposited undesignedly and cursorily in De Medina's Responsa.

The collection of De Medina's legal decisions consists of 956 Responsa.[1] It is divided into four parts, arranged after the *Arba Turim*, the great code of R. Jacob ben Asher. The Responsa abound in valuable material reflecting Jewish life in all its varied manifestations. From these legal decisions we learn about the problems that stemmed from the chaotic conditions which the new community had to face.

The Responsa deal chiefly with inquiries regarding marriage laws, problems pertaining to the *agunah* and family relationships; they are concerned with such communal matters as tax and *hazakah* regulations, business litigations, trade ordinances and intercongregational conflicts; they discuss ritual practices; they also reflect the legal difficulties encountered in establishing the status of the Marranos, prior to and after their return to the Jewish fold.

To fill out the entire picture as presented in the Responsa of De Medina, the Responsa of two other Salonika rabbis have also been consulted, those of Rabbis Isaac Adarbi and Joseph ibn Leb, colleagues of De Medina.

In order to obtain a clearer perspective of the origin of the Jewish community in Turkey and the circumstances attending its rapid growth, it is necessary to give, as historical background, a brief summary of the rise of the Ottoman Empire which emerged at that time as one of the foremost powers in Europe.[2]

The ascendancy of the Ottoman Empire began in the middle of the fourteenth century when the Turks, under Sultan Orchan, won their first foothold on European soil by occupying the fortress of Gallipoli. A few years later Murad I conquered the eastern half of the Balkan peninsula, cutting off Constantinople from Christian Europe. Thus the Oriental nomads of an alien religion were planted as a dominant group amid a Christian population.

With the capture of Constantinople in 1453 by Mohammed II, the Turks emerged as a conquering power and were watched by the European rulers with increasing fear. Mohammed II believed that it was the destiny of his people to spread the Moslem religion over the entire world and that the task of his life was to further the accomplishment of this end. His successors worked with varying degrees of vigor in the same direction. Although his immediate goal, the subjection of the entire Balkan peninsula, was not fully achieved, Mohammed II brought under Ottoman domination Servia, Bosnia, Herzegovina, Albania and Morea. His son Bayazid II (1481–1512) reduced the pace of conquest. Selim I (1512–1520) resumed the policy of aggressive conquest which his grandfather Mohammed II had begun. During his reign northern Mesopotamia, Syria, Arabia and Egypt became parts of the Ottoman Empire. These brilliant achievements of Selim alarmed the rulers of the European countries. The three great powers of Europe — the German Empire, France and Spain — considered the formation of an alliance in order to cope with the growing threat of Turkish expansion. This plan, however, did not materialize.

During the reign of Sulaiman (1520–1566) the Ottoman Empire climbed to its summit of power and glory. Sulaiman, known as the Magnificent, stands out as an illustrious conqueror and the greatest of the Empire's sultans. He was a great soldier and statesman and a resolute administrator, determined to rule over his subjects with even-handed justice. His reign of forty-six years was marked by a series of brilliant conquests which included the acquisition of Belgrade, Rhodes, Buda, the greater part of Hungary, Bagdad, Persia and Cyprus. He staked the whole strength of his Empire on his wars against Venice, Hungary, and Persia, engaging in war almost every three years.

The successful pursuit of his many wars was in a large measure due to the fact that as Sultan he possessed special powers and prerogatives, rarely enjoyed by other rulers. He was the supreme legislator, judge, commander-in-chief and religious head of the state. Thus, all the forces of the Empire could be directed to the execution of his policy.

Toward the close of Sulaiman's rule the Empire attained the zenith of its strength and influence. The Black Sea became almost a Turkish lake; the whole Euphrates valley, with Bagdad, was under Turkish rule, which was now established on the Persian Gulf and was in control of all the ancient trade-routes to the East. The northern coast of Africa from Egypt to Algeria acknowledged the supremacy of Sulaiman, whose seapower in the Mediterranean became a factor to be reckoned with in European politics. The Venetians were driven from Morea and the Aegean Islands. The passing of Sulaiman marked the beginning of the decline of Turkey.

The sultans of Turkey were committed to a policy, decreed by their religion, to conquer unbelievers who must be converted to Islam, subjected to tribute or destroyed by the sword. Yet, the administration of justice and the treatment of non-Moslems were more liberal than in Christian countries. These were influenced by the moral teachings of Islam that nothing is of higher importance than justice and the protection of the oppressed. Greeks, Albanians and Servians rose to the highest positions in the state. Christians and Jews were, as a matter of policy, permitted to exercise their religion during the rule of Sulaiman, at the very time when the Inquisition was carrying on its deadly work in Spain. Even if the law gave fewer rights to Christians and Jews than to Moslems, it still made it possible for each man to secure in full those rights which were legally his.

The brightest chapter in the annals of Turkish Jewry was written during the reign of Sulaiman. He was not only a benign ruler and devoted friend of his Jewish subjects, but he was also the defender of

Jewish interests within and outside Turkey. Influenced by two distinguished Jews, Moses Hamon, his court physician, and Don Joseph Nasi, his adviser, he protected the welfare of his Jewish subjects and at times intervened to rescue Jewish lives and property endangered in Christian lands. Thus, when virtually all European countries harassed and humiliated their Jewish subjects, denying them their rights and confiscating their possessions, the Ottoman Empire was the only oasis of Jewish security and comparative freedom.

Sulaiman's beneficent policy continued during the reign of his successor, Selim II (1566–74), who conferred on Joseph Nasi the title of Duke of Naxos. It was during his reign that Joseph ventured upon the project to restore the ancient city of Tiberias as a refuge for Jews fleeing from Christian countries.[3]

Although Jews had lived in European Turkey many centuries prior to the founding of the Ottoman Empire, yet it was not until 1326 that the first Jewish community was organized in Brusa, the first capital of the Empire.[4] From the very beginning the sultans adopted a tolerant attitude toward the Jews, extending to them a warm welcome and permitting them to take part in all aspects of the country's economic life. No restrictions were imposed on the Jewish subjects, with the one exception that they were required to pay a special poll tax.

Mohammed II (1451–81), who conquered Constantinople from the decadent Byzantine Empire, extended their freedom, permitting them to live and travel in every part of the Empire. Synagogues were built and communal institutions were set up in increasing numbers. Soon after the conquest of Constantinople, Mohammed II appointed Moses Capsali chief rabbi of Turkey. He was recognized as an official of the state and was given a place in the state Council. His position of Hakam Bashi was naturally lower than that of the Mufti, the religious head of the Moslem faith, but was above that of the Patriarch, the head of the Greek Church.[5]

The Jews, at that time mainly Greek and Oriental, submitted meekly to the rule of Chief Rabbi Capsali. For forty-three years he judged them and appointed many local rabbis. He was succeeded by Rabbi Elijah Mizrahi (1420–1493), who was a great talmudist and whose legal opinions considerably influenced the rabbis of Turkey in the sixteenth century.

A far-reaching change in the complexion of Turkish Jewry occurred soon after the expulsion of the Jews from Spain. There was a constant flow of immigrants to Turkey from the Byzantine states, and from France and Germany prior to 1492, but the peak was reached after the Spanish expulsion. The warm hospitality extended to the exiles

by Bayazid II (1481–1512) was a most fortunate occurrence during a crucial and dark era. This absorption of the great part of the Spanish and Portuguese Jewries by the Ottoman Empire undoubtedly saved them from extinction.

The newcomers were happy in their haven of freedom and quickly availed themselves of the opportunity to manifest their loyalty to the new homeland and to offer it their best talents. The exiles filled a definite need in the economic and cultural life of the expanding Turkish Empire. Since the upper classes of the Moslems were engaged in military pursuits, while agriculture was the sole occupation of the lower classes, the Spanish Jews became the middle class of Turkey, its business agents as well as the builders of its commercial and industrial structure. They introduced new industries and engaged in trades, technical arts and commerce on land and sea. They taught the Turks the manufacture of the new firearms, cannon and gun-powder, which earned them much favor with the dominant military classes.[6]

The immigrants soon outstripped the native Jews in every walk of life, especially as traders, since they were more enterprising and far better equipped for international commerce. From their ranks also came skilled physicians, financiers and linguists, of whose services the sultans and viziers eagerly availed themselves.

Equally far-reaching were the changes wrought in the religious and cultural life of the native Jews. Mention should be made of the fact that the exiles came to their new land not as humble immigrants, harboring a sense of inferiority. They were rather fortified with a decided sense of self-esteem. They regarded themselves as superior to the native Jews because of their broad culture and aristocratic lineage. This sense of superiority and their preponderant numbers made them a dynamic force in most cities of the Empire.

Indeed, the unified control over the Jewish communities under the leadership of the Hakam Bashi soon disintegrated. The mass influx of Spanish Jews brought about a growing opposition to such centralized and state-imposed leadership. Jewish bankers, court physicians and diplomats who were influential with the sultans, and other factors combined to undermine the prestige of the position of the chief rabbi. Prior to the close of the fifteenth century the government found it necessary to entrust the general supervision of Jewish taxes to a new officer, known as the *Kehaya*, who performed intermediate governmental and communal functions.[7]

Turkish Jewry, during the first half of the sixteenth century, comprised diverse, heterogenous groups. Each community was divided into congregations according to the localities from which their members

had come. Each group had its own synagogue, spoke the language of the country of its origin and clung tenaciously to its local rites. As we shall see later, not many years elapsed before the Spanish newcomers imposed their Sephardic rituals on these diverse groups, making their influence predominant in every walk of life.

The sixteenth century also witnessed the flowering of Turkey as one of the leading centers of Jewish learning. The arrival of a large number of eminent rabbis and legalists vastly enriched the religious and cultural life of this growing community. It was not long before these rabbis, uprooted from Spain and Portugal, resumed the thread of rabbinic studies in the new land. Schools and academies rapidly came into existence; books begun in Spain were completed in Turkey and the writing of legal responsa continued unabated. Indeed, the rabbinic literature produced by the Spanish exiles in Turkey and Palestine, instead of diminishing because of the hardships of forced migration and the need of building new homes, experienced an unprecedented upsurge. Among the outstanding Spanish rabbis and scholars settled in European Turkey were: Rabbis Samuel Franco, Joseph Fasi, Jacob ibn Habib, Meir Arama, Eliezer Hashimoni, Don Judah Benveniste and Samuel Taitazak. No less distinguished for their scholarship were the rabbis, born in Turkey, who continued the chain of Jewish tradition in the Ottoman Empire. Among these were Rabbis Joseph Taitazak, Moses Almosnino, Joseph ibn Leb, Solomon ben Isaac Halevi, Isaac Adarbi, Joseph Formon, Solomon ben Abraham Hakohen, Abraham Sarvallo and Samuel De Medina.

Of equal prominence, if not greater, were the halakists in Palestine, such as Rabbis Levi ibn Habib, formerly of Salonika, Joseph Karo, Jacob Berab, Moses di Trani, Obadiah di Bertinoro and David ibn Abi Zimra in Egypt. Some of these talmudic authorities achieved world renown and molded the development of the Jewish law. It was these rabbinic personalities who helped Turkey to become a center of Jewish scholarship after the collapse of Spain and the decline of Germany as great centers of Jewish learning.

Jewish life at that period was also marked by diversities and contrasts. The change of environment had been too rapid, the demands of personal adjustment too exacting for communal authority and ordered living to have developed normally within the first few decades of that century. The Jews of Turkey dominated oriental commerce and wholesale trade. They competed with the Venetians in shipping and some amassed great wealth. Yet, poverty was widespread and want existed alongside of affluence; the general standard of living was low. The like was true of religion and learning. Ignorance and scholarship existed

simultaneously. Piety among some was offset by religious apathy and disregard of religious observances on the part of others. Communal chaos and insubordination to ordinances decreed by communal authorities stand out in contrast to the vigorous measures taken by the rabbinic and lay leaders to regulate all aspects of Jewish life and to cope with the non-conformist and recalcitrant factions in the community.

The growth of Jewish life in Turkey during this period is a tribute to the Jew's ability for self-government, his unique talent to maintain a minority culture and his power to readjust his religious, social and cultural ways of living amid changing scenes and circumstances.

CHAPTER II

The Jewish Community of Salonika

SALONIKA — A JEWISH CITY

SALONIKA, rather than Constantinople which exceeded it in population, was destined to become the leading Jewish community and spiritual capital of Turkish Jewry in the sixteenth century. Its diverse groups of immigrants, differing from one another in their backgrounds, language and tradition, made its history colorful and interesting.

In spite of its unsanitary hygienic conditions and insalubrious climate,[1] Salonika attracted the largest number of Jewish immigrants from Spain and other Christian countries. The reason for this has not been definitely established. According to one opinion Salonika offered the newcomers more leisure for peaceful and cultural occupations than the tumultuous capital Constantinople.[2] Probably the Spanish exiles preferred to settle in Salonika because at the beginning of the sixteenth century the city had a larger Jewish population and a greater center of learning than Constantinople.

Before long the Jews consituted a majority of its population,[3] so that Salonika became a Jewish city. Salonika soon became distinguished for its educational institutions and *yeshibot* which supplied rabbis to many Balkan cities. Rabbis and communities turned to it for legal decisions and guidance in communal affairs. When money was to be raised to redeem Palestinean Jews captured by pirates, Salonika took the lead in sending messengers to other Jewish communities in Turkey and Italy to appeal for funds.[4] The city came to be regarded as the "Jerusalem of the Balkans."[5] In the opinion of De Medina the relationship of Salonika to other cities in Turkey was similar to that of Palestine to the Diaspora. To settle in Salonika constituted an act of piety. He further asserted that no other city in the Diaspora could claim the distinction of being so important a center of learning and of having so large a number of elementary and higher educational institutions.[6]

Samuel Usque, a Jewish poet of that day, spoke of the city as being "... a mother in Israel. The largest number of the persecuted and

banished sons from Europe and other parts of the world," he said, "have met in it and have been received with a loving welcome, as if it were our venerable mother Jerusalem."[7]

Jews also enjoyed a number of important privileges, such as having their own courts and even rabbinic police.[8] The Sabbath was a day of rest for the entire city. Whenever there was a litigation between a Jew and non-Jew the officers of the government courts would excuse the Jews from appearing in court on their Sabbath.[9] Almost all of the commerce and industry in the city, the custom house, the port, the renting of government tolls and tax collections were in Jewish hands.

THE EARLY HISTORY OF THE CITY

Salonika, known in ancient times as Thessalonica, at present a seaport in Greece, is situated in the northeast extremity of the Gulf of Salonika. Very little is known about the origin of its Jewish community. It appears that there was a Jewish settlement in Salonika during the first centuries of the Christian era.[10] Benjamin of Tudela visited the city about 1170 C. E. and reported that 500 Jewish souls lived there.[11]

At first the Jewish population of Salonika was entirely of Greek origin. Beginning with the thirteenth and fourteenth centuries the Jewish population was considerably augmented by the arrival of Jewish immigrants from the Provence, Italy, Hungary and Germany, who fled from their countries because of oppression and were attracted to Salonika because of its commercial opportunities. A new era began for the Jews in 1430 when, after it had been conquered by Murad II, they were granted equal rights with other non-Moslem inhabitants, and rabbis were placed on the same status as the heads of the Greek Church. Together with other non-Moslems, Jews were found in the Sultan's army, displaying bravery and devotion to their new ruler.[12] An even greater measure of freedom was enjoyed by the Jews of Salonika under the reign of Mohammed II, who offered them new opportunities for their economic and cultural growth and granted special privileges to certain Jewish families.[13]

DIVERSE JEWISH GROUPS

Salonika's growth as an important Jewish community was thus chiefly due to the continuing influx of Jews from different Christian countries which began during the early part of the fifteenth century.

When the Spanish exiles arrived in the city they found Greek, Italian, German, French and Hungarian communities already established there.

Among these the German Jews constituted the largest and most influential group.[14] German Jews had settled in Salonika about 1420 C. E. Their number increased considerably in 1470 when many of them, expelled from Bavaria, flocked to the city. They brought with them their customs and rites, to which they adhered zealously. For some time, the oriental Jews of the city adopted some of their rituals and customs.[15] With the arrival of Spanish Jews the influence of German Jews over the other groups vanished entirely. Later, during the second half of the sixteenth century, many of them lost their group identity and were absorbed by the Spanish Jews. There remained but few rabbis of German origin in the country.[16] Yet the Ashkenazic Jews continued to cling to the rites and practices peculiar to them, especially those that pertained to food and marriage. As a result of these differences between the German and Spanish Jews, neither of them would eat in the other's homes.[17] As a rule, the German Jews were stricter than the Spanish Jews in their religious observances and did not permit the slightest deviation in those practices which distinguished them from other Jews.[18] The German Jews had virtually no contacts with the Sephardim. The Spanish Jews looked upon the Germans with disdain, regarded them as socially and culturally inferior, and frowned upon their mode of living and manner of dress. The differences dividing the two groups even approached the point of hostility.[19] Yet, the German Jews zealously guarded their distinctive rites and retained their group identity until modern times.

Another significant segment in the mosaic of the Salonika community was Italian Jewry. The earliest influx of Italian Jews to reach this city occurred during the fourteenth century. Sicilian Jews settled in Salonika in 1415 and their number greatly increased after 1493 when they had been expelled from Sicily. Most of these exiles established themselves in Salonika where there had already existed a prominent Sicilian congregation.[20] It was during the same year that Charles VIII, ruler of Naples, ordered the expulsion of the Jews from Naples, a goodly portion of whom were refugees from Spain. These were reunited in Salonika with their Italian and Spanish compatriots. The final expulsion of Jews from Naples in 1540 considerably augmented the ranks of Italian Jews in Salonika.

The two leading Italian congregations in the city during the sixteenth century were: Kahal Apulia and Kahal Sicily. Other Italian congregations in Salonika were: Otranto, Estruc, Calabria, and Italia. All

these congregations, with the exception of Sicily, had their own ritual known as "Minhag Italiano," or "Mahzor Bene Roma." The Sicilian Jews also followed their own ritual which differed from that of their co-religionists as well as from that of the German Jews. The Sicilian ritual rather resembled the rites and practices of the Spanish Jews.[21] As De Medina informs us, the Sicilian Jews abandoned many of their rites and adopted those of the Sephardic congregations.[22]

Another element in the Salonika community was the Jews of French origin. Most of them had not come directly to Turkey, but had resided in other lands where they lost their identity as a group and were absorbed by the Jews of these countries. There were three waves of immigration of French Jews to Turkey. The first was that of 1394, when a number of those exiled from France went directly to Turkey. The second wave consisted of those who after 1394 settled first in Germany and later migrated to Turkey, either alone or together with German Jews. The third group settled in Spain and later came to Turkey together with Spanish refugees in 1492 and 1497. All of these lost their French identity and merged with the German and Spanish Jews.[23]

About 1550, a considerable number of Jews, expelled from the Provence, came to settle in Salonika. Prior to their expulsion, the Jews of the Provence had sent two delegates to Salonika with the object of studying the conditions under which their co-religionists lived. After the visit of these delegates, the Provence Jews already in Salonika sent a long letter to the Jews of the Provence urgently pleading with them to migrate to Salonika. They appealed to them, "Come, brethren, join us here. In this city you will live in peace and freedom." They also informed their brothers in the Provence that they were highly respected by their non-Jewish neighbors in Salonika and were unhampered by restrictions. They urged both poor and rich to settle in Salonika, as even the poorest were given an opportunity to earn a modest living.[14] The subsequent arrival of newcomers from the Provence greatly increased the membership roll of their Congregation, as a result of which it became one of the prominent ones in the city.[25]

The oldest Jewish inhabitants in Salonika, being of Greek origin spoke Greek among themselves. Their synagogues were known as the "Etz Hayyim" and "Etz ha-Daat" Congregations. The ritual to which they adhered was the "Minhag Romania." At first they had no contacts with Jews coming from other lands and were not influenced by them. They, too, adhered rigidly to their distinctive rites and were militant in their opposition to the growing predominance of the Spanish newcomers. But after a number of years, like all other groups, they

intermingled with the Spanish Jews, adopted their ritual, and abandoned the Greek language.[26]

After 1492 Salonika absorbed more immigrants from Spain and Portugal than any other city in the Empire.[27] This arrival of the exiles was responsible for the vast changes in the character and complexion of the Salonika community. Here, as in every other city in the Empire, the religious practices and order of services adhered to by the Spanish Jews were eventually adopted by all other Jews, excepting only the Germans.[28] Even their Castilian language became, after a number of years, the common tongue of all Jews in Salonika, regardless of the countries of their origin.[29]

The Sephardim, upon their arrival, established the following new synagogues: Gerush Sepharad, Castilia, Aragon, Catalan and Majorca. The Portuguese arrivals founded these congregations: Portugal, Lisbon and Evora.

The influx of Spanish refugees also brought to Salonika a galaxy of distinguished rabbis and scholars who soon played a dominant role in the religious and cultural life of the city. Outstanding among these was Jacob ibn Habib who hailed from Zamora and who compiled the haggadic portions of the Talmud under the title, *Ein Yaakob*. With him came his youthful son, Levi ibn Habib, who later became one of the leading rabbinic authorities in the Ottoman Empire. Rabbis Joseph Taitazak, Joseph Fasi, Meir Arama, Samuel Franco, Eliezer Hashimoni and Joseph Karo were also among the rabbinic luminaries to settle in Salonika. Their scholarship and prestige contributed greatly to make Salonika the cultural capital of the Balkans. Another prominent personality to settle in Salonika was Judah Benveniste, grandson of the Castilian chief rabbi and statesman, Abraham. He had saved as much as he could of the family fortune and had taken with him his large collection of manuscripts and books which he generously placed at the disposal of the Salonika scholars. Among these arrivals were also the philosopher and physician, Perahya Hakohen, and his son, Daniel Aaron Afia.[30]

Salonika reached the summit of economic growth during the second half of the sixteenth century. The population of the city continued to increase owing to the arrival of more Marranos from Portugal and Jews from other Christian lands. As a result of this, Salonika prospered materially. Rentals and income from taxes soared. According to Rabbi Samuel, the salary of a city judge rose in 1582 to 500 aspers, whereas formerly it had been only 150 aspers. Similarly the rate of duty paid at the government toll had trebled. The price of a *hazakah* right increased ten times.[31]

CONGREGATIONAL DIVISIONS

Although Salonika became the leading spiritual center and the largest Jewish city in the Balkans, it was, for a long time, far from being a united community. It was rather a conglomeration of diverse, independent groups, often at odds with one another. Every congregation in Salonika, as well as in other cities of the Empire, bore the name of the city or country from which its members had migrated, and was like a city in itself, free to manage its own affairs. Almost every congregation, small or large, had its own lay officers, rabbi, charity fund and *Hebra Kadisha* to look after the burial of its dead.[32] The rabbi was the sole authority on Jewish law to the members of his *Kahal.* No rabbi, regardless of his scholarship or prestige, was permitted to interfere with the prerogatives of another. Each congregation zealously guarded its identity. During the first decades of the sixteenth century each group continued to speak the language of the country of its origin. Those coming from the same province or country usually lived in the same quarter.[33] Similar conditions prevailed in other large cities.

One of the major evils that harassed the community of Salonika was the habit of congregations to indulge in acrimonious controversies with one another. Even more frequent were the quarrels that raged within the congregations, often leading to the splitting of the congregations or to the secession of some of their members. The causes of these intra-congregational conflicts were diverse in character. At times the cause was the hostility of some members toward their rabbi or lay officers. At other times bitterness was aroused by a conviction that one was unduly taxed or that the rate of taxation in another congregation was lower. Sometimes a quarrel was precipitated by the refusal of a defeated minority to submit to the will of the majority. As a result of this, members resigned from their congregation and joined another. If their number was sufficiently large, they would organize a new congregation.

Congregation Lisbon, for example, was divided into two factions because some members refused to submit to taxes imposed on them. One group seceded and founded the new congregation Evora.[34] Another cause for this controversy was the fact that the congregation had a large number of former Marranos whose outlook on communal affairs differed from that of the non-Marrano members.

The refusal to pay congregational taxes was also responsible for a rift in the Catalan synagogue. Some of its members seceded and founded Congregation Catalan Hadash.[35]

Congregation Sicily suffered the same fate. It consisted originally of two groups, the older settlers and the later immigrants. They worshipped together, although each group managed its own fiscal affairs and had a separate charity fund. In 1575, after seventy years of harmonious existence, a serious rift led to the organization of a new synagogue. The members of the new congregation demanded from the old an equal share in the land holdings, in the scrolls and other synagogue possessions.[36]

Some members of Congregation Gerush Sepharad seceded and joined the Etz Hayyim Synagogue. Several members of Congregation Shalom left their Synagogue because of a quarrel with the lay officers and became affiliated with Congregation Provence, in spite of the fact that at that time this congregation had not adopted the Sephardic ritual, which was in use at the Shalom Synagogue.[37]

Congregation Calabria was broken up into three divisions because of a controversy. One was known as Calabria Yashan, another as Kiana, and the third as Calabria Hadash.[38] Years later, when the majority of the members of the Kiana Synagogue compelled their rabbi, Jacob Samut, to resign, those who sided with him founded still another synagogue called Neveh Zedek, at which he served as rabbi.[39]

Congregation Apulia also became divided into three synagogues; one was known as the Great Apulia Congregation, another as Otranto Congregation, and the third as Congregation Estruc. De Medina forbade the secession of any members from the original synagogue and imposed a ban against such secessions. He did so also because he opposed the practice of changing synagogues. His opinion, however, was not heeded.[40] A number of important constituents of Congregation Catalan resigned because their rabbi, Hayyim Obadiah, had refused to comply with their demands.[41]

At times, these controversies became so bitter that some members did not hesitate to call government police to aid them in expelling their rabbi or those members who opposed their will. In one instance, it was the rabbi who called upon police for aid in his fight with recalcitrant members.[42] These rifts and secessions became so scandalous that a general ordinance was decreed in 1575 by the rabbis of the city and the lay officers of the various congregations forbidding groups to secede for the purpose of establishing new synagogues or joining others. This decree was signed by all the rabbis and the lay officers of the congregations. In addition to this *haskamah* each congregation enacted a ruling that forbade individual members to desert their synagogues.[43]

It seems that these measures hardly accomplished their purpose;

most of the divisions and desertions mentioned above occurred after these enactments had been decreed. These sharp rivalries between congregations undoubtedly weakened the community and prevented it from becoming one of the greatest and most influential Jewish communities in Europe. Nevertheless, in spite of the independent status of congregations, unity was achieved whenever conditions necessitated united action. This was the case when there was need for raising funds to redeem captives, to maintain the communal Talmud Torah or for similar purposes. When the Jews of Salonika faced a common danger and needed the help of the government in Constantinople, they united and sent a delegate to the capital.[44] All congregations also united to choose a general committee for the purpose of apportioning government taxes among the congregations of the city.[45]

SALONIKA RABBIS OF THE SIXTEENTH CENTURY

The city of Salonika was fortunate in having as its spiritual guides prominent personalities who were distinguished both for their erudition in the Law as well as for their talents of communal leadership which were manifest when coping with difficult communal problems. Some of them achieved great fame as halakists and authors of rabbinic writings that are of lasting value. Some were also eminent philosophers and students of the secular sciences of the day.

The Taitazak family gave Salonika a number of distinguished rabbis. The greatest among them was Joseph Taitazak who was born in Castille, Spain about 1470,[46] and who came to Salonika with his father, Solomon, from Portugal in 1497. During the first quarter of the century Joseph Taitazak became the leading authority on Jewish law in Salonika, greatly influencing its spiritual life. He founded a talmudic academy which was regarded as the outstanding *yeshibah* in Turkey. Among his pupils were Samuel De Medina, Isaac Adarbi and others who later became prominent rabbis and based many of their decisions on his legal views. He was among the three rabbis of the city who formulated the laws of *hazakah* with the object of protecting the rights of occupancy of Jewish tenants. He was especially known for leniency in interpreting the law in favor of Marranos and of the *agunah*. This tendency also influenced his illustrious pupil, De Medina.[47] His legal opinions were sought by the outstanding rabbis of his day. Joseph Karo addressed him as the "Light of the Exile and the Crown of the Diaspora."[48] Many of the communal enactments in Salonika were inspired by him; among them was his famous ruling that each synagogue

was to remain an independent unit. After 1533 he was called to Constantinople by Moses Hamon to head the talmudic academy. He was deeply devoted to the study of the *Cabala* and had dealings with the mystic and strange personality, Solomon Molcho. He was very modest and saintly and led an ascetic life.[49] He died in Constantinople in 1551.

His brother, Samuel Taitazak, was also a prominent rabbi in the city during the first half of the century. He served as rabbi of Congregations Etz Hayyim and Shalom. He had two sons, Jacob and Joseph, who also held rabbinic posts in the city. He played an important role in helping the refugees establish themselves in Salonika. Samuel Taitazak died at a ripe old age in 1561, and De Medina, who was a close friend of his, was appointed as executor of his estate.[50]

One of the outstanding personalities in the Salonika rabbinate during the earlier part of the century was Levi ibn Habib, son of Rabbi Jacob. Levi was born in Zamora, Spain, in 1484 and was brought by his father to Lisbon in 1492. While in Lisbon he was forcibly baptized. When he arrived in Salonika he immediately returned to his faith and devoted himself to his rabbinical studies. While still very young he was recognized as an eminent scholar and legalist. He was soon thereafter appointed head of the Castile *Yeshibah.* At the age of twenty-four he published the works of his father, known as *Ein Yaakob.* De Medina was one of his pupils at the *Yeshibah.* He made a study of the laws of *shemitah* (land release) and wrote a commentary on Maimonides' treatise that dealt with the laws regulating the Jewish calendar, in which he displayed a considerable knowledge of mathematics and astronomy. In 1524 he left Salonika and settled in Jerusalem where he became the outstanding rabbinic figure and played an important role in the famous controversy with Rabbi Jacob Berab regarding the revival of the institution of *semikah.* It was at this time that he wrote a treatise on the subject of rabbinic ordination in which he opposed the plan of Rabbi Jacob Berab. He also left a collection of Responsa. He was one of the few rabbis of that day to take a firm stand against the study of *Cabala.* He died in Jerusalem in 1545.[51]

One of the most distinguished rabbis in Salonika at this time was Rabbi Moses Almosnino. He was born in Salonika in 1518 to parents of Catalonian origin. His father, Baruch, was a wealthy man and had donated the ground and money toward the erection of the Catalan Synagogue.[52] Almosnino served as rabbi of Congregations Catalan, Neveh Shalom, and Liviat Hen. He was an eloquent orator, a brilliant scholar and philosopher and acquainted with secular studies.

His erudition was vast and his scholarly interests reached out to many and diverse fields of study, as is indicated by his numerous works. He wrote a number of commentaries on the books of the Bible, among which are: *Torat Moshe*, a commentary on the Pentateuch; *Yede Moshe*, a commentary on the five scrolls of the Bible; a commentary on Proverbs and Job; a commentary on Rashi's commentary on the Pentateuch and a commentary on Ibn Ezra's commentary on the Bible; *Tefila le-Moshe*, which deals with lectures on the importance of the Torah; *Pirke Moshe*, a commentary on Mishnah Abot; *Meamez Koah*, a collection of twenty-eight of his sermons; and a three-volume collection of Responsa. He was also the author of philosophic works that included *Pene Moshe*, a commentary on the ethics of Aristotle, *Migdal Oz*, and *Hanhagat ha-Hayyim*. In these books he revealed an intimate knowledge of the works of the non-Jewish philosophers. Some of his works were written in pure Castilian Spanish. He also mastered the study of astronomy and geography and wrote a Spanish book on the history of Constantinople under the title, *Extremos y Grandezas de Constantinopla*. This book was published in Hebrew characters and was transliterated into Latin characters by Jacob Cansino and republished in 1638.

Almosnino greatly distinguished himself in the service of his community. One of his major objectives was to establish peace among the various congregations and to bring order and unity into the community. His outstanding eloquence as a speaker won him a great following. In spite of his busy career as author and rabbi, he found time to serve as representative of his community. On three different occasions he was sent by the Jews of Salonika to the capital to intercede in their behalf. In 1566 he went to Constantinople with two other delegates to effect a reduction in state taxes. In 1573 he was sent there again. The last time he travelled to the capital was in 1579 which was the year of his death.[53] Almosnino was one of the colleagues and co-workers of De Medina who mentions him several times in his Responsa.[54]

Another prominent rabbi in Salonika was Benjamin Halevi Ashkenazi who was born in Nuremberg, Germany in the year 1500. He was brought to Sofia by his father, Meir, while yet a child. He first served as rabbi of the German congregation in Sofia and afterwards resided in Constantinople where he was befriended by Moses Hamon. After this brief interval he settled in Salonika and was appointed spiritual head of Congregation Ashkenaz, which was the most important German *Kahal* in the Balkans. He soon emerged as the leading religious guide and adviser not alone to the German Jews in this city but also to those in other cities of the Empire. He edited the *Mahzor Salonika* in 1550,

which contained the order of services for German congregations and his commentary on it. He also composed liturgical poems. Although he lived at a time when the influence of German Jewry in Turkey had declined considerably, yet he was one of the most beloved and influential leaders in Salonika, being held in high esteem by the Sephardic Jews and his rabbinic colleagues. He was sent by the united congregations of the city to the capital in 1546 to plead before the Sultan on behalf of the Salonika Jews who were harassed by their Greek neighbors.[55] During the sharp controversy between Joseph ibn Leb and the despotic leader, Baruk, Rabbi Benjamin negotiated with Moses Hamon of Constantinople to bring about peace. He was sent in 1553 by the Jews of Salonika to various communities to raise funds for the rebuilding of synagogues and schools destroyed by the fire of 1545.[56] His private life was very tragic. Six of his children died while young. He died in Salonika in 1559.[57]

One of the rabbinic colleagues of Rabbis Benjamin Ashkenazi and Samuel De Medina was Joseph ibn Leb who was among the prominent rabbis of the city. He was born in the city of Monastir about 1500. One of the great halakists among the Salonika rabbinate, he was consulted on matters of the Law by communities and rabbis of other cities. He is the author of four volumes of Responsa which are of great value for the study of Jewish history of this period. Becoming involved in a bitter controversy with the despotic figure in the city, Baruk,[58] he was finally compelled to leave the city and settle in Constantinople in 1548. There he became the head of the *Yeshibah* founded by Doña Gracia Mendes. He was the center also of other controversies and was persecuted by enemies. He thus endured numerous hardships and his life was saddened by the tragic and untimely death of his only son. Owing to his illness he returned to Salonika and died there. He wrote commentaries on some talmudic tracts and on many *halakot*.[59] De Medina often mentions him in his Responsa.[60]

Another prominent colleague of De Medina was Rabbi Isaac Adarbi, who was a pupil of Joseph Taitazak. Because of his brilliance and erudition he was appointed, while very young, rabbi of the prominent Congregation Lisbon, and subsequently served as rabbi of the Congregation Shalom, where he remained until his death. Thirty of his sermons were published together with his commentary on the first four chapters of the Mishnah Abot and a commentary on some of the psalms. His collections of sermons is known by the title, *Dibre Shalom*. His collection of Responsa, bearing the title, *Dibre Ribot*, reveals his talmudic scholarship and keen insight into the Law.[61]

Another distinguished colleague of De Medina was Rabbi Mordecai Matalon, of whom the former spoke in glowing terms. He was a wealthy man, who though well-qualified for the rabbinate, refused to serve as a rabbi or to assume any communal responsibilities. He devoted much of his time to the study of philosophy and science. In spite of his disinclination to hold an official post, he was persuaded to become rabbi of Congregation Calabria. He wrote many halakic decisions which were not published but which appeared in the Responsa collections of other rabbis. He died in 1580.[62]

His brother, Jacob Matalon, also served as rabbi of Congregation Calabria. He was the author of many sermons, some of which were published under the name of *Sheerit Yaakob*. He wrote commentaries on several treatises of the Talmud, collected under the title *Toledot Yaakob*, and a commentary on the Pentateuch. Like his brother, he was deeply engrossed in philosophic studies.[63]

One of the most colorful personalities among the rabbis of Salonika was Solomon ben Yitzhak Halevi, who was born in Salonika in 1532. His father was a wealthy and scholarly man who enabled him to receive a splendid rabbinic and secular education. He received his talmudic training in the *Yeshibah* of Rabbi Joseph ibn Leb. The poet Longo taught him the art of writing verse. He mastered several languages and studied philosophy and science. At the age of twenty-one, he completed a commentary on the Mishnah *Abot*. He was the rabbi of Congregations Provence and Evora. He was deeply devoted to the communal affairs of the city, striving to achieve harmony among the Congregations. His popularity in the community and his fine gifts of leadership won him the esteem of his older rabbinic colleagues. The diversity of his interests and his many-sided talents made him one of the most distinguished personalities in the community, for he was a gifted preacher, a poet and a philosopher. He wrote a commentary on several treatises of the Talmud, on the Pentateuch, and on other books of the Bible. The collection of his sermons is known as *Dibre Shelomo*. He died in 1600.[64]

Other rabbinical contemporaries of Samuel De Medina in Salonika were: Abraham Sarvallo, Hayyim Obadiah, Isaac Halevi, Samuel Almosnino, Samuel Barki, Solomon le-Bet Hazan, Jacob Samut, Daniel ben Perahya Hakohen, Moses Obadiah, Isaac Altoun, Solomon Hakohen, Abraham Itzhaki, David Nahmias, Jacob Taitazak, Moses Menuhim, Abraham Abaldo, Solomon Shushan, David Benveniste and Samuel Kalai.

In addition to its distinguished rabbis and scholars, Salonika was also known for its libraries containing large collections of Hebrew books

and manuscripts, many of which had been brought from Spain and Portugal under the most difficult circumstances. As has been mentioned previously, there was the large family library of Don Judah Benveniste which was placed at the disposal of the rabbis of the city. His home, which housed this valuable collection, became a meeting place for scholars and students who flocked to it in large numbers. Another important library in the city was that owned by Don Judah's nephew, Samuel Benveniste; it bore the name "Midrash Don Samuel." This library housed the largest collection of manuscripts and rabbinic writings.[65] De Medina and other rabbis of the city frequented it and often mentioned it in their Responsa.[66] Another member of the Benveniste family to own a library was Don Meir. This library, also referred to by De Medina, contained a comprehensive collection of responsa writings.[67] Mention should also be made of the large rabbinic library owned by Obadiah Alconstantini which was frequently used by scholars of the city.

THE TALMUD TORAH SOCIETY

The most prominent educational and communal institution in Salonika was its Talmud Torah. It was supported by all the Jews of the city, and its affairs were managed by a board of directors who represented the entire community and was known as "Hebrat Talmud Torah."[68] The original purpose of this institution, when it was founded in 1520, was to disseminate Jewish learning and offer free education to poor and orphaned children. Its scope of services expanded after a while in many directions. Its building, which housed educational institutions from elementary school to the *Yeshibah*, became a center of many community-wide undertakings. It supplied all its poor pupils with new garments on Hanukkah, most of these being donated by the Jews of the city. As the number of its pupils increased, the supply of garments from this source became inadequate and the institution was required to purchase annually additional garments at the cost of 5,000 aspers. In 1564 the director of the institution, a paid official, undertook to manufacture all the garments required by the Talmud Torah. The officers of the Talmud Torah promised to engage someone to assist him in this project. In a short time the director, single handed, not only produced a sufficient supply of garments, but had a surplus which was sold and which brought the Talmud Torah an additional income of 12,000 aspers per annum.[69]

The Talmud Torah became a higher institution of learning, and pupils flocked to it from near and far. The Salonikan Jews were very proud of this institution. According to Rabbi Isaac Adarbi ". . . even those inhabiting distant lands have their eyes and hearts turned toward it."[70] De Medina claimed that no similar institution throughout the Diaspora was equal to it.[71]

Because of its far-reaching reputation it was most generously maintained, and it received from time to time, substantial bequests. One person bequeathed to it the large sum of 60,000 aspers, and another a group of houses around a courtyard.[72] The Talmud Torah owned a considerable amount of landed property, houses and stores, the rental of which was used for its maintenance.[73]

Although the management of the institution's property was entrusted entirely to its board of directors, the community as a whole zealously scrutinized the activities of the board that concerned the welfare of the Talmud Torah. This is illustrated by the following incident. A ruling had been passed by the board that at no time should an officer of the institution be permitted to purchase for himself a part of its property in land, regardless of the price he paid. Several years later this ruling was set aside by the board, which then authorized the sale of one of its best parcels of land to one of the officers, who paid 49,000 aspers for it. The members of the board felt justified in their decision since they were convinced that a greater profit would accrue the institution by selling the property than by having it leased. The decision, however, was opposed by many members in the community who protested against the sale and demanded that it be annulled. The sale was later declared illegal.[74]

The Talmud Torah also served as a community center at which city-wide assemblies were held, such as memorial meetings in honor of distinguished persons, or public prayers invoked in time of pestilence or for the success of the Sultan's armies engaged in battle. It was there that Moses Almosnino submitted his report on negotiations undertaken with the Court authorities on behalf of the entire community.[75]

The Talmud Torah also set up a circulating library for the benefit of members and non-members. This library was supplemented by private and congregational book-collections, such as that donated (together with two beautiful Torah scrolls on parchment) to the Catalan Synagogue by one of its members, which elicited a glowing tribute in a sermon by Moses Almosnino.[76]

CALAMITIES

Toward the middle of the century, a series of misfortunes overtook the Jewish community of Salonika that brought in their wake great suffering and economic distress. They contributed to the material and spiritual decline of the city.

One of the calamities that befell the community was the great fire of 1545 which was most disastrous to its Jewish inhabitants.[77] The fire began in a store owned by a Jew named Abraham Catalan. The fire spread quickly from the store to the Jewish quarters; 8,000 homes, of which 5,000 were Jewish, were destroyed. Twenty synagogues, many scrolls of the Torah, and a number of private libraries containing valuable collections of books and manuscripts, were also destroyed. Between 150 and 200 Jews lost their lives. Many Jewish homes and stores were pillaged by non-Jewish looters. Some Jewish owners who attempted to rescue their possessions were slain by them. This calamity was followed by a devastating plague, and many fled to the neighboring villages to escape its ravages.[78]

These misfortunes impoverished the Jews of Salonika. Debts could no longer be collected.[79] Scholars were deprived of their books. Patrons of learning lost their fortunes and could no longer contribute toward the support of the charitable and educational institutions. It took a number of years for Salonika Jewry to recover so as to be able to rebuild its ruins. As late as 1553, eight years after the fire, the congregations of the city were still not able to rebuild their synagogues and school buildings and, therefore, delegated Rabbi Benjamin Ashkenazi to travel to other communities to raise funds for this purpose.[80]

Numerous plagues and epidemics overtook Salonika during the second half of the sixteenth century. One major source of disease were the ships from Asiatic and Egyptian cities that arrived at Salonika. Government authorities took no precautions to check plagues brought from distant cities. The unhealthy climate of the city and the prevailing unsanitary conditions contributed to the spread of epidemics. The narrow streets, the proximity of houses and congested quarters aggravated matters considerably.[81] Whenever an epidemic gripped the city, most of the inhabitants fled to neighboring villages. This, however, did not help the refugees to be immune from the epidemic but rather caused its spread outside the city. De Medina dwells on the anxiety and the unbearable suffering that prevailed in the city during some of these plagues.[82] In 1548 a great pestilence ravaged the city causing the death of about 7,000 Jews. Other plagues followed in the years

1552, 1554, 1561, 1564 and 1568. Some of these lasted a few months and caused the death of thousands. An earthquake in 1573 also brought great anxiety to the city.[83]

DWELLINGS

Jews in Salonika lived in separate quarters of the city, as was the case in most cities in Turkey.[84] In each street there were courtyards surrounded by homes and stores. A courtyard was a semi-private thoroughfare, leading to the street. Ordinarily each house consisted of two or three stories. In front of a house entrance was an *Aksadrah*, a parlor supported by four pillars.[85] In addition to this extension, a small part of the large courtyard was generally set off by a small fence of either brick or wood, and thus converted into a private courtyard opening into the larger one. In the large courtyard, to which all tenants had access, there was a pit, a place for refuse, a privy and a trough at which Jewish women would wash themselves, since, out of modesty, they never washed at the river front. Some tenants kept barrels in the large courtyard for the purpose of cleaning and dyeing their wool. Their neighbors often objected to this on the ground that the odor was offensive.[86]

Each home was equipped with a stove in which the women would bake their Sabbath bread every Friday.[87] These stoves opened into a hollow space built into the walls, through which smoke passed into the open.[88] Most houses had garrets and cellars.[89]

CHAPTER III

Life of Rabbi Samuel De Medina

HIS FAMILY AFFAIRS

SAMUEL, son of Moses Halevi De Medina, briefly called "The Rashdam," was born in Salonika in the year 5266 A. M., 1505 or 1506 C. E.[1] He was the scion of a distinguished family, formerly of Castile, Spain. His father died when Samuel was very young and his oldest brother took care of him from early childhood.[2]

His two most prominent teachers, whom he frequently mentioned in his Responsa and of whom he spoke with deep reverence and affection, were Rabbis Joseph Taitazak and Levi ibn Habib. Rabbi Levi was practical and realistic, being a strict halakist and hostile to philosophic speculations. Rabbi Joseph Taitazak, on the other hand, was a cabalist, a dreamer, philosophically minded and given to lenient interpretations of the law.[3] His teachers' opposite traits and attitudes on the Law left their impress on De Medina's personality but were harmoniously blended in his outlook.

At the age of twenty-five he was recognized as rabbi in his native city and halakic questions were already addressed to him.[4]

His personal life was far from peaceful and happy. His early years were marked by numerous misfortunes and economic reverses. Not infrequently he signed his Responsa, "one who writes with tears," or "sighing and suffering, crushed in spirit, Samuel." In 1539 he lost his sister residing at Nicopolis. She had been married to a rabbi and was the mother of several young children.[5] Later two of his sons-in-law, Joseph Zarfati and Isaac Hayyun, died.[6] On Rabbi Samuel fell the burden of caring for his two widowed daughters, rearing their young children and marrying their daughters to worthy husbands.[7]

Another death which was a source of sorrow to him was that of his older brother, a wealthy owner of landed property,[8] who in later years had been his main financial supporter.[9] He sustained his most severe loss in the death of his oldest son, which occurred when Samuel was already an old man.[10]

The economic hardships of his earlier years became more trying

after the death of his older brother. As the number of his dependents increased, he sought for additional sources of income by traveling to other communities.[11] His enforced wanderings disturbed his peace and depressed his spirit. Although he answered halakic questions addressed to him at this time, he complained of the fact that he had no access to his library.[12] To one questioner he replied, "This period is unlike that when I lived peacefully in my native city. My spirit is not with me because of my being tossed about from place to place and burdened with untold anxieties and hardships." He then adds, "Yet I do not despair of heavenly mercy, for, one must not become despondent even when the sword is at one's throat. The merit of being engaged in the study of Torah will win for me the help of God."[13]

RABBINIC ACTIVITIES

For several years De Medina served as rabbi of Congregation Portugal and later of Congregation Gerush Sepharad in Salonika.[14] He was afterwards appointed as head of the Salonika *Yeshibah* which was founded by Doña Gracia Mendes.[15] This post brought him recognition as one of the most prominent rabbis in the city. It also relieved him considerably of his financial difficulties. From this time on (1552) he enjoyed a measure of economic security.

His duties as head of the *Yeshibah*, as rabbi of his Congregation, judge and communal worker kept him exceedingly busy. He frequently alludes to the fact that he was heavily burdened with numerous and diverse duties. "The burdens of the city and its countless responsibilities," he wrote on more than one occasion, "especially my duties at the *Yeshibah*, weigh so heavily upon me that they have become unbearable."[16] At times he apologized for having delayed an answer to an halakic question, or, if answering, for not giving reasons for his decision, pleading that he was pressed for time.[17] In spite of his numerous duties, De Medina never failed to answer halakic questions addressed to him.

His reputation as an eminent halakist spread far beyond the limits of his city. Countless questions from both communities and individuals reached him from the far-flung corners of the Turkish Empire, Egypt, and Italy. Among the cities that turned to him for halakic guidance were Monastir, Plevna, Arta, Patras, Janina, Lepanto, Vodena, Uskup, Brusa, Larissa, Nicopolis, Valona, Adrianople and Constantinople. Questions also came to him from such places as Bucharest, Belgrade, Sofia, Ragusa and the Island of Rhodes. Among the Italian cities to

address questions to him were Venice, Ancona, and Ferrara. Apparently no questions came to him from Palestine and very few came from Egypt.

His fame as an authority on the law was spread by his pupils who subsequently became important rabbis in other communities. Among his distinguished disciples were: Rabbis Aaron Abiyud of Uskup, Shem Tob Atias of Adrianople, Joseph ben Ezra who became the chief rabbi of Sofia, Abraham de Boton, a great scholar and a prominent commentator on Maimonides' works, and David Nahmias.[18]

He exchanged halakic opinions with the greatest rabbis of his day, among whom were: Rabbis David ben Abi Zimra, Bezalel Ashkenazi, Samuel Hakam Halevi, the rabbi of Constantinople and later in Safed, his teacher Joseph Taitazak, Joseph Karo, Joseph ibn Leb, Moses di Trani and Joseph Formon. Some of the rabbis who consulted him on matters of the halakah were: Shemariah Sharbit ha-Zahab, Moses Almosnino, Moses Albelda, Abraham Munson, Isaac Adarbi, Hayyim Obadiah, Jacob Castro, Samuel Sasun, Aaron Adiyub, Judah Zarfati and Samuel Voron.

His halakic writings were distinguished for their brevity of style and conciseness. He did not indulge excessively in flowery language, as was the practice among some authors of responsa of that day. His line of reasoning followed a logical and orderly pattern. He frequently referred to his love for brevity and determination to avoid lengthy discussions.[19]

COMMUNAL LEADERSHIP

It was in the area of communal service that De Medina attained city-wide prominence as a faithful leader and guide who devoted himself with unflagging zeal to the welfare of the community. The period of his ministry covered more than half a century. It was a period marked by rapid growth and adjustment for the city of Salonika and other Jewish communities. The constant influx of newcomers, both Jews and Marranos, gave rise to new situations and many challenging problems in religious and communal affairs. This was particularly the case during the second half of the century, when a large number of Marranos, coming from different lands, settled in Salonika. These newcomers often disregarded the communal ordinances enacted during the early part of the sixteenth century. Disciplinary measures had to be taken to curb the tendencies of non-conformity to communal regulations, and to check the general practice of secessions from congrega-

tions. There were also the need of promulgating new legislation. All this was the challenging task of the Salonika rabbinate.

In coping with these difficulties de Medina played a dominant role, especially after 1572 when he assumed the position of chief rabbi in the city.[20] He gave frequent proof of his splendid powers of leadership and unfailing tact when dealing with recalcitrant individuals or groups. He strove zealously to bring about peace within congregations.[21] He revealed firmness of character in his efforts to stem the tide of lawlessness in the city. He was instrumental in enacting new legislation for the purpose of safeguarding the existing *hazakah* regulations to which many of the newly arrived Marranos refused to submit.[22] He repeatedly affirmed the principle of his teacher, Joseph Taitazak, that each congregation was an independent unit and that no one must interfere with its autonomy.

In serving the community, De Medina gave unstintingly of his time and energy. Whenever epidemics and fires ravaged Salonika, causing great suffering to its inhabitants, De Medina toiled incessantly to bring relief, even if it involved absenting himself from his lectures at the *Yeshibah*.[23]

In 1551 De Medina was delegated by the entire community to go to Constantinople to obtain permission from government authorities to rebuild synagogues that had been destroyed by the fire of 1545. He remained in the Capital for more than a year.[24] During his stay there, he utilized his enforced leisure for study. There he met the famous poet and scholar, Menahem Lonzano, who came to regard De Medina as his master.[25]

The high regard in which De Medina was held by his colleagues throughout the Empire is reflected in the salutations used to address him. One contemporary rabbi, Samuel Hakam Halevi, paid him the tribute of describing him as a great scholar to whom "all the paths of the Talmud are as familiar as the streets between his home and the house of study."[26] Rabbi Yom-Tob ibn Alruin of Brusa addressed him saying that by his great wisdom and talmudic erudition he had illumined some of the darkest corners of the law. "He is a prince of God," said Rabbi Yom-Tob, "and occupies a most honored position in the tents of learning."[27] Still another colleague hailed him as "the pride of his generation," and told him, "there is no one but you in our generation who is capable of leading us and redeeming our souls."[28]

De Medina's busy life, his family tragedies, his hard struggle for existence all combined to undermine his health. From time to time he complained of being ill. When he reached old age he was constantly ailing. His strength ebbed, his hands trembled for weakness, his sight

failed him and his memory became faulty.[29] In a few instances, decisions rendered in his old age were not in accord with those given in earlier years. When this fact was brought to his attention, he attributed it to his lapses of memory.[30] As he advanced in years, he gradually gave up his duties as judge. In one instance, when he learned that his refusal to act as judge would cause litigants to resort to Turkish courts, he consented to adjudicate the case.[31] He did, however, continue to answer halakic questions to almost the end of his life.[32] His lectures in the *Yeshibah*, too, continued until the last years of his life.[33]

De Medina died at the age of eighty-four on the second day of Heshvan 5350 A. M., corresponding to October 12, 1589. He was buried in Salonika beside his wife.[34] On his tombstone were inscribed his name and the verse, "Great peace have they who love Thy Law and there is no stumbling for them."[35]

WRITTEN WORKS

De Medina's collections of Responsa were published in 1589, the last year of his life. This first edition appeared in two parts and was entitled *Piske ha-Rashdam*. Because of the poor type and numerous typographical errors of this edition, his son, Moses, after his father's death, republished the collection under the title *She'elot u-Teshubot Maharashdam*, using a new type especially designed for this work by printers from Venice.[36] In this second edition, the Responsa were reclassified and rearranged under four headings according to the four divisions of the *Arba Turim*. This edition was published in three volumes in 1595–96 in Salonika. The Rashdam's grandson, Shemaya De Medina, published a collection of thirty of his sermons, entitled *Ben Shemuel*.[37] De Medina wrote a commentary on parts of the Talmud known as *Shitot* which Azulai saw in manuscript.[38]

Two sons, Moses and Solomon, survived him.[39] Moses succeeded his father as head of the *Yeshibah*. He was both a scholar and a man of means.[40]

TRAITS OF CHARACTER

De Medina's Responsa give very little information about his personal life or his family. Not once does he allude to his wife or parents; nor is there any information as to the number of his children. His halakic writings, however, yield sufficient material to give one a fairly clear view of his personal traits of character.

One of De Medina's prominent traits of character was his modesty. Although he was regarded as the leading rabbinic authority in Salonika during the last twenty-five years of his career, one observes sincere humility in his legal correspondence with his colleagues. Whenever he rendered a decision of importance, he would add a provision that it was binding only if corroborated by two or three other rabbinic authorities.[41] When a rabbi once addressed him in too flattering terms, which was not an uncommon practice, he took this rabbi to task and told him that he despised flowery titles and words of praise.[42] To another one he wrote that he exceedingly disliked honorary salutations, and that if he continued to address him in that manner, he would ignore his letters.[43] According to the testimony of one of his disciples, he insisted on paying to the *Kahal* his annual head-tax from which he was exempt as a rabbi. His reason for this attitude was that he did not desire to acknowledge himself as a scholar.[44]

He revealed exemplary tact and a profound understanding of human nature in handling litigants. He knew how to appeal to their higher instincts, as is shown in the following case. The officers of a free loan society, who unselfishly devoted themselves to its welfare, aroused the antagonism of some envious persons and were insulted by the latter who called them *mamzerim*. These officers consulted De Medina as to whether they would be halakically justified in seeking to excommunicate the culprits. He replied in the affirmative, but pleaded with them in the interests of peace not to resort to the use of the ban, and he added, "Since you are men of valor and understanding, you realize the great virtue of humility and the even greater ideal of peace. It is far nobler to bear insult than to humiliate others, even when they deserve it. Before you attempt to put your fellow Jews under the ban, think first of the sad plight of our people and of our degradation among our non-Jewish neighbors. I urge you, therefore, forgive their sin and folly. Let not the plague of inner strife spread among our people."[45]

His sympathetic understanding of people was coupled with a sense of humaneness and kindliness of heart. This was especially evident whenever a case involving the interest of orphans was brought before him. He hesitated to accept such cases for adjudication, first, because he felt he might make an error in judgment and thereby deprive orphans of their rightful possessions and, secondly, because he feared that his partiality in their favor might lead him into mistaken decisions.[46]

An interesting trait of character of De Medina is revealed in the following incident that occurred in his own family. The husband of his deceased sister, a rabbi in Nicopolis, who was about to give his daughter in marriage to a young scholar in Salonika, inquired from

De Medina about the young man's reputation. De Medina replied to his brother-in-law that the young man's character was unsatisfactory and that under no circumstances should he permit his daughter to marry him, even if the girl were to remain unmarried all her life. His advice was not heeded and the niece was betrothed to the young man. Later, the father of the girl realized that De Medina had been correct in his estimate of the groom and he refused to permit the marriage. The groom, however, refused to release the girl. The father turned to De Medina for legal advice concerning how to annul the engagement contract. At first, De Medina was indignant with his brother-in-law and was inclined to offer him no assistance. Later, however, he made a thorough study of the case and advised him how to proceed.[47]

Also evident in his legal decisions is his strong sense of fairness and uncompromising adherence to the principle of ethical conduct, which he repeatedly emphasized to litigants. It was not unusual for him to administer a severe rebuke to a litigant who had the law on his side but dealt unfairly with his opponent. In such cases, Rabbi Samuel would include in the decision a strong admonition to both litigants, that obedience to the law must be accompanied by honorable and righteous conduct.

This is illustrated in the following case. A young man was engaged to a girl from another city. The girl's father had promised the groom many gifts and a handsome dowry. When the groom arrived in the city to be married, accompanied by a number of relatives and friends, the bride's father informed him that he could only partly fulfill the promises made to him. The groom, sensitive to the humiliation of returning home without the bride, accepted the terms and proceeded with the marriage. After the wedding he demanded that his father-in-law carry out all the promises he had originally made. The latter refused to do so and the case came before De Medina. He ruled that legally the young man had no claim on his father-in-law, but he severely reprimanded the latter for his unethical conduct. He also expressed his regret that he could not decide in favor of the young man to whom he extended sympathy.[48]

De Medina's sensitivity to ethical conduct is also indicated in another case. A young man was engaged to a girl whose sister died subsequent to their betrothal. The father of the bride, because of his eagerness to marry her to the widower of his deceased daughter, demanded that the engagement contract be annulled. Although the bride and groom ardently loved one another, the latter could not withstand the pressure brought on him by the father and he reluctantly agreed to annul the engagement contract.

Their separation, however, did not diminish their love for one another and after a while the girl, with the aid of her lover, fled from her home and settled in the home of the groom's parents. After the indignant father failed by legal means to bring his daughter back to his home, a group of men interceded with him to give his consent to the marriage of the couple and to grant the dowry he had originally promised. The father expressed his willingness to do so provided the girl returned to his home to be married from there. Efforts were then made by friends and by the groom himself to persuade the girl to return to her home but she refused. Soon thereafter the couple was married without the knowledge of the girl's father.

Later the groom demanded that the father fulfill his original pledge regarding the dowry, since he had finally consented to the marriage. The father refused, claiming that since the first betrothal contract had been annulled by mutual consent and also since the girl had refused to return to his home prior to the marriage, he was no longer obligated to abide by the terms of the contract.

When the case came before De Medina he ruled in favor of the groom. He pointed out that there was sufficient legal ground to justify the father in his refusal to abide by the terms of the engagement contract. But the fact that the father humiliated the groom by causing him to agree to the annulment of the betrothal, was sufficient reason to rule against the father and to order him to give his daughter the full amount of dowry. De Medina also censured the father for his unethical conduct, commended the groom for his behavior and condoned the bride's fleeing from her home and marrying the groom without her father's consent.[49]

CONTROVERSIES WITH OTHER RABBIS

The talmudic saying that the true character of a man is best revealed by his temper, is well illustrated in the numerous controversies in which De Medina was involved. In spite of his repeated tributes to the ideal of peace, he engaged in many sharp discussions, which enable one to see the manysided traits of his character. In these conflicts in which he was involved, he had enthusiastic supporters as well as bitter enemies. His fighting zeal was mostly aroused by high motives, such as defending the integrity of the Law or helping people unjustly accused. At other times, however, he was animated by personal bias. In either event, he spared no one and did not refrain from using sharp language.

De Medina was most zealous in battling for truth. He was unbending

when it was a matter of establishing the truth of a legal argument. If a rabbi rendered a wrong decision, he would point out his errors. If, however, the rabbi insisted that he was right, De Medina would severely rebuke him for it. To one rabbi he wrote, "I am very wroth with myself for having spoken so harshly, which is unusual with me, but it was his perverse manner of interpreting the law that made me do so. When it is a matter of the Law it is a sin to sit back and be silent."[50] Writing to a rabbi with whom he had been friendly but with whose decisions he disagreed, he said that he regretted differing with him but that he held truth to be more precious than friendship.[51]

In one instance De Medina rendered a decision unfavorable to a litigant who asked him to give his reasons. Although this request aroused De Medina's anger, since it impugned the fairness of his motives, he wrote a detailed analysis of the case and added, "I have taken pains to present the reasons for my opinion in order to close the mouths of those who speak arrogantly. Yet, I declare, should any one point out to me a new angle in the case or furnish additional evidence, I shall not deem it beneath my dignity to admit the truth and reverse my decision, for it is only the truth that I seek."[52]

At times differences of opinion as to legal decisions led to personal animosities and exchange of words between De Medina and his colleagues. On one occasion he bitterly attacked a colleague upon whom he had bestowed personal favors and who now opposed his legal opinion. "I have borne patiently all the humiliations and insults that he heaped upon me," De Medina wrote. "I hesitated to answer his attacks openly so as not to degrade our sacred calling, but I can no longer bear his persistent attacks upon me, especially when the integrity of the Torah is involved. Only envy and hatred have caused this rabbi to lose his balance and indulge in such abusive criticism. He maintains that I am but one and my opinion, therefore, does not carry any authority; yet he dares to speak folly and misinterprets the law to suit his own purposes."[53]

De Medina was involved in several controversies with a Rabbi Formon, who was rabbi in the city of Lepanto and chief rabbi of the district of Morea and who was acknowledged as one of the prominent religious leaders of his day. The most important of those quarrels centered around a proposed merger of three congregations in the city of Patras which was under the jurisdiction of Rabbi Formon.[54] De Medina and his colleagues reversed the decision of Rabbi Formon regarding this congregational merger. Rabbi Formon came to Salonika for the purpose of winning over the rabbis of the city to his view. He visited the home of De Medina on a Sabbath and was cordially received

by him, making no mention for the time being as to the purpose of Rabbi Formon's visit. A few days later Rabbi Formon sent a prominent layman to De Medina to persuade him to accept his views on the merger. In reply De Medina said, "I love peace, but when it pertains to the Law, I refuse to give in even to the slightest degree." After Rabbi Formon returned home, a spirited correspondence was exchanged between him and De Medina.[55]

Another sharp exchange between these two was caused by a difference of opinion as to whether a community was justified in imposing communal taxes on new settlers, who had lived in the town more than one year. Some correspondence passed between them. When De Medina failed to convince Formon of his opinion, he charged him with being interested more in personal triumph than in establishing the truth and with failing to consider all aspects of the case in his analysis of halakic problems.[56]

A serious quarrel arose out of the case of two young rabbis who were pursuing their rabbinic activities in Lepanto without Rabbi Formon's approval. Rabbi Formon had sought to expel them from Lepanto, after maligning and persecuting them. When these facts reached De Medina, he rebuked Formon for persecuting these two rabbis and asserted that Formon's conduct was shameful and sickening.[57]

The most bitter controversy of De Medina's career was that in which he supported Congregation Kiana in Salonika in its quarrel with Rabbi Jacob Samut. De Medina's stand in opposing Rabbi Samut casts a shadow on his usual sense of fairness. This quarrel had its origin in a decree enacted in 1558 by the leading rabbis of the city, among whom were Rabbis De Medina and Samut.[58] This decree forbade Jews to submit certain cases to non-Jewish courts. The enforcement of this ruling displeased some Jews whose personal interests were served better by submitting their litigations to government courts. Among these persons were some influential members of the Congregation Kiana who resented their rabbi's insistence on adhering to this communal decree. The objectors, motivated by hostility to their rabbi, reported him to government authorities, charging that he had been conducting a civil court of his own, that he had forbidden his constituents to submit their litigations to government courts and that he had declared the law of the land not binding on Jewish citizens.

In order to effect his dismissal they brought police into his home and, under the threat of arrest, compelled him to sign a statement that he surrendered his post for a period of ten years. The document of resignation also stated that Samut had taken a strict oath which forbade him to serve his constituents in any rabbinic capacity. Three rabbis

of Salonika examined and verified the document signed by Samut and three witnesses.

Subsequently, however, these witnesses testified that both Samut and they had been intimidated by the threat of arrest to sign the document but asserted that Samut had not taken an oath not to serve as rabbi of his congregation.

Samut himself denied vigorously that he had taken any such oath and protested that he signed the letter of resignation under compulsion.

Another set of witnesses, who maintained that they were present at that scene, likewise testified that the document had been signed by Samut under duress, that he had uttered no vow that he would not serve as rabbi of his congregation, and that he appealed to them to testify to that effect.

When this case came to De Medina for adjudication he, together with other rabbis of the city, took a firm stand against Samut and ruled that the latter must adhere to the terms stipulated in the document which was to be regarded as legally valid and binding.

De Medina pointed out that the witnesses could not invalidate their testimony by subsequent denials since it had already been verified by three rabbis. He also felt that the testimony of the second pair of witnesses did not seem to be logically convincing. The circumstances of the case convinced De Medina that the resignation had not been affected by compulsion but represented a mutually accepted compromise. And even if one were to concede that the resignation had been forced on Samut, this still did not weaken its binding force. Besides, if the leaders of the congregation brought police to compel Samut to sign the document, they were justified on the ground that Samut likewise availed himself of the aid of non-Jewish authorities in his efforts to force himself upon the congregation. The conduct of the leaders of the congregation was motivated by a desire to establish peace in their midst which Samut endangered by resorting to forceful means in his attempt to impose himself on his unwilling constituents.

De Medina asserted that Samut had flaunted the law pertaining to vows in order to satisfy selfish ambitions and severely rebuked him for degrading the prestige of the rabbinate and for undermining respect for the law in the eyes of laymen.[59]

Rabbi Samut appealed to Rabbi Joseph Karo of Palestine who ruled in his favor. De Medina resented this decision of Karo, and in his letter to him he vigorously complained against his favoring an unworthy, cantankerous man who flagrantly violated a serious oath. He asserted that it was Karo's duty to rise to the defense of the Law.

In his reply Karo refuted De Medina's arguments as to the legal

phase of the case and severely rebuked him for having aligned himself with wicked men who persecuted their rabbi and committed the grievous sin of acting as informers against him. He affirmed that if it was true that Samut had forced himself on his congregation it was nevertheless the moral obligation of De Medina to defend a rabbi rather than join hands with those who persecuted him. Karo also voiced his amazement that personal envy and animosity blinded De Medina's sense of justice.[60]

Rabbi Samut, in spite of the support he received from Joseph Karo, realized that to remain with his congregation was fraught with danger, and he accepted a rabbinic post with Congregation Calabria.[61]

Another controversy between De Medina and Karo stemmed from a difference of opinion regarding the legality of nullifying an oath. In one congregation a number of officers had taken an oath not to receive religious instruction from any other rabbi during the lifetime of their old rabbi. Later, an aspirant to the rabbinic post who was eager to entrench himself in the congregation persuaded some of the officers to have their oath nullified so as to be permitted to receive religious instruction from him. De Medina ruled this act as illegal, whereas Karo and his rabbinic colleagues at Safed, Joseph Sakis and Abraham Shalom, took an opposite stand and permitted the nullification of the oath.

In a letter addressed to Joseph Karo and his colleagues, De Medina expressed his keen indignation by saying, "What has prompted you to write such words to a community distinguished for its scholarly eminence? Why were you not apprehensive as to the danger involved in reversing our decision, that of undermining the prestige of a city that is a great center of learning? Did you think that scholarship and wisdom have departed from our midst? . . . By your action you have undermined the authority of our rabbis in the eyes of the ignorant masses who are unqualified to analyze the legal aspects of this case. Your reputed wisdom should have enabled you to realize the dangerous consequences inherent in such a precedent."

We note, however, a softer tone toward the end of De Medina's reply. "I ask your forgiveness," he concluded, "for having spoken so harshly. It was the force of the truth and the zeal for the Torah that prompted me to write these lines. It is, however, your obligation, honored scholars and God-fearing men, to rectify this erroneous decision."[62]

This militant stand taken by De Medina against the interference of the Safed rabbinate may have been partly influenced by the controversy between Rabbi Jacob Berab and the rabbis of Safed, on the one side, and Rabbi Levi ibn Habib and the Jerusalem rabbis on the other.

Rabbi Jacob Berab and his colleagues of Safed were eager to restore the ancient institution of rabbinic ordination which was traditionally limited to the rabbis of Palestine.[63] Levi ibn Habib, the former teacher of De Medina, who later settled in Jerusalem, waged a bitter battle against the restoration of *semikah* and refused to recognize the supremacy of the Safed rabbinate. Rabbi Joseph Karo was among the first to be ordained by Berab, and his rabbinic jurisdiction was to extend to Turkish Jewry.[64] De Medina's quarrel with the Safed rabbinate occurred several years after the Berab-Habib controversy.[65]

De Medina was a great admirer of his teacher, Levi ibn Habib, and in all likelihood sided with him. Most probably De Medina saw in the reversal of the decision of the Salonika rabbis a conscious attempt on the part of Karo and his colleagues to assert their rabbinic primacy.

Although De Medina was involved in many quarrels with different rabbis of his day, he was always a zealous defender of rabbinic prestige and authority. In an age when Jewish communal life had not been firmly rooted in the new land, many ambitious congregational officers attempted to usurp some of the powers of their rabbis and even to undermine their authority. In a number of decisions, De Medina stressed the fact that the position of the rabbis was sacred and that his person must be respected. He deplored the tendency of some *Kahals* to infringe upon the rabbi's prerogatives, such as denying him the sole right to excommunicate laymen.[66] De Medina drew a distinction between insulting a lay scholar and insulting a professional rabbi.[67] In his opinion a layman insulting a rabbi committed a grave sin. On one occasion, De Medina upbraided a rabbi for contradicting his colleague in public and thus degrading him, even though unintentionally. He maintained that differences of opinion between rabbis should be expressed only in private; and only when a rabbi persisted in holding a wrong view was it proper to correct him openly. This zeal in behalf of the rabbinate, however, did not prevent him from censuring privately any rabbi whose conduct was improper. He often emphasized that only those rabbis who were above reproach should be honored and obeyed.[68]

ATTITUDE IN HALAKAH

De Medina's halakic decisions reveal his outlook on Law and religion. His legal opinions show the logical workings of his mind and his acute faculty to analyze a problem critically. He was endowed with the unusual ability to simplify the most complicated questions. If a question addressed to him involved several other questions, he would deal with

them separately. When he was about to render a halakic decision, he would first turn for guidance to talmudic law, and then to the legal opinions rendered by his predecessors. He then applied his analytical powers to the questions under considerations.[69]

At times when the strict interpretation of the letter of the Law would lead to a decision contrary to common sense, he would by a process of reinterpretation stress the spirit rather than the letter. This is illustrated in the following decision. A wealthy man had delegated his brother to be his business agent in another city. Several years later both died. The widow of the wealthy brother laid claim to the money belonging to the poor brother's widow. There was no direct evidence to prove that this money belonged to the rich brother. De Medina ruled that the money be given to the widow of the wealthy man on the ground that it had undoubtedly belonged to him and not to his poor brother who was but his agent. De Medina took cognizance of the talmudic principle that possession is presumptive evidence of ownership and that one must produce conclusive evidence before one can obtain ownership of property or money that another one possesses.[70] Yet, he reinterpreted this principle, because of a logical probability, in favor of the one who tried to obtain ownership.[71]

He relied on common sense reasoning especially when there was no legal precedent to follow, as is indicated by the following responsum. A man died intestate. Three years later, the widow produced a will, allegedly written by her husband, which provided that all his possessions be given to her. This document had been drawn up by a non-Jewish scribe and signed by a Jewish witness. De Medina examined it and concluded that it was a forgery. "Though I am no prophet," he offered as his reasons, "common sense leads me to decide that this will is not authentic. The painful care that was taken in drawing it up, the expenditure of time and money to make it appear genuine, all point to the fact that it is a forged document."[72]

We obtain a clearer understanding of De Medina's attitude toward the Law by examining the principles that guided him in the process of making halakic decisions. According to his own words, his halakic opinions were formed not by haphazard reactions, but by definite principles. He adhered to the guiding rules established by Rabbi Solomon ibn Adret (1253–1310) which were as follows: Whenever there is a dispute between two authorities we ought to accept the opinion of the one who is superior in scholarship, regardless of his leniency or strictness in the interpretation of the Law. If these opposing authorities are equal in learning and wisdom, and the law in question is of biblical origin, we should accept the stricter of the two views. If, however, the

opposing authorities are two against one, then we follow the majority view even in questions of biblical origin. If there is a double doubt connected with this difference of opinion, one should follow the lenient view, even if the law in question is of biblical origin.[73]

De Medina also adhered to the following legal principle enunciated by Rabbi Asher ben Yehiel (1250–1327), "The rabbinic authorities of the Talmud, in the process of legislation, could neither foreseee nor deal with all the possible legal cases or the new situations that might arise in the future. It is, therefore, the obligation of every succeeding rabbi to follow in their footsteps and compare each new situation with an old one of a similar nature."[74]

Also interesting is his procedure, in which he followed Rabbi Joseph Kolon, in case of a difference of opinion between an earlier and a later rabbinic authority. In such cases he followed the opinion of the later authority, but only when the view of the earlier rabbinic authority appeared in a well-known book. If, however, the opinion of the earlier rabbinic authority appeared in a responsum, which may not have been accessible to the later authority, then he accepted the opinion of the earlier rabbi, since there was the possibility that, had the later rabbi read the opinion of the earlier one, he too might have agreed with him and accepted his decision.[75]

A LIBERAL INTERPRETER OF THE LAW

De Medina was liberal in his interpretations of the law, holding it to be flexible and adjustable to the needs of the time. Like the rabbis of his day, he was deeply concerned that the biblical and talmudic law be carried out in all of its details, both in letter and spirit. Yet, in many of his halakic opinions there is evident a real effort, conscious or unconscious, to make the *halakah* adaptable to the changing needs of his day. One is impressed with his direct manner of cutting through the cords of involved discussions in order to arrive at an equitable ruling. De Medina censured those rabbis who consciously leaned toward a rigid and strict interpretation of the law. He maintained that the practice of making the *halakah* stricter than it was actually intended was sinful and misleading, since there was the possibility that future generations may regard this extension beyond the *halakah* as part of the *halakah*. Also significant is his statement that with change of circumstances there should follow a change in the interpretation of the *halakah*. He asserted, "There's a time to prohibit and a time to permit; the Law changes with the change of the times."[76]

How he adjusted his decisions to new conditions appears in a case dealing with a rabbi who had put a man under the ban for calling another Jew *ebed* (slave). De Medina disapproved of this harsh penalty, since the term *ebed* did not carry the same degrading connotation as it did in ancient times. Besides, the man who used this term probably did not know its original meaning. In correspondence with Rabbi Samuel Sasun, De Medina said that owing to the changes in time and conditions and to our insufficient comprehension, it is difficult to fix the laws as they were originally intended and, therefore, it is impossible to adhere rigidly to the letter of the law.[77]

His resolve to be lenient is also apparent in this ruling: A question was addressed to him concerning the biblical prohibition not to sow mixed seeds in one's vineyard. He replied that every possible effort should be made to give a loose construction to the interpretation of this interdiction. He added, "In my efforts to interpret this law, I have done everything possible to justify those who seek to be lenient in this matter."[78]

His liberalism and independence of spirit are also indicated in a responsum dealing with a conditional bill of divorce which was written immediately before the husband's death. There existed a doubt as to whether the wife, who was childless, was duly divorced prior to her husband's death and whether she would be free to remarry without being subjected to the ceremony of *halitzah* (release from her husband's brother). De Medina ruled that the divorce was valid. He was aware of the fact that his decision was contrary to a legal opinion rendered in a similar case by Rabbi Meir of Rothenburg of the 13th century, yet he adhered to his own opinion. He realized that his lenient position would call forth sharp criticism from contemporary rabbis for being lenient in a matter where an older and greater authority like Rabbi Meir was strict, yet he felt that since there are differences of opinion regarding most laws, each rabbi was at liberty to interpret the Law as he saw it. "One should not blindly follow older authorities as an unfailing oracle," he affirmed, "but rather seek the answer by means of reason."[79]

Although De Medina took to task those who followed the letter of the law too strictly, it is important to stress that his lenient interpretations were not applied in matters relating to rituals and observances, but rather toward helping an *agunah* or a doubtfully divorced woman attain her freedom.

His liberal interpretation of the *halakah* was most evident in his numerous decisions dealing with cases of the *agunah*, a married woman who cannot remarry legally either because she cannot prove the death

of her husband, or cannot, for one reason or another, obtain a divorce from her husband, or in the case of a woman subject to the levirate who fails to obtain a release from her husband's brother. Many such cases came before De Medina. Very often the evidence produced to prove that the husband was dead was partial, casual and unreliable. Yet, invariably he ruled that such testimony was sufficient to permit the wife to remarry. Though prominent legal authorities considered the testimony wholly unsatisfactory, he decided in favor of the *agunah.* He made every possible effort to brush aside halakic obstructions that would prevent him from freeing the woman from her bonds. Many of his *agunah* decisions were accompanied by this characteristic remark, "Everyone knows that our rabbinical predecessors were greatly concerned over the sad plight of the *agunah,* and how eagerly they resorted to every legal means in order to free her."[80]

In one case, involving the status of a woman whose husband was missing, a non-Jewish witness, speaking inadvertently, stated that he had seen a Jewish acquaintance of his lying dead in the field. De Medina accepted this testimony as valid and permitted the woman to remarry in spite of the fact that the testimony of the non-Jew lacked three legal requirements. First, it did not mention the name of the deceased's father; second, it did not state whether the witness had buried the dead; and lastly, there was doubt about the identity of the victim, for disintegration of the body had set in because the man had been dead for more than three days. Yet, in the face of all these halakic difficulties, De Medina decided in favor of the *agunah.*[81]

In another instance where a man was drowned while crossing the sea, and testimony to that effect was incomplete and indirect, De Medina ruled that the woman be freed to remarry. He referred to the fact that in the Talmud, Rab Nachman, an *Amora* (a talmudic sage), had ruled under similar circumstances that such evidence was not enough, and mentioned that the Rif (Rabbi Isaac Al-Fasi), one of the greatest legal authorities, too, would not have permitted the woman to remarry. But, he said, "While the great luminaries of the Law oppose freeing this woman on the ground of insufficient evidence, I believe that under such circumstances she should be permitted to remarry, for in this case, custom should take precedence over the law; besides, it is a noble duty to help these unfortunate women."[82] As has been mentioned previously, De Medina's lenient attitude toward the case of an *agunah* was greatly influenced by that of his teacher, Joseph Taitazak.[83]

The same liberal spirit was manifested by him whenever a bill of divorce was to be declared valid, or when a marriage was to be annulled in order to free a woman from an unworthy husband. He always sought

to overcome any halakic obstructions in the path of a woman's freedom. A number of forced marriages and those where girls were tricked into marriage by deception, were usually dissolved by De Medina, regardless of their apparent legality. He also censured rabbis who, intentionally or innocently, aided the men involved in these marriages by giving the law a strict interpretation.[84]

De Medina's liberal view is also evident in the case of a German Jew of Salonika who was deserted by his wife and who desired to take a new wife. At first, De Medina hesitated to deal with this matter, maintaining that, as a German Jew, this man was subject to Rabbenu Gershom's ban against bigamy, and referred him to a German rabbi. This man, however, strongly urged him to render a decision regarding this case. De Medina finally complied and ruled that, since the woman refused to live with him, he be permitted to take another wife. He based his decision on several arguments. He followed the opinion of Rabbi Solomon ibn Adret, of the 13th century, that Rabbenu Gershom's ban was not binding after the fifth thousandth year A. M. He also maintained that the ban against plural marriages could not, in all fairness, apply in a case where a rebellious woman refused to live with her husband. "Is he to be doomed to a lonely life by a wife who scorned and humiliated him?" De Medina asked.[85] In another case, where a German Jew practiced bigamy, he exonerated him on the grounds that the ban of Rabbenu Gershom applied only to those living in Germany and that it was not binding after the end of the fifth millennium.[86*]

De Medina, however, maintained a more strict attitude when decisions involving family purity were concerned. When he suspected that a lenient interpretation of the law might possibly lead to the slightest violation of marital purity, he was strict and unbending. He stated in a responsum that any rabbi who inclined toward leniency in matters pertaining to marital relations, contrary to authoritative opinion, desecrated the name of the Lord.[87]

Also noteworthy is his unfriendly attitude towards non-Jews, both Moslems and Christians, which stands out clearly in his legal decisions. In one responsum he adheres to the principle of Rabbi Isaac Alfasi that whenever a Jew, in litigation with a non-Jew, would be favored if the decision were based on the law of the land, then it was the obligation of the rabbi to render a decision according to that law. If, however, the Jewish litigant would be favored by following the Jewish law, the rabbi should then base his ruling on the Jewish law. In another instance De Medina indicated his unfriendly feeling to non-Jews by stressing that there was a vast difference between Jewish and non-

* For the complete responsum dealing with this subject, see p. 169.

Jewish robbers, and that it was an unpardonable offense to place both in the same category.[88]

This same attitude is shown in a responsum dealing with two Jewish partners who owed money to Moslem and Christian merchants. He ruled that Jewish creditors were to be preferred over the non-Jewish creditors. De Medina also added that the principle of not desecrating God's name did not imply that one should favor non-Jewish creditors and thereby jeopardize money belonging to Jews. He maintained that he who did so did not perform a religious duty but rather an act of folly. "If one partner is zealous to sanctify the name of God by paying non-Jewish creditors first," De Medina said, "let him do so with his own means."[89]

His anti-Gentile prejudice stands out sharply in a case where one Jew called another *Arel Tame* (impure, uncircumcized non-Jew). De Medina rebuked the one who hurled this insult and affirmed that, unlike non-Jews, Jews alone embody the essence of purity and integrity.[90]

This unfriendliness to non-Jews was undoubtedly directed toward Christians rather than Moslems, since the latter had proved themselves friendly and hospitable to Turkish Jews. One may readily understand De Medina's harsh sentiments, who was otherwise a kindly and tolerant man, when one takes into account that during his lifetime Christian persecution of Jews reached an unprecedented height. It was less than a half century since Jews had been expelled from Spain. The inhuman suffering that the Inquisition inflicted upon countless Jews was still fresh in his mind. Marranos were still being burnt alive in Spain and Portugal, and Jewish wealth throughout Christian Europe was being regularly confiscated.

Yet, despite these sentiments, De Medina ruled that a Jew was forbidden to deprive a Christian of his livelihood.[91]

MISCELLANEOUS DECISIONS

A number of inquiries addressed to De Medina dealt with the laws of tithes on produce that grew on Palestinian soil. He ruled that the obligation to give tithes applied only to produce that grew on land owned by Jews. He also pointed out that, at this time, the obligation was based on a rabbinic enactment and that "we do not add one enactment upon another for the sake of making the practice more rigorous."[92]

He similarly ruled that the law of *Shemitat Kesafim*, requiring the release of loans during the Sabbatical year, was to be observed, although

at that time its observance did not have the authority of a biblical law but that of a rabbinic enactment. But after seeing in a printed responsum the ruling of his teacher, Levi ibn Habib, who took an opposite stand, De Medina changed his opinion.[93]

Also of interest is his opinion that the practice of honoring the *Kohanim* by calling them first to the reading of the Torah, was not a law but a custom, since no *Kohen* could produce conclusive evidence that he was a lineal descendant of the priestly family of Temple days.[94]

De Medina also rendered the significant ruling that any contractual obligation assumed in a business deal, must be carried out according to the original intentions of both parties concerned. Thus, when the Turkish coins, *gerushot*, were depreciated by the Sultan, and Jewish debtors insisted upon paying back their creditors the same amount of *gerushot* that they had borrowed, which would cause a serious loss to the creditors, De Medina ruled that the debtors must return the sum equal to the original value of the borrowed money, and not merely the equivalent number of *gerushot*.[95] Similarly, he ruled that a man, who had been childless and had taken an oath to give away a considerable portion of his wealth, when subsequently a child was born to him, was no longer bound by his oath, since it is obvious that his intention had never been to disinherit his progeny. He was also of the opinion that in business transactions one should follow the *Minhag ha-Soherim*, the prevailing practices of the non-Jewish merchants, especially when the talmudic law offered no guidance in the matter.[96]

Another interesting ruling, set forth by De Medina in the following case, pertains to the right of one rabbi to reverse a decision rendered by another. Two witnesses testified that they had seen a young man offer a gift to his betrothed which was intended to be an instrument of marriage. One rabbi, before whom these witnesses testified, declared the couple married. Later, other witnesses appeared before another rabbi and contradicted the testimony of the preceeding witnesses. This second rabbi reversed the decision of the former rabbi and declared the girl free from the bond of marriage. These conflicting decisions were brought to De Medina for adjudication and he sided with the decision of the second rabbi. The rabbi whose decision was thus reversed launched a bitter attack against De Medina on the ground that he had undermined rabbinic authority and respect for the Law. De Medina defended his position and laid down the following principle: If one rabbi renders a decision, but subsequently new and reliable evidence is produced and presented to another rabbi, the latter is

justified in reversing the decision of the former. In his opinion such reversal did not constitute an act of disrespect for the Law, nor did he believe that it tended to undermine the prestige of the *Bet Din.*[97]

ATTITUDE TOWARD HIS PREDECESSORS

The three great halakic authorities whom De Medina accepted as his guides were: Rabbi Isaac Alfasi (1013–1103), Moses Maimonides (1135–1204) and Rabbi Solomon ibn Adret (1235–1310).[98] He considered Isaac Alfasi the greatest of all authorities and the ". . . the father of all the codifiers since the Talmud."[99] He regarded Maimonides as the second pillar ". . . upon which the palace of *halakah* rested." He called him ". . . the wisest of all scholars and one of the greatest legal authorities since the close of the Talmud." He affirmed that ". . . in civil matters we usually accept the opinion of Maimonides."[100] De Medina explained that the reason why Alfasi was given priority over Maimonides was because he had been the earlier authority.[101]

The third master whom he accepted as guide was Rabbi Solomon ibn Adret (Rashba). Next to Maimonides this halakist was quoted most frequently by De Medina who regarded him as ranking second only to Maimonides,[102] and possessing greater authority than either Rabbi Asher ben Yehiel (1250–1328) or Rabbi Isaac ben Sheshet (1326–1408),[103] or Rabbi Nissim ben Reuben (died 1375).[104] De Medina's admiration for the Rashba was considerably influenced by his teacher, Joseph Taitazak, who considered him the greatest halakist of his day and who usually followed his decisions.[105]

De Medina enumerated the following halakic authorities whom one was to follow at all times, whether their decisions were lenient or strict: Al-Fasi, Maimonides, Solomon ibn Adret, Asher ben Yehiel, his son, Jacob, Nissim Gerundi, Yeruhim and Isaac ben Sheshet. Most of them, it is to be noticed, were Sephardim.[106]

At times, De Medina quoted and followed the legal opinion of Israel Isserlein (died 1460), author of the *Terumat ha-Deshen*, and regarded him as one of the most prominent legalists of his day, and preferred his legal views to those of Isaac ben Sheshet.[107] He also quoted, from time to time, the legal opinions of Rabbi Moses of Coucy (1200–1260), author of the *Semag*, Rabbi Yom Tob ben Abraham Ishbili (Ritba) (14th century), Isaiah de Trani (1500–1580) and Judah ben Barzilai (12th century).

Among his immediate predecessors whose legal views he quoted and at times followed were: Rabbis Joseph Kolon (1410–1480), David

Kohen of Corfu (end of 15th century) and Joseph Fasi. He paid great homage to the personality and scholarship of Rabbi Elijah Mizrahi (1450–1525) who had been the leading rabbi of Turkey.[108]

Of interest also is De Medina's attitude toward his illustrious contemporary, Rabbi Joseph Karo (1488–1575), the author of *Bet Yosef* on the *Tur* and the compiler of the *Shulhan Aruk*. Although at times he quoted his legal opinions and often accepted them, he frequently differed with him.[109]

De Medina, however, was most influenced in his liberal attitude on the Law by his great teacher, Rabbi Joseph Taitazak. His views that Marranos be considered Jews even when there was a question about the religious status of their parents, and that all Marrano women from Portugal be regarded as unmarried and be permitted to marry Jews, were derived from Taitazak.[110] To a lesser degree he was influenced also by his teacher, Levi ibn Habib, whom he mentioned frequently, but not as often as Taitazak.

De Medina must have possessed an extensive library of rabbinic literature, for his Responsa are replete with quotations from and references to almost all the earlier and later talmudic commentators and codifiers. He cited no less than twenty-three codes and halakic works by name, exclusive of responsa collections. This fact assumes special significance since most of these works had not yet been printed, and manuscript copies of some were rare.

AN EVALUATION OF MEDINA'S CAREER

The half century of De Medina's incumbency as rabbi was a period noted for its transitional character, remarkable growth and rapid adjustment in the communal affairs of Salonika and Turkish Jewry generally. In the successive stages of change and development De Medina played a dominant role.

He was exceptionally well-qualified to cope with the numerous and challenging problems of his day, and with the task of stabilizing communal life. He was the teacher, guide and judge of his people, ministering to their religious, educational and even economic needs.

He was gifted with the required powers of leadership, courage and discernment. In him there was a happy synthesis of a clear analytical mind, sympathetic spirit and an ability to deal with men intelligently. He possessed a strong sense of justice and integrity, yet, when involved in a controversy, he at times permitted his indignation and bias to dim his sense of fairness. He was modest, peace-loving and tolerant,

yet at times a vigorous and relentless fighter in behalf of what he believed to be right and true.

De Medina stands out as one of the most prominent halakists of his day. He is noted for his liberalism and uncommon leniency in the interpretation of the Law and in his efforts to adjust it to the vital needs of the times. This liberal attitude was undoubtedly motivated by a desire to make the Law a living and flexible guide for a people living amid constantly changing circumstances. It was also prompted by a sense of humaneness and sympathy with those who were victims of the rigor of the Law.

Living in an era of transition and adjustment, De Medina helped his generation to find its way through the perplexities and confusions that faced them. In so far as he achieved this, he proved himself a faithful guide to his people.

CHAPTER IV

Economic Conditions

COMMERCIAL ACTIVITIES

THE Responsa of De Medina yield considerable information about the commercial and industrial activities of the Jews of Turkey during the sixteenth century.

The Spanish refugees continued to engage in the same industries and occupations that they had followed in Spain, and many still exercised their special talents for trading. They found conditions very favorable for the pursuit of their commercial enterprises. The rulers of Turkey offered them freedom to carry on commerce on a national and international scale. These Jews themselves, moreover, were especially equipped to engage in foreign trade. Many had parents and relatives in the important ports of Italy, Flanders, Egypt and Portugal; besides, they spoke a number of foreign languages, such as Spanish, French and Italian, in addition to Turkish.

The advantageous location of Salonika was also conducive to its becoming an important center of foreign trade. Centrally located between Asia and Africa, it became a convenient stop-over port for ships going to and from either continent. Its gulf proved to be an excellent harbor enabling ships to land without difficulty.

A large hinterland, namely, the interior of the Balkans with cities such as Sofia, Bucharest, Belgrade and Budapest and their nearby villages, offered free markets. These provinces were neglected by the non-Jewish traders who turned their attention to the cities on the main commercial highways. The Jewish traders, consequently, concentrated on the out-of-the-way towns and villages. They set up trade relations with the farmers in small villages and offered them capital for their agricultural products. In consideration of payments made in advance the Jewish merchants would receive, at low cost, wool, cattle and hides which they could ship to foreign ports.

Toward the middle of the century the commerce carried on by the Jews of Turkey reached a high peak. The great arteries of the Empire's foreign trade came to be almost entirely controlled by Jews. Numerous

ships loaded with commodities owned by Jews, regularly traversed the Mediterranean Sea.[1] The port of Salonika was in their hands. Its agents, commissioners, warehouse owners and wagoners were Jewish. Jewish merchants travelled easily and frequently to visit such important commercial centers as Genoa, Ancona, Venice, Ragusa and Rhodes. Merchants from Constantinople and Salonika travelled to Alexandria, Cairo and Angora.[2] Such merchants availed themselves of marine insurance to insure their cargoes against the hazards of shipwreck, war and piracy.[3]

An insight into the commercial organization and methods set up by the Jewish merchants enables one to realize the far-reaching extent and the heavy volume of business conducted by the Jews of Turkey. Some extended their business activities beyond the limits of their respective cities. Salonika merchants, for example, entered into partnerships and opened branches in Constantinople, Adrianople, Venice and even distant Flanders. The partners would meet once a year to take stock of the amount of business done and divide their profits.[4]

Many merchants whose commercial transactions were conducted on a large scale, engaged agents to sell their merchandise or to manage their stores in other cities, or in foreign lands. We hear of this practice both in Salonika and Constantinople.[5] The usual commission paid to such agents was 2%.[6] Occasionally, one agent represented two or more merchants. Such agents acted as buyers or were entrusted with a sum of money with which they could engage in any manner of trade they saw fit.[7] Merchants who set up agencies in distant cities often united to hire common warehouses and to engage the services of consuls who were stationed at different ports to which they shipped their merchandise. The duty of such a consul was to unload the merchandise from the boats and assemble it in the warehouse. There he would assort it, inscribe in a government register the amount of merchandise received from each merchant, and then ship it to the various places of destination according to the owner's instructions. The goods of each merchant had a special mark to distinguish them. The merchants of Janina and Arta, who shipped their goods to Venice, had their consuls stationed at the ports of Corfu and Bastia; those of Constantinople and Salonika had their consuls at Venice and Flanders.[8]

An interesting account is given in one responsum concerning the manner in which Jewish dealers in cloth sold their merchandise in Salonika. Once a year a government official came to the city to purchase cloth for the army. In order to persuade him to buy their cloth, merchants would bribe him with large gifts. This practice reduced their profits and often caused them to raise prices considerably. About

the year 1545, the Jewish cloth-dealers who sold cloth to the army united and agreed on regulations as to how these sales should be conducted. Each cloth-dealer contributed an equal share toward the bribe of the government agent. No one was permitted to approach him individually, but an agent was chosen by the dealers to negotiate with him and offer him the gift. All dealers brought their cloth to the depot, called the *Anbar*. There the agent of these merchants displayed the goods and conducted the sale. Thus, all forms of competition were eliminated. The agent that represented the merchants received thirty aspers for each piece of cloth sold. If the merchandise was not sold the agent received nothing. At times the merchants whose merchandise was sold would buy the unsold goods of the unsuccessful merchants. Often the dealers placed all their pieces of cloth in one pile on the depot so as to make certain that each one had an equal opportunity of selling his goods.[9]

CREDIT TRANSACTIONS

While sales were made on a cash basis, many transactions were conducted through a credit system. When the merchants of another city, or their agents, purchased goods on credit, the seller would designate some other merchant with whom he had business relations, living in the city of the buyer, who was to receive the payment for the goods. The merchandise thus purchased was placed in a warehouse and was shipped to the buyer only when he paid the money to the individual designated to receive it. The buyer on credit would often give the creditor a promissory note in which he pledged to pay the debt at a stipulated time.[10] When merchandise was sold on credit to small merchants in other cities, the price of the commodity was advanced 12%, to compensate for the risk taken by the creditor and to make up for the loss of interest.[11] Wealthy merchants who had commercial contacts in distant cities and in foreign business centers would give letters of credit to middle-class merchants to be used there.[12] The practice of issuing bills of credit was widespread. The transfer of debts from one creditor to another was also a well-established practice among merchants engaged in foreign trade.[13] Notes were given and discounted at as high as 50% of their value.[14]

A practice also prevailed among wealthy merchants to offer loans to small merchants for the purchase of merchandise. When the merchandise was sold, the creditors received 20 to 30% from the profits earned. If the merchandise bought with such loans was lost or damaged

before it reached its place of destination, the loss was assumed by the creditor.[15] Many well-to-do merchants in the larger cities entered into agreements with farmers for a specified number of hides or bales of raw wool at a fixed time in the future. Payments were made in advance and, in consideration of them, the commodities were sold at considerably lower prices. If the farmer was unable to furnish the number of hides or bales of wool at the fixed time, he was obliged to purchase them at any price and deliver them to the merchants.[16] Such advance payments made to the farmers were a great boon to them as it provided them with the required capital and enabled them to weather a hard winter.

All commercial transactions were based on Jewish Law and on the established business practices adhered to by merchants and referred to as *Minhag ha-Soharim*. These practices were recognized by the rabbis when they adjudicated litigations involving business transactions. It was also customary to draw up contracts which stipulated the conditions of business relationship. Such contracts were written either in Hebrew or in Spanish and were registered in the rabbinic court of the city where the transaction was negotiated. In Salonika there were scribes who specialized in drawing up such contracts. Some rabbis, too, specialized in writing them. They were considered as binding as the talmudic law.[17]

Failures in business and flight of debtors to evade creditors and imprisonment were fairly frequent occurrences.[18] One who guaranteed the payment of a debt was required to pay it or face the penalty of imprisonment in case of default by the borrower. It is significant that according to the decision of De Medina, no Jewish creditor was permitted to imprison another Jew for failure to pay his debt.[19] There were, however, cases of Jewish creditors who resorted to government courts to imprison their debtors.

When a case of bankruptcy occurred, all creditors combined to arrange for a settlement whereby each one received a share in the balance of the capital in proportion to the amount of his debt. The minority of the creditors had to submit to the settlement adopted by the majority.[20] When the capital of a bankrupt Jewish merchant was divided among his creditors, the Jewish creditors were given first consideration, according to the ruling of De Medina.[21]

EXPORTS AND IMPORTS

A large variety of commodities was exported from Turkey to Italy, France and Egypt. The leading commodities for export were cloth and finished garments, which were shipped chiefly from Salonika to

Venice, Flanders and Egypt. Salonika cloth and garments were sold in Constantinople, Sofia, Nicopolis and other cities within the Empire.[22] Ancona was the leading market for hides made in Turkey; Venice bought large quantities of garments, wool, linen, raw and finished silk from Salonika and other cities in Turkey.[23] Ragusa, Rhodes, Alexandria and Angora also bought products from Turkish merchants. Corn, wine and fish were exported. Similarly, Jewish merchants of Turkey imported a variety of products from Italy and France. Although Salonika was a great center for wool, cloth and garments, Venice was its formidable rival in the markets of Turkey.[24] Large supplies of paper were imported from Flanders.[25] How large was the scale of importing engaged in by Jewish merchants in Turkey is illustrated by the following instance. In the city of Bodon, which is north of Belgrade, there was a government toll which was leased by three Jews. The custom duty paid at the toll was 5% on merchandise imported by Jews or Christians and 3% on goods imported by Moslems. Such discrimination encouraged Jewish merchants to try to avoid payment entirely. The volume of goods imported by Jews passing through there was large enough to persuade those who leased the toll to reduce the duty from 5% to 2%. The men in charge of the toll stipulated, however, that the Jewish importers pledge themselves not to conceal any merchandise.[26]

Of all the foreign centers of trade, Venice was most important to the Jews of Turkey. The extent of this trade is indicated by the fact that De Medina's Responsa mention Venice more frequently than any other foreign city. The most important business establishments in Salonika set up agencies in Venice and vice versa.[27] Consequently, there was a large colony of Salonika Jewish merchants in Venice, and Venetian ducats were current among merchants in Salonika itself.[28] Many Marranos had brothers and sons living in Salonika who shipped to them the agricultural and industrial products that they sold in Venice. When, therefore, the rulers of Venice decreed the expulsion of the Marranos from there in 1550, the Christian merchants interceded in their behalf and asked the Doge to rescind the decree since it would ruin them economically.[29]

As their business was hampered by excessive import duties, the Turkish merchants in Venice united in 1571 and engaged the services of Hayyim ben Saruk for the purpose of obtaining from the Venetian rulers a reduction of the import duties on their goods. They engaged him for a period of ten years with the understanding that if he succeeded in his efforts he would receive from each merchant a sum equal to one half of the amount reduced.[30]

From 1571 to 1573 the trade between Turkey and Venice was

entirely suspended owing to the wars between the Sultan and the Venetian rulers. This brought great hardship and loss of property to the Turkish Jewish merchants, particularly those residing in Venice. Ships laden with Jewish-owned merchandise were confiscated by the Venetian authorities. A number of Jewish boats on the seas were captured by the Venetians. Turkish Jews residing in Venice were imprisoned and their possessions confiscated.[31] Some Salonika Jewish merchants left Venice; the losses sustained by others were so heavy that they failed in business. As a result, they were no longer able to meet their debts and the communal taxes imposed on them by the Jewish community of Salonika. This, in turn, compelled the officers of the Salonika community to revise the assessments of communal taxes.[32] When peace was established in 1573, the Jewish merchants of Salonika and other cities resumed their commercial relations with Venice as of old.

Of almost equal importance to the Jewish merchants of Turkey was the city of Ancona which served as a stop-over port for many ships, carrying a variety of products from Constantinople, Salonika and other Turkish cities. Thence the commodities would be shipped to Ragusa and Egypt.[33] When the Jewish merchants agreed to boycott Ancona so as to avenge the burning of twenty-four Marranos by the Inquisition, the Christian inhabitants became impoverished and were unable to pay their debts.[34]

Flanders, too, was an important foreign market for Turkish trade. Numerous agencies, representing Jewish business establishments were set up there.[35] Also Alexandria,[36] Rhodes,[37] Ragusa, Pesaro, Ferrara and Corfu[38] served as important stop-over ports for ships carrying Jewish products from Turkey. A large volume of trade was carried on among the commercial centers within Turkey such as Salonika, Constantinople, Adrianople, Uskup, Sidero-Kapsa, Monastir, Janina, Arta, Larissa, Sofia, Angora, Belgrade and Bucharest.

The roads between the commercial centers within Turkey were not safe for travel, being infested with robbers and brigands. Robberies and murders on the roads were not infrequent occurrences.[39] Merchants would therefore organize caravans to travel in groups.

It was no less dangerous to travel by sea. Numerous accounts in the Responsa record losses of life and property caused by pirates and through accidents. Thus, we hear of a boat loaded with Jewish merchandise that was robbed by pirates, part of whose losses was later salvaged through the help of the Venetian authorities. The Jewish passengers on this boat agreed that each one receive a share of the

salvaged goods in proportion to the amount of his original property.[40] In 1583 a boat, sailing from Rhodes to Salonika with fifty-five Jewish merchants, was owned and manned by Greek sailors. The sailors, eager to rob the Jews of their possessions, slew every Jewish passenger except one, who pretended to be dead and who later swam to safety.[41] At times, tempests were responsible for the damage or loss of merchandise.[42] A ship carrying Jewish merchandise was captured by pirate ships from Malta and was saved later through the intervention of the Sultan with the rulers of Venice.[43] Yet, in spite of these hardships, the Jewish merchants of Turkey continued to be the masters of Balkan commerce and enjoyed a high measure of prosperity.

OCCUPATIONS AND INDUSTRIES

The Jews of Turkey played almost as important a role in the industries of the country as they did in its commerce. Most of the newcomers pursued the same occupations in which they had been engaged in Spain and Portugal. They were entrepreneurs, manual laborers, artisans and farmers. Some Jews were engaged in cultivating the silkworm and extracting the raw threads which were sent to Venice. Others leased mines and engaged Jewish laborers from Sidero-Kapsa to work and extract the precious metals.[44]

A number of Jews were jewelers, dealing in gold, silver and precious stones. Some goldsmiths specialized in smelting gold and silver.[45]

A considerable number of Jews were engaged in the leather industry as converters of raw hides into finished leather, and as dealers. This industry was one of the most important as a source of livelihood for the Jews of Turkey. Jewish merchants also shipped large quantities of leather to foreign ports. Salonika merchants bought raw hides from Monastir which were finished in the tanneries of their own city. Eventually the merchants of Monastir, in order to protect their local leather industry, decreed that no one was to sell raw hides to merchants outside of their city.[46]

Another important industry engaged in by Turkish Jews was the making of wine. Some Jews owned vineyards outside of the city limits where the grapes were pressed, and the wine was poured into skins, then brought into the city. The fact that many teamsters were non-Jews and that they came in contact with the wine, thus making it unfit for Jewish use, gave rise to halakic difficulties that were brought to the attention of De Medina.[47] In Rhodes, a communal decree required

that each wine producer bring the grapes into the city, and have ditches dug near his home where the grapes were to be pressed and poured into the skins by Jewish laborers.[48]

The food industries, too, served as a source of livelihood for many Jews. One of these was the making of cheese. In the city of Vodena, the makers of cheese purchased milk for their purpose from the Moslem owners of cattle, who lived outside of the city. In order to make certain that the cheese was prepared in accordance with the Jewish dietary laws, a Jew had to stand by when the sheep were milked. Cheese prepared by Jews was made in a special form so as to distinguish it from that prepared by non-Jews.[49] There were also Jewish fishermen and dealers in salted fish and herring. The market for salted herring was at Constantinople.[50] Jews were also producers of and dealers in oil.[51]

Another Jewish occupation was that of farming the government tolls; in fact, the farmers of tolls were mostly Jews. The one who farmed a toll paid a fixed sum to the royal treasury and kept all the duties he collected. At times, a toll was farmed by two or more partners. There was, usually, rivalry in the efforts to obtain the rights to a toll. In one case, a Jew offered 600 Sultanes to another to use his influence with the government officials so that he could obtain the right to the toll.[52] Obviously a profitable business, it was fraught with dangers and often led to unpleasant consequences. At times the toll farmer was required to go into villages and country places to collect duty due from non-Jews. There, he was frequently attacked. In one community an enactment forbade Jews to outbid each other when the government authorities auctioned off the toll.[53]

Moneylending was also a source of income for Turkish Jews. The customary rate of interest on loans ranged between 6 and 13%.[54] There were Jewish bankers in Constantinople and in Salonika. Many Jews derived their livelihood by serving as brokers in various fields of endeavor, as real estate agents and also as matchmakers.[55]

THE TEXTILE INDUSTRY

The foremost occupation among the Jews of Turkey was that of textiles and the manufacture of ready-made garments; these industries were, in fact, centered in Salonika. The Jews who had come from Spain were especially adept in producing woolen cloth and finished garments. During the sixteenth century the industry grew so rapidly that almost all of the Jews of Salonika were directly or indirectly connected with it,

and the richest as well as the poorest classes were represented in it. A multiplicity of occupations centered around the manufacture of cloth and garments. There were scourers, dyers, weavers, brushers, pressers, driers, porters and wagoners. Then there were the occupations connected with the manufacture of ready-made garments. In one responsum, a correspondent of De Medina gives a detailed account of all the processes that entered into the transformation of raw wool into cloth. First, it was washed, scoured and then sent to the weaver to be woven. After that, it was pressed down and brushed by the brusher whose task it was to soak it in water and remove all the oil-stains. If any oil spots were detected afterwards, it was returned to the brusher for re-brushing. The next step was to send it to the shearer who would spread the wool on the ground to be dried by the sun. Once again it was pressed and finally sent to the dyer. Dyeing was a difficult and a delicate art. The Salonika Jews were known to be experts in it.[56] The cloth made in Salonika was distinguished from that produced in other places by a special process of dyeing, and was known as *Alquimia*, *Turpines*, *Armintines* and *Carezias*.[57]

When the woolens or cloth were finished they were sent to the factory, called *batan*, where the garments were manufactured. Not only the manufacture of garments, but their distribution and sale were exclusively in Jewish hands. Salonika soon became the largest textile and garment center in Turkey. New factories were erected in neighboring communities.[58] In almost every home one could find a textile workshop, the head of the household working with the assistance of his wife and children.[59] Men of means invested large sums of capital in this industry. Capitalists would engage managers to supervise all stages of the production of woolen cloth, from the buying of the raw wool until the finished weaving. These managers received for their services one third of the profits.[60] In order to acquire new markets, the merchants would visit fairs and set up agencies in cities like Venice, Constantinople, Belgrade, Sofia, Bucharest, Smyrna and Alexandria to sell Salonika-made garments.

Other cities in the Empire, too, had their textile factories. In one city the manufacturers of cloth agreed among themselves to send their cloth only to one garment factory. Soon this factory was not able to work rapidly enough to supply the growing needs of the industry. They, therefore, began to send their cloth to new factories.[61] In Rhodes, garment-makers rented factories owned by the Sultan.[62] Even synagogues and philanthropic institutions owned textile workshops which were bequeathed to them by generous individuals. The Talmud Torah in Salonika, through its secretary, operated its own garment factory.[63]

The government bought its cloth for the army from the Jews of

Salonika. A government representative came regularly to the city to purchase all the cloth necessary for the army.[64] Often there arose competition between the poor textile workers on the one hand, who conducted small workshops in their homes, and the wealthy owners of large factories on the other. Both were eager to sell their cloth to the government. The wealthy manufacturers usually won, since they were more influential with the government agent, and also claimed that their merchandise was of a superior quality. In 1540 the poor textile operators addressed an appeal to Moses Hamon, in Constantinople, to intercede in their behalf so that they be given an opportunity to sell their merchandise to the government.[65]

INDUSTRIAL CODES

The widespread growth of this industry naturally created numerous conflicts and concomitant evils which ultimately warranted the establishment of fixed regulations for the textile producers as well as for the employees. These codes were actually communal enactments, having the sanction of the rabbis and the authority of the Jewish Law. Violators of these enactments could be punished by excommunication. Some of the enactments passed by the rabbis in several communities for the purpose of regulating the textile industry and protecting the interests of the Jews engaged in it are of special interest.

One of these enactments was passed because of the following circumstances. The Jewish textile producers, eager to obtain raw wool from the non-Jew peasants, would outbid one another and thus raise the price of the commodity. This considerably reduced their profits. In order to eliminate this harmful practice, it was decreed that a fixed price per bale be established and that no one be permitted to offer a higher price. The same ruling was enacted in Trikkala and Larissa. It was also enacted that raw wool be bought only on credit, since some merchants were able to get it at a lower price owing to the ready money that they could offer at the time of sale.[66]

Wool could not be bought or resold to the weaver by the skein, but by weight.[67] Owners of homes could not forbid their tenants or neighbors to set up a workshop in their homes for weaving unless so stipulated in advance.[68] No one was allowed to export raw wool or indigo (used for dyeing and known as *agnire*) to any place beyond the limits of a three days' journey outside of Salonika. Nor was one permitted to sell raw wool or indigo to a non-Jew who might ship it to a foreign city.[69] In Adrianople a communal ordinance likewise forbade the sale of wool

to non-Jews. No Jewish buyer of raw wool was to approach the shepherds for the purpose of buying it, unless all other Jews in this industry were given an equal opportunity to do so.[70] In 1564 the rabbis of the city enacted a ruling which prohibited rich textile proprietors from importing laborers such as brushers, shearers and pressers of wool.[71] Textile employees had the right to demand an increase in wages during the busy season. Such increases depended on the quality of the cloth they produced. During the slow season a weaver received 25 aspers per cubit, whereas during the height of the season he received 27 aspers per cubit.[72] The employers were not permitted to take undue advantage of their employees. The laborers, on the other hand, were required to devote their best efforts to the production of satisfactory work. The employer had the right to demand from the worker a complete account of the wool with which he had been entrusted.[73] The first enactment which required that all raw wool was to be bought only on credit was abrogated by the rabbis in 1565, owing to the fact that the sellers of raw wool raised their prices too high.[74]

The Jewish communal leaders of the various cities within Turkey were alert in their efforts to safeguard and strengthen the commercial enterprises of their communities. This economic rivalry between cities gave rise to a series of communal enactments that had as their purpose the exclusion of commodities that competed with local industries and the prohibition of the sale of raw materials to other communities so as to protect the monopolies of their local products.

In Salonika a ruling was passed which forbade anyone over twenty years of age to wear garments which were made outside of the city.[75] When this decree was not obeyed by most of the residents another one was enacted which prohibited merchants from selling in Salonika garments that were made elsewhere.[76] In Plevna, a communal decree forbade the sale of garments made of a certain Salonika cloth. This ruling sought to eliminate competition with a kind of cloth that was produced in Plevna.[77] In Monastir a decree was promulgated that prohibited the sale of raw hides to Salonika merchants.[78]

Some Jewish communities resorted to more rigorous means of protecting the economic interests of their constituents, such as forbidding outside merchants to sell their wares within their cities. The resident merchants of Janina, for example, caused a decree to be enacted which forbade outside Jewish merchants to transact their business within the city limits. De Medina was consulted as to the validity of this ruling and declared it both illegal and unfair, since the government authorities of the city did not prohibit outside non-Jewish merchants from selling the same commodities in the city.* He felt that such practice was beyond

* For the complete responsum dealing with this subject, see p. 187.

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the scope of the enactments that sought to protect only one industry of a city.[79] Similar attempts were made in Uskup and Tiria to restrict outside merchants from conducting their business freely in these cities by compelling them to assume the burden of the state and communal taxes of the city. De Medina also disapproved of this ruling and pointed out that such restrictions were not imposed upon non-resident Jewish merchants who sold their wares in Salonika.[80]

Communities also enacted legislation for the sake of controlling prices of food. In one city, there existed a long-established enactment that forbade butchers from combining or forming a partnership and insisted that each butcher be in business for himself. After several years, the butchers of the city complained that owing to this enactment they were unable to obtain a supply of meat sufficient for the needs of the community. This ruling was, therefore, changed to permit them to form partnerships of two. Later, even this concession did not help the butchers and, finally, the original enactment was rescinded.[81*]

WEALTH AND STANDARDS OF LIVING

Part of Turkish Jewry prospered materially and acquired considerable wealth. Many of the former refugees from Spain, Portugal and Italy, who arrived poor and destitute, became again in the course of one or two decades, wealthy merchants, foreign traders, industrialists, owners of homes, stores and vineyeards. It would, however, be false to conclude that poverty and want were non-existent. On the contrary, only a minority of Turkish Jews could be classed as affluent or even well-to-do. There are numerous indications in De Medina's Responsa of the existence of a large group of poverty-stricken Jews. The fact that there was need of charitable institutions in each community, that each congregation had its own fund to help the poor, and that many Jews in Salonika and in other cities were not classed as taxable members of the community, indicates that the number of the destitute was far greater than that of the affluent.

The existence of both classes of Jews in Turkey is also apparent from the following facts: We note that in one instance personal garments were appraised to the amount of 3,000 aspers, while in another case, the entire estate of a person amounted to 3,000 aspers, from which his daughters were to derive their maintenance; in yet another instance, a man left his wife and two children 1,000 aspers.[82] The annual salary of one manager of a store was 3,000, and that of another was 8,000 aspers.[83]

* For the complete responsum dealing with this subject, see p. 149.

One who owned 60,000 or 70,000 aspers was considered wealthy. A father who gave his daughter a thousand sultanes (about 50,000 aspers) as dowry was deemed very wealthy.[84] One who possessed 40,000 aspers was regarded as wealthy. One who owned 5,000 to 10,000 aspers was considered middle class, and he whose capital was less than 5,000 aspers was looked upon as poor.

Some of the dowries, rated in aspers, given to daughters were: 13,000, 15,000, 16,000, 40,000, 50,000 and 120,000.[85]

Cases are mentioned of married women who owned capital in their own rights, known as *nikse melug*, that amounted to 35,000, 40,000 aspers and even more.[86]

Business investments made by individuals or partners amounted to 39,000, 54,000, 110,000, 140,000, 150,000, 300,000, and 400,000 aspers.[87]

Estates mentioned in legacies ranged from the sum of 5,000 to 225,000 aspers. Many bequeathed homes, vineyards, stores, merchandise, rights of *hazakah* and jewelry to their heirs.[88] In one instance three Jews owned the right of *hazakah* to twenty-two houses.[89] The executor of an estate in Salonika delegated someone to go to Venice to collect all debts due the estate and for this service the latter was paid 1,000 aspers.[90]

The annual rent paid by a tenant for a store that included a cellar was 200 aspers per year. Another person eager to rent the same store offered 400 aspers per annum. The annual rental for another store was 600 aspers. The yearly rentals of houses recorded in the Responsa were, 480, 600, 700 and 1,000 aspers.[91] One house was sold for 1,600 aspers and a courtyard for 5,000 aspers. The rental price of a large courtyard was 2,500 aspers.[92] The purchase price of a vineyard was 15,000 aspers,[93] and that of a store 3,000 aspers.

The price for weaving a garment ranged from 25 to 27 aspers. One piece of finished leather cost 40 aspers. The price of different types of cloth per cubit were 55 to 83 aspers. The price of a bale of cotton was three aspers,[94] and that of a female slave 100 *gerushot.*[95]

TURKISH CURRENCY

The names of the largest Turkish coins were: *sultanes*, *perahim*, *altoon* (the Turkish name for gold), *zehubim*, *escudos*, *ducats* and *gerushot.* The Venetian *ducats* and *escudos* were not legal tender in Turkey. The *perahim* were also known as *zehubim* which was a Hebrew translation for the Turko-Salvonic name *zlota.*[96]

The coins, *sultanes*, *perahim*, and *zehubim*, had the approximate value of 50 aspers, *lebainim*, or *akcheh.* The value of the *lebainim* varied

according to the weight of their metal.[97] The Venetian ducat, which was equivalent to 48 or 50 aspers, was in frequent use among Turkish Jews.[98] The coins most frequently mentioned in the Responsa of De Medina are *perahim*, *gerushot* and *lebainim* (aspers). The most sought-after coins by Turkish merchants were the *gerushot.*[99] The value of the *gerushot* varied considerably. At times, a *gerush* was worth 40, 50 and 55 aspers. At another time its value rose to 70 and 100 aspers.[100]

Sultan Murad III sustained great financial losses while engaged in the wars against Persia and Austria. In order to make up for these losses, he decided in 1582 to depreciate the *gerushot* and thus reduce their value to 40 aspers. This condition of depreciated currency brought hardship and confusion to the Jewish merchants in Turkey. The small merchants suffered considerably since the wealthy merchants, at whose mercy they were, raised the prices of their commodities three and four fold. On the other hand, many small traders who obtained their merchandise on credit when money was at a higher value, wanted to meet their debts with a debased currency. Many litigations that grew out of these circumstances were brought to De Medina for adjudication. He deplored this monetary instability which was responsible for the confusion among the merchants. He urged Jewish merchants to establish rules to regulate prices and commercial contracts in the light of the fluctuating currency.[101]

The circulation of counterfeit money, especially that of aspers, was widespread. In one community, a decree was enacted forbidding Jews to handle counterfeit money and clipped coins. This ruling included a threat that the violators of it, or those who knew of others that dealt in such money and did not report them to the Jewish communal authorities, would suffer the severe penalty of excommunication. Judging from this threat it seems that the practice was a source of grave concern to the leaders of the Jewish community. This fear, no doubt, was prompted by the realization that the government would penalize not only the guilty individual Jews but the rest of the Jewish community as well.[102]

CHAPTER V

Communal Organization

AUTONOMOUS KAHALS

JEWISH communal government was patterned, in a general way, after the standards and principles of the older Jewish communities in Babylonia, Persia and Spain. Prior to the arrival of immigrants from Christian countries, the Jewish communities in Turkey were more or less uniform in character and were ruled by a central authority, such as the *Hakam-Bashi*, or the *Kehaya*, who was appointed by the Sultan. A *Kahal* consisted of all the Jews residing in a city.

With the influx of Jews from Germany, Italy, Hungary and later in larger numbers from Spain, this uniformity soon disappeared, giving way to independent *Kahals*. The community in each city was broken up into small *Kahals*, based on "landsmannschaft" congregations, that is, groups organized according to countries of origin and ritualistic disparity. Each *Kahal* enjoyed complete autonomy, governing its affairs independently of the other *Kahals* in the city. The condition that prevailed in Salonika was characteristic of other cities in the Ottoman Empire.[1]

This new principle that each *Kahal* was a sovereign unit was a distinct departure from the accepted form of Jewish communal government which had prevailed and was then still prevalent in other countries.[2] The legal status of the new communal form was set at the beginning of the sixteenth century by Rabbis Elijah Mizrahi and Joseph Taitazak and was repeatedly confirmed by De Medina and his colleagues.

In spite of its deviations from accustomed communal forms, Jewish self-government in Turkey ran parallel to that of other countries in successfully achieving the goal of order and unity in communal affairs. The fact that the Spanish newcomers were themselves long accustomed to self-government and that their cultural and numerical superiority greatly influenced their fellow Jews in Turkey was chiefly responsible for the high level of success that Turkish Jewry of the sixteenth century attained in governing its inner affairs.

OFFICERS OF THE KAHAL AND THEIR POWERS

The affairs of each *Kahal* or congregation were administered by a small group of officers chosen by the members of the congregation. These executive administrators were known as *Memunim*, *Parnassim*, *Kezinim* or *Berurim*, the designations varying in different cities.[3] These officers were also referred to as the *Tube ha-ir*, the *boni urbis*. Although their number was to have been seven, in reality the number varied from three to twelve, and sometimes there were as many as twenty-four.[4]

In smaller cities, two or three congregations would combine to elect officers, representing the respective congregations, to govern their internal affairs. In the city of Lepanto, each of its three *Kahals* elected three *Parnassim*, and to these nine officers was entrusted the management of the congregational affairs.[5] Two congregations of another city agreed to have three *Parnassim*, two to be chosen by one *Kahal*, and one by the other, to supervise all of their activities.[6]

The *Parnassim* were chosen for a term of one to three years. Before entering upon their duties, they were required to take an oath that they would be fair to all, rich and poor, friend and foe.[7]

The powers entrusted to these selectmen covered a wide range. They were empowered to conduct public activities, to legislate and execute whatever measures they deemed necessary for the common good. They supervised the religious as well as the civil and economic needs of the *Kahal*. The *Berurim* represented their constituents before government authorities and supervised all matters relating to the assessment and collection of taxes. The money collected for government taxes was entrusted to one of the *Parnassim* for delivery to the Sultan's official.[8] They were empowered to pass enactments regarding the control of the sale of food and to regulate business practices.[9] The selectmen could appoint orphan guardians, and remove them in case they proved inefficient.[10] They also supervised the moral conduct and educational needs of the community.[11]

The decisions of the *Parnassim* were binding on all members of the *Kahal*. Enactments were made by a majority vote, but the presence of all *Parnassim* was required. If one or more was absent, even a unanimous vote of those present was not sufficient to make the enactment binding.[12] In one community the *Parnassim* enacted a decree that a ruling passed by them could not be abrogated by their successors. Succeeding selectmen could only add to the existing enactments; there

was to be no repeal of any enactment even if the vote of the succeeding *Parnassim* was unanimous against it.[13] The *Parnassim* had the right to make a special dispensation in favor of individuals, provided no one objected.[14] Every new enactment passed by the *Parnassim* had to be announced in the synagogue in the presence of all the worshippers.[15]

Several cases recorded by De Medina mention the fact that members of certain *Kahals* refused to abide by the decisions of their *Parnassim*. De Medina ruled invariably that their decisions were binding on the community and that it was a violation of the constitution of the *Kahal* not to submit to their rulings.

The following responsum contains a significant ruling by De Medina regarding the powers of *Parnassim*. In the city of Lepanto there were three congregations whose members combined for the purpose of electing nine *Parnassim* to manage the affairs of the entire community and those of their respective congregations. Since there was no permanent rabbi in the city, two congregations availed themselves of the services of a rabbi who lived in the near-by community of Patras to whom they paid an annual stipend from their congregational funds.

On one occasion, the nine selectmen of the city submitted a legal question to the rabbis of Salonika whose ruling was accepted by the *Parnassim*. The non-resident rabbi, however, ruled to the contrary and the majority of the members of the two congregations abided by his decision. Since they felt that they constituted a majority of the general community they proceeded with the aid of their rabbi to impose his ruling on the *Parnassim* of the city and to enforce it by means of a communal ban.

De Medina ruled that the selectmen were justified in their refusal to accept the decision of the rabbi and the wishes of the majority of the two congregations. He also affirmed that the rulings of the *Parnassim* were binding on the entire community and that, as long as they were in office, all members of the *Kahal* must submit to their decrees even if these were unacceptable to the majority of the members of the congregations.[16] Yet, one responsum of Isaac Adarbi tells of Kahal Lisbon where a majority of the members ousted its seven *Parnassim* who mismanaged the affairs of the congregation and ignored the welfare of the poorer people. Adarbi sustained the members in their decision against the officers.[17]

The *Parnassim*, however, were not entrusted with all matters pertaining to communal affairs. Such powers as the election of *Parnassim*, the establishment of new assessments, the choosing of a board of assessors, the appointment of a rabbi and cantor, and the supervision

of charitable institutions were voted upon by all members of the *Kahal*, that is, the taxable members of the community.[18] While the poorest element in the community from time to time expressed their opinions on matters of communal interest, the non-taxable members were usually denied the right to vote, especially when matters of fiscal policy were up for decision. According to De Medina, only *Baale Kissim* (men of wealth) were entitled to vote, even when they constituted a minority of the *Kahal's* membership. De Medina affirmed that the poor should not share in deciding communal policies, and identified the rich with the vanguard of the community, maintaining that . . . "the rest of the people is the rear, and obviously the rear is not in a position to lead, . . . the numerical majority does not mean the mob majority." He also sharply censured the poor who, instead of being grateful to the rich for paying their poll taxes, meddled in matters of communal administration, thereby disturbing the established order. "Such men," he said, "are worse than idolaters."[19]

In addition to the *Parnassim*, the *Kahal* also chose officers to whom was assigned the task of tax assessment and collection. They were known as the *Maarikim*, a board of assessors, *Gizbarim*, treasurers, and *Gobim* or *Gabaim*, the collectors.[20]

CONGREGATIONAL SOCIETIES

In the larger cities of the Empire, like Salonika and Constantinople, every congregation had its own burial society known as *Hebrat Kebarim* or *Hebra Kadisha*. The members of the society performed all burial rites and conducted funerals for all members of the congregation. A burial society usually had its own source of income, derived from special gifts and donations, part of which it donated to charitable and educational institutions affiliated with the congregation. In one case, a burial society donated all of its annual income, 6,000 aspers, to the communal Talmud Torah. Such societies had two or three officers to supervise their fiscal affairs.[21]

Every congregation also had its charity fund to take care of its poor, and its own *Bet ha-Midrash* where members or strangers would spend a few hours in study. Most of the larger congregations also set up *Yeshibot* of their own at which their rabbi would lecture regularly. The sessions of the *Yeshibah* were held in the *Bet ha-Midrash* attached to the Synagogue.[22]

Some *Kahals* had their lodging places to take care of poor transients, while others combined with sister congregations in the city to maintain

a lodging place.[23] Mention is also made of the existence of *Bikur Holim* societies, which took care of sick strangers, and of congregational loan societies from which members borrowed money.[24]

THE SYNAGOGUE

The foremost institution in every Jewish community was the synagogue. As was the case in other countries during the Middle Ages and early modern times, the synagogue was not only a place of worship and house of study, but also the scene of the Jew's public and much of his private life. It was the seat of communal government where members of the *Kahal* assembled to debate all matters of communal concern. Here elections were held, resolutions adopted and policies discussed. All enactments and bans, all sorts of trade regulations, even fixing the prices of merchandise and food, were announced in the synagogue. Protests against any individual who harmed his fellow Jew or complaints against unfair rulings of communal officers, were given a hearing in the synagogue and sometimes services were interrrupted for such purposes.[25]

Quarrels and even physical fighting were not unusual occurrences within the synagogue. On one occasion, Janissaries (the Sultan's military police) were brought into the synagogue by some Jews for the purpose of attacking their opponents.[26] In a synagogue at Lepanto, one Friday evening, a man occupied a seat that was not his and refused to leave it when requested to do so. This led to mutual insults and to an exchange of blows. A number of similar cases came to the attention of De Medina who severely reproached the guilty persons for desecrating the sanctity of God's house.[27]

Joyous events like betrothals and marriage ceremonies were celebrated within the walls of the synagogue, or in its courtyard. Circumcision ceremonies were also conducted there. On all these occasions and on holidays and Sabbaths, the synagogue was decorated and the scrolls of the Law were covered with jewelry and bells. On some occasions, however, the bells and the jewelry were displayed only on the walls, while the scrolls of the Law remained in the ark.[28]

Almost every synagogue had its *Bet ha-Midrash*, built either above or alongside of the house of worship, where students of the *Yeshibah* met and where the pious would devote some time daily to the study of the Torah. Every member of the synagogue had a permanent seat assigned to him.[29]

THE RELIGIOUS OFFICIALS OF THE KAHAL

The Rabbi

His Qualifications and Duties

The most honored and important leader in the Jewish community was its rabbi. No rabbi from another congregation, regardless of his superior scholarship and wisdom, was permitted to encroach upon his prerogatives as spiritual leader, judge and teacher.[30]

Among the Sephardic Jews in Turkey, the rabbi was known as the *Hakam*, the *Dayyan*, the *Marbiz Torah* or the *Bet Din*.

To qualify as rabbi, one had to be thoroughly versed in the Jewish Law, both civil and religious; he had to be familiar with all laws pertaining to marriage and divorce.[31]

When De Medina was consulted as to whether a man under forty was qualified to serve as rabbi, he replied in the affirmative, but he stipulated that the candidate should be examined by proper authorities who were to ascertain whether he possessed a thorough knowledge and understanding of the Talmud and the writings of the codifiers and halakists. He also drew a sharp distinction between the position and authority of the rabbi in talmudic times and in his own day. In talmudic times, when rabbinic law had not been written down, the rabbi was like a judge, rendering legal decisions based on his own logical deductions. It was, therefore, expected of a rabbi to be a mature man, distinguished for his discernment and reasoning powers. In the time of De Medina, however, the rabbi was but a teacher of the Talmud and the subsequent halakic writings contained in books, and his major qualification was his erudition. His authority, therefore, depended on his mastery of these legalistic works, since no scholar could make halakic decisions on his own authority.[32]

It was the duty of the rabbi to teach the Torah to the members of his *Kahal*; to read with them books on moral conduct and piety; to annul vows; to preach on Sabbaths and holidays, and on special occasions.[33] Some rabbis, it appears, preached every Sabbath.[34] There were rabbis who served more than one congregation at the same time. Rabbi Solomon Halevi, serving simultaneously at two Salonika congregations (Provencal and Evora), preached in each on alternate Sabbaths.[35]

The rabbi was invested with the power to promulgate ordinances either alone or in conjunction with the lay officers of the *Kahal*. It was the rabbis of Salonika and of other large cities in Turkey, who enacted the important ordinances for the regulation of trade, fixing the prices

of commodities, protecting the industries of the city and, above all, set up *hazakah* enactments which served the welfare of Jewish tenants.[36]

While all communal enactments had to have the approval of the officers or the entire membership of the *Kahal*, the rabbis played a dominant role in formulating them. This participation in the creation of communal enactments came about because of the rabbi's prestige and authority, and especially because of their juridical training which was necessary when formulating highly complicated articles of such enactments.[37]

Among the important duties a rabbi was required to perform was to lecture regularly at the *Yeshibah*. Even more important and time-consuming were his duties as judge of his constituents. They brought to him all litigations, especially those pertaining to marriage, divorce, legacies, orphan's estates and often intimate personal affairs. All matters involving ritual and civil litigations growing out of business relations were adjudicated by the rabbi.

Some rabbis, such as De Medina, Moses Almosnino and Benjamin Ashkenazi, served on diplomatic missions, appearing before government authorities to plead the cause of their communities.[38] Some rabbis also looked after the welfare of the charitable and educational institutions of the city and guided their policies. Whenever a community was impoverished, or stricken by a plague, or when there was need of raising funds to redeem captives from other lands, occasionally the rabbi would himself raise the required funds.[39] The rabbi was looked upon as the father of his community, particularly during periods of disrtess.

Rabbinic Privileges

Rabbis were generally exempt from all forms of communal and government taxes. Scholars who were not professional rabbis but who were primarily engaged in the study of the Torah were also exempt from them.[40] There were, however, exceptions to the rule. In Brusa, a long-established enactment required the rabbis to pay government taxes. Nevertheless, in order to give proper respect to the office of rabbi, a special ruling required them to pay only one fourth of the amount of taxes due from them.[41] In Salonika the rabbis were completely exempt from taxes. In 1562, when a new assessment was to be drawn up, the lay leaders of the city decided to include the rabbis as taxable members of the community. The leading rabbis of the city enacted a decree that forbade congregations to tax their rabbis on the ground that such taxation would degrade the rabbinic office.[42]

It was customary to rise in the presence of the rabbi in the synagogue, to invite him to read the portions of the Torah that contained the Ten Commandments and the rebukes to Israel for transgressing God's Law.[43] If a layman insulted a rabbi, as happened occasionally, he was severely penalized. In one case, a man who had spoken disrespectfully to his rabbi was put under a ban for three days, was required to pay 25 perahim (1,250 aspers), and was compelled to apologize to the rabbi and ask his forgiveness.[44] In another instance, when a layman insulted a rabbi by calling him *arel tame*, De Medina stated that such conduct constituted a grave sin and ruled that the offender be lashed, compelled to fast and to seek forgiveness both from the rabbi and the community.[45] Such severe penalties were inflicted only where a practising rabbi was concerned and not in the case of scholarly laymen.[46]

Election of Rabbis and Their Salaries

Rabbis were elected either by the communal officers or the entire membership of the congregation. They received written contracts, stipulating the salaries they were to receive and the term of years they were to serve. These tenures varied. In one *Kahal* the rabbi was elected for a period of three years, in another five years, and in another twenty years. Every member of the congregation was obliged to contribute toward his salary, and this duty was as obligatory as that of paying government taxes. Each member paid toward the rabbi's salary in proportion to the rate of his communal tax assessment.[47]

The payment of salaries to rabbis was a well-established practice in Salonika and in other Turkish communities.[48] Some salaries mentioned were 4,000 and 6,000 aspers per annum.[49] In addition to the fixed salary it was also customary to furnish the rabbi with a suitable dwelling during his incumbency and, if he came from another town, to pay for the moving expenses of his household.[50]

One responsum tells of Rabbi Isaac le-Bet Hazan of Adrianople who was offered a rabbinic post by three congregations in Magnasia. These congregations offered him a weekly salary of 80 aspers, a free house to live in, gifts three times a year, Purim gifts and extra fees for serving as a notary. He was also to receive 1,000 aspers to defray moving expenses from Adrianople.[51]

Small communities, unable to maintain a rabbi, availed themselves of the services of rabbis in neighboring towns who were paid from a special fund raised by taxing the sale of *etrogim* for the Sukkot festival.[52]

It was not unusual for congregations to lure rabbis from other communities by offering them larger salaries.[53]

The selection of a rabbi was often the cause of contention among laymen as well as among rabbis. When a rabbi died, there often followed keen rivalry among several candidates seeking his post. This in turn gave rise to clashing parties and bitter animosities in the ranks of the *Kahal's* members who favored different candidates. At times, such conflicts seriously disrupted the peace of the congregation and even endangered its existence. In one congregation, where five candidates for the rabbinic post caused endless strife among their respective followers, the officers decreed that each candidate residing in the community, for the sake of peace, take an oath not to apply for this position for at least five years. This enactment, however, did not deter one candidate from resorting to unworthy means to obtain the post. He bribed government officials who eventually helped him to attain his objective.[54] In another community an ambitious aspirant to a post occupied by an aged rabbi conspired with the aid of some members to succeed the incumbent while he was still active. The officer of the *Kahal,* eager to avert a conflict, ruled that no one be considered for the post during the lifetime of the incumbent. Thus, thwarted in his efforts and fearing that he would lose his opportunity if he waited too long, he attempted with the aid of his followers to depose the aged rabbi.[55]

Conduct of Rabbis

While the large majority of rabbis of the century were distinguished for their piety and noble traits of character, a few were unethical in their conduct and unscrupulous in their dealings with other rabbis and with their congregations. Sometimes an aged or retiring rabbi, who could no longer minister to his congregation, would resort to unworthy practices to prevent a prospective successor from occupying his post. In one case an aged rabbi, who was no longer able to perform his rabbinic duties, maligned his young successor and succeeded in compelling him to take an oath that he would not perform rabbinic duties without his permission. This oath was later annulled by De Medina who censured the aged rabbi for his unbecoming conduct and for forcing himself on his congregation when he no longer could minister to its religious needs.[56]

In Janina, a rabbi who resigned his post imposed an oath on the members of the congregation before leaving it that for a period of ten

years they would not engage as their rabbi the incumbent of another congregation in the city. De Medina branded this act as unlawful and unworthy of one bearing the title of rabbi. He added complainingly that there were a number of rabbis unworthy of their calling and that it should be forbidden to receive religious instruction from them.[57] He also severely censured some rabbis who unfairly and too readily resorted to the use of the ban as a means of satisfying their personal grudges.[58]

De Medina not only repeatedly called to task rabbis guilty of unethical conduct,[59] but he bitterly complained against some men who obtained rabbinic posts, although they entirely lacked the qualifications of rabbinic scholarship. These men, he stated, rendered misleading decisions on the Law and brought confusion into the religious life of their congregation.[60]

This complaint was called forth by conditions that prevailed in Salonika during the middle of the sixteenth century. Certain men usurped their posts while the rabbis and the communal leaders of the city fled to neighboring villages to escape plagues and other catastrophies. While these irresponsible characters were holding their rabbinic posts, they annulled many of the long-established rabbinic enactments and replaced them by others that favored their special interest and served the welfare of the malcontents who had helped them into power.[61]

In order to check such anarchy, the leading rabbis of the city enacted a ruling in 1565 which forbade any rabbi to issue a decree that concerned the interests of all the inhabitants of Salonika, unless he had the approval of the majority of all the rabbis of the city. This was designed to safeguard the legislative achievements of the rabbis of the older generations.[62]

Various attempts were made by the lay officers of the communities to limit the prerogatives of their rabbis. Lay officers in several communities enacted rulings that rabbis should not be permitted to excommunicate anyone without the consent of the *Parnassim*, even when the guilty person insulted the rabbi.[63] This new ruling was contrary to a long-established precedent, going back several centuries, that a rabbi was empowered to pronounce the *herem* against any one who insulted him.[64] De Medina saw in these enactments designs on the part of the lay leaders to diminish the powers of the rabbis and he declared them illegal. Such decrees, he said, were similar to heretical writings and deserved to be destroyed.[65] Similarly, Rabbi Isaac Adarbi took his stand against such enactments and branded the move as . . . . "a conspiracy of the wicked."[66]

The Cantor

The cantor, too, was an important religious official in the community. He was elected by the *Kahal* membership, received an annual salary and was usually awarded a contract. He was at times charged with other duties besides chanting the services. He often served as elementary teacher of the members' children, and as a *sofer ha-ketubot* which meant that he was the *Kahal's* notary. This latter duty carried with it special remuneration. He also received donations from his constitutents.[67] If the community was small, the cantor also served as scribe and *shohet*.[68]

Some cantors were engaged for a term of three or five years. One case tells of a cantor who left his post prior to the expiration of his term though bound by an oath, because he was offered a higher salary by another *Kahal*. Among the reasons he offered to justify his leaving the congregation were: that since the size of the membership decreased, his income from annual donations also diminished; that he had been promised to serve as the *Kahal's* notary and that that promise was not kept.[69]

Although the cantor was a religious official, congregations were inclined to overlook his moral and religious conduct, provided he was endowed with a sweet voice. De Medina severely rebuked those Jews who were ready to condone the sinful behavior of cantors and who regarded them as artists rather than as religious officials. He stressed the fact that the cantor was a successor to the priest who served at the altar of the Temple and, therefore, ought to be religiously and morally above reproach.[70]

In one congregation, a cantor was removed from his post because it was proved that he was guilty of immoral conduct. Later, several members of the congregation began a movement to help him to return to his post since he had promised to mend his ways. De Medina ruled that he should not be reinstated, and he censured the congregation for admiring the cantor's voice and being indifferent to his moral behavior.[71]

The Shohet

The *shohet* (ritual slaughterer), too, was a religious functionary of the *Kahal*, engaged at a weekly or monthly salary. There were, however, communities where the *shohet* was engaged by individual butchers.[72]

The community kept close watch over his religious conduct. If he was careless in his work, causing an animal to become ritually unfit,

he was promptly dismissed.[73] An inspector was employed by the community to visit the various abbatoirs and to note whether the *shohet* performed his duties properly. This inspector, too, was a paid religious official.[74]

A *shohet* was occasionally stationed in a Christian or Moslem slaughter-house.[75] In some cities where the number of the Jewish residents was small, a non-Jewish butcher engaged a *shohet* and would sell meat to Jews.[76]

The Mohel

Since it was considered an honor and an act of piety to perform the ceremony of circumscision, the *mohel* held an honorary position in the community and received no fees for his services.[77]

INTERCONGREGATIONAL RELATIONS

Although most congregations in Turkey were held together by strong ties based on the country of origin of its members and by their ritual uniformity, yet these bonds did not prevent the occurrence of inner rifts which gave rise to frequent secessions. Not only individuals, but groups seceded from their congregations and either joined another or organized a new synagogue. This practice prevailed to a large extent not only in Salonika,[78] but in every city of the Empire. As a result, some congregations were impoverished and their existence undermined.

In order to counteract this tendency many congregations enacted *Takkanot* which forbade their members from seceding for a period of years. In such event, each member was bound by an oath to obey the decree.[79] Yet these measures could not stem the tide of change of congregational affiliations.

While De Medina ruled in certain instances that it was an offense to disregard a communal ordinance which forbade members to leave their congregations, yet he affirmed in one responsum that no one in Salonika could be compelled to remain in his congregation, and that in Constantinople and many other communities no one offered objections to individual and group desertions from their congregations.[80]

De Medina stressed and reiterated the principle that each congregation in a city was an independent unit and could not impose its will on another, that the decrees enacted by the officers of a congregation were binding on its members, who could have no recourse to the rabbis or lay officers of another congregation.[81]

De Medina's persistent adherence to this principle often made him oppose attempts of two or more congregations to merge into one unit, if objections to such a merger were raised by a minority. An illustration of this occurred in the city of Patras where there were four congregations, two Sicilian, one Sephardic and one Greek. As the Jewish population of Patras decreased, three of these congregations agreed that the welfare of the entire community warranted the merging of all four congregations. The rabbi of Lepanto, Joseph Formon, ruled that this merger be carried out. The smallest of the four congregations, whose members consisted of descendants of native Greek Jews, fearing that its group identity would be lost, refused to submit to Rabbi Formon's ruling and, appealing to De Medina and his colleagues in Salonika, sent a delegation to plead its cause before them. After obtaining a decision against the merger, the delegates decided to go to Constantinople to obtain a similar ruling from the rabbis there. When the delegates were about to board a ship, a number of Salonika Jews of Sicilian origin, seeking to thwart their plans, brutally attacked them. They also brought a false charge against one of the Greek Jews that he owed 5,000 aspers to a Sicilian Jew. The accused was arrested and imprisoned for three days, and to obtain his release he was required to pay the sum which he did not owe. He later complained that no Jewish authority interceded in his behalf.[82]

De Medina's opposition to this merger and his repeated emphasis that no congregation should be made to unite with others seem unjustified. His argument that the same principle prevailed in Salonika and Constantinople is not plausible, since Patras was a much smaller community whose population had greatly diminished, and its welfare warranted the uniting of the congregations. Nor is one impressed by the argument that this decision was based on the opinions of Rabbis Elijah Mizrahi and Joseph Taitazak, since during the earlier years of immigration it was natural for groups to stress loyalties based on the countries of their origin. At the later time, however, in 1577, it was far more desirable and constructive even for the larger communities to break down the artificial barriers and divisive tendencies so as to establish communal unity in each city.

When, however, a number of congregations in one city had jointly undertaken to erect three buildings to house the Talmud Torah and the poor transients and later one congregation sought to repudiate its financial obligation toward this communal project, De Medina ruled that it could not be released from it. He enunciated the principle that, while each congregation was an independent unit, yet in matters that pertained to the general welfare of the community, the majority decision

of all congregational units was binding on each congregation in the city.[83]

Voluntary mergers of congregations for various reasons did take place from time to time. Sometimes two or more congregations would continue to maintain their independence but combined for the purpose of having one set of administrative officers or of collaborating for a community project.[84] *

In Monastir, for instance, two congregations united in order to have a common treasury from which to pay the salaries of their functionaries and maintain their poor. The merging of funds, however, did not imply that the two congregations were to surrender their independence, nor did it permit their members to change their respective houses of worship, although there was a stipulation that these congregations could exchange cantors on alternate Sabbaths.[85] In another city, two congregations, one Spanish and the other Portuguese, whose houses of worship had been destroyed by fire, agreed to merge and build one synagogue and one *Bet ha-Midrash* which was to house the *Yeshibah* and Talmud Torah.[86]

Sharp conflicts and prolonged animosities between congregations and among members were frequent incidents, calling forth at times the condemnation and rebuke of De Medina. At one time he was so provoked that he said, "It seems impossible to be rid of these people who are incurable fault-finders and trouble-makers and who suspect innocent people." At another time, he pleaded with a group of dissenters to cease quarelling and to seek a peaceful solution to their differences. "Have we not been sufficiently persecuted by the non-Jews," he asked, "to make us live more peacefully among ourselves?"[87]

* For the complete responsum dealing with this subject, see p. 134.

CHAPTER VI

How the Jewish Community Functioned

TAXATION

Regular and Special Taxes

RAISING taxes for the state, as well as revenue for the needs of the Jewish community, was a matter of the utmost importance to all the Jewish communities in the Turkish Empire. It was the major factor in welding the diverse autonomous *Kahals* into a common unit. Yet, this very incentive for unity was also responsible for schism and controversy within and between the *Kahals*.

The rulers of the Ottoman Empire imposed on its Jewish subjects a variety of direct and special assessments, the more important of which may be described as follows.[1]

The Jews of Turkey were subject to two major state taxes. One was the head tax, known as *Charadj* which was paid annually to the government. This per capita tax was due from every man, woman and child. The Jews were divided into three classes: the rich paid 120 aspers per capita; the middle class 60 aspers, and the poorer class 30 aspers. Each child born was recorded in a government ledger. In the days of De Medina, every *Kahal* was required to collect this head tax from its members and the officers of the *Kahal* turned it over to the officers of the Sultan.[2] This impost was an important source of income to the government treasury and weighed heavily on each individual.

The second state tax was a collective communal levy that the Sultan annually imposed on each community, according to the size of its population and its reputed wealth. This levy was known as *Rab Aktcheci* (a word probably derived from the term excise). Every city was assessed an aggregate sum which was apportioned among the various congregations in the city according to the wealth of its members. The board of assessors in each congregation would fix the amount that each member was to pay. Only the Jews of means were required to pay this tax. The poor elements in the community were exempt from this levy, although they had to pay the poll tax.[3]

There was also a variety of special imposts, some of which were withdrawn during the first part of the sixteenth century and replaced by the *Rab Aktcheci* levy which was imposed on the Jewish community as a whole. Most of the special levies were imposed exclusively on non-Moslems, while some concerned only the Jewish subjects.

There were imposts on landed estates known as *Avaris* or *Vergi*, a grain tax on products of gardens and vineyards, levies on liquor and meats, measures, weights and brokerage commissions. During the reign of Sulaiman one had to pay three aspers for the right of slaughtering a sheep. Taxes were levied for the maintenance of the imperial army and the royal pastures; for government couriers and for the purchase of furs for the Sultan; for building walls and fortifications and for maintaining governors and city officials.[4]

Another important source of the government's income was export and import duties and inheritance taxes. If a man died childless, his wealth was taken over by the state even if there were close blood relations.[5]

There were also special levies for exemption from military service, for permission to purchase Christian slaves, and for building or rebuilding synagogues. Jews were required to billet new army recruits in their homes. In Salonika a tax was paid for the water that was brought into the Jewish districts.[6]

The Jews of Salonika were required to furnish annually to the Sultan's court a number of goats. This levy was changed in 1568 into a cloth tax called by the Jews *mas ha-begadim*. Every year the Jewish textile merchants had to supply the government with 1,200 pieces of cloth to be used for the army.[7]

A levy that worked hardships in some cities was the "blood tax," known as *Geremet*. When the body of a murdered person was found in a district of the city, the residents were required to pay a large sum of money either to the surviving family or to the government. Hence, to evade payment, non-Jews would often drag a corpse stealthily into the Jewish quarter to put the burden upon the Jews. The Jews, in turn, would throw such corpses into the river and when government authorities discovered it, severe punishment was dealt out. The Jewish authorities in Salonika came to prefer paying the unjust tax rather than having a corpse thrown into the river. Jews who lived at the edge of the Jewish neighborhood were frequently exposed to the danger of finding corpses thrown into their streets, and therefore tried to move their homes away from non-Jewish quarters.[8]

Another levy that was of serious concern to the Jews was the government duties, since many Jews were engaged in international commerce.

When Selim I ascended the throne, he increased the duty on imported merchandise from three to five per cent. This applied only to Jewish and Christian importers, who considered this levy too high and, therefore, tried in every way to evade it. One method of evasion was not to declare the full amount of the imported merchandise. In one city the Jewish importers requested that the duty be lowered to two per cent with the stipulation that each importer would honestly declare all of his products. This request was granted by those who possessed the franchise to the toll.[9]

Jewish Communal Taxes

Next in importance to government taxes were the assessments that Jewish communities imposed on their members for the purpose of maintaining their educational and charitable institutions and meeting the obligations to their officials. There were two kinds of assessments that the *Kahal* levied on its members. One was an indirect tax known as *mas gabella* which was a levy on food, especially meat. The rich and the poor consumer alike paid this assessment. The butcher charged it to the consumer by adding it to the price of the meat. Most communities also imposed duties on fruit, oil, cheese, herring, strong liquor and wine. The revenue from these taxes was farmed to individuals at public auction. The one who acquired the franchise paid in advance a lump sum of money to the officers of the *Kahal*, who, in turn, placed at his disposal a number of men designated by the community to collect this levy.[10]

There was also an additional assessment known as the *pecha* imposed mainly on the well-to-do members of the community. Many conflicts between the rabbis and the lay officers centered around this levy. Whenever a special need arose to raise additional revenue, the officers of the *Kahal* sought to increase the rate of the *mas gabella* in which the poor and rich shared alike. The rabbis, however, favored an increase in the direct tax of the *pecha* imposed mainly on the well-to-do members of the community.[11]

Another source of income for the Jewish community were the levies imposed on productive possessions such as fields, vineyards, landed estates, *hazakah* rights, animals and slaves, as well as on unproductive possessions such as jewelry, gold, silver, precious stones and books. The levy on these articles was imposed on half of their estimated value. One *Kahal* imposed a levy on ready-made silk, requiring of each purchaser to pay one asper to the community chest for each litra of silk.[12] The community of Constantinople, in order to raise funds with which to

redeem Jewish captives, imposed a duty on all commodities produced outside of the city.[13]

In 1568, the community of Salonika imposed a special levy on all merchandise imported and exported by Jews by way of its port. This special fund, called *Musselimlik*, was evidently used to obtain certain privileges and exemptions in behalf of the Jewish merchants of the city. A special communal decree was enacted which stipulated that no part of the money thus raised was to be used for any other communal purpose. This special tax was binding on all concerned and was to be in force for ten years.[14]

Manner of Fixing Assessments

Every community had its own rules on the manner of raising its revenue. Whatever they were, the rules were binding on all the members unless in direct contradiction to biblical or rabbinic law.[15]

As already mentioned, most of the Jewish communities in the Empire consisted of independent congregations. All congregations, however, united into one body on matters affecting state and communal taxes. Each congregation drew up a register which contained the names of all its taxable members. These books were submitted to the government officials of the city who determined the amount of the levy to be placed on the entire Jewish community. The representatives of all congregations met and elected a committee charged with all matters relating to the fixing of assessments and with determining the amount that each congregation was to raise. The decision of the majority of the congregational representatives was binding on the city's congregations, all of them being equally responsible that the entire sum of the state assessment be raised and that its members meet all the tax obligations.[16]

Each congregation had its own Board of Assessors, treasurer and tax collector. The taxable members of the congregation, who alone had the right to vote, exercised great caution in choosing the Board of Assessors. Those chosen had to be men of integrity. They were required to take an oath that they would perform their duties faithfully and honestly and that they would allow neither friendship nor animosity to interfere with the impartial discharge of their duties. The assessors knew the relative wealth of every member and fixed the amount that he was to pay. If one protested that his assessment was unfair, he was required to take an oath to that effect and he then paid according to his claims[17]

In one congregation in Salonika the Board of Assessors consisted of nine men. These were divided into three committees of three men each. Each committee drew up a list of assessments for all members in the

congregation. The three lists were added up and divided by three to obtain the mean. Thus was derived the final assessment of each taxable member.[18]

One was assessed according to the value of his possessions or according to his income.

New assessments were made every three years or, in some places, every ten years. Even if a change occurred in the interim in the status of a person's wealth, nevertheless the amount of his assessment usually remained unchanged.[19]

The central committee that represented all the congregations of the city had the power to fine an individual who violated their regulations, and the representative of his own congregation could not participate in the proceedings. Protests against assessments were registered with the central committee.[20]

The treasurer of each congregation had the power to seize the belongings of one who refused to pay his assessments. No one could leave his congregation and thus evade his assessments; he had to make settlement with his congregation first.[21] In case of death, the sons or the heirs of the deceased were required to pay to the congregation the taxes due from the estate. If there were no heirs, the officers of the congregation took possession of the estate. The debt due to the *Kahal* took precedence over all other debts. If one refused to pay taxes during his lifetime, the *Kahal* could deny him burial in its cemetery.[22]

According to the decision of De Medina, a man who was expelled from his congregation was not required to pay any taxes except the poll tax due to the Sultan.[23] If a man moved to another city he was required to share only in the communal assessments of his new dwelling-place, provided he had paid his state assessments in his old place of residence. If he did not, the officers of the community of his former city could pursue him to make him meet his obligations.[24] *

Since there were many visiting merchants whose stay in Salonika was of considerable duration, it was often difficult to determine who was a permanent resident and, consequently, subject to state and communal taxes. It was, therefore, enacted that anyone who had lived with his family in Salonika for a period of one year was to be considered a taxable member of the community.[25] De Medina mentions the fact that in spite of the heavy burden that the community bore to maintain its Talmud Torah and other charitable institutions, it never forced visiting merchants to contribute toward the maintenance of its institutions.[26]

In Tiria (or Thyre), the traveling merchants who sold their wares

* For the complete responsum dealing with this subject, see p. 182.

in the city for more than thirty days were required to share in the state assessments by paying the same rate of taxation as the natives, but only one half of their wealth was taxable. De Medina ruled that this decree was both unfair and illegal, since non-Jewish merchants from other cities were free from such levies.[27]

Tax Exemptions

Members of the community who possessed less than a thousand aspers were tax exempt.[28] Men of means in Salonika and Constantinople, whose possessions were worth more than 300,000 aspers, were not taxed on the money above that sum.[29]

Married women, regardless of their wealth, and men who lived from their wives' estate, known as *nikse melug*, were also tax-exempt. Minors who fell heir to estates were free from all imposts until they attained their majority.[30]

Interest derived from loans was tax free.[31] Businessmen dealing with borrowed money, and those engaged in the sale of merchandise procured on credit or consignment, were not subject to tax payment.[32] Those who derived their living exclusively from labor were liable only for the poll tax paid to the Sultan.[33]

According to the decision of Isaac Adarbi, the money that was not used for business purposes and which brought no profit to its wealthy owners was tax free. Personal possessions also, such as garments and domestic utensils were not taxable, whereas gold, silver and jewelry were subject to a tax on the basis of half of their estimated value.[34]

Although rabbis were usually free from taxes, this was not true in all communities. Even in Salonika some *Kahals* refused to extend tax-exemption privileges to their rabbis. This attitude was responsible for the enactment promulgated by the rabbis of the city to forbid such a practice.[35] The widows of rabbis were also tax exempt. In Constantinople, the cantors and sextons likewise enjoyed the privilege of tax exemption. Jewish physicians in the capital who served at the Sultan's court were free from government imposts, but contributed toward charitable causes and toward the funds used to redeem captives.[36]

The officers of the *Kahal* were empowered to extend tax exemptions, either full or partial, to individuals and their immediate relatives who rendered distinguished service to the community.[37]

They also granted the wealthy tax exemption for life, if they paid in advance a substantial amount of money stipulated by the officers of the *Kahal*.[38] The congregations of Salonika exempted the rich Israel Bensanchi from all taxes, including the poll tax, and reduced the property

tax of David ben Nahmias by assessing it at only 6,000 aspers, a small fraction of its real value.[39] This privilege was extended to them in recognition of special services rendered to the community.

An interesting account is given of a prominent Jew named Jacob, who served as a physician to Sultans Murad I and Mohammed II. His ability as a physician and his unusual personality had made him a favorite of the two Sultans. As a token of affection and gratitude for his services, Mohammed II granted him in 1452 permanent exemption from government and communal taxes. This privilege was extended to his descendants and was reaffirmed by each succeeding Sultan including Bayazid, Selim, and Sulaiman. The decree was honored by government and Jewish communal authorities for a period of 120 years. In the days of De Medina, a girl who was a descendant of Jacob brought her husband a substantial dowry. The officers of the *Kahal* maintained that, since this property had passed into the hands of another family, it was no longer tax exempt. De Medina ruled that even in such event the privilege of exemption from imposts remained in force.[40]

In spite of the variety of assessments that the Turkish rulers imposed on the Jews, the burden of government taxes, according to De Medina, was by far lighter and more just than those imposed in Christian lands.[41] He also pointed out that many Jews, though wealthy, were tax exempt.[42] This, however, was no blessing to the Jewish communities since the exemption of the rich made the burden of taxation much heavier on the rest of the Jews.

HAZAKAH LAWS AND THE RIGHTS OF JEWISH TENANTS

The term *hazakah* has various meanings in the Talmud, but it is used most frequently to cover a claim based on undisturbed possession during a legally fixed period. Thus, according to the talmudic law of *hazakah*, when the possessor of real estate was challenged as to his right of ownership, he could establish his claim on the ground of a counter-claim; namely, that he has occupied this property for three consecutive years without anyone having contested his title to it.[43]

During the middle ages when the Jews of Europe were faced with a scarcity of dwellings, the rabbis in their eagerness to safeguard the rights of Jewish tenants expanded the talmudic principle of *hazakah* to include the idea of pre-emption and to apply the priority rights of tenants to their occupancy of homes, stores and courtyards owned by non-Jews.

This extention of the talmudic principle of *hazakah* was invoked by

rabbis as early as the eleventh century. A Franco-German ordinance attributed to Rabbenu Gershom enjoined Jews not to lease for a whole year the house of a non-Jew in which a Jew had lived and from which he had been evicted.[44]

These tenants-protective laws were greatly amplified by the rabbis of Turkey soon after the expulsion of the Jews from Spain. The arrival of a large number of Spanish exiles after 1492 created a serious housing problem in Salonika and in other cities of the Empire. The Moslem land and home-owners took advantage of the scarcity of dwellings and raised their rentals considerably. An urgent need was felt by the rabbis of Salonika to enact legislation for the protection of the Jewish tenants from their greedy landlords, as well as to eliminate the rivalry and chaos that prevailed among the Jews of the city.[45]

The first laws of *hazakah* to safeguard the right of occupancy of Jewish tenants in Salonika were enacted in 1494 by Don Judah Benveniste and Rabbis Samuel Franco and Joseph Fasi. These laws were subsequently amplified by Rabbis Jacob ibn Habib, Joseph Taitazak and Levi ibn Habib and their successors, in 1512, 1524, 1533, 1565 and 1584.[46]

The first series of enactments consisted of the following:

The regulations pertaining to rights of tenure were to have the same binding force as the talmudic principle of *hazakah* which was concerned with the acquisition of real estate by continued possession.[47] A Jew who rented a home, a store or a courtyard from a non-Jew and lived in it for three consecutive years, acquired the right of occupancy to these places and no other Jew was permitted to rent them from the non-Jewish landlord.[48] If the home or store to which a Jew had the right of tenure had been vacant for three consecutive years, that right was lost to him.[49] The Jewish tenant also lost his right of tenure if he was forced out of the home or store by his non-Jewish landlord. If, however, a non-Jewish tenant occupied that home for three years, the right of tenure was not lost to the Jew.[50]

If one was compelled to leave one's home or store because it was destroyed by fire or became uninhabitable, the tenant did not lose his right of occupancy to the property, even if it took more than three years to rebuild it.[51] One who left his city voluntarily and settled in another, lost his right of tenure to the place in which he lived. If, however, he had to leave the city because he feared persecution by government authorities or because of other threatening danger, he did not lose his right of *hazakah*, regardless of the duration of his enforced absence.[52]

If a Jew left his city permanently, he could either sell or give away his right of tenure to another Jew.[53]

If a non-Jew borrowed money from a Jew who then occupied the non-Jew's home either partly or entirely as a guarantee that the loan would be paid, such occupancy did not entitle him to the right of *hazakah* since he was not regarded as a tenant.[54] No one could claim the right of *hazakah* to more than one residence or store.[55]

The law of *hazakah* was also expanded to include an ordinance that if a Jew had purchased from the government the right to a toll or to collect state taxes or any government concession, no other Jew was permitted to deprive him of this right by offering a higher price.[56]

The first ordinances that dealt with the right of tenure, enacted by the rabbis soon after the arrival of Spanish refugees, did not stipulate the rights of occupancy enjoyed by a Jewish tenant in case the home he occupied was sold by the non-Jewish owner to a Jew. The reason for the omission of such a provision was that at the beginning of the century the buying of homes by Jews was a rare occurrence. De Medina mentions the fact that the newcomers were poor, and no one anticipated that the exiles would become sufficiently wealthy to purchase property. Years later, however, the immigrants became affluent and many of them bought homes for the purpose of living in them. Most of these homes were occupied by Jewish tenants. The Jews expelled from Naples in 1510 and 1511 also augmented the population. These changed conditions warranted new legislation to protect the interests of the Jewish tenants. In 1512 the rabbis of Salonika decreed that if a Jew bought from a non-Jew landed estate which was occupied by a Jewish tenant, he was required to pay the latter the full value of his right of *hazakah*, the amount of which was fixed by two experts. Then the tenant was required to move from this property. If this tenant had spent money to improve his residence, the Jewish buyer had to pay him the full amount that he had spent. In other words, this decree forbade the renting of landed estates occupied by Jews, but permitted their purchase.[57]

After a number of years, the enactment compelling the Jewish buyer of an estate to indemnify the Jewish tenant who lost his right of occupancy ceased to serve the best interests of the Jewish tenants. Homes in Salonika became scarcer, especially after the great fire of 1545.[58] This condition led to various abuses by those who sought to acquire rights of *hazakah* to homes and stores occupied by Jewish tenants. Some affluent but unscrupulous Jews would arrange the fictitious purchase of a home from the non-Jewish owner, and thereby cause its Jewish tenant to lose his right of occupancy. Thus, without buying the estate from a non-Jew, the over-shrewd operators acquired the right of tenure and dispossessed the Jewish tenant. This practice evidently became widespread, for the rabbinate of Salonika considered it necessary to pro-

mulgate new enactments to overcome it. In 1584, Rabbis Samuel De Medina, Jacob Taitazak, Solomon Hakohen, David ben Nahmias and Joseph Perahya Hakohen enacted decrees to meet the situation and threatened the violators with excommunication. They ruled that anyone who made a fictitious purchase of an estate for the purpose of depriving a Jew of his right of *hazakah*, should lose the right of tenure to such estate and not be permitted to move into it or derive any benefit from it.

Of even greater consequence was the ruling enacted by the same rabbis that no Jew be permitted to purchase a house, store or courtyard from a non-Jew, if another Jew had the right of *hazakah* to such property, even if the purchase was made in good faith and the buyer was ready to pay the Jewish occupant the full value of his right of tenure. The rabbis also decreed that no Jew was permitted to rent or occupy an estate which was acquired in a manner that would deprive the Jewish tenant of his right of *hazakah*.[59]

Later on these rabbis, in their eagerness to increase the rights of occupancy held by Jewish tenants, decreed that the three-year period of absence from an estate, which until then caused a tenant to lose his right of *hazakah*, be extended to ten years.[60] With the same object in view, they issued an enactment that if a man was away from his residence a number of years but left in it a few personal effects, he should not lose his right of tenure to it.[61]

A Jew who possessed the right of occupancy to a parcel of ground owned by a non-Jew was also to enjoy the same right to the house or store that the owner might build on this ground. If a Jew sold his estate to a non-Jew but continued to live on it, he was to retain his right of *hazakah* to it.[62] If, however, a Jew sold his estate to another Jew, he thereby lost his right of tenure. As a result of this ruling, when a Moslem or Christian bought a Jewish house, he paid a considerably smaller price, since he knew that these restrictions were attached to the house. However, a Jew buying a house from another paid a much higher price because in such event it was free from *hazakah* restrictions.[63]

Jews were entirely forbidden to submit to non-Jewish courts litigations pertaining to the rights of *hazakah*. Violators of this ordinance were punishable by excommunication.[64]

If two Jewish tenants occupied homes next to each other, both houses being owned by non-Jews, and if one non-Jewish owner made changes in his home which were beneficial to its Jewish occupant but damaging to the neighboring tenant, then the more favored occupant was required to indemnify his neighbor, since this change had decreased

the value of the latter's right of *hazakah*. In such cases, Jewish occupants of non-Jewish homes were regarded as owners and were, therefore, responsible for the wrong done to their neighbor.[65] The right of pre-emption to a parcel of land contiguous to one's estate was not recognized in Salonika, although it was honored in other cities.[66]

So numerous were the litigations that grew out of the conflicting claims pertaining to the rights of *hazakah* that each congregation engaged the services of an expert authority on the laws involved. He acted in the capacity of judge and adviser.[67] In order to facilitate the performance of his many difficult tasks, a ruling was passed that fifteen days prior to the sale of a right of tenure, an announcement about such sale be made in the synagogue, so that no charge of deception could be made by anyone as to the real value of the right of tenure.[68] When an executor of an orphan's estate was about to sell his rights of *hazakah*, he was obliged to announce the fact in the synagogue so that the highest possible price could be obtained.[69]

The right of tenure was transferable in the manner of landed estate. The owner of it enjoyed the same prerogatives and obligations as did the owner of real property.[70] The right of tenure could be sold, bequeathed to charitable institutions, given as dowry, or mortgaged to obtain credit. At times, the names of the owners of the right of tenure were recorded in the register of the city in which there were inscribed the legal sales of property.[71]

There were two types of documents to prove that the right of *hazakah* had been sold. One was known as *shetar keniya* and the other *shetar reaya*. The former was the document by means of which the transaction was actually effected, and the latter was a document of evidence that the sale had been transacted. The latter was more frequently used.[72]

The price of the right of *hazakah* depended on a number of factors, such as the value of the estate, the demand and supply of homes and stores, and the size of the city's population. Whenever, for instance, large scale conflagrations destroyed entire sections of Salonika's Jewish quarters, which occurred several times during the second half of the sixteenth century, the prices soared. De Medina mentions a vast increase in the price of tenure rights that occurred between 1572 to 1582 when they increased from 4,000 aspers to 100,000 aspers.[73] The price of *hazakah* rights also varied according to the measure of confidence that a Jew could place in his non-Jewish landlord. It was not uncommon for a non-Jewish owner to expel his Jewish tenant before the expiration of the stipulated term, to increase the rental price or illegally to bring another tenant into the same residence. In spite of all these risks

the average Jew preferred to possess a right of occupancy rather than to be a home-owner, for home-owners encountered various hardships, risks, and the necessity of paying high taxes from which the tenant was immune.[74] No Jew was permitted to sell his right of tenure to a non-Jew. Turkish law, likewise, did not permit Moslems to buy the right of *hazakah* from Jews. As a result of this, if a Jew had to move to another city, he could not resell his right of tenure to the Moslem owner of the house. In order to prevent such dwellings from being lost to Jews, the rabbis ruled that when a Jew had to move to another city he was obliged to sublet the place to another Jew who was acceptable to the non-Jewish owner.[75]

In the absence of direct heirs, surviving relatives could not inherit the right of *hazakah*. In such event, the right of tenure went back to the owner of the property.

Those who lived in a house or store owned by a religious or charitable organization were not entitled to the right of tenure.[76]

Because of these *hazakah* ordinances, some irresponsible men demanded that their non-Jewish landlords reduce the rents. If they refused, they would threaten to move, knowing that since no other Jew was permitted to move in, the house would remain unoccupied for ten years. This unfair advantage over the non-Jewish home-owners called forth a sharp rebuke from the rabbis.[77]

Such *hazakah* enactments were in force in other cities of the Empire where a scarcity of dwellings prevailed; among these, in addition to Salonika, were Constantinople, Uskup, Belgrade, Rhodes, Sidero-kapsa and Larissa.[78]

When referring to the *hazakah* ordinances, De Medina affirms that "the entire subject of *hazakot* hangs in the air and is based exclusively upon communal enactments issued by our ancestors."[79] Yet, while these regulations had no basis in biblical or talmudic law, they were fully adhered to by the Jews of Turky and successfully achieved their objective to safeguard and extend the number of dwellings to which Jews held the right of occupancy.

JEWISH COURTS

One of the important powers of self-government exercised by the Jewish community was that of framing and passing civil legislation. Justice was administered by the rabbi, by a *Bet Din*, or a court of arbitration, consisting of three laymen.[80] Quarrels among merchants

were often submitted for adjudication to arbitrators engaged in the same branch of commerce. In some communities the lay officers of the *Kahal* acted as judges in litigations.[81]

In Salonika every congregation had its own court. When two litigants belonged to the same congregation, neither of them could demand that the case be submitted to the court of another. If, however, they belonged to different congregations, the *Bet Din* of the defendant's congregation adjudicated the case. If a community had a court with competent judges, no litigant was permitted to go to another city.[82]

The Jewish courts were not permitted to deal with criminal cases and those involving capital punishment.[83] Their jurisdiction extended to all civil cases that involved Jewish litigants and to all controversies that were of a communal or religious nature. These courts usually supervised the estates of young orphans. In one instance, where a man bought a house from an orphan at a price less than that offered by someone else, the court cancelled the sale and resold the property at public auction. In another instance, where a bondsman was forced to pay a debt which he guaranteed a non-Jewish creditor, the court sold the real estate of the debtor who had disappeared, and reimbursed the bondsman.[84]

While all Jewish courts possessed the same powers and prerogatives, their influence and prestige were not always the same, since the scholarship and reputation of the judges served as determining factors in establishing the importance of the different courts.

The rabbis of the period viewed the practice of Jewish litigants bringing their cases to Moslem courts as highly improper, and they continually censured the guilty ones. De Medina asserted, "Anyone who does this is wicked and deserves to be expelled from the Jewish community." In his opinion such a practice constituted an act of rebellion against the Mosaic Law and an admission that the Moslem Law was superior to the Torah. He ruled that even if the non-Jewish laws were similar to the Jewish laws, one should not appear in a non-Jewish court. He stated, furthermore, that although the Jewish courts of his day had no jurisdiction over cases that involved assault and battery, yet it was forbidden to submit such cases to non-Jewish courts.[85]

All sorts of measures were taken by the religious and lay officers of the *Kahals* to deter Jews from going to non-Jewish courts. Yet, a number of Jews continued to resort to them, especially when they knew that they had there a better prospect of obtaining a favorable decision. Some

Jews would bring their cases to Moslem courts for the purpose of intimidating their fellow Jews. Such practices were regarded by the Jewish courts as tantamount to coercion and they would, therefore, invalidate a decision rendered by Moslem courts.[86]

In order to check the widespread tendency of Jews to resort to Moslem courts, the rabbis of Salonika enacted a decree in 1558 which forbade any Jew to bring cases in non-Jewish courts, especially those that involved dowry, *ketubah* and legacies. Those who violated this ruling were to be punished by the most rigorous form of the ban. Five years later, the rabbis of Constantinople informed their colleagues in Salonika that they had enacted a similar decree and offered their assistance in penalizing recalcitrants.[87]

If a Jew refused to appear before a Jewish court when summoned by its authorities, he was subject to the penalty of the ban in its milder form. If he persisted in his refusal to appear after having been summoned three consecutive times, the authorities imposed on him the *herem*, the more rigorous form of the ban.[88] A man was also subject to the same penalty if he refused to submit to a decision rendered by a Jewish court.[89]

If a Jewish defendant refused to appear before a Jewish court when he was summoned by a plaintiff or refused to take an oath required by the court, the Jewish authorities would then permit the plaintiff to bring his case to the non-Jewish courts.[90]

EXCOMMUNICATION

The most effective punishment and method of enforcement wielded by the Jewish communal authorities was excommunication. The leaders of the *Kahal* could use this powerful weapon to impose their authority, to introduce religious, moral and social reforms, and to check insubordination. The ban was utilized to regulate public and private life along the lines of the communal ordinances and Jewish law. Rarely did one dare to expose himself to the danger of being excommunicated.

The penalty that the ban imposed on an offender was severe. The degree of severity, however, was not alike in all cases. There were two forms of excommunication: the milder form was known as *niddui*, and the more severe type as *herem*. The severity of each type again differed in degree according to the culpability of the offender.

When the ban of *niddui* was imposed on a guilty person, the penalty

was mild and temporary. No one was to speak or deal with him for a period ranging in duration from seven to thirty days.[91]

When the ban was more rigorous, the following penalties were imposed: the culprit was required to change his permanent seat in the synagogue and was denied the honor of being called up to the Torah; for a period of a number of years he was not to be counted in the quorum of three that is necessary for grace after meals, nor in the quorum of ten worshippers that constitute a congregation; and he was not eligible for the office of *Parnass*.[92]

After this came the most rigorous form of the ban, the *herem*, a solemn anathema of indefinite duration. The penalties of the *herem* usually required that the culprit be completely isolated from his fellow Jews. No co-religionist was permitted to come near him to worship with him. Like a heathen, his bread and wine were forbidden. He was denied burial in a Jewish cemetery, and no one was to perform the ceremony of circumcision on his children. Even his immediate family had to be separated from him.[93]

The severity of the ban was determined by the nature of the offense. An offense committed against an individual was considered much lighter than one against the community. When one, for instance, insulted a fellow Jew, he was punished by being ostracized for three days, after which he was to admit his guilt and publicly apologize.[94] If, however, he was guilty of insulting a rabbi or a communal officer, the punishment was more severe.[95] Sometimes a ban was limited to one congregation; at other times, to all the congregations in the city.[96]

Other reasons for pronouncing a ban against particular individuals were: insubordination to the rabbi or lay officers of the community, violation of communal enactments, slandering the reputation of a Jewish woman, persistence in conducting oneself immorally, and refusal to testify in a Jewish court or to abide by its decisions.[97] In one instance, a rigorous ban was issued against those who handled counterfeit money.[98] The severest ban was imposed on an informer who reported a fellow Jew to the government authorities.

The penalty of excommunication could only be imposed after the culprit had been given three consecutive warnings and after the lapse of thirty days.[99] In order to pronounce a ban, the lay leaders of the community had to obtain the approval of the rabbi; if, however, the rabbi was maligned by a layman, he was empowered to excommunicate the guilty person without the approval of the *Parnassim*.[100]

The communal *herem* was usually proclaimed from the pulpit of the main synagogue of the community. In Salonika it was announced either

in the great synagogue or in the Talmud Torah building. The pronouncement of the ban generally took place on a weekday, usually on Monday or Thursday. The ceremony of announcing the *herem* was a solemn and awesome spectacle, held in the presence of all the rabbis, lay leaders and general community. Wax candles were lit and the *shofar* was blown. One rabbi holding the Scroll of the Law in his arms would read aloud the contents of the *herem*, beginning with the formula: "By the permission of the Omnipresent, Blessed be He, and by the permission of the *Kahal* etc., let him have no share in the God of Israel; let him be cast out from both worlds; let him be ostracized by the Court on High and the wordly court. Cursed be he by day; cursed be he by night; etc." When the reading of the ban was finished, all assembled answered, "Amen."[101] The pronouncement of the *herem* was usually reduced to writing, and if it was rescinded, the document was torn up.[102] The powerful weapon of the ban was not infrequently abused. De Medina mentions a number of instances where rabbis were guilty of applying it unnecessarily, sometimes to satisfy a personal grudge. He took to task those rabbis and laymen who resorted to the use of the weapon without justification, and stated that only in matters of utmost importance was one permitted to put a fellow Jew under the ban.[103]

Laymen, too, were often tempted to avail themselves of it out of selfish motives. The tendency of a few men to combine with nine others, either relatives or friends, in order to excommunicate an enemy, became fairly prevalent. The practice made it necessary for some communities to enact decrees which forbade such abuse of the ban.[104] Yet, in spite of its abuse, the *herem* was effectively wielded by the communal authorities to raise the prestige and strengthen the ties of Jewish self-government and to enforce higher moral and religious standards within the community.

The ban was not only a disciplinary instrument with which to punish offenders, it was also prohibitive in scope. Most communal enactments incorporated a clause that violators would be subject to the penalty of excommunication. The principle of the use of the ban, in such cases, was based on the Jewish law that an individual or a group might voluntarily assume a pledge or a prohibition, and that if it were broken, they would impose on themselves certain specified penalties. The ban was thus one of the self-imposed penalties to which every member of the *Kahal* was subject when he did not adhere to the communal enactment. Individuals, likewise, would contract themselves into certain arrangements and would lend sanction to their promises by the voluntary acceptance of the *herem* in case of default.[105]

OATHS

Another instrument used by communal authorities to enforce regulations was the oath. Whenever an important enactment was passed, the members of the *Kahal* were bound by an oath to observe the conditions therein contained.[106] When litigants submitted their case to a Jewish court, they were required to take an oath that they would abide by its decisions. When an act of betrothal was drawn up, it usually contained an oath binding both parties. Sometimes a rabbi would take an oath not to serve his congregation as rabbi. At times, laymen would take a vow not to accept the spiritual guidance of their rabbi, or not to return to the congregation unless the rabbi was dismissed.[107] The newly-elected officers of the *Kahal* were required to take an oath that they would perform their duties honestly. If a person claimed that he had been assessed unjustly, he had to take an oath to that effect.[108]

An informer was not given an oath in a Jewish court since he was not considered trustworthy.[109]

The most frequent oath of the day was in the form of a solemn declaration that if the conditions stipulated would not be fulfilled, the affiant would take it upon himself to live the life of a Nazirite, as did Samson of old. All oaths were accompanied by some penalty in case of violation.

When an oath was administered, either the cantor of the synagogue or a lay officer would hold a Scroll of the Law. At other times, the one who took the oath would hold the Scroll of the Law in his hands, and swear by the name of God, or by some sacred object such as the tefillin.[110]

The average Jew stood in great awe of an oath, realizing that to break it constituted a serious religious offense. The removal of an oath was carefully guarded by all sorts of legal barriers and involved a difficult procedure.

THE TAKKANAH

The chief instrument of Jewish self-government was the *takkanah*, the communal ordinance. The rule of the *Kahal* in every city in Turkey, rested upon the moral and religious sanction of the Jewish Law which prevailed in most Jewish communities in the Middle Ages rather than upon the temporal power of the government. When an ordinance was

enacted by the *Kahal*, it had the authority of a Jewish law and every individual was religiously bound to observe it.

The *takkanot* regulated all aspects of Jewish life, covering a wide range of subjects. Communal ordinances were enacted for the religious and moral improvement of the community. Some ordinances dealt with matters of ritual, dress and personal conduct. A large number of *takkanot* were enacted to safeguard the economic welfare of the different classes within the community. Tax and trade regulations, industrial codes, control of prices of food and commodities and laws of *hazakah* to safeguard the tenant's right of occupancy, constituted the major content of the *takkanot* that the religious and lay officers of the *Kahal* enacted. Of equal importance were the numerous ordinances that pertained to inner and intercongregational relations.

Some ordinances were promulgated by the *Parnassim* of the *Kahal* in conjunction with the rabbis; others, if purely religious in nature, were prepared by the rabbis only. In most events, the approval of the majority of the members of the *Kahal* was required. Every *takkanah* was proclaimed in the synagogue during the services.

An ordinance was usually enacted for a limited period, at the end of which it became obsolete. When the period of its duration was left undefined, even succeeding generations had to submit to its measures unless annulled by the authorities. The penalty for the violation of a communal ordinance was usually prescribed in it. Every important *takkanah* contained the formula of the *herem*, rendering an offender liable to the penalty of excommunication. This lent force and effectiveness to communal legislation.

While communal ordinances were generally adhered to, owing to the authoritative influence of the rabbis and the fear of incurring the severe penalties of the *herem*, a *Kahal's* authorities were often helpless to command obedience of recalcitrant individuals and groups. De Medina from time to time complained bitterly of irresponsible men who defied communal authorities and resorted to various subterfuges in order to evade the law or defeat the purposes of the communal enactments.[111]

One of the outstanding cases of defiance was that of Baruk of Salonika, who held the office of tax collector, known as *mekes hakapan*. Baruk became very powerful since he was a favorite of the city government officials. Prompted by greed, he utilized his official powers to acquire wealth rapidly. His despotic traits and dishonest character were evident in his relations with his fellow Jews, whom he ruled without fairness or mercy. He robbed and oppressed the poorer Jews of the city. There was no redress, since he recognized no superior authority.

He spread terror in the port and in the market places of the city. He also attracted a large following of disreputable and base characters. Threats of excommunication by the rabbis were of no avail. He intimidated the rabbis to such an extent that they even feared to utter any protest against him.

One rabbi, Joseph ibn Leb, dared to oppose him and reported his evil conduct to the prominent Jewish physician of the Sultan, Moses Hamon of Constantinople. Hamon wrote a letter to Baruk in which he severely censured him and urged him to improve his conduct, but it was of no avail. Finally, Rabbi Joseph summoned him to appear before a rabbinical tribunal where, nevertheless, he again demonstrated his arrogance and even went so far as to strike Rabbi Joseph. This behavior was again reported to Moses Hamon who summoned him to the capital. Baruk, however, persisted in his ways. Shortly after this incident, the great fire of 1545 and devastating pestilence broke out. Many fled from Salonika, among them the two sons of Joseph ibn Leb who settled in a small village. Here the two sons of Rabbi Joseph were killed by assassins, alleged to have been hired by Baruk to avenge himself upon their father.[112]

CHAPTER VII

Marriage Customs and Family Relations

BETROTHAL AND MARRIAGE CONTRACTS

THE marriage customs and laws observed by the Jews in Turkey differed little from those adhered to by the Jews in other lands. Yet, some differences existed which showed the influence of Moslem marriage practices.[1]

The father, who enjoyed supreme authority over his household, was vested with the power to select an eligible suitor for his daughter, to draw up a contract of betrothal, to stipulate the amount of the dowry and the number of the gifts, and to fix the date of the marriage.[2] It was regarded most improper for a Jewish girl to arrange for her own betrothal or to enter upon marriage without the intermediation or consent of her father. Nevertheless, there were a few instances where girls married without the knowledge and approval of their fathers.[3] When a mother in the absence of her husband, arranged a marriage for her daughter, without his knowledge, he could nullify it.[4] If the father was dead, the mother or brother had the right to make the necessary arrangements for the marriage.[5]

The betrothal of minor daughters and child marriages, arranged by the father, occurred frequently.[6] In one instance a father had his daughter married at the age of eight; in another case, a father accepted *kessef kiddushin* for his daughter who was two years old.[7] Often a betrothal agreement made by the father contained a clause that the daughter would, upon attaining the age of twelve, enter into marriage. De Medina, in accordance with the practice of the times, approved of child marriages, and in only one instance expressed his disapproval.[8]

While child marriages were frequent where girls were concerned, early marriages of boys were rare and were looked upon with disfavor.* There was also a legal difficulty to bar child marriages of boys. According to the Jewish law, the father of a minor daughter was given the power to act for her and to enter upon a marriage contract in her behalf. Such

* For the complete responsum dealing with this subject, see p. 163.

power, however, was not granted to the father of a minor son; hence, neither the father could act in his behalf nor could the minor son by himself enter into a marriage relationship.[9]

In talmudic times, a Jewish marriage consisted of two separate ceremonies — the *erusin*, betrothal, and *nisuin*, the wedding ceremony proper. It was the general practice to allow a year to elapse between these two ceremonies, each of which was marked by a festive celebration. The betrothal ceremony united the couple as husband and wife, and they could not be separated without a regular bill of divorce. They could not, however, live together until the ceremony of *nisuin* was performed, which was followed by the reception of the bride into the husband's abode, or by their actual cohabitation.[10]

This talmudic arrangement did not continue beyond the Middle Ages, for a scheme by which a legally united couple went on living apart was obviously a bad one. The ceremonies of *erusin* and *nisuin* were combined into one and performed at the same time. The institution of *erusin* was replaced by the ceremony of *tenaim*, espousal, or engagement, during which a contract of marriage at a future date, fixed or otherwise, was made by the parents of the young couple. This form of engagement preceded the ceremony of marriage in the days of De Medina.[11]

After the parents of the bride and groom had come to an agreement on the marriage, a contract stipulating the terms was drawn up. In it were enumerated the amount of the dowry the father was to give his daughter, the manner of remitting it — whether in a lump sum or in installments — and the amount of gifts and their value that the groom would give his betrothed. The customary gifts which a groom would present his betrothed were rings, bracelets, guilded or decorated combs. It was also customary for the father of the bride to give the groom the money with which to buy his bride jewelry to be presented at the marriage ceremony.[12]

The engagement contract also stipulated that, in the event that the groom did not appear on the wedding day, the bride was to retain all the gifts received from him or his family. If the engagement contract was cancelled by both parties, the engagement ring became the property of the bride, even though all other gifts from the groom were returned to him.[13] The contract usually included a provision that a monetary penalty was to be paid by the party which desired to abandon the match.[14]

The terms arrived at were reduced to writing in a deed, known as *shetar tenaim*, in which the names of the affianced pair and their respective parents were set down. The deed was enforced by a fixed fine, strength-

ened by an oath, and confirmed by a *kinyan*, or one of the methods of acquisition. The document was subsequently deposited with a third party.[15]

Although among the German Jews it was deemed improper for the bride and groom to see each other before the ceremony, this was not the case among the Sephardic Jews.[16] It was customary for the groom often to visit the home of his fiancée, to eat meals there and invite his friends to her home, and to exchange signs of mutual affection.[17]

The gifts that the bride received from the bridegroom were known as *siblanot*. In the Talmud the question was debated whether or not the receipt of such gifts was to be regarded as evidence of a legal betrothal which would necessitate a divorce in the event that the couple desired to break off their relations. The talmudic decision was that the matter was to be determined by local custom.[18] In Turkey the custom regarding *siblanot* varied. Prior to the arrival of Spanish Jews, the native Greek Jews regarded the gifts as tokens of marriage, as did the German and Hungarian Jews. Most of the Sephardic Jews in Turkey, adhering to the long-established ruling of the Castilian rabbis, did not regard *siblanot* as tokens of marriage. The Greek, German and Hungarian Jews, however, continued their practice to regard *siblanot* as tokens of marriage, despite the prevailing custom of the Sephardic Jews to the contrary.[19]

The *ketubah*, the marriage document, specified the amount of dowry, an inventory of furniture and other movables which the bride brought to her husband. Various practices prevailed as to the listing of the possessions. Sometimes the *ketubah* enumerated them in detail; sometimes it did not. It was also customary to list in the *ketubah* twice or three times the actual amount of the bride's belongings.[20] Marriage documents at times included a pledge made by the bride's father to support the young couple for a number of years after the marriage.[21]

The sums of money given as dowry varied from 13,000 to 75,000 aspers. One man gave as high as 5,000 perahim. These sums, however, were given by those who belonged to the upper classes. Much less was given by the poor class of Jews.[22]

Fathers often exceeded their means when giving dowries to their daughters. De Medina stated that, though the prevailing custom was to allot one tenth of one's wealth, many gave away all they had in order to marry off their daughters in an honorable manner.[23] Referring to these great sacrifices, De Medina remarked, "Would that fathers gave their sons even one-half the amount that they spend on the marriages of their daughters."[24] A person with unmarried daughters usually

provided in his will that most of his wealth, and sometimes all of it, should be reserved as dowries for them.

It was customary to stipulate in the *ketubah* that if the wife died childless during the lifetime of her husband, he should return to her natural heirs half of her dowry.[25] Elsewhere the practice was that the husband would keep one-third of the dowry and that the remainder would go to her heirs.[26] The Hungarian and German Jews residing in Turkey included in the *ketubah* a provision that if the wife died without issue during the first year of marriage, her natural heirs should receive all of her dowry; if she died childless during the second year, her husband and her heirs should share her dowry equally. If she died during the third year, the husband was to retain all of it.[27]

In Janina, a practice prevailed that if a woman owned prior to her marriage a substantial sum of money and jewelry, she was permitted to stipulate in the *ketubah* that, if she predeceased her husband, she could bequeath part of her possessions as a gift to any of her relatives and that her husband could claim no share in it.[28]

Another condition that frequently appeared in the *ketubah* was a pledge on the part of the husband not to marry another woman during the lifetime of his wife. Not infrequently the parents of the bride gave the groom a generous gift of money in consideration of which he took an oath not to wed again during their daughter's lifetime.[29]

The use of a ring as an instrument of marriage was the accepted practice; but according to De Medina there were cases where food, coins and jewelry were used as tokens of marriage.[30]

Wedding ceremonies were usually celebrated publicly. Respectable parents refused to have their daughters married secretly.[31] Many years before the lifetime of De Medina, the rabbis of Turkey had decreed that no marriage ceremony could be conducted unless there were present at least ten men and the nearest relatives of the bride whose consent to the marriage was required. This rabbinic enactment was in the course of years either forgotten or ignored by many. It often occurred that an unscrupulous person gave an unsuspecting maiden some object to bind the marriage in the presence of two witnesses who would subsequently disappear. Thus taking the girl unawares, he would declare that her receipt of the object made her his wife. This created confusion and grief. The rabbis of Salonika, under the leadership of Samuel De Medina, again enacted a decreee in 1567, requiring every marriage ceremony to be witnessed by ten men over the age of 18 and the close members of the bride's family. Violators of this enactment and those who assisted them were subject to the rigorous penalty of the ban.

Those serving as witnesses to a secret marriage were to be disqualified as Jewish witnesses. Secret marriages were to be regarded as annulled.[32]

POLYGAMY

The Sephardic Jews in Turkey like their ancestors in Spain never recognized the enactment of Rabbenu Gershom, issued in Germany about 1030 C. E., which forbade plural marriages. The Sephardic rabbis of Turkey followed the opinion of R. Solomon ibn Adret that Rabbenu Gershom's ban against polygamy expired in the year 1240, and that it did not apply to Jews outside of Germany.[33]

Polygamy among the Jews in Turkey, while not generally practiced, continued to exist during the sixteenth century. Although monogamy was the prevailing custom in Salonika, there were a number of bigamous marriages in Salonika and in other communities.[34] The widespread practice mentioned above of including a clause in the *ketubah* which pledged the groom not to marry another woman during the lifetime of his wife, and the fact that special gifts and money were given to the groom by the bride's family so as to obtain a pledge to that effect, indicate that polygamy existed among Turkish Jews.[35]

To enter upon a bigamous marriage, however, was not an easy matter. One had to overcome not only the opposition of his first wife but also the disapproval of public opinion, for bigamy was regarded as a deviation from the accepted practice. A bigamous marriage, however, was approved on the following grounds: where the first wife was childless; where the wife gave birth to female children only; and where the wife refused to live with her husband.[36] Polygamy was entirely extinct among the German Jews residing in Turkey.* Only two cases tell of German Jews who, when deserted by their wives, requested permission to marry again.[37]

Levirate marriages like polygamy were tolerated among Turkish Jews at this time. One responsum tells of a married man who refused to release the childless widow of his brother by the act of *halitzah*, and who insisted on marrying her because his wife had given birth only to daughters and because he could afford financially to maintain two wives. De Medina ruled in his favor.[38] Another Salonika rabbi of that day testified that the practice of levirate marriages in his city was general and that the rabbis offered no opposition to it.[39] There were some instances where the woman refused to enter into a levirate marriage because her husband's brother was married and had children. Yet the rabbis ruled

* For the complete responsum dealing with this subject, see p. 169.

in favor of the levir, stating that it was the established practice not to coerce a man to release his brother's widow by the ceremony of *halitzah*, and that in the opinion of their rabbinical predecessors the religious command to perform a levirate marriage superceded that of performing the ceremony of *halitzah*.[40]

In view of these difficulties and other complications, it was not unusual for a childless wife or her relatives to prevail upon her husband who was seriously ill, to grant her a conditional divorce, so that in case of his death she could be free to remarry.[41]

One of the prevailing customs was to marry off an orphaned girl to her uncle, the brother of her deceased father. A number of instances are mentioned where such a wish was expressed by a father in his will in anticipation of death. It appears that such marriages were regarded as meritorious acts.[42]

In arranging for the betrothal of their daughters, some men engaged the services of marriage brokers who received fees for their services.[43] It was also the accepted practice for some adults, men as well as women, to authorize a person to negotiate a marriage in their behalf, even though they had not seen the ones to whom they were to be married.[44]

FAMILY RELATIONS

Although a majority of the Jews in Turkey were newcomers, living amid unsettled conditions that sometimes tended to undermine family ties and morals, yet they faithfully adhered to the high standards of Jewish family purity.

The Responsa yield very few instances of serious quarrels between husbands and wives, and rarely make reference to instances of divorce. In fact, most of the family quarrels centered about conflicting claims to legacies made by widows and other heirs. Attempts to enforce promises of dowries and to collect them were the sources of frequent family strife. Whenever a controversy between husband and wife approached the dangerous stage of divorce, serious attempts were made by friends and prominent citizens to avert a divorce. Instances in which the wife was guilty of infidelity were rare. Only one case is recorded of a woman guilty of illicit relations.[45] Very exceptional, also, were cases of women deserting their husbands.[46] Desertions by husbands, however, were more common.[47] Yet the number of husbands who willfully deserted their wives was not large. The numerous cases of the *agunah*, the deserted wife, that appear in the Responsa, however, can be explained by the fact that business enterprises took many Jews to the far-flung parts of

the Empire, as well as to other countries, where they often stayed for a considerable length of time. Some of these men would remarry, while others failed to return to their wives. The fact that despite these circumstances cases of willful desertions were few, is a tribute to the high morality and strong family ties of the Jews of that day. It is also a fact that many married men disappeared because they were killed on the roads or drowned and there was no one to prove it or to identify them.

Similarly loyal and tender were the relations between parents and children. Rifts between fathers and sons were few. Those recorded in the Responsa arose mostly from litigations regarding business transactions. At times a man would discriminate against one son and favor another in his will, and this gave rise to acrimonious controversies. The instance of one who married a girl contrary to the wishes of his father, or of another who acted as an arbitrator in a domestic dispute, resulted in strained relations.[48] The quarrels, however, were the exception rather than the rule.

Rifts among brothers were often caused by conflicting claims to legacies bequeathed them by their fathers, or arose from differences between partners in business ventures.[49] Yet not infrequently a well-to-do brother would support his poorer brother. Cases of men bequeathing part or all of their wealth to brothers and sisters were not unusual.[50] Thus, Jewish family devotion of that period did not deviate from its traditional high standards.

CHAPTER VIII

Religious Life

RITUAL OBSERVANCES

WHEN the Spanish Jews arrived in Turkey they found a variety of rituals practiced among the Jewish residents, who were of Italian, Greek and German origin. As the influence of the Spanish Jews increased, other Jewish groups gradually adopted the Sephardic ritual. Only the German congregations persisted in adhering to their own order of services. De Medina praised the Greek, French and Italian congregations for having yielded to the Sephardic influence. He maintained that the language of the Sephardic ritual was clear and easy to follow, and that its style was fluent and the pronunciation pleasant to the ear.[1]* The development of a general Sephardic ritual which absorbed some traditions from the diverse groups in Turkey, proceeded very slowly. The native *Kahals* offered resistance, guarding zealously their local rites. The superiority of the Spanish Jews in numbers and influence, and the fact that a number of synagogues were destroyed by fire, compelling many to worship in Spanish synagogues, were responsible for the disappearance of several varying rituals. By the middle of the sixteenth century only the Spanish and German orders of service remained.

The Spanish and German Jews differed on two matters pertaining to the inspection of animals following their ritual slaughtering. If the lungs of an animal revealed lesions or scars, the Spanish Jew would blow into the lungs to ascertain whether there was a perforation in them. If no perforation was detected, they would permit the flesh of the animal to be eaten. The German and Hungarian Jews, however, were more strict in such cases. Once they noticed a lesion on the lungs they would not blow into them but would immediately discard this animal as ritually unfit for Jewish use. The German Jews, on the other hand, were less rigorous than the Sephardim in eating *heleb*, the fat that covers certain inner parts of the animal, whereas the Spanish Jews did not eat it at all.[2]

De Medina bitterly complained against the prevailing confusion that

* For the complete responsum dealing with this subject, see p. 139.

existed in the abattoirs of Salonika regarding the laws of *bedikat ha-reah*, inspection of the lungs of animals. He pointed out that the practice of following conflicting authorities and adopting their lenient opinions on this subject not only caused confusion but was responsible for the utter disregard of the laws on this subject, which had been propounded by the prominent, earlier rabbis of the city, such as Rabbis Judah Benveniste, Joseph Fasi and Jacob ibn Habib.

This chaos in the abattoirs prompted De Medina and Rabbi Abraham Sarvallo to compile a brief summary of the laws pertaining to lung inspection which were to be followed strictly.[3]

In Sephardic congregations a custom prevailed that when a man was called to recite the blessing over the Torah, the younger members of his family kissed his hand upon his return to his seat in the synagogue.[4] When one was given the honor *hatan torah* on the festival of Simhat Torah, he would, in token of this honor, invite his friends to a feast at his home.[5] On a public fast day, a *Kohen* who was not fasting was required to leave the synagogue, when the *Kohanim* recited the priestly benediction.[6]

It was the practice of mourners to engage the services of cantors and professional mourners to chant prayers and weep for the dead during the burial, at the conclusion of the *shivah* period, at the end of the month of mourning and on the first anniversary of death. On such occasions the mourners distributed charity for the poor.[7] It was also customary for mourners to wear mourning garb.[8]

In some smaller communities such as Sofia, it was customary for all Jewish residents to close their shops and to participate in the funeral of a deceased co-religionist.[9]

VIOLATIONS OF THE LAW

Cases of individuals violating religious rituals and traditions, while infrequent, were not entirely missing.[10] There was, for instance, occasional laxity in the observance of the Jewish dietary laws, as in the case of a certain Jew who deliberately ate meat ritually unclean. When some spectators reminded him of the seriousness of his offense, he dismissed them with a remark that it was entirely his own affair.[11] Another case of violation of the law occurred in the community of Vodena which was an important center for the production of cheese. When the rabbis of the city learned that violations of the dietary laws were being committed in the process of preparing cheese, they summoned two accused

men who admitted their guilt and pledged themselves not to repeat these offenses. They, however, soon broke their promise and even purchased cheese made by non-Jews and placed on it the seal of *kosher*. When the agent of the *Kahal* pronounced the cheese as ritually unfit, they attacked him and brought charges against him before the government authorities.[12] In another community a Jewish dealer in milk and cheese was discovered selling to Jews milk purchased from non-Jews which had had no Jewish supervision when the animal was milked.[13] The communal authorities punished the guilty person by depriving him of the right to sell milk to Jews. In order to regain this privilege he atoned for his sin by fasting every Monday and Thursday for a period of a year and by pledging not to repeat his transgression.[14]

While, as a rule, all Jews faithfully observed the Sabbath and festivals,[15] yet De Medina had occasion to censure some Jews for discussing their business transactions on the Sabbath.[16] Some Jews, while attending fairs, did desecrate the holidays whether willingly or not.[17] Similarly, Jewish travelling merchants undertook long trips across the desert in the company of Moslems, although they knew they would be compelled to travel on the Sabbath.[18]

In the communities of Monastir, Belgrade and in their neighboring towns, a rabbinic enactment forbade Jewish merchants from attending fairs during the month of Tishri, since attendance at fairs during this month entailed the desecration of the holidays.[19] In another city a communal enactment forbade Jewish merchants from engaging in business transactions during the period of *hol ha-moed*, the intermediate days of the Passover and Sukkot festivals. This prohibition did not apply to the sale of perishable merchandise.[20] There were merchants who disregarded the law and secretly conducted their business affairs on such days.[21]

All these defections, however, were the exception rather than the rule. A number of cases are recorded revealing violations pertaining to marriage practices and moral purity. A considerable number of men entered upon marriages in violation of legal decisions rendered by the rabbis of that day.[22] Not infrequently some men produced false testimony that they had been married to girls who denied such claims.[23] This lawlessness in marriage practices became so serious that the rabbis of Salonika and of other communities were impelled to enact legislation which forbade secret marriages and imposed severe penalties on those who violated the laws. De Medina bitterly complained against this widespread evil prevailing in his community.[24]

Cases of marital infidelity were rare.[25] Similarly uncommon were

acts of seduction. Only one instance tells of a young man who had illicit relations with an unmarried girl.[26] A few cases of homosexuality and the practice of other sexual perversions are referred to in the Responsa.[27] Only one case of a murder committed by a Jew[28] and very few instances of Jewish informers are mentioned.[29]

CONVERSIONS TO ISLAM

Although at this period in the history of Turkish Jewry the general trend was the return of countless Marranos to Judaism, yet the number of Jews deserting their ancestral faith was not small.[30]

In the main, the motives that prompted these to desert their faith were far from noble. Conversions were due not to inner convictions, but rather to personal considerations, such as the desire to escape from a difficult situation, to spite an enemy or to attain a selfish ambition. In one instance, it was a man's desire to marry another man's wife, for by embracing the Moslem faith, he obtained the aid of its religious authorities. In another case, it was the man's eagerness to rid himself of his wife. This caused him to flee to another city where he eventually gave up his religion.[31] Many of these converts to Islam were unscrupulous and greedy men.[32]

Conversion attached a stigma to the family of the convert, causing grief and humiliation not alone to his immediate relations, but also the entire community. To the mother of an apostate, the death of her son would have been less tragic than his desertion of his faith.[33] In one instance where the bride's sister had deserted Judaism, the father of the groom considered the matter serious enough to warrant his annulment of the betrothal contract.[34] The entire community was conscious of a sense of guilt whenever a conversion occurred in its midst and it resorted to every means to avert it or to effect the renegade's return to Judaism.[35] *

Mention should be made of the fact that all of these Jewish renegades turned to the Moslem faith and not to Christianity.

On the other hand, there were cases of non-Jews who were converted to Judaism.[36] These were received in warm friendship and were accorded respect. All Jews were obligated to be concerned about their well-being. An account is given of Abraham Mindo, "a righteous proselyte," who had given up wealth and prestige in order to enter the Jewish fold.[37]

* For the complete responsum dealing with this subject, see p. 180.

EDUCATION

Elementary Education

The problem of providing children with Jewish education and adequate school facilities was a matter of concern, not alone to the parents, but also the Jewish communal authorities. Turkish Jewry fully adhered to the old-established tradition that it was the solemn responsibility of the Jewish community to provide for and to supervise local elementary schools.[38]

There were two types of elementary schools; those subsidized by the community, which were attended by poor and orphaned children, of which the Salonika Talmud Torah was an outstanding example; and the private schools which were maintained by tuition fees paid by the parents. Most communities had both types of schools. The *Kahal* appointed a supervisor who would at certain intervals visit classes, examine pupils and pass judgment on the curriculum and methods of instruction both in the communal and private schools. In most communities, teachers privately engaged by parents were required to hold their classes in buildings set aside for the purpose. Yet, there were some teachers who conducted their classes at home, without any communal supervision. People of means would employ a private tutor for their children, or several would join to engage a teacher to instruct their children.[39]

Certification of elementary teachers was not required; any person who felt himself qualified to teach could solicit parents for permission to instruct their children. The teaching profession was a source of fair livelihood to many.[40]

The highest standards of piety and moral conduct were required of a teacher. If he was found lacking in these, the communal officers were empowered to dismiss him. This applied both to teachers employed by parents and those engaged to teach in the communally subsidized Talmud Torah. In one instance where rumors spread concerning the immoral conduct of a teacher, the rabbi, the communal officers and the representatives of the parents acted as judges to determine the truth of the rumors. The fact that he was very efficient, that it would be difficult to replace him by another one equally competent, and that there was the possibility of the pupils losing a few days of instruction before a new teacher was chosen, were all important considerations with the judges.[41]* Married men were given preference as teachers but single men were also employed.[42]

* For the complete responsum dealing with this subject, see p. 144.

The Responsa yield little information about the duration of the period of formal instruction. In some cases, it continued to the age of 15 or 18, and in some instances until marriage.[43]

Yeshibot

Since the elementary education was generally considered insufficient, communal authorities were also concerned with the maintenance and conduct of schools for advanced studies in the Talmud and rabbinic literature. Such schools were known as *yeshibot.* Every community had its *yeshibah,* and in the larger cities, the leading synagogues conducted their own *yeshibot* which were headed by their rabbis. If a community was too small to provide schools for higher learning, parents sent their adolescent sons to other cities to continue their studies.[44]

The fame of a *yeshibah* usually depended upon the scholarly reputation of the rabbi serving as its head. The method of instruction at the *yeshibah* as well as the conduct of its affairs were determined by the rabbi who headed the school. We know, for instance, that De Medina pursued the following plan of instruction. Each student was assigned a chapter in a talmudic treatise, which he was required to prepare and to present in writing with his own comments and interpretations. This report was read at the following session at which all students were present. De Medina then discussed the report and commented on it.[45]

Although these *yeshibot* were not regarded as professional training schools for rabbis, yet they produced some distinguished rabbis. The most prominent schools for talmudic learning flourished in Salonika and Constantinople and attracted students from distant communities. One of the leading *yeshibot* in Salonika, headed by De Medina, was founded and maintained by Doña Gracia Mendes.[46] Poor students attending this talmudic academy received their maintenance from it. It raised eminent rabbis who served as spiritual leaders in different communities in Turkey. Another *yeshibah* maintained by Doña Gracia Mendes existed in Constantinople and was headed by Rabbi Joseph ibn Leb.

Yeshibot were supported through generous contributions made by wealthy families and from legacies. As has been mentioned previously, a number of legacies bequeathed generous sums for the maintenance of these higher schools of learning and for the support of their poor students.[47]

The officers of the community also regarded it as their responsibility to supply the *yeshibah* with competent instructors. One responsum tells of an instructor at a *yeshibah* who resigned his post after a few

months and refused to resume his duties, in spite of the persistent pleas of the communal authorities. When the latter failed to persuade him, they resorted to physical force in order to make him return to his post. They also compelled him to take an oath that he would remain as an instructor for twenty years.[48]

The *yeshibot* lacked system and organization. Attendance was not a matter of fixed regularity, nor were the students properly graded. The instructor mentioned above gave the following reasons for refusing to remain at his post. Most students, he complained, were not as advanced in their studies as he had anticipated, which made his task difficult. He also stated that owing to the fact that some students attended but once a week and others almost as irregularly, he was required to work with them indefatigably from early morning to night.

Thursdays were set aside for the review of all studies taught during the week.[49]

As has been previously mentioned, the arrival of great rabbinic authorities from Spain at the beginning of the sixteenth century served to encourage and disseminate Jewish scholarship. These rabbis set up famous talmudic academies that attracted students from near and far. Synagogues, too, were centers for adult education. The rabbis not only preached on the Sabbath, but lectured daily to their members and conducted study groups in Bible, Talmud, rabbinic literature and commentaries.[50] The *Bet ha-Midrash* was frequented by laymen and merchants who, in the evenings and during periods of leisure, would be found there poring over religious texts. It was not uncommon for the average layman to possess a library.[51] According to De Medina, most Jewish homes possessed a copy of Rabbi Jacob ben Asher's code, *Arba Turim*.[52]

CHARITY

The well-merited reputation of the Jewish people for being charitable and generous in providing for their needy and helpless, is corroborated by the accounts in the Responsa of De Medina where many acts of charity are recorded.

Every congregation, large or small, had its own charity fund usually known as *kupah shel zedakah*, which was used to take care of its poor. Whenever there were captives to be ransomed, every community raised the required sum toward which each individual contributed generously. Similar measures were taken when an emergency occurred in the community or in a neighboring city that called for immediate relief of the victims of a fire or plague. In such event it was not unusual for the

leaders of a community to increase temporarily the rate of taxes imposed on food.[53]

When a pestilence raged in Salonika, several wealthy men placed their entire fortunes at the disposal of the community in order to save as many victims as possible.

While many made bequests of charity by wills, others established permanent charity funds during their lifetime. One man during his lifetime set aside a fund of 60,000 aspers, the interest of which was to be used exclusively for the maintenance of the Salonika Talmud Torah. Joseph Pinto, a Salonika resident, established a fund of 10,000 aspers, the proceeds of which were to be given to the *yeshibah* in Salonika which was presided over by Rabbi Abraham Sarvallo.[54] Two men undertook to pay a scholar twelve *gerushot* every three months (the equivalent of 50 aspers per week) for a period of ten years. This scholar devoted all his time to the study of the Torah.[55]

It was a common practice for well-to-do Jews when they drew up their wills to bequeath a portion of their wealth to charitable causes in the community. Some bequests were given outright; others established endowment funds, the profits of which were to be given to the institutions at certain intervals. The institutions most favored in legacies were the Talmud Torah of Salonika, *yeshibot* in the city, educational and charitable institutions in Safed or Jerusalem, and trust funds for marrying off poor orphans and the poor. Owners of homes would bequeath their rentals to different charitable causes. One person bequeathed the large sum of 100,000 aspers to the charitable institutions of Safed.[56] Another left instructions that all of the rentals derived from his houses be given to the poor every year on the day preceding the festival of Passover. A characteristic will was drawn up by a certain Samuel ben Zeruiah who divided his estate into three portions. One third was to be given to the charities of Jerusalem, the second to those of Safed, and the remainder was to be divided among the educational institutions for the poor in Salonika.[57]

If one died owing a debt to the charitable institutions of the *Kahal*, the communal officers were empowered to delay the burial until his heirs paid the amount due.[58]

RELATIONS TO PALESTINE

Relations between Turkish Jewry and Palestine were chiefly confined to problems of a religious and philanthropic nature. Since Palestine and European Turkey were ruled by the same sovereign, it is rather

surprising to note how exceedingly limited were the commercial relations between the two Jewish communities. We learn, however, that wool was exported from Turkey to Palestine for the manufacture of garments in Safed. On a small scale, other merchandise, too, was imported from Turkey.[59]

The Jews of Turkey viewed the Holy Land as the place of Israel's ancient glory, distinguished for its sanctity, and deserving their financial support. This recognition, however, did not lend superior authority to halakic decisions rendered by Palestinian rabbis. While Safed was revered as a spiritual center distinguished for its scholars and saints, yet the rabbis of Salonika and Constantinople were not ready to submit to their colleagues in Safed or Jerusalem in matters pertaining to law or ritual.[60]

Large sums of money were sent out of Turkey to the charitable organizations in Jerusalem, Safed, and Hebron. Many legacies included generous donations for the Holy Land.[61] It is of interest to note that, contrary to the generally accepted opinion, De Medina repeatedly stressed that charitable institutions in Salonika were equal in sanctity to those in Palestine. One responsum tells of a congregation in Turkey that raised funds for the Talmud Torah in Hebron which subsequently closed its doors. The leaders of the community were about to send this money to a similar institution in Palestine. De Medina, however, ruled that it should be given to the Talmud Torah in Salonika, which, in his estimation, was equally as important and sacred.[62]

The long-established tradition that it was an act of piety to spend one's last few years in the Holy Land, or at least to have one's remains interred in its sacred soil, was honored by the Jews of Turkey to the same degree as by the Jews in other lands in every age. Numerous cases are cited of persons who migrated to Palestine in their old age.[63] It was also customary for some to leave money in their wills to enable aged parents or close relations to settle in the Holy Land.[64] A number of wills included requests that the heirs of the writers forward their bodies to Palestine, and some left fixed sums of money to defray the expenses involved in sending their bodies to the Holy Land.[65]

The desire to settle in Palestine was not limited to the aged but included also younger people, both laymen and prominent rabbis. A number of rabbis and scholars of great renown, either born or raised in Turkey, found their way to Safed and Jerusalem, where they molded the religious life of the country and were instrumental in raising its scholastic level. Some of them were destined to play a leading role in matters that became of utmost importance to world Jewry. Included in this group was Rabbi Levi ibn Habib, who became chief rabbi of

Jerusalem and the leading opponent to Berab's effort to revive the institution of ordination. He infused a new spirit into the religious life of the Holy City. Rabbi Joseph Karo, the author of the *Bet Josef* and *Shulhan Aruk*, together with his friend the Cabalist, Solomon Alkabez, became the moving spirits in the circle of Safed's mystics and saints. The eminent halakists, Rabbis Moses di Trani, Abraham Hazan and Abraham Shalom, also settled in Safed. Rabbi Menahem de Lonzano, an illustrious scholar and cabalist from Constantinople, settled in Jerusalem, where he became chief rabbi of the city.[66]

A considerable number of laymen from Salonika established themselves in Safed. Their number became large enough to warrant the founding of a Sephardic synagogue in addition to two others previously organized.[67]

De Medina states that not a small number of Turkish Jews had gone to live in the Holy Land and that this was regarded as a religious duty. In one instance where a man was eager to settle in Palestine, but encountered strong opposition from his wife, De Medina ruled that if his wife refused to accompany him, she was to forfeit her *ketubah* rights. He also added that there was no danger involved in the trip to Palestine, since it was part of the Ottoman Empire.[68]*

* For the complete responsum dealing with this subject, see p. 174.

CHAPTER IX

Marranos

THE INFLUX OF MARRANOS TO TURKEY

THE beginning of the sixteenth century saw a broad stream of Marranos from Spain and Portugal reach the shores of the Ottoman Empire. Many of these Crypto-Jews from the Iberian Peninsula first fled to the coast of North Africa and some temporarily settled in Flanders and Italy. Their ultimate objective, however, was Turkey where the Sultan and government authorities accorded them warm hospitality and the freedom to return openly to Judaism.

The poor and the rich, the sick and the healthy, individually and in large families, all flocked to this new haven of freedom, braving the dangers and hardships of travel and the vigilance of the agents of the Inquisition. Many naturally found their way to Constantinople, but the city of Salonika absorbed more Marranos than any other in the Empire. The number of the Crypto-Jews grew so large that they formed congregations of their own in Constantinople, Valona, Arta and Smyrna. In Salonika and in Adrianople the Marranos from Lisbon and Evora formed additional congregations of their own.[1]

The Marranos were most eager to bring to Turkey not only their immediate families but also strangers. One responsum tells of a Marrano who took with him a strange child whom he reared and educated at his own expense.[2]

The Marranos soon proved their usefulness to the Sultan. They taught the Turks the manufacture of the new weapons of war, firearms, cannon and gunpowder. Some of them were skilled physicians, linguists and expert tradesmen.[3] Their arrival initiated a wave of prosperity in the large cities of the Empire. Endowed with special talents as merchants, and related by family connections to people prominent in commerce in many foreign trade centers, they considerably enriched the commercial life of the Empire. With their aid, Salonika rose to the level of the second commercial center in Turkey.[4]

RELIGIOUS STATUS OF MARRANOS

The arrival of a large number of Marranos gave rise to numerous problems entailing halakic difficulties. The rabbis of Turkey were faced with the task of determining the status of these repentent Crypto-Jews. Legal decisions had to be rendered as to whether they were to be classed as full Jews or renegades and whether their children were to be regarded as Jews or as Christians. The major legal perplexities confronting the rabbis were those pertaining to the laws of marriage, divorce, *halitzah*, and claims to legacies.

The first rabbinic ruling regarding the validity of marriages contracted among Marranos prior to their return to Judaism was issued in 1493. The leading rabbis of Turkey of that time decreed that all marriages contracted among Marranos during their stay in Christian lands, even where a Jewish religious ceremony was performed in addition to the Church ceremony, were not valid. Marranos, therefore, who returned to Judaism were free to marry again. According to this rabbinic enactment Marranos, prior to their return to Judaism, were considered Gentiles. The wife of a Marrano whose husband died childless was not required to go through with the ceremony of *halitzah*. She also was not required to obtain a divorce from her Marrano husband if he did not return to Judaism.[5]

This rabbinic enactment, that Marranos be regarded as Christians, was changed in 1514 through the influence of Rabbi Jacob ibn Habib and the change was accepted by most of his rabbinic colleagues. The new ruling required that all Marranos be classed as Jews and that their wives were not to be freed from them without divorce. If left childless, the widow was subject to the ceremony of *halitzah* to be released from her husband's brother, even if the latter still lived as a Marrano in Portugal.[6]

According to the ruling of De Medina and his colleagues, a Crypto-Jew who had the opportunity to leave Spain or Portugal and to return to Judaism and did not do so was regarded as a Christian. There were Marranos who fled from Portugal because they feared the Inquisition but had no desire to return to Judaism. These settled in Flanders and Italy and remained Christians. It was regarding these Marranos that the rabbis ruled that they were to be disqualified as witnesses and that they be considered Christians in the eyes of the Jewish Law.[7]

Similarly, in all matters pertaining to legacies, the ruling was that Marranos, who had not availed themselves of the opportunity to settle

in Turkey and to return to their ancestral faith, were denied the right to inherit the estate of their deceased relatives. In one case where a Jew died childless and was survived by a Marrano brother living in Portugal and a Jewish sister residing in Turkey, De Medina ruled that only the Jewish sister was to inherit the estate of the deceased.[8]

Of special interest is the ruling of De Medina and his rabbinical colleagues that if the widow of a Portuguese Marrano settled in Turkey after the death of her husband and established herself as a Jewess, she did not lose the right granted to her by Portuguese law to receive one half of her husband's estate, although according to the rabbinic law she received only her dowry. This legal question was raised by Doña Gracia Mendes and by some members of her family who opposed her claim to her husband's estate.[9]

The prevailing attitude toward the Marranos living in Portugal was that most of them were Jews at heart and that they were eager to settle in a country where they could openly practice Judaism.[10] A Marrano who openly returned to the Jewish faith was held in the highest esteem and no one was permitted to reproach him for his previous transgressions. According to De Medina, all Marranos were regarded as children of Jewish parentage. He asserted that Marranos residing in Christian countries had been careful not to marry Gentiles. He also ruled that if a Crypto-Jew testified that another was of a priestly family it was sufficient to accord the latter all honors due to *Kohanim*.[11]

One responsum tells of a Marrano couple who settled in Salonika and returned to their religion. Their two sons received a thorough Jewish training. One of them completed his rabbinic studies and served as rabbi in a community where another candidate for the post sought to displace him. He spread rumors that the mother of the incumbent had been a non-Jewess when he was born and he was, therefore, disqualified to serve as rabbi. De Medina severely censured the man who maligned the rabbi, stating that it was the moral obligation of every Jew to accord these repentant Jews the fullest respect.[12]*

Marranos returning to their ancestral faith were not subject to the ceremony of ritual immersion as was the case with non-Jews embracing Judaism.[13] They were merely required to confess their sins and adopt their original Hebrew names. In one instance, a Marrano who had assumed a Hebrew name upon his return to Judaism inquired of De Medina whether he might continue to bear the Christian name, too, so as to be identified by his Portuguese business associates. The rabbi granted him permission to do so.[14]

* For the complete responsum dealing with this subject, see p. 172.

TRAGEDY AT ANCONA

The well-known account of the tragic fate that overtook the former Marranos at the Italian sea-port of Ancona is recorded in the Responsa of De Medina.[15] Ancona, an ancient and renowned Jewish settlement, was at this time one of the most flourishing Italian sea-ports and the seat of the Levantine trade, which was largely in the hands of Jews and Marranos of Portuguese origin.

In 1555, Pope Paul IV decreed that all Marranos in Ancona be arrested and their property confiscated. Among these were Turkish subjects. The danger was great, since all former Marranos were to be tried by a court of the Inquisition and, if guilty of recreancy, were condemned to be burned. Don Joseph Nasi and his mother-in-law, Doña Gracia Mendes, pleaded with the Sultan to intercede in their behalf, and to rescue at least those who were Ottoman subjects. Sulaiman addressed a strong letter to the Pope, protesting vigorously against the arrest of his subjects and demanding their immediate release. This demand which contained a threat of retaliation against Christians residing in Turkey was heeded. The Marranos who were Turkish subjects were all released, whereas twenty-four others perished at the stake.[16]

The Pope confiscated all debts due to the Marranos and took possession of merchandise owned by Turkish Jews which was shipped to Ancona on consignment. Many well-to-do merchants were thus suddenly impoverished. Many litigations among Jewish merchants followed in the wake of this tragedy. De Medina, who was called upon to settle many of these disputes, expressed profound grief and indignation because of the injustices perpetrated.[17]

After these persecutions, there followed an episode which is almost unique in Jewish history. The Jews of Turkey had only one weapon with which to retaliate for this cruel attack on the Marranos — the economic one. An attempt was made on the part of the Jewish merchants to bring about a complete boycott of the port of Ancona and of the Papal States as a whole. Their activities were to be transferred to the neighboring port of Pesaro, where many of the Marranos, fleeing from Ancona, were benevolently received by the Duke of Urbino. The Duke, hoping to draw the important Levantine commerce to his own domain, persuaded the Marranos in Pesaro to appeal to the Jews of Turkey to transfer their trade to Pesaro. A special delegate, Judah Faraj, was sent to Salonika to accomplish this end. The merchants of Salonika and the rabbis heeded this appeal. In Constantinople the plan was vigorously supported by Doña Gracia Mendes and Joseph Nasi, who

used their great influence to persuade the merchants and the rabbis of the capital to participate in the united effort of avenging the cruelties of the Pope. The boycott, however, was only temporarily successful owing to the opposition of the Jews of Ancona, who maintained that it would ruin all the Jews living under papal rule and would bring reprisals upon their heads. Many merchants in Constantinople failed to support the project either because they were convinced by the arguments of the Jews of Ancona, or because they were prompted by personal interests. Also the rabbis were sharply divided as to the advisability of this plan. Rabbi Joseph ibn Leb enthusiastically supported the plan, whereas Rabbi Joshua Soncino vehemently opposed it. Rabbis Joseph Karo and Moses di Trani were among the supporters of the boycott. The effort to achieve a united front in Turkish Jewry failed and in consequence the Duke of Urbino expelled the refugees from his dominion.[18]

The city of Ancona, however, suffered great reverses. A large number of its Christian merchants were ruined and many became bankrupt. The non-Jewish merchants were no longer able to receive merchandise produced in Turkey, especially hides and leather. The sale of Ancona-made cloth dropped considerably.[19] Thus, while the boycott was not successful, the solidarity and commercial influence of Turkish Jewry were sufficiently strong to inflict punishment on the oppressors of the Jews.

THE CONFLICT BETWEEN DOÑA GRACIA MENDES AND HER SISTER

Many trials and dangers confronted the Marranos in their efforts to escape from Christian lands in order to establish themselves as Jews in Turkey. Three questions addressed to De Medina reveal considerable information about the important events in the colorful career of Doña Gracia Mendes. They unfold an amazing story centering around her and her sister, Brianda. These sisters of the Benveniste family were married to two brothers of the Mendes family in Lisbon. Both families were Marranos and wealthy bankers. Francisco Mendes, the husband of Doña Gracia, set up a branch of his banking business in Antwerp, though he remained in Lisbon. When Francisco died, Doña Gracia transferred her entire business and family to Antwerp. Diogo, her brother-in-law and partner, likewise, brought his family to Flanders. They soon realized the insecurity of their wealth, for the greedy Emperor Charles V was looking suspiciously on these wealthy Marranos, hoping some day to confiscate their possessions. Doña Gracia now planned to

dissolve her partnership with Diogo, and settle in Palestine where she could openly embrace Judaism. Before this plan could be realized in 1547 Diogo died and left a will which made Doña Gracia the head of his widely-extended banking firm and also the executrix of his wife's share in the estate. Soon Charles V laid his hands on the Mendes fortune, basing his claim on the pretext that the deceased Diogo Mendes, by practising Judaism in secret, had forfeited his wealth to the state. In order to rescue it from confiscation, Doña Gracia spent a large sum of money in bribing government officials and also made a substantial loan to the king. Her sister maintained that Doña Gracia alone was to bear the burden of these expenses. De Medina was later called upon to adjudicate this matter and he decided that both sisters were to share alike in these expenditures.[20]

Afterwards both sisters liquidated their affairs in Antwerp and settled in Venice. A new misfortune overtook the family. Doña Gracia's sister, Brianda, who seems to have been a weak and irresponsible woman, resented the manner in which her husband left her and her daughter subject to Doña Gracia's supervision, and demanded her independent share in the Mendes wealth. To achieve her object, she informed the government authorities of Venice that Doña Gracia was planning to move to Turkey with all her possessions and to return openly to Judaism. She also stated that since she and her daughter desired to remain in Venice as Christians, she ought to be appointed as executrix of her husband's estate. Doña Gracia was imprisoned and the entire Mendes estate was seized. To make matters worse, Brianda sent a messenger to France to inform the king that the money belonging to the Mendes family should be seized, since Doña Gracia had been living as a Jewess. Upon his return to Venice, the messenger, dissatisfied with his remuneration, decided to go back to France and denounce Brianda also to the king as a renegade to Catholicism and to inform him that both sisters were seeking to take their wealth to Turkey. King Henry II saw an opportunity for refusing to pay his debt to the Mendes bank in Lyons. Soon the king confiscated all the Mendes property in France. It was then that Don Joseph Nasi, the nephew and son-in-law of Gracia, and Moses Hamon, the Sultan's physician and friend, persuaded the Turkish ruler to enter this affair and save the Mendes family from financial ruin. The Sultan interceded with the Venetian rulers and King Henry II in behalf of Doña Gracia and succeeded in salvaging most of the Mendes fortune. The younger sister again refused to share in the expenditures made by Doña Gracia in her efforts to rescue their property. De Medina ruled that all the expenses of this effort should be deducted only from Brianda's share.[21]

Doña Gracia now fled to Ferrara which, under the benevolent rule of the dukes of the house of Este, became a happy haven for many Marranos. Gracia and her family remained here for several years during which time she was settling the affairs of the Mendes firm and was preparing to settle in Turkey. It was during her stay in Ferrara that she openly returned to the faith of Israel and changed her name from Beatrice de Luna to Hannah. Having herself experienced all the anguish and hardships that Marranos endured, she dedicated her life to the amelioration of their sad plight. The Marranos in Ferrara, refugees from various lands of oppression, became the objects of her great generosity and profound devotion. She comforted them and assisted them financially, and encouraged them to return to their ancestral religion.[22]

It was in Constantinople, where she settled in 1553, that her generous benefactions reached their peak. Here she became the most beloved and most benevolent Jewish woman of her day. She came to be regarded as the guardian angel of all Marranos. Her generosity reached out in all directions. She founded synagogues, endowed elementary and higher schools of learning, and maintained poor students. Her endowments were not limited to the city of her residence. In Salonika, Doña Gracia founded a synagogue for the Marranos which bore her name, *Liviat Hen*, Chaplet of Grace (her Hebrew name being Hannah). She founded and maintained a talmudic college which was headed by De Medina. She bequeathed a number of houses to the community of Salonika, the proceeds of which were to be used as an endowment fund which enabled young scholars to continue their rabbinic studies. She also established and maintained the distinguished institution for higher Jewish learning in Constantinople which was headed by Rabbi Joseph ibn Leb. Many rabbis and scholars were subsidized by her. Hebrew printing presses were brought to Turkey through her generosity. She contributed generously toward the funds for redeeming Jewish captives, many of whom were stranded in the Port of Salonika. Above all, Doña Gracia's participation together with the illustrious Don Joseph Nasi in the efforts of boycotting the port of Ancona and in the project of rebuilding Tiberias as a haven for Jews escaping from lands of oppression, made her name famous and beloved throughout the Diaspora.[23]

CHAPTER X

External Relations

RELATIONS WITH SULTANS

THE Jewish attitude toward the rulers of Turkey during the first three quarters of the sixteenth century was one of great respect and gratitude. De Medina repeatedly speaks of the Sultans in glowing terms, paying homage to their generous hospitality to the Jewish refugees from the Iberian peninsula.[1] He speaks of Sulaiman II as ". . . a great and most noble and merciful ruler." He states that under the rule of this benevolent Sultan, the oppressed Jews were offered protection, freedom, and the opportunity to live happily and prosperously. When it was brought to the attention of De Medina that the Jews of Sidero-Kapsa persisted in handling counterfeit coins, he severely censured them for not respecting the laws of the Sultan, since the duty to obey his commands was as sacred as that of obeying God's Law.[2]

The warm hospitality and friendship that Sulaiman accorded his Jewish subjects was a continuation of a policy begun more than a century before by his predecessors.[3] In the middle of the fifteenth century Mohammed II, upon conquering Constantinople, had invited the Jews to settle in his Empire. When Sultan Bayazid II learned of Ferdinand's decree of expulsion, he declared that the Spanish ruler was committing an act of folly and that Spain's loss of the Jews would be his own gain. This Sultan extended a most friendly reception to the Spanish refugees and instructed his officials not to molest them. Like his successors, Bayazid well realized the far-reaching benefits to be derived from the newcomers.[4]

The Sultans looked with suspicion upon their Greek and Armenian subjects and placed no trust in their faithfulness to the state. They were, however, soon impressed with the devotion and reliability of the Jewish immigrants. Above all, the Sultans were attracted to the Jewish physicians, who were not only highly efficient as healers, but also brilliant and trustworthy as advisors. From one of De Medina's Responsa, we learn that Mohammed II became closely attached to a Jewish physician from Spain, named Jacob, who had rendered him

many services both as doctor and advisor. As a token of appreciation, he granted him and his descendants the privilege of permanent exemption from all forms of taxes. This writ of exemption was renewed by every Sultan who succeeded him until the days of De Medina.[5]

Moses Hamon, the court physician and close friend of Sulaiman, was one of the most prominent personalities of Turkish Jewry. He wielded great influence over the Sultan and, like Hasdai ibn Shaprut of old, utilized his position to promote the material and cultural interests of his co-religionists. The Jews of Turkey regarded him as their guardian and protector. Whenever any Jewish community was in distress, it sought his help. Whenever a Jewish delegation came to the capital, seeking help from the Sultan, such aid was usually achieved through the intercession of Hamon. He was instrumental in 1530 in persuading the Sultan to issue a decree forbidding anyone in the Empire to accuse Jews of ritual murders.[6]

The outstanding Jewish personality of this period, who utilized his influence with the Sultans of Turkey toward safeguarding the interests of his fellow Jews and promoting their welfare, was Don Joseph Nasi. He was a member of the wealthy Mendes family from Portugal, born a Marrano, a nephew and son-in-law of Doña Gracia Mendes, with whom he arrived in Constantinople. His subsequent career reads like a tale out of the Arabian nights. He rose to a high position at court, became the influential advisor of Sulaiman and Selim II and was given the title, "Duke of Naxos and the Seven Islands."

Don Joseph Nasi became one of the foremost figures of sixteenth century diplomacy in the Near East. His fellow Jews looked upon him as a veritable "prince." He rendered countless services to his people, both in and outside of Turkey. He is remembered in Jewish history for his remarkable attempt to recreate a Jewish center in Palestine, in and nearby the city of Tiberias. The Sultan's intervention to save the wealth and lives of many Marranos from the inquisition in Ancona and to salvage Doña Gracia's wealth from the Venetian rulers, were both due to Nasi's intercession.[7] The influence wielded by Don Joseph Nasi and Moses Hamon was also responsible for the Sultan's intercession in behalf of Jews who were not subjects of the Ottoman Empire.[8]

The happy relations between the Jews and the Ottoman rulers reached their climax during the reign of Sulaiman and Selim II. The death of the latter in 1574, however, marked the close of this happy period. When his successor, Murad III, ascended the throne, the era of peace and freedom that the Jews had enjoyed for eighty years declined sharply. They suffered a serious loss in the passing of Moses Hamon and Don Joseph Nasi from the scene of court influence. Yet,

the new Sultan, too, had himself surrounded with Jews who served him as physicians and in other capacities. The most distinguished of these was Solomon Ashkenazi. He, however, lacked the prestige, the impressive personality and influence of his illustrious predecessor, Don Joseph Nasi. Nor could he overcome the powerful influence wielded by Mohammed Sokolli, a close advisor to the Sultan, who was unfriendly to the Jews. Yet Solomon Ashkenazi won the friendship of Sokolli, who was impressed with the former's diplomatic talent. When the war between Turkey and Venice was concluded in 1574, Ashkenazi was delegated to go to Venice as the official representative of the Ottoman Empire to negotiate peace terms. During his stay in Venice he utilized the prestige of his diplomatic position in behalf of the Jews of the Republic by persuading the Venetian rulers to rescind legislation decreed against the Jews.[9]

One of the earliest decrees issued by Murad III prohibited the Jews from engaging in the traffic of slavery. Then, there followed a series of decrees with the object of limiting the Jews in their luxurious manner of dressing and forbidding them to indulge in joyous festivities.[10]

While many similar restrictions had been in force for a number of years as self-imposed communal enactments, nevertheless, when they appeared in the form of royal decrees, they had a depressing effect on the Jews of Turkey. (Some restrictions regarding dress were of long standing, having their origin in the Pact of Omar of the seventh century.)

There followed another event that clouded the Jewish horizon during the reign of Murad III. When a report was brought to the Sultan that a Jewish woman was seen in the streets of the capital wearing a necklace worth 40,000 ducats, the Sultan decreed that all Jews in his Empire be slain. This decree, however, was soon withdrawn because of the intervention of the Grand Vizier Sokolli and Solomon Ashkenazi.[11]

In spite of this setback, the Jews retained their dominant place in the realm of Turkish commerce and industry, and continued to hold positions of influence in the royal court.[12]

LAW AND GOVERNMENT OFFICIALS

The benevolent policy of the Sultans toward their Jewish subjects did not, however, imply that the Jews of Turkey enjoyed full freedom and equality with Moslem citizens, and that they were not subject to restrictions and oppressive measures. In the eyes of the Law, and in the view of government officials, the Jews were infidels and strangers, even as were their Christian subjects. Definite laws were in operation which

set them apart from the Moslem inhabitants. Special taxes were imposed on non-Moslem subjects from which the Turks were exempt.[13] Jews were forbidden to build new synagogues. Those that were partially destroyed could not be renovated except by using old material.[14] Jews were not permitted to own Moslem slaves.[15] There had to be a distinction in dress between the Moslem and non-Moslem population. Neither Jews nor Christians were permitted to serve in the army.

The benevolent attitude of the Sultans toward the Jews was not reflected in the conduct of government officials. Some of these were cruel in their dealings with the Jews, and many had to be bribed.[16] They were greedy and eager to utilize every opportunity to seize Jewish wealth. If a wealthy Jew died without leaving immediate heirs, his property was at once confiscated by the government authorities. Similarly, when a man died in a city other than his own, the government officials appropriated his possessions. The efforts of an heir to retrieve such property were often futile.[17] In order to prevent their wealth from falling into the hands of the government, Jews drew up documents to make strangers their legal heirs.[18]

Many Jews were influential with government officials and often obtained favors and privileges from them. When a man leased a toll from the government, he had to have another Jew guarantee that in the event he was unable to pay the price at a definite time, the guarantor would be responsible for it. Those who desired to purchase the rights to a toll had to engage the services of the Jews who were on friendly terms with the government authorities.[19]

The Janissaries of the Sultan constituted a major source of trouble to the Jews of Turkey. The Janissaries were soldiers recruited from different nationalities such as the Greeks, Armenians, Hungarians and Turks. The Sultan was compelled to give them unlimited powers, owing to the fact that he needed them as soldiers in the wars that he waged, and because they were not paid regularly. The Janissaries used their unbridled powers to molest Jews and to rob them of their possessions. While the Jews were not the only sufferers from their depredations, they were the most frequent victims. Since Jews could easily be identified because of their special dress, they were often exposed to danger from them. Jewish travelling merchants were often attacked and robbed of their merchandise by the Janissaries. Protests against such attacks were entirely futile. In order to rid themselves of these repeated molestations and attacks, the Jews used to bribe the officers of the Janissaries, and even paid them regular tribute.[20]

The practice of bribing officers of the Janissaries soon excited the greed of other government authorities, governors of provinces, mayors

and judges who also saw a good opportunity to mulct the Jewish population. On a number of occasions, government officials under false pretext accused prominent Jewish leaders of violations against the State and imprisoned them. Then, they would demand exorbitant sums of money to release them. This evil occurred more frequently during the reign of Murad III.[21]

TURKISH COURTS

A long-established rabbinic enactment in Salonika and Constantinople forbade Jews to bring to Turkish courts cases involving claims to legacies and the collection of money due a widow because of the *ketubah*. De Medina and his colleagues repeatedly stated that bringing cases to the Turkish courts constituted a denial of the validity of the Mosaic Law. The Jewish Law, in the opinion of De Medina and of his colleagues, was not to be superceded by the Law of the land except in matters that pertained to taxation, commercial transactions and contracts.[22]

De Medina defines the halakic principle *dina de-malkuta dina* (the laws of the government are laws to us) to apply to the obligation of abiding by the government rules which pertain to taxes and deeds of sale of landed estate. But when two Jews are involved in litigation of monetary matters, they must abide by Jewish Law.

De Medina quotes this significant principle stated by his teacher, R. Joseph Taitazak, who in turn quoted R. Solomon ibn Adret, "The laws of the government are law to us, but this does not hold true of the judgments rendered in their courts. For the laws which the courts apply are not of the essence of royalty. They are based on the precedents to be found in their legal writings. You cannot dispute this distinction, for otherwise you would annul, God forbid, the laws of the Jews."[23]

The Jews generally kept clear of Turkish courts. Judges and other court officials were known to be unfair, greedy and susceptible to bribery. They had no scruples about appropriating Jewish money. Whenever a Jewish litigant desired to win his case through dishonest means, he would bring it to a Turkish court, since he knew that the judges could be bribed easily and witnesses could offer false testimony without difficulty.[24] Many Jews would submit their cases to Turkish courts when they anticipated that a decision rendered according to the Jewish Law would be adverse to their interests.

Whenever a case involved a Jew and a Moslem, the litigation had to be carried to a government court, unless the Moslem volunteered to submit to a Jewish court. Similarly, if a Jew and a Christian were

engaged in litigation, the Jew could submit to the Christian court if he chose; if, however, he was displeased, he could cause his opponent to go to the Turkish courts.[25] Whenever litigation involving a Jew and a a non-Jew came up for trial on the Jewish Sabbath, the court authorities would not require the Jew to appear on that day.[26] While the Turkish courts were often corrupt they were not always unfair to the Jewish litigants. The fact that many Jews disregarded rabbinic decrees and resorted to the government courts indicates that they were frequently favorable to them.

RELATIONS WITH MOSLEMS AND CHRISTIANS

While Jews and Turks were sharply divided in their social relations, they were brought into close contact with each other through their commercial activities. In spite of the fact that during the Middle Ages moneylending was predominantly a Jewish profession because in Christian countries the Church law forbade Christians to take usury, at this time in Turkey the process was reversed. Numerous responsa record the fact that Moslems lent money to Jews during the sixteenth century. In fact, Jews seemed to have been the leading clients of Turkish moneylenders. Some of these loans were as high as 100,000 aspers.[27] The widespread practice of Jews borrowing money from Turks is to be explained by the fact that a considerable portion of Turkish commerce was in Jewish hands. Jewish merchants borrowed small or large sums with which they conducted their commercial enterprises. There were also cases of Christians occasionally borrowing money from Jews.[28] Numerous cases also mention Turkish creditors who imprisoned Jewish debtors for not meeting their obligations to them on time.

There were also business partnerships between Jews and Moslems. Jewish merchants at times entrusted their merchandise to non-Jewish agents for export to other lands.[29] Another means of contact grew out of the renting of stores and homes from Turks. Since only a few Jews owned land holdings, most of the others had to enter into negotiations with Moslem landlords. Jews purchased from their Moslem neighbors raw wool, dyes and silks. In general, the relations between the Jews and Turks in the realm of commerce were satisfactory.

There were also many commercial dealings between Turkish Jews and Christians, to a lesser degree in Turkey and on a larger scale in Italy and Flanders. A feeling of distrust, however, seems to have prevailed between Jews and Christians in their business relations. The feeling was based on experiences in which Jewish money was illegally

appropriated by Christian merchants.[30] This unfriendliness is reflected in the halakic decisions of De Medina to the effect that when a Jewish merchant became bankrupt, his Jewish creditors were given first preference, then the Moslems, and lastly the Christians. A Jew could not serve as the agent of a Christian creditor to collect a debt from a Jew, and a Jew could not receive the assignment of a debt that another Jew owed to a Christian.[31]

One responsum reveals how the Jewish law occasionally favored Christians in their business relations with Jews. A Turk brought to Salonika a large supply of dyes which he sold to a Christian who in turn sought to sell them to the Jewish dyers of wool. A Jewish merchant, eager to corner the market in dyes, offered a higher price to the Turk and informed him that he had been delegated by the Jewish dyers of the city to buy their dyes from him. The Christian summoned the merchant to court and received a judgment in his favor. The case was appealed to a higher court which ruled in favor of the Jew because he testified that he had purchased the dyes in behalf of the Jewish dyers. The dyers then sought to get possession of the dyes from the merchant. Litigation was now transferred to De Medina who ruled that the merchant who had deprived the Christian of his purchase, had acted unethically and illegally. De Medina also decreed that the whole transaction was invalid because a Jew was not permitted to interfere with a Christian earning his livelihood.[32]

Though the relations between the Jews and Moslems were satisfactory, they were not entirely friendly. They were, however, more friendly than those between the Jews and their Greek and Armenian neighbors.[33]

Jews voluntarily lived apart from their non-Jewish neighbors. In each city there was a section known as the Jewish district or street.[34] No Turk desired to live in a Jewish neighborhood, and Jews hesitated to reside in a section inhabited by non-Jews for fear of being subject to night attacks.[35]

Some responsa tell of many acts of ill-will and violence committed by individual Moslems against Jews. It was not uncommon for lawless Turks to make wealthy Jews the targets of their hostility and to seek to deprive them of their property. It became a frequent practice of some Turks to produce false evidence that certain wealthy Jews owed them large sums of money or that the deceased fathers of heirs were indebted to them. Various libelous charges, under one guise or another, were levelled against Jews of means. It was usually very difficult for the victims to disprove the false claims and charges. The goverment

officials frequently became accomplices in these evil schemes. At times, Moslems and Christians produced false witnesses, testifying that their Jewish partners owed them substantial sums of money. This practice was almost a daily occurrence in every city of the Empire.[36] Despite all this, Jews enjoyed more tranquil relations with Moslems than their fellow Jews did with their neighbors in other countries.

The Greek residents in Salonika were a constant source of irritation to the Jews, because they resented the dominant control by Jews of Turkish commerce and industry. The affluence of some Jews called forth the envy and hostility of the Greek residents. Another cause that stirred up ill-will between Jews and Greeks was the inequality of state taxes imposed on the two groups. The rate of taxation was determined not by the size of the population of each group, but by the number of homes it owned. Since most of the Jewish residents were tenants while many Greeks were home-owners, the latter were required to pay proportionately a much higher tax.[37] This hostility gave rise to periodic attacks on the Jews. When the great fire of 1545 swept through the Jewish districts, the Greeks robbed and pillaged Jewish homes. They also brought evil reports to the city authorities causing the latter to impose oppressive taxes on the Jewish residents. These persecutions, which at times became unbearable, prompted the Jewish community to send Rabbi Moses Almosnino to the capital in 1566, to intercede in its behalf before the Sultan. Rabbi Benjamin Ashkenazi had also been deputed to the Sultan in 1545 to seek redress against the Greeks for their depredations.[38]

JEWS AND SLAVERY

Although De Medina repeatedly stressed that the law of Turkey forbade both Jews and Christians to own slaves, yet Jews of that day did own slaves. Most Jewish families in comfortable circumstances owned one or more.[39] The prohibition against owning Moslem slaves was occasionally circumvented by some Jews who claimed that these were only domestic servants hired for a limited time.

The assertion of De Medina that ownership of slaves, even Christian, was forbidden and that these were merely hired servants, is contradicted by several legal questions addressed to him,[40] and by the statements of contemporary rabbis such as Rabbi Solomon le-Bet Levi and Rabbi Moses di Trani.[41] The latter states that in the war between the Sultan and the island of Cyprus, waged in 1571, Jews were permitted by the

Sultan to keep Christian slaves whom they captured in the war, and that Jews openly bought slaves in Safed and Damascus whom the soldiers had brought from the war.[42]

Because of the wars that Turkey waged against Christian countries, the slave trade flourished again and markets for the sale of captives were established in Constantinople, Salonika, Brusa and in other cities. Jews also engaged in the traffic of slaves and were required to pay a special tax to the state for the privilege of engaging in this trade. Jewish participation in the traffic in slaves appears to have been very small. This right was abolished in 1575 by Murad III, marking the end of the Jewish slave trade.[43]

The relationship between slaves and their Jewish masters appears to have been free of harshness and cruelty. Jews usually treated their slaves with consideration. Some Jewish families became attached to their slaves, and occasionally included in a will the stipulation that their slaves be not sold to strangers but were to remain in the family.[44]

Some slaves were regarded as regular members of the household. They rested on Sabbath and at times observed the religious practice of their masters. Female slaves frequently became converted to Judaism and were married to Jews. Prior to their conversion their master had to free them by drawing up a deed of manumission. This general practice of slaves embracing Judaism encountered no opposition from Moslem authorities.[45]

At times, Jewish masters married their slaves. De Medina tells of a female slave who bore a child to her master. The child was raised by his mother as a Jew, but the father was reluctant to acknowledge him as his own son. The slave, claiming to be his legal wife, summoned him to a non-Jewish court where the judge declared her to be her master's wife and ruled that she be maintained by him. Although she lived apart from her master, she adhered to the Jewish religion and served as a midwife to Jewish women. When she died, her husband having predeceased her, she bequeathed her possessions to the Salonika Talmud Torah and to the charitable institutions in Palestine. The heirs of her former master, however, laid claim to her possessions on the ground that since there was no evidence that she had been freed and that she had been formally converted to Judaism, all her possessions belonged to them. De Medina denied their claim.[46]

There were also cases of Christian slaves who desired to escape from their Jewish masters and who would, therefore, embrace the Moslem faith. In such event, they could be sold only to Moslems.[47]

Whenever a slave was purchased, the owner had to have a deed

stating the name of the seller and the purchase price. Anyone who possessed a slave without a deed of sale was at once suspected of having stolen him and was subject to a severe penalty.[48]

Toward the end of the sixteenth century the Sultan decreed that a special tax be paid by Jews owning slaves.

JEWISH DRESS

A decree centuries old existed in Turkey which forbade the non-Moslems to dress like the Moslem subjects. Jews in Turkey were distinguished by their manner of dress from their Moslem and Christian neighbors.

When Murad II conquered Macedonia he decreed fixed rules as to what dress all non-Moslem subjects were to wear. At that time, Christians were required to wear blue turbans and Jews yellow turbans and long garments.[49] De Medina refers to the distinctive dress of Turkish Jews and to the special color of their head-gear.[50] According to Rabbi Joseph ibn Leb, it appears that the color of the turbans worn by the Jews in the sixteenth century were green.[51]

During the first half of the sixteenth century, women's attire was not subject to any restrictions. With the passing of the years, the former immigrants from Spain and Portugal prospered economically and the Jewish women who were affluent began to wear luxurious garments and precious jewelry.[52] As was the case in Spain, this display of luxury by Jewish women called forth the envy and hostility of the non-Jewish inhabitants of Turkey. The rabbis and lay leaders, realizing that this display of affluence was fraught with danger to the Jewish community, enacted decrees that specified the manner of dress for Jewish women.

In the city of Patras, a decree was promulgated that forbade Jewish women to wear silk garments except of black color.[53] In Salonika, the rabbis passed a ruling in 1554 which forbade luxurious attire and also banned music at weddings and other festivities. It was also decreed that, except for their marriage rings, women were not to wear any jewelry outside of their homes. This communal enactment was to be in force for ten years.

The prevailing custom of wedding processions parading through the main streets accompanied by music and carrying torches and Scrolls of the Law was also outlawed by the rabbis. Henceforth, the bride was to be led to the home of the groom by day followed by a few women,

and without any pomp or noise. Jews were forbidden to employ male musicians at weddings, circumcisions and betrothal celebrations. Severe penalties were provided for those who violated these enactments.

These restrictions constituted a radical change in the daily lives and habits of Salonika Jews. While there were some women who disobeyed these rulings, in the main they were adhered to, owing to the fact that non-Jewish neighbors had become more hostile to the Jews. In 1564 and 1573 these rulings were re-enacted by the rabbis. Each enactment included a warning that all celebrations must be conducted in a modest manner.[54]

Most of these self-imposed decrees were incorporated in a series of restrictions imposed on the Jews by Murad III. In 1577 a royal decree was issued which forbade all Jews, men and women, to indulge in any form of luxurious dress or to be attired in any dress that resembled that of Moslems. In 1579 another royal decree forbade Jewish women to wear any jewelry except their marriage ring. Their dresses had to be made of cotton cloth without any decorated collars attached to them, and their skirts had to be of black color. Only Moslem women were permitted to wear garments of bright colors. All silk garments were forbidden. Jewish women no longer were permitted to wear white or red shoes; their shoes had to be made of black leather, without inner lining. Cloth was not to be embossed with silver or gold thread. The girdles worn by men were not to be expensive and were to be half cotton and half silk. A subsequent decree forbade all non-Moslems to wear turbans or high head-gear. The Jews were required to wear red bonnets and the Christians black bonnets.

These decrees were announced by town criers in the public places of every city. A penalty of imprisonment was provided for those who disobeyed these rulings.[55]

Most of the restrictions with regard to Jewish dress did not last long. Owing to the pressure exerted on the Sultan, supplemented by a contribution of 50,000 ducats to the royal treasury, he was persuaded to cancel them.[56]

ILLUSTRATIVE RESPONSA

Illustrative Responsa

The following eighteen responsa were selected from De Medina's large collection in order to illustrate the general character of the whole as well as the author's erudition, ingenuity, practical wisdom and literary style. The responsa chosen are, moreover, inherently interesting and discuss a variety of problems characteristic of Jewish life in the sixteenth century.

Needless to say, it is impossible to convey in English the flavor of the responsa in the original. But the translation may serve to give an appreciation of the rabbinic guidance of the day and of the climate of its Jewish environment.

De Medina's language which is typically rabbinic Hebrew, is simple, lucid and direct, marked by brevity and conciseness. Eager to avoid unnecessarily lengthy discussions, he quoted the opinions of only one, two or three prominent halakists, those who had dealt directly with the subject under discussion. His practical-mindedness undoubtedly contributed to the preciseness of his style.

The nature of De Medina's answers varied with the character of the question. A complex question elicited a similarly complicated reply, displaying much scholastic ingenuity. Sometimes a problem was only deceptively simple. In such instances, De Medina's keen mind, penetrating to the heart of the matter, led him to say, "On the surface it may appear . . . but a deeper analysis shows. . . " He would then present in full array the pertinent opinions of the rabbinic authorities. He would use for this purpose the formula, ". . . although Codifier A says thus . . . Codifier B says thus . . ." Then in conclusion, he would marshal his authority or authorities by whose light he reached his own decision.

Unfortunately, the questions addressed to De Medina were rarely dated. Sometimes, however, a date incidental to the subject discussed appears in the inquiry, as when the contents of a legal document were referred to, or where the questioner affixed a date to the question. Even more rare is it to find a date in the answers written by De Medina, thus making it most difficult to ascertain precisely when he wrote his reply.

De Medina almost invariably signed his name to a responsum. Some inquiries, likewise, were signed by the correspondent or gave the name of the town where the question arose. While some inquiries and replies contained the real names of the party or parties involved, in most cases the names utilized were hypothetical, such as "Reuben" and "Simon," very much as today we use the names "John Doe" and "Richard Roe." At times, an inquiry began with the phrase, "A question was asked by a certain city," or "an ordinance was enacted in a community and some individuals refuse to abide by it."

A few of the questions in the Responsa were written in Ladino. As for the questions themselves, they appear to be not a digest but the original full form of the inquiries addressed to De Medina. This circumstance enhances their importance as historical source material. (This is also the case with regard to the Responsa of Rabbis Joseph ibn Leb and Isaac Adarbi which were carefully studied in our work for the sake of comparing them with those of De Medina.)

The Responsa of De Medina contain virtually no discussion of theological or philosophical opinions or the interpretation of difficult passages in the Bible, Mishnah, and Talmud.

Since he belonged to the later generation of halakists, De Medina, like his contemporary respondents, was often obliged to make a careful search into talmudic and other rabbinic literature to see whether his rulings were unimpeachable in the eyes of the older halakists. And while many of his legal decisions lack originality, since in the main they were based on the legal opinions of his rabbinic predecessors, they are, nevertheless, original to the extent that they often dealt with new, specific situations that grew out of the exigencies of the life of that day for which no provisions had been made in the responsa writings of the earlier rabbis.

The general character of the Responsa is impersonal. De Medina injects from time to time a personal note in his correspondence, such as paying homage to a questioner or expressing deep concern over his personal welfare. At times, he offers bits of information about his own affairs and about some members of his family.

While De Medina's Responsa yield little information about some important aspects of Jewish life, especially those which pertain to the inner life of the individual Jew, they do offer rich material on the religious, communal and economic conditions that prevailed in the sixteenth century, reflecting the daily problems that vitally concerned Turkish Jews, both individually and collectively.

1

I 5 — A LAWSUIT BETWEEN A HOME OWNER AND HIS TENANT WHICH WAS BROUGHT TO BOTH A JEWISH AND A NON-JEWISH COURT.

Question:

Simon, the owner of a two-story home, was involved in a series of quarrels with his tenant, Reuben, who occupied the lower floor of the house and whom Simon was eager to eject. When Simon had failed to accomplish this by legal means, he proceeded to annoy his tenant so that he would move from his residence of his own volition. Witnesses overheard him saying that he would bore a hole to pour water on Reuben's bed.

On a certain Sabbath day, Reuben returned from the synagogue, ate his meal, and went to sleep. Simon, the owner, knowing where the tenant was resting at that time, poured water on the sleeping tenant through a bored hole. This enraged the tenant who gave vent to his anger by damaging the vessels that belonged to the house. The indignant landlord, in turn, retaliated by having Reuben arrested by the officers of a non-Jewish court. To effect his release from the court authorities, the tenant was required to spend a substantial sum of money. Simon also summoned his tenant before a Jewish court where Reuben was fined for desecrating the Sabbath by breaking the vessels.

There were no witnesses who saw Reuben damage the vessels of the house except Simon who asserted that he heard the noises produced by the breaking of the vessels.

Now Reuben protests against the unfair decision of the Jewish court on the ground that there were no witnesses who saw him perform this alleged act. He also complains against his landlord for reporting him to the authorities of a non-Jewish court, thereby causing him to expend a considerable sum of money.

Answer:

If there are witnesses who saw the tenant do this damage, he deserves to be penalized by the judges of the Jewish court. There is a talmudic principle that when one destroys an object on the Sabbath, deriving no benefit from this act, he is not guilty of violating the Sabbath.[1] In this case, however, this act should be regarded as beneficial to him, since through it he gave vent to his anger.

[1] Shabbat, 105b.

The same opinion is expressed by Maimonides in his code, *Mishneh Torah.*[2] It is also in agreement with the view of R. Judah[3] who states that when one performs an act of labor on the Sabbath which one does not need *per se*, one is nevertheless guilty of having violated the Sabbath. If he performed this act unintentionally he is required to bring a sin offering; if deliberately, without the presence of witnesses and without having been warned in advance, he is subject to the penalty of *karet* (i. e. to be punished by Heaven). If he was warned in advance by two witnesses, he is subject to the penalty of being stoned to death.

In this case, if Reuben broke the vessels unintentionally, the Jewish court should not have imposed any penalty on him except that he pledge himself to bring a sin offering when the Temple will be rebuilt, as was done by R. Ishmael ben Elisha Hakohen in talmudic times.[4]

On the other hand, even if it was definitely established that Reuben did all this, it was entirely wrong on the part of Simon to report him to a non-Jewish court. This opinion is corroborated by a ruling rendered by the Ribash (R. Isaac ben Sheshet), who stated that when a Jew violated the Jewish Law he is to be tried by a Jewish court, since it is well known that non-Jewish judges are greedy and unscrupulous, dealing mercilessly with Jewish litigants. It is a wrong policy to expose our inner affairs to non-Jews. It is, therefore, my opinion that it was wrong to put Reuben under the jurisdiction of a non-Jewish court and then punish him in a Jewish court, especially since there were no witnesses to testify that they had seen him perform the act.

On the contrary, it is Simon who deserved to be penalized for having caused his tenant to violate the Sabbath and for having reported him to a non-Jewish court, thereby breaking an important communal ordinance which forbids Jews to do so.

Simon is also guilty of desecrating the Sabbath, if he bored the hole in his floor on that day in order to pour water on his tenant. He is guilty of performing an act of labor on the Sabbath, whether we follow the opinion of R. Judah who holds that anyone who performs an act on the Sabbath which he does not need *per se* is guilty, or whether we accept the view of R. Simon who holds that in such a case he is not guilty. For, in our case, all would agree that Simon is guilty of having desecrated the Sabbath and is subject to the penalties mentioned previously. For, the act he performed is definitely a labor which was needed *per se*, and is similar to that of ploughing or digging or making

[2] *Mishneh Torah*, "Hilkot Shabbat," Chapter VIII.
[3] Shabbat, 105b, and parallels.
[4] Shabbat, 12b.

a rut, which according to the Talmud,[5] quoted by Maimonides[6] is one of the thirty-nine chief types of labor forbidden on the Sabbath. Thus, we see that the violation of Simon is far greater than that of Reuben, for the latter is only guilty if we follow the view of Rabbi Judah, but he is guiltless if we accept the opinion of Rabbi Simon . . .

Furthermore, Simon had committed a grave sin by handing over his tenant to a non-Jewish court and thereby exposing him to serious danger. And even if we give Simon the benefit of the doubt, and try to exonerate him by believing him that he did not desecrate the Sabbath on the ground that even the least learned Jew is aware of the grave sin of violating the Sabbath and he would, therefore, refrain from doing so, he cannot, however, be exonerated from the greater guilt, that of handing over a Jew to a non-Jewish court. For according to Maimonides, it is forbidden to place a Jew or his possessions into the hands of non-Jewish authorities, even if he is a wicked person and is guilty of having violated the Jewish laws or having caused serious troubles to another Jew.

I am, therefore, astonished to learn that in the face of these facts, a Jewish court penalized Reuben and freed Simon from any guilt. It seems to me that this decision is the result of perverseness and wrong judgment. Simon sinned and Reuben is penalized! If it were within my power, I would penalize the judges for having rendered such a perverse decision, and I would also make Simon reimburse Reuben for the expense he incurred in his effort to effect his release from the non-Jewish court. And as to the personal grief that Simon caused Reuben — he can only atone for it by asking his forgiveness. And may the Rock of Israel safeguard us all from major and minor errors.

SAMUEL DE MEDINA

[5] Shabbat, 73b.
[6] *Mishneh Torah*, "Hilkot Shabbat," Chapter I.

2

I 20 — A CONGREGATION REFUSES TO JOIN WITH THREE OTHERS IN THE SAME TOWN FOR THE PURPOSE OF ERECTING A COMMUNITY HOUSE, AND BASES ITS REFUSAL ON THE RIGHT OF CONGREGATIONAL AUTONOMY.

Question:

We request you, our teacher, to instruct us in the following matter:

In our town there are close to 500 Jewish householders who are men of means. We do not, however, have a communal lodging house for poor transients. When wayfarers come to our town they occupy the women's section of the synagogue, which is entirely inadequate and unsuitable for their purpose, since it lacks baking and cooking facilities and is not equipped with such elementary needs as a bed, a table or a candelabrum. Besides, it often rains into the place so that at times the lodgers fall sick. In fact, most of those lodging there became sick and died because of the lack of food and facilities.

One day, the rabbi of one of the congregations in town, prompted by a desire to remedy this situation, made this appeal to the officers of the Burial Society: "I know that you have in your treasury 50 Perahim. Why are you indolent? Take advantage of this *mitzvah* and erect a community house to consist of three sections; two on the ground floor to serve as a lodging place for poor transients and scholars, and one large upper story to house classes where poor and orphaned children may receive Hebrew instruction. Thereby you will perform two religious commands — one, the *mitzvah* of being hospitable to the poor; and the other, that of meeting the needs of religious education. For we know that until now the classes conducted by the various congregations for the poor and orphaned children met in the homes of their teachers without any community supervision whatsoever. This lack of supervision is due to the fact that these classes were not held under one roof, as is the case in Salonika and in other communities. But if we could have all these classes meet in one building, we would be in a position to appoint examiners and supervisors, and this would undoubtedly serve to raise the standards of instruction."

The officers of the Burial Society were impressed by the appeal of the rabbi and immediately proceeded to undertake this building program. While searching for a plot of ground on which to build, they found a communal lodging place, owned by one of the congregations in town, which was partially demolished. They tore it down and began building a new one in accordance with the plan outlined by the rabbi. While

in the midst of building, they exhausted their funds which had come from two sources — one, from the donation of the Burial Society; and the other from a loan borrowed on interest by the rabbi and two laymen. Additional funds were needed to complete the upper story and to equip the entire building.

The members of three of the four congregations in the town agreed to raise the funds necessary to complete the building program. The members of the one remaining congregation, however, refused to do their share, giving as their reason that when this institution shall have been completed it will be considered the exclusive property of the congregation that donated the ground and will not bear the name of their own congregation. The men supervising the building program and the members of the congregation on whose ground the institution was being erected, gave their assurance that they had no intentions of claiming ownership to the new building. They also stated that the credit for this noble cause would go to those who contribute the funds and they offered to surrender their property rights to the ground so that the institution may bear the name of the community as a whole.

What is your ruling regarding the following aspects of the case: (a) as to the obligation of all the congregations to pay the debt assumed by the rabbi and two laymen? (b) regarding the obligation of the entire community to complete the building project? (c) concerning the validity of the claim made by the men of the congregation that refused to participate in this communal endeavor? For, it is quite probable that if this congregation is permitted to withdraw, other congregations will do likewise. And may God reward you for your services rendered to us.

Answer:

. . . In reply to your question concerning the construction of a Talmud Torah building and a communal lodging place, may I first offer the prayer that God's blessing rest upon the head of the rabbi who was inspired by this noble cause, and upon those who responded to his appeal. May God answer their prayers whenever they call upon Him and reward them amply.

The great merit of Jewish education is attested to by the following statement of Maimonides who said,[1] "We must appoint teachers for the young in every land and province. And if there is no elementary school in a town, its people are subject to the penalty of excommunication

[1] *Mishneh Torah,* "Hilkot Talmud Torah," Chapter II.

until they obtain the services of elementary school teachers. If they still fail to do so, the town ought to be annihilated since, as the sages tell us, 'The world exists only because of the breath of young children studying Torah.' "

We may thus realize how severe is the penalty when one neglects to observe this religious behest and how great is its reward, since the very existence of the world depends on it. We may also note how deeply concerned our sages were with the welfare and conduct of young children studying Torah, as is also evident in the above-mentioned chapter of Maimonides who said that school children must not be punished with whips or rods but with small leather thongs. He also added that we may take away a young child from one teacher and give him to another provided both reside in the same town and that there is no river to divide the town in two. But one is not permitted to take a young pupil from one town to another nor from one side of the river to another, even when both sides are within the city limits, unless the bridge over the river is regarded as absolutely safe to cross.

I purposely went to the trouble of quoting all these statements by Maimonides, though most people own his well-known book that contains these statements, . . . so as to enable us to appreciate the noble motives of this rabbi and of the Burial Society who lost no time and spared no efforts in their search for an adequate place where the two great *mitzvot* of learning Torah and performing acts of lovingkindness may be fulfilled. And what would become of these religious commandments if it happened that poor wayfarers and little children were subjected to discomfort and illness because of these conditions, and if the information regarding the lack of proper facilities in the lodging place which endangers the health of its occupants, became widely known and served to discourage transients from visiting the town? Thus the continuation of these deplorable conditions would keep away the poor from the town, which would not be in keeping with the trait of hospitality which distinguished our father Abraham. For we know how he went out of his way to attract wayfarers. He fed them, supplied all their needs and accompanied them part of the way so that they might depart in a happy mood. Surely we, his descendants, ought to emulate his ways. And equally important is the need to provide suitable quarters for children studying Torah, which ought to be as desirable and as attractive as possible, in accordance with the rabbinic advice that one ought to perform religious commands in a beautiful manner.

It is, therefore, my judgment that once the majority of the men of the town agreed upon the selection of a place, all others must abide by their decision, for our halakists have ruled that in matters pertaining

to communal affairs, those of the minority must submit to the majority decision. The great halakists, such as Maimonides, ibn Adret and the Rash[2] have all agreed on the principle that, when the majority members of a community enact ordinances pertaining to communal affairs, the dissenting minority must accept their decision. For, unless we adhere to this principle, no community could ever agree on any action. [R. Meir Hakohen] in his *Hagahot Maimuni*,[3] stated, forthermore, that if a minority group refuses to abide by a majority decision, the representatives of the community are empowered to compel them to do so either through Jewish or non-Jewish courts. And if the communal authorities deem it necessary to expend money in order to achieve their purpose, they are authorized to do so and the minority group must share in the expenses entailed in this court action.

This opinion of the halakists, indeed, warrants the conclusion that once the majority of the men of the town agreed upon the selection of a place as most suitable for the building of this institution, the men of the minority are not permitted to stand in the way of the majority, and they are also required to share in the expenses entailed in the completion of the building program.

Nor can the dissenters argue that each congregation ought to be regarded as an autonomous body, or as a city, and that since no city may impose its will on another, similarly no congregation may impose its will on another. This argument is not valid, as Rabbi David Katz pointed out in one of his responsa that the principle stressing the autonomous status of a congregation only applies to local or internal congregational affairs which do not concern other congregations. Only in such instance is a congregation authorized to act independently. If, however, there arises a problem of concern to all congregations which requires their combined efforts, in such instance, while the congregations retain their autonomous status, they are to be regarded as a single community.

The city of Salonika stands out as an appropriate illustration of this principle. In this city, while all congregations enjoy complete autonomy, yet when matters arise which concern the entire community, such as those of the Talmud Torah or the communal lodging house, then all congregations act as one organization and follow the rulings of the majority. . .

Indeed, there is no validity to the claim made by the dissenting

[2] R. Asher ben Yehiel (1250–1327), codifier.

[3] R. Meir Hakohen, thirteenth century, author of *Hagahot Maimuni* or *Hagahot Maimuniyot*, a commentary on the *Mishneh Torah* of Maimonides.

members of the one congregations that the institution will not bear the name of their congregation, and, hence, they are not obligated to contribute toward it, since the members of the congregation, on whose ground the institution is being erected, have voluntarily surrendered their right of ownership to the ground and have offered it to the entire community.

It is, therefore, obvious that their refusal to share in this worthy endeavor is motivated by a mean spirit and that their argument is merely a pretext to obstruct the plans of this communal project. I am of the opinion, therefore, that the members of the dissenting congregation are obligated to accept the decision of the majority and that they ought to be compelled to contribute their share toward this worthy cause, for as our sages tell us, the credit for the performance of a *mitzvah* goes only to him who completes it.

SAMUEL DE MEDINA

3

I 35 — A RIFT IN A GERMAN CONGREGATION IN SALONIKA WHERE THE SEPHARDIC RITUAL WAS ADOPTED BY THE MAJORITY OF THE MEMBERS BUT WAS VIGOROUSLY OPPOSED BY THE MINORITY.

Question:

A congregation, the members of which followed the order of services of their forefathers, settled in Turkey. In the course of years almost all of the diverse immigrant Jewish communities residing in Turkey abandoned their own order of services and adopted that of the Sephardic Jews, because the latter constituted a majority of Turkish Jewry and because the language of the Sephardic prayers is clear and pleasant.

This change to the Sephardic rite became the general trend in the city of Salonika, where congregations Calabria, Provence, Sicily and Afulia adopted the Sephardic rite. There remained but one German congregation that persisted in its adherence to its own order of services.

Recently the majority of this German congregation, too, chose to follow the Sephardic rite. There is, however, a minority of worshippers who insist upon the continuation of the German ritual and vigorously protest against the change. The majority of the members, on the other hand, insist upon the use of the Sephardic rite, giving as their reasons that they have become accustomed to it and that they are no longer familiar with the German ritual. They also claim that if they were compelled to revert to their former rite they would not be able to follow the services and the prayers would be lost to them.

They, therefore, inquire as to whether they are justified in continuing the Sephardic order of services.

Answer:

It appears to me that, although with regard to some religious observances it is proper to abide by practices transmitted by one's forefathers, as is suggested by the biblical admonition, "Hear my son the instruction of thy father and forsake not the teaching of thy mother,"[1] yet, in an instance such as this it is right to abandon an established custom and follow the Sephardic order of services. My reason for this opinion is that there exists no ruling which forbids one to change an ancestral practice, provided it does not involve an infraction of the Law.

This principle is illustrated in the Talmud,[2] where we are told that

[1] Proverbs, 1:8.

[2] Pesahim, 50b.

the citizens of Beyshan were accustomed not to travel from Tyre to Sidon on Fridays for business purposes. Their children went to Rabbi Johanan and asked him permission to abandon this custom on the ground that they encountered hardships in adhering to it. Rabbi Johanan refused to permit it on the ground that, since it had been an established tradition with their ancestors, they ought not to deviate from it, as is taught by the biblical verse, "Hear my son the instruction of thy father and forsake not the teaching of thy mother."

Rashi,[3] commenting on the talmudic discussion, affirms that the reason the citizens of Beyshan originally imposed this restriction upon themselves was so that they might not neglect to perform the necessary preparations for the Sabbath. In our case, however, where the deviation from an ancestral custom does not entail the possible violation of the Law, it surely does not come within the scope of the biblical admonition, "Hear my son the instruction of thy father and forsake not the teaching of thy mother."

The same conclusion may be drawn from the following comment of the Ran[4] on the Rif's[5] *Halakot*,[6] "We learn from these teachings regarding customs that, whenever there exists in a community a restrictive custom which is not erroneously arrived at, and which had as its purpose to build a fence around the law, or because there was a difference of opinion among the legal authorities and the community adopted the more rigorous of the two opposing authorities, in such instances the residents of the community are legally bound to observe such customs. This is in keeping with the biblical advice, 'Do not forsake the teaching of thy mother.' And if one is about to leave his town but plans to return, he, too, is required to follow the custom adopted by the community, even in privacy. Only when one leaves town to settle permanently in another community is he released from the obligation of adhering to the rigorous practice enacted by his first community."

Now, since this legal authority does not specifically mention "a custom based on a legal prohibition," but just "a custom," one is justified in concluding that the prohibition not to deviate from an existing custom applies only to a custom based on a legal prohibition, but not to one that does not involve the infraction of the law. Furthermore, even if it is a custom based on a legal prohibition, it is only binding on one

[3] R. Solomon ben Isaac (1040–1105), commentator on Bible and Talmud.

[4] R. Nissim ben Reuben Gerundi (14th century), commentator on Al-Fasi's compendium.

[5] R. Isaac ben Jacob Al-Fasi (1013–1103), author of the compendium of the Talmud, also known as the *Al-Fasi* and *Halakot*.

[6] *Halakot*, Chapter IV on Pesahim 50b.

who intends to return to his own town but if he leaves it permanently he is released from the obligation to abide by the custom, and he is permitted to follow the more lenient custom of the town where he plans to settle.

And now let us analyze our own case in the light of the above-mentioned considerations. It is well known that the *Amidah*[7] prayers of the first day of the month occurring on weekdays, the seven benedictions of the Sabbath *Amidah*, those of the holidays, and the nine benedictions of the High Holidays *Amidah* do not differ from those of other rites (followed by the diverse Jewish communities), and that they are uniformly fixed and no one is permitted to change their form in any manner, and if one does so, he fails to fulfill the law of prayer. The only difference between rites is the custom on the part of some to include in the *Amidah* religious hymns and special *Kerovot*. And with regard to this practice, it seems, that it is far better to omit them than to include them, especially since in our times hardly anyone understands their translation or meaning.

Note, moreover, the comment made by Abraham ibn Ezra on the verse, "Be not rash with thy mouth and let not thy heart be hasty to utter a word before God,"[8] in which he stated that we ought to follow the example of Solomon who, while he was the wisest of all men, yet composed prayers that were clear and understandable to all who knew the Hebrew language and did not include in his prayers riddles or parables. And likewise Daniel, who was a very learned man, composed prayers that were understandable to all.

All the more so does this apply to prayers intended for the masses who are not learned men, and to prayers formulated by earlier authorities. Why not emulate the example of our fixed prayers which are written in clear and simple Hebrew?

Maimonides expressed a similar view in his *Mishneh Torah*,[9] wherein he states that when Ezra the Scribe and the members of his court saw the confusion existing among the exiles who used diverse foreign dialects, they prepared standardized prayers and benedictions, arranged in an orderly manner, in pure Hebrew, according to the established rules of the language, so that those speaking foreign dialects could easily follow the prayers.

We can also learn from our greatest authorities of a later age that the primary purpose of prayers is that, formulated in simple language, they be understood both by the scholarly and the ignorant worshipper.

[7] Silent devotional prayer.

[8] Ecclesiastes, 5:1.

[9] *Mishneh Torah*, "Hilkot Tefilah," Chapter I, section 4.

It is, therefore, the accepted practice that congregations recite only those prayers which were fixed by our sages. And even the poems of Yehudah Halevi, Solomon ibn Gabirol and Abraham ibn Ezra, which have been incorporated in our services, have been written in pure Hebrew and are understandable by all. Likewise, the prayers in connection with the *Kedushah* of Yom Kippur, which we recite when the reader repeats the *Amidah* prayer, were composed in simple Hebrew.

I have mentioned all this not only to remove any sense of guilt from those who abandoned their former rite and adopted the Sephardic order of services, but rather to praise them. Nay more, one is inclined to believe that had the predecessors of these non-Sephardic communities seen the Sephardic rite, they too would have favored its adoption for the reasons I mentioned herein.

I also feel impelled to bring added support to my opinion from the following passage in the Talmud,[10] "Just as the congregational reader is under obligation [to recite the *Amidah* prayers] so is every individual. Rabban Gamaliel said that the reader may recite on behalf of the congregation. In a *Baraita* it is written that Rabban Gamaliel said to the sages [who opposed him], 'Accepting your view [that each individual must pray for himself] why does the reader go down [and stand] before the ark?' They replied, 'For the sake of one who is not familiar [with prayers].' He said to them, 'Just as he does it for one who is not familiar, so does he do it for one who is familiar.' "

They finally ruled to follow the opinion of Rabban Gamaliel [that the reader may recite on behalf of the congregants] only with regard to the prayers of Rosh Hashanah and Yom Kippur.

Likewise, the Rif in his legal works[11] states, "From this we conclude that the law is according to Rabban Gamaliel only with regard to the *Amidah* benedictions of Rosh Hashanah and Yom Kippur but not with regard to those recited the rest of the year. Men of the fields (farmers) who may be prevented by circumstances from coming to the synagogue on Rosh Hashanah and Yom Kippur, for them the reader may recite the prayers. But those who live in town, the reader does not free them from the obligation of reciting the prayers, unless they come to the synagogue and listen to the reader from the beginning to the end."

The wording of this statement by the Rif warrants one to conclude that the worshipper is required to understand the prayers recited by the reader. For, unless one draws this conclusion, what value is there in having the worshipper come and listen to the reader if he does not understand what the reader is saying? And even if he is physically present it is as if he were not there. And what difference would it make

[10] Rosh Hashanah, 34b.

[11] *Halakot*, Chapter IV on Rosh Hashanah.

whether or not he is actually present in the synagogue? One is, therefore, impelled to conclude that the worshipper is required to understand the prayers recited by the reader. The same conclusion is to be derived from the statement of the *Tur*.[12] (Orah Hayyim #124). Also, the Gaonim, Sherira and Hai,[13] ruled that each worshipper must concentrate on the prayers recited by the reader from the beginning to the end. And if one does not understand the prayers, how can he concentrate on them? . .

From the above-mentioned discussions, it is obvious that the Law required a worshipper to understand what the reader is reciting. And if he does not, it is better not to recite them at all. All the more so does this apply to the reader himself, for if the reader too does not understand the meaning of poems [incorporated in the services] who will understand them?

I, therefore, state that even if the worshipper maintains that, while he does not understand the meaning of the religious poems, he can rely upon the authority of the author who obviously was a scholarly man, as in the case of the poems of R. Eliezer Hakalir; yet, since the Sephardic rite is arranged in a simple and reliable manner, it is safer, according to all viewpoints, to follow the Sephardic ritual. Likewise, the Ribash,[14] in one of his Responsa dealing with a similar subject, states in the name of the Ran that even in secular matters every wise person chooses for himself that which is most safe and reliable. All the more so should one apply such a principle to religious matters.

I, therefore, rule that, since the Sephardic order of services is safe and reliable for worshippers, the law is on the side of those who adopted the Sephardic rite. I also hold this view because this rite is clear and logically arranged so that it suits the needs both of the learned and the ignorant, and enables the worshipper to follow with understanding the *Amidah* prayer when it is repeated by the reader. This is not the case with regard to other rituals where even the reader himself does not understand the prayers he utters, while the worshippers carry on petty conversations. This regrettable practice warrants one to quote Isaiah who said, "Who hath required this at your hand to trample my courts."[15]

I, therefore, regard it as your religious duty to continue using the Sephardic rite since it is beneficial to those who follow it. Besides, it has become the general practice among all the Jews in Turkey.

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[12] R. Jacob ben Asher (1280–1340), author of the code *Tur* or *Arba Turim*.

[13] Sherirah (920–1000) and his son, Hai (969–1038), were among the last Babylonian Gaonim.

[14] R. Isaac ben Sheshet (1326–1408), Spanish halakist.

[15] Isaiah, 1:12.

4

II 141 — THE CASE OF A HEBREW TEACHER WHO WAS DISMISSED FROM HIS POST BECAUSE OF A RUMOR REGARDING HIS MORAL BEHAVIOR.

Question:

The members of a community passed an enactment by common consent and by oath that they would all be bound by the ruling decreed by their seven selectmen and that under no circumstance would anyone be permitted to disobey it, and even if the selectmen themselves should choose to set it aside they would not be permitted to do so.

In this community there was an elementary Hebrew teacher concerning whose moral conduct there existed an evil rumor, but there was no conclusive proof to substantiate it. This gave rise to sharp dissension among the parents of his pupils. One group of parents maintained that the teacher should be dismissed at once. The other faction, however, opposed his dismissal on the ground that he was a most competent teacher and that they believed that there was no truth to the rumors concerning his immoral behavior.

When this controversy spread throughout the community, the seven selectmen felt impelled to enact a decree forbidding parents to send their children to the school where he served as teacher. The rabbi of the community, who was one of the selectmen, however, was of the opinion that the teacher be permitted to retain his post. There was also a small group of men who were personal enemies of the teacher.

Now the parents who had opposed the dismissal of the teacher demanded that he be reinstated, giving as their reason that, in the first place, it had not been conclusively proved that he was guilty of the alleged sin, and even if we grant that he was guilty, he had since repented. And, furthermore, they pointed out that the teacher was very competent in his work and that from the time the teacher was dismissed the instruction of the pupils had greatly deteriorated.

We, therefore, appeal to you, our great master, to advise us whether or not this teacher may be legally reinstated.

Answer:

I do not understand what aspect of the case calls forth your doubt. If your doubt has reference to the existing rumor concerning the teacher's moral conduct, then indeed he is entirely unfit to serve in the capacity of a religious instructor. For, what good can there be derived from his

instruction, except to undermine religion? And it is to such instance that the biblical verse applies, "But unto the wicked God saith, 'What hast thou to do to declare My statutes?' "[1]

Therefore, he who teaches children ought to be as morally pure as an angel of the Lord. And as our sages tell us, commenting on the verse in Malachi, "For the priests's lips should keep knowledge and they should seek the law at his mouth";[2] if a scholar is as religiously impeccable as an angel of the Lord, then men should seek to learn Torah from him; but if he is lacking in this qualification, they should not.

Yet, since every Jew is accorded the right of being considered in the state of moral integrity, one ought not to be denied this status unless some conclusive or even circumstantial evidence is produced to prove the contrary. If, however, such testimony does exist, the teacher ought not to be reinstated.

And as to the claim of his having repented, one must realize that it is difficult in such a case to determine whether his repentance was sincere or was only motivated by the desire to regain his post. As the Rashba[3] states in one of his Responsa dealing with a butcher who was removed from his post because he had been discovered selling ritually unfit meat, that he was no longer trustworthy and that he was to be watched carefully even after he undertook to do penance. If one sees that he is worried and heartbroken over his past deeds, he is to be reaccepted, but one ought to try to ascertain whether his repentance was prompted only by a desire to retain his position. Also the man's character enters as a factor in this consideration.

Now if the law requires such rigid watchfulness in a matter involving the law of ritual slaughter which, while it is a basic biblical law, yet its violation is not as severe a sin as that of the moral law, since in the latter case the violators are subject to the penalty of being stoned to death, and even irreligious Jews regard immoral conduct as a repulsive act, all the more should we be concerned to ascertain the genuineness of the teacher's repentance, especially when one considers that he is a teacher of Jewish children and that he may undermine their religious beliefs. God forbid that such a man be permitted to teach children. And yet, I repeat, if his guilt has not been conclusively proved, he ought to remain in the status of moral integrity.

But if your doubt pertains to the validity of the vow and the decree enacted by the selectmen, and if in your judgment it seems that the

[1] Psalms, 50:16.
[2] Malachi, 2:7.
[3] R. Solomon ibn Adret (1235–1310), halakist.

teacher is religiously qualified to teach, then it is my opinion that it is legally possible to annul the decree and the vow. For, when it involves the performance of a *mitzvah*, we may annul the decree and vow even according to Rabbenu Tam.[4] This is to be deduced from the statement of the Ran,[5] quoted in the *Tur*,[6] that a vow taken in behalf of the community may not be annulled without its consent, except: (a) if it will lead to the performance of a *mitzvah*, and (b) in case where the vow was taken under a wrong impression. Similarly in our case, when the selectmen took the vow and decreed that the teacher be forbidden to retain his post, they were under the impression that a new teacher would achieve far better results with the pupils than did his predecessor. As it turned out, however, they were mistaken in their judgment since the pupils received no instruction and lost valuable time. It is, therefore, incumbent upon the selectmen to have their vow taken in conjunction with the decree, annulled by three laymen of another community. This, in my opinion, is the right thing to do.

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[4] R. Jacob ben Meir (1096–1171), Tosafist and commentator on the Talmud.
[5] R. Nissim ben Jacob (11th century).
[6] R. Jacob ben Asher.

5

II 148 — DE MEDINA PLEADS WITH A RABBI, WHO HAD BEEN ABUSED BY HIS CONSTITUENTS, NOT TO DISCONTINUE TO SERVE THEIR MATERIAL AND SOCIAL WELFARE.

(The letter of the questioner is not given in the Responsa.)

Answer:

To the scholarly and illustrious Rabbi Mattathias Zarfati:

After inquiring about your well-being, I proceed to answer your letter. Although in recent days I have been heavily burdened with many communal tasks which are becoming increasingly trying and which give me no rest or peace of mind, yet, for the sake of our old friendship and in order to comply with the wishes of the well known Abraham Tubi who pleaded with me to answer your inquiry, I shall reply briefly.

I have carefully read the reasons that prompted you to take an oath to discontinue entirely your services in behalf of your community, such as pleading the cause of your constituents before princes and government officials. The performance of these tasks, undoubtedly, consumed much of your time, depriving you of the opportunity to study the Torah. I assure you that your motives for this decision appear to be fair and valid. You are also justified in having taken the second oath in which you pledge yourself not to devote your time to serve the welfare of individual members of your community.

I feel, however, that you would find it very difficult to become indifferent to the well-being of your community; besides, such a decision is fraught with harmful consequences. I want to call to your attention the biblical command, "Neither shalt thou stand idly by the blood of thy neighbor"[1]; and what Queen Esther said to King Ahasuerus, "How can I endure to see the destruction of my kindred?"[2] You must also take into consideration the sayings of our sages, who state that non-Jews are at times like a trap, that once a Jew falls into their hands, even regarding money matters, he is in grave danger, for they deal mercilessly with him. This danger is even more serious when a whole community is involved. How, therefore, can a Jew stand aloof when the interests of his fellow Jews are at stake?

It is, consequently, my opinion that neither of your oaths is valid, and one can almost say that the oaths did not take effect from the very beginning, for it is like taking an oath to disregard a religious command.

[1] Leviticus, 19:16. [2] Esther, 8:6.

And as to your complaint that the members of your community have grieved you and were arrogant in their treatment of you, I say that they should have shown you great deference and profound appreciation, considering how faithfully you toiled in their behalf and how trying were the burdens you assumed in order to safeguard their interests.

Yet, I dare ask you, are you better than our teacher, Moses, who toiled and sacrificed for the people of Israel, bearing the burdensome tasks of serving their needs? Nevertheless, the rabbis, commenting on the verse ". . . and they looked after Moses,"[3] say that some Israelites disparaged and maligned Moses, and that some were even ready to stone him to death.[4] Therefore, there is a great reward in store for Jewish leaders since they bend their shoulders to bear the burdens involved in being a leader. See also what the *Tur* says, ". . . a Jewish leader or judge must bear patiently the burdens of his office in dealing with the people."[5] The same opinion is expressed in a midrashic comment on the verse ". . . and the Lord spoke unto Moses and Aaron and gave them a charge unto the children of Israel,"[6] that the Lord told them that they must bear patiently their duties of leadership, because the Israelites were a rebellious people.[7]

There is, therefore, no need to prolong this discussion, for a hint to the wise is sufficient. It is my judgment that it is most advisable that others annul your oath, provided it is done by people outside of your community who are not involved in this matter. Nay more, I regard it as your religious duty to annul your oath and let the members of your community know that you were impelled to do so because of your love of God and devotion to His Torah. And let this annulment be made public so as to obviate adverse criticism on the part of some people. If it pleases you, moreover, say that I am forcing you to do so, and act according to your wise judgment, for you are a wise man.

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[3] Exodus, 28:8.
[4] Talmud *Yerushalmi*, "Bikkurim," chapter 2, 65c; Talmud *Babli*, Kiddushin 33b.
[5] *Arba Turim*, "Shulhan Aruk" H. M. 8.
[6] Exodus, 11:13.
[7] Midrash, *Shemot Raba*, chapter 7.

6

II 150 — A COMMUNAL ORDINANCE, FORBIDDING BUTCHERS TO FORM PARTNERSHIPS OF TWO OR MORE, CAUSES A MEAT SHORTAGE AND IS RESCINDED BY THE OFFICERS OF THE COMMUNITY WITHOUT THE SANCTION OF THE RABBIS.

Question:

In a certain city, the lay officers, who were chosen by the entire community, were empowered to enact laws regarding the sale of food, and their enactments were binding on all members of the community.

In this same city, there existed a communal ordinance which forbade butchers to form partnerships of two or more (in the importation and sale of meat). After some time, when it was realized that this enactment prevented the butchers from obtaining meat adequate for the needs of the community, the rabbis and lay officers annulled the existing ban and permitted the butchers to form partnerships limited to two men.

Later, however, when this arrangement, too, proved to be unsatisfactory, the lay officers permitted the butchers to annul the oath administered to them by the rabbis, which required that the partnerships be limited to two butchers. Thus, by forming one union, the butchers succeeded in obtaining a sufficient supply of meat for the entire community.

When the rabbis of the city learned of this, they took the butchers to task and inquired who permitted them to form one union which was in violation of their oath. The rabbis affirmed that since they had administered the oath, they alone were empowered to annul it. They also stated that the officers had no authority to annul the oath, and they imposed penalties on the butchers.

The butchers, however, claimed that they committed no wrong; since the officers were empowered by the community to enact decrees regarding communal needs, they felt that the officers, acting in behalf of the community, were within their rights when they permitted them to form one union. They, therefore, believed that the permission of the officers was sufficient.

And although it may be argued that the butchers trangressed the law by not asking the rabbis to annul their oath, yet their failure to do so should not be regarded as an act of willful transgression but rather an error committed out of ignorance, for which they do not deserve to be punished.

We request you, therefore, to instruct us as to what the law is in this case.

Answer:

An analysis of the Law involved in this case brings to the fore different aspects which should be carefully considered, since rabbinic authorities hold conflicting views regarding it. I shall attempt to present my views as briefly as possible.

A. The first aspect of it to be considered is the question whether or not the lay officers were the agents of the rabbis and were, therefore, empowered to act in their behalf to annul the oath administered by the the rabbis. There are conflicting views among the rabbinic authorities as to whether or not a vow may be annulled by an agent of the rabbi who administered it. Maimonides and others maintain that it cannot be done by an agent, but the one who took the vow must personally appear before the rabbi who alone can annul the vow. Other halakists, including the Rashba,[1] hold the view that the one who took the vow may send a letter to the rabbi asking for his permission to have the oath annulled.

If we say that the officers were the agents of the rabbis, then this case would come within the scope of these (latter) opposing opinions. But since the facts of the case clearly indicate that the lay officers were not the authorized agents of the rabbis, the entire discussion, regarding the agent's power to annul a vow, does not apply here.

B. The second question is: considering that the rabbis administered the oath to the butchers, and the officers annulled it without authorization from the rabbis, is the annulment legal or not?

Maimonides and others maintain that if a man takes an oath administered by a certain person, this oath cannot be annulled unless it is done in the presence of the person who administered it, whether he who took the oath was the recipient of a favor from the one who administered it to him or not. Rabbenu Tam,[2] the Semag,[3] and the Rash,[4] however, are of the opinion that, when an oath is to be annulled, the presence of the one who administered it is required only if the oath was taken in consideration of a favor done to him who took it, otherwise the oath may be annulled without the presence, or even the knowledge, of the one who administered it. This was the case with Moses, who according to the rabbis, took an oath to stay with Jethro in consideration of a favor received from the latter, who gave him his daughter as wife. Hence, when Moses wanted to leave Jethro and

[1] R. Solomon ibn Adret.
[2] R. Jacob ben Meir.
[3] R. Moses of Coucy (1200–1260), author of the code, *Sefer Mitzvot Gadol.*
[4] R. Asher ben Yehiel.

return to Egypt, he appeared before him for permission to annul his oath.[5]

Now, let us analyze the circumstances surrounding this oath which the butchers took. Was this oath taken in consideration of a favor that the butchers received from the rabbis or not? On the surface it appears that the oath was taken by the butchers for their benefit, since had they refused to do so, the rabbis might have forbidden them to sell meat to the Jews of the community. On a further analysis of the case, however, it is evident that the butchers were not benefited by the rabbis, for if they had been forbidden to sell meat, the community most likely could not get other qualified Jewish butchers to sell meat . . . The rabbis also cannot be regarded as their benefactors, if we consider them customers of the butchers, because they are very few in number. And if we should say that the rabbis are to be regarded as the benefactors of the butchers because they represent the entire community from whom the butchers derive their livelihood, then the officers, too, should be qualified to annul this oath because they also represent the community and it was in behalf of the community that the oath was administered.

And, even if we admit that the rabbis were the benefactors of the butchers, yet we can accept the ruling of Rabbenu Tam, the Semag and the Rash who hold that although in such event it is not permissible at the start to annul the oath without the approval of those who administered it, but once the oath was annulled it remains abrogated. For, surely, Rabbenu Tam and those who agree with him are important enough that we accept their opinion, at least in such an event.

C. There is yet another aspect to be considered regarding the annulment of the butchers' oath by the officers. According to the rabbinic authorities,[6] when one takes an oath which involves someone else, this oath cannot be annulled without a rabbi, or a court of three laymen. The authorities, disagreeing, would nevertheless admit that when the oath involves a community, then permission to be absolved from the oath must be granted by a rabbi or a court of three laymen. In our case, therefore, the annulment of the officers alone is not sufficient . . .

I believe, however, that there is a way whereby we can legally justify the officers' annulment of the butchers' oath without the need of the act of a court consisting either of a rabbi or of three laymen.

There is a responsum by the Rash to the effect that when the majority of the members of a community or their elected officers agree to rescind an existing ban, they are empowered to do so. It is, therefore, evident

[5] Exodus, 2:21; 4:18; Nedarim, 65a.

[6] *Shulhan Aruk*, "Yore Dea," Hilkot Nedarim 331.

that even when a ban was enacted by the entire community, the officers are empowered to rescind it. Similarly, in this case we may conclude that since the officers were chosen by the entire community to supervise all matters pertaining to the control of the sale of food, and since the oath taken by the butchers and its subsequent annulment were all intended to serve the public welfare, the officers, therefore, acting as the agents of the community, were fully within their rights in annulling the oath, since it was done with the object of serving the welfare of the community.

A responsum by the Rashba quoted by the *Bet Yosef*,[7] also supports the view that the officers were acting legally in annulling the oath. According to this responsum, if a groom had taken an oath prior to his marriage that he would return his wife's dowry to her father soon after the marriage, and if afterwards, the young man realized that by fulfilling the conditions of the oath he would harm the interests of his father-in-law, he may be absolved from his oath without having the oath annulled by a rabbi.

Similarly, in our case, where the oath was taken to serve the welfare of the community, and when it was later annulled, it was done also for the purpose of promoting the welfare of the community; the annulment was, therefore, legal although it lacked the official annulment of the rabbis. I am, therefore, of the opinion that regardless whether the officers used the formula "the oath is abrogated" or whether they said, "we now grant you permission to form partnerships", in either event, the butchers are permitted to combine into one union and to do business together.

D. A responsum by Rabbi Joseph Kolon (#52) simplifies the arguments relevant to our case. Rabbi Kolon maintains that since according to the Torah an agent possesses the same prerogatives as the one who delegated him to act in his stead, and since an oath taken in the presence of the agent is equivalent to taking an oath in the presence of the one who appointed the agent, therefore, when an oath is to be annulled they are both alike, possessing the same powers. The powers of the officers are like that of the rabbis, since both are the representatives of the community. Rabbi Kolon also states that, if one takes an oath in the presence of another man, the oath can be annulled in the presence of the latter; if one takes an oath in the presence of another man's agent, that oath can only be annulled either in the presence of the agent or in the presence of one who appointed the agent. From this we conclude that if one takes an oath in the presence of another man's agent, the oath

[7] *Bet Yosef*, "Yore Dea," 228.

may be annulled in the presence of the one who appointed the agent without the presence of the agent, or in the presence of the agent without the presence of the one who deputed the agent. Similarly in this instance, an oath may be annulled in the presence of either the rabbis or the officers, for both are equally the agents of the community, deputed to act in its behalf.

E. Even if we would admit that the officers acted illegally in annulling the oath, yet it was wrong on the part of the rabbis to impose a penalty on the butchers, for the latter merely committed an error without knowledge and without intention to break the law. They are entirely innocent, and in punishing the butchers the rabbis acted like the one referred to in a proverb who could not smite the donkey and smote the saddle instead.[8] For if there was punishment to be meted out it was due to the officers and not to the butchers who do not know the law, although in this instance knowingly or not, they acted according to the truth.

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[8] *Midrash Tanhuma*, "Pekude," #4.

7

II 183 — A RIGOROUS BAN IS IMPOSED ON A MAN WHO IN THE MIDST OF A QUARREL IS ALLEGED TO HAVE MALIGNED THE WIFE OF HIS ADVERSARY.

Question:

Reuben and Simon had been temporarily detained in a village to which they had fled because of an epidemic that raged in their town. Both men became involved in a quarrel which led to an exchange of abusive remarks, whereupon Reuben shouted to Simon, "If you continue to provoke me, I shall reveal to you information regarding your wife's conduct that will make it illegal for you to live with her." Simon, however, failed to hear Reuben's threat because of the shouting.

After they parted company someone reported to Simon that he had heard Reuben slander his wife. This enraged Simon who returned to Reuben and told him, "Since you have maligned my wife, it will interest you to know that I embraced and kissed your wife more than you did." To this Reuben made no reply.

(Reuben's wife was the daughter of a rabbi and the niece of Simon's wife.)

The following morning when Reuben returned home, he complained to his townsmen that Simon had slandered his wife by saying that he had had immoral relations with her. The townsmen at once notified Reuben's father-in-law of this affair and urged him to come without delay to wreak vengeance on Simon who had maligned his daughter. Reuben himself appealed to the men of the community to penalize Simon by imposing on him the following: (a) that he be publicly excommunicated; (b) that he be compelled to change his place of residence which was near Reuben's home; (c) that he be not counted in a quorum of ten worshippers (a minyan — which constitutes a congregation); (d) that he be not eligible for the office of *Parnas*; (e) that he be required to change his permanent seat in the synagogue; and (f) that he be denied the privilege of being called up to the Torah.

The father of Reuben's wife soon arrived in town and pleaded with the communal authorities that Simon be given his due punishment by imposing on him these severe regulations for a period of ten years. The leaders of the community heeded his plea and imposed them on Simon.

Now Simon bitterly protests against this harsh decree, claiming that it constitutes a serious perversion of justice. Simon presented the following facts in his defense. First, he asked why didn't the judges who penalized him take the trouble of hearing his side of the story. For, he maintains that had he been heard first they probably would have arrived at an opposite decision that would exonerate him and declare his oppo-

nent the guilty one. Simon, to begin with, definitely denies having said that he had immoral relations with Reuben's wife. Besides, there was no one present at the time when the alleged statement was uttered except Reuben's father-in-law who is known to be hostile to Simon, and his testimony is, therefore, unreliable. He is also to be disqualified as a witness on the ground that he is a member of the family involved in this litigation, and especially since he acted simultaneously in the capacity of witness and judge. And even if we grant that he does qualify to serve as a witness, his testimony would still be insufficient since the law declares that at least two witnesses must testify in a case to convict a man.

Simon, furthermore, argues that his statement to the effect that he had embraced and kissed Reuben's wife was not intended to anger Reuben but was only meant in jest since it had reference only to the time when his wife was a minor and unmarried, something that is generally regarded as a harmless display of affection, especially since he was related to her by family ties.

Above all, Simon claims that even if it were granted that he did state that he had immoral relations with his wife, which he definitely denies, still justice demands that Reuben and not he deserves to be penalized since it was Reuben who first made the statement which injured the moral reputation of Simon's wife. It was then that those present inquired of him as to what he knew regarding Simon's wife, to which he replied that he had heard a report from a Moslem that she had conducted herself immorally. Thus, we see that it was Reuben who spread an evil report about his neighbor's wife, which was based upon the testimony of a non-Jew, a testimony supposed to be untrustworthy. Besides, even if he (Reuben) himself had seen the woman commit an immoral act and then proceeded to spread this information, he would still be subject to a penalty since the biblical law requires that two witnesses must testify in order to convict someone, and he was only one. Here is a typical illustration of the talmudic proverb, "Tubia sinned and Zigud is punished instead."[1] Reuben is also blameworthy since it is well known that Simon's wife is a decent, pious woman and no one ever heard evil rumors regarding her moral integrity.

Simon, therefore, maintains that Reuben, who was first to start this quarrel, deserves to be punished and that he himself is altogether guiltless. He is also exceedingly indignant with the judges and bitterly complains against their decree, requiring him to change his place of residence which is near that of Reuben. He argues that they might have been justified in issuing such a decree if the suspicion of his pursuing Reuben's wife had been corroborated by the testimony of one or more witnesses.

[1] Pesahim, 112b.

This, however, was not the case, because the testimony they received was based on statements made in the heat of anger which were merely intended to hurt the opponent. Surely, this penalty in the light of these facts is unwarranted, especially if we follow the talmudic principle that no man's testimony against himself is legally valid.

These, then, are the arguments which Simon offers in his claim that the judges acted illegally and punished him too severely and that their ruling was a case of perverted justice. Simon also demands that a ban be imposed on those who accused him of having had immoral relations with Reuben's wife, and that all who know the facts be compelled by court to testify so that he may be vindicated.

We, therefore, request you, our teacher and righteous judge, to instruct us whether the judges were justified in their decision, or whether Simon's claims are valid.

Answer:

God is my witness that I hesitated to answer this question because I felt that it was incredible that a rabbi, or even an ordinary Jew, would be responsible for such a serious perversion of the Law. For it is apparent to all that such acts serve to undermine man's respect for religion. But when people strongly urged me to adjudicate the case, assuring me that the facts presented in writing actually transpired and that my decision would serve to bring about peace between the litigants, I acceded to their request.

There are various aspects of the case to be analyzed: First, if we grant that Simon made the statement that he had had immoral relations with Reuben's wife and that he had not been incited to say these things out of bitterness, what would the law require? The second consideration is what would be the ruling in the event that Simon only said that he embraced and kissed the wife of Reuben? Still another consideration to be taken into account is the need of verifying the claim that Simon's statement was not motivated by a sense of remorse but was stirred up by a feeling of indignation because of what Reuben had said.

Regarding the first consideration, I feel that the details of the case do not reveal too much and it is necessary to deduce one thing from another . . .

(De Medina here quotes some legal authorities to prove that the penalty imposed on Simon had no legal basis and that, considering the nature of the sin he is alleged to have committed, it was too severe. De Medina also mentions a responsum by the Rashba which tells of a pupil who vilified his master, a vilification which seriously stigmatized the latter and his descendants. Yet, while the Rashba ruled that the

pupil be put under the ban, he did not impose any such rigorous penalties as those mentioned in this case.) . . .

Evidently, the judges went to such extremes in penalizing Simon because of the insistence of Reuben's father-in-law who wanted to avenge himself and thereby they went beyond the bounds of the law. For, even if we grant that Simon did say these evil things regarding Reuben's wife, it would have been sufficient to isolate him from the community for a period of seven days and to require of him to ask forgiveness from the one whom he allegedly maligned, without adding these severe penalties.

The ruling against Simon is undoubtedly illegal and the ban imposed on him is invalid, since it is obvious that those who issued it were motivated by a desire to wreak vengeance on Simon and to humiliate him. For the law requires that he who issues a ban must be prompted solely by a religious motive and by a desire to enhance the prestige of the Torah and of those who study it, and not by a desire for personal satisfaction. In this case it is quite clear that the ban was issued not for religious but vindictive reasons, since it was the rabbi's great hate that caused him to take such unprecedented measures in punishing his opponent. And as the Talmud states, "If you grasp too much, you grasp nothing."[2] The ban is, therefore, invalid.

All that I have said thus far is based on the theory that Simon had admitted or that witnesses had testified that he had admitted immoral conduct with Reuben's wife, God forbid. In such event, one might agree that he deserves to be severely punished since he was arrogant enough to admit that he had committed such a grievous sin. In connection with this, however, one ought to take into consideration the talmudic principle that no one can incriminate himself,[3] which warrants our not believing Simon. For, if we do believe him, it would attach a serious stigma on the woman, which is tantamount to calling her a harlot and which would make it illegal for her to live with her husband. In such a case, it would have been sufficient to issue a ban against him and to compel him to plead for forgiveness from the aggrieved party. For we note that the great halakists like Sherira Gaon, the Rashba, the Rash and his son, Jacob, did not require any penalties beyond those I just enumerated even when the violation of the law was more serious than this one.

But now when it is evident that all Simon said was that he embraced and kissed Reuben's wife, which does not stigmatize the woman's moral reputation but which is merely regarded as improper conduct, it would have been sufficient if Simon had been rebuked and made to ask forgive-

[2] Kiddushin, 17a. [3] Sanhedrin, 9b.

ness from the aggrieved person. Such a lenient ruling would especially be justified since there exists the possibility that Simon's statement about his having embraced and kissed the woman only had reference to the time when she was a minor. I, therefore, ask: why all this apprehension? It is my opinion that those who imposed these severe penalties will have to render account in heaven for them.

These opinions which I have expressed thus far were influenced by the belief that Simon's alleged statement was made under calm circumstances. But now that the questioner reveals that Simon's remarks were made in the heat of anger and that Reuben was the first one to provoke Simon by vilifying his wife, the unfairness of the ruling against Simon becomes even more evident.

A responsum by the Ribash[4] tells of a case where a rabbi had business dealings with a layman and insulted the latter, who in turn insulted the rabbi. The Ribash ruled that while the layman should be required to ask forgiveness from the rabbi because of his rabbinic position, the rabbi, however, must realize that he had brought all this upon himself; for when one insults someone it is natural to expect that the insulted party will reply in the same manner. For few people are capable of controlling their tempers when they hear others malign them. The Ribash, therefore, ruled that the rabbi must readily forgive the layman and must not be too harsh with him, since it was the rabbi who was the first to start the exchange of abusive remarks . . .

From this responsum of the Ribash one can realize how far the judges in our case were from rendering a just decision. For in the case referred to by the Ribash the quarrel was that between a rabbi and a layman where the former could have avenged himself upon his opponent. Yet, the Ribash ruled that the rabbi was required to reimburse the layman for the loss he had sustained and all the layman had to do was to ask forgiveness from the rabbi because of his rabbinic position. The Ribash, therefore, ruled so because the rabbi's remarks called forth the insult from the layman. All the more so in our case Reuben should be adjudged guilty, considering that both litigants are laymen and that Reuben was the first to utter the libelous charges. And though both cases are not fully analogous, it is obvious from the written report that Reuben deserves to be penalized more severely than Simon and that it is definitely a case of perverted justice. And the fact that it was in the midst of the controversy when Reuben publicly maligned Simon's wife, since many people were then present to hear it, further strengthens my conviction as to Reuben's guilt and Simon's innocence.

SAMUEL DE MEDINA

[4] R. Isaac ben Sheshet (1326–1408), responsum #66.

8

II 184 — DE MEDINA CENSURES JEWISH BOOKBINDERS WHO USED PAGES OF DISCARDED SACRED BOOKS FOR BOOK COVERS.

(No formal question was addressed to De Medina.)

A practice currently prevails among the Jewish bookbinders of Salonika to make their book covers by pasting together the pages left from the printing of religious books such as commentaries, Midrashim and biblical books. These unused pages are pasted together with a paste and are made into hard covers. It appears that the paste rubs off the letters of the pages. Some of these covers are also cut into smaller sizes to serve as covers for smaller books, and what remains of them is cut up into small pieces which are used to equalize the books with their covers after which they are discarded and stepped upon.

When I learned of this I was indeed astonished that such desecration exists and my first reaction was that it was probably sanctioned by some rabbinic authority. But the more I probed into the legality of the case the more difficult it became for me to comprehend the reasons for permitting this practice. I could no longer contain myself and I determined to analyze thoroughly the legal aspects of this case and I concluded that this practice was entirely illegal. I also find it hard to believe that any rabbinic authority could have sanctioned it.

I would, therefore, like to analyze the following four reasons which probably convinced the people that it was permissible to use these pages for book binding:

A. One consideration is that which pertains to the nature of the writing. We know that the Law requires biblical books to be read at religious services, *tefillin*, *mezuzot*, as well as a bill of divorce, must be hand-written and not written by imprint or engraved; and since printing is equivalent to writing by imprint or engraving, the printed pages lack the sanctity which attaches to Torah scrolls, *tefillin* and *mezuzot*. They may, therefore, be used for book covers.

B. Another reason is that which pertains to the form of the letters. The Law requires the letters in a Torah scroll to be separated from each other and appear distinct. This, however, is not so in the case of letters on printed pages, which at times run into one another.

C. Still another reason which might have caused the people to believe that the printed pages possessed no sacred character was that they are of paper and not of parchment, and as such are unfit to be used as Torah scrolls.

D. Finally, the reason why printed pages might not have been regarded as sacred has reference to the requirement that Torah scrolls, *tefillin* and *mezuzot* must be written with the intention for use in their respective sacred purposes. Thus, if any of the biblical books lacks this prerequisite it becomes unfit for religious use.

These seem to be the reasons that probably persuaded the people to permit the use of printed pages for book covers. In my judgment, however, these reasons are not sufficiently convincing to warrant the conclusion that these pages need not be removed from sight (as is done in the case of religious objects when they become unfit for religious use). Surely, these reasons do not justify the destruction of these pages in the manner done at present by the Jewish bookbinders. For only the writings of heretics are subject to such treatment . . .

It is quite clear, therefore, that what the bookbinders are doing constitutes a grave sin, and may God forgive them since by now it is irretrievable. Also the fact that they use paste to glue the pages is likewise a sinful act.

At all events, I shall hold back from rendering a decision until my teachers and colleagues concur with me.

SAMUEL DE MEDINA

9

II 218 — THE WAR BETWEEN TURKEY AND VENICE AFFECTS THE MERCANTILE ACTIVITIES OF JEWISH MERCHANTS AND MONEYLENDERS.

Question:

A question was addressed to me from the community of Valona where a practice prevailed among wealthy Jews to lend money to middle-class merchants who would purchase merchandise and ship it for sale to Venice. The moneylenders received (in Venice) 20% to 30% of the profits earned by the merchants, and the former also assumed certain responsibilities, namely, those for damages or losses sustained while the merchandise was on its way to Venice. It was customary for the moneylenders to wait in Venice for their money until the merchandise was entirely sold.

Owing to the outbreak of a war between Turkey and Venice, travel between the two countries was interdicted and the merchants could not ship their merchandise to its destination. The moneylenders now refuse to await the conclusion of the war and demand the immediate return of their money. They claim that when they entered upon this arrangement they had no intention of waiting for their money indefinitely.

Answer:

My first reaction was not to answer this questioner because such transaction, in my opinion, constitutes a definite violation of the biblical law forbidding usury. I have written a decision in another case similar to this, in which I proved that such transactions constitute payment of biblically forbidden usury. My hesitation to render a decision in this case is also prompted by a fear that someone reading this ruling might be misled into believing that such transactions were legally permissible.

Yet, I decided to present my legal opinion in this matter in order to satisfy the questioner who assured me that my ruling would make for peace and harmony.

Although it is my opinion that this transaction involves the payment of direct usury, it should not lead one to conclude that, since the transaction was based on a violation of the law, it is to be annulled and the moneylenders are, therefore, justified in demanding the immediate return of their money. Such a conclusion would be wrong, for when a transaction is made in violation of a religious law, it is not subject to nullification. This ruling is based on a decision given by the *Tur*[1] who states that when an article is purchased at a much higher price than its

[1] R. Jacob ben Asher, *Arba Turim*, "Hoshen Mishpat", #208.

real value in consideration of the fact that payment will be made at a later date, the sale is not to be annulled provided the transaction was carried out according to the established rules regarding acquisition of property. In this case, therefore, the moneylenders have no right to demand their money from the merchants prior to the expiration of the stipulated time, and they must wait until the latter are able to make payment, as was the practice prior to the war.

But if the moneylenders base their claim on the ground that the transaction was made in error, for had they known in advance that there would be a war and that they would be required to wait indefinitely, they would not have lent their money to the merchants, even then I would rule against them. My ruling is based on the following discussion in the Talmud,[2] "Raba said that if one engaged laborers for irrigation and the river [whence the water was drawn] failed at midday, if such failure is unusual, the loss is the laborer's. If usual, and the laborers are of that town [and so would know about it] the loss is theirs; if not, the loss is the employer's."

The Rash states that the reason why the laborers are the losers in the event that a failure is unusual, is because of the rule that if something happens which might be foreseen by both employers and employees or by neither of them the employees bear the loss. For, we follow the principle in the Talmud,[3] "That the claimant must bring evidence to substantiate his claim," and since it is the laborers who are claiming the wages from their employers [for wages are paid only after the work has been concluded] the laborer's interests are at a disadvantage. A similar view is expressed by the author of *Mordecai*[4] who states, "The guiding principle is that when both employers and employees know in advance or when neither of the parties knows in advance, the employees bear the loss." And obviously the reason for this ruling is based on the fact that usually it is the employees who claim their wages which are in the hands of the employers, for wages are paid only after the work has been completed. And, therefore, as the Rash maintains, the employees must bring evidence to substantiate their claim.

The decision in this case, therefore, is that since both parties did not know that a war might come, and since the moneylenders lent the money with the usual understanding that it be paid back in Venice, and since they are the ones who claim the money from the merchants, they are the losers in this case and they are not legally justified in demanding the immediate return of their money.

SAMUEL DE MEDINA

[2] Baba Mezia, 77a. [3] Baba Kamma, 46b, and parallels.
[4] Mordecai ben Hillel Ashkenazi (died 1298), author of *Mordecai* on Al-Fasi.

10

III 9 — CONFLICTING TESTIMONY PRESENTED IN A JEWISH COURT CONCERNING THE AGE OF A YOUNG ORPHANED BOY WHO BETROTHED A MINOR WITHOUT THE KNOWLEDGE OF HIS RELATIVES.

Question:

We seek instruction from you, our master, regarding the following case:

A boy who was regarded as a minor (under the age of 13) was persuaded by a certain man to betroth his daughter who was also a minor. Two days later the boy changed his mind. As a result, the relatives of the boy quarelled with the father of the girl and took him to task for having enticed the boy to betroth his daughter without their consent. When both parties appeared before a Jewish court, the father of the girl maintained that the boy was thirteen years of age and, therefore, his betrothal was valid and binding (since he was legally of age). The relatives of the boy, however, claimed that he was only eleven years old, and his betrothal was, therefore, invalid.

The court, therefore, decreed that public announcement be made in every synagogue to the effect that it was mandatory upon every Jew who had direct or indirect information that the boy was thirteen years of age to come and testify before the court. One of the boy's relatives who was present at the time when this decree was formulated strenuously objected to the wording of the announcement. He maintained that it would be preferable for the announcement simply to state that whoever has any definite information regarding the boy's age should come to testify before the court. For, he argued, that only when the announcement will be so worded will many people, who know that the boy was a minor, be encouraged to testify.

The court authorities, however, refused to grant this request and insisted upon their own wording of the announcement, since they hesitated to rely on witnesses whose testimony that the boy was a minor might lead to the annulment of the betrothal. As a result of the court's version of the announcement, no witnesses appeared to testify that the boy was a minor.

The following testimonies were received by the court to the effect that the boy was thirteen years old:

"We, the undersigned, in a session of three judges make it known that there appeared before us Mordecai Napoli who presented the

following testimony: It is now seven years and four months since Moses Krispin, the father of the boy, died. Once when the boy was reciting Kaddish for his father in the synagogue, he (Mordecai Napoli) inquired of the nearby worshippers as to the age of the boy, and he was told that he was five years old."

Another witness, named Jonah Tubi, testified that it was eight years since the last festival of Sukkot when he ate at the home of Moses Krispin, the father of the boy, and it then appeared to him that the boy was five years old and possibly a little older.

Still another witness, Judah Levi, testified that it was about the same time when the deceased Moses Kakmo was given the honor of *hatan torah* on Simhat Torah and in honor of the occasion he (Moses Kakmo) invited to his home a number of friends for a festive meal. Among the invited guests were also Moses Krispin and his little boy. This witness engaged the father in a conversation and asked him about the age of his boy. The father replied that he was five years old. We, the undersigned judges, investigated to ascertain definitely when Moses Kakmo was given the honor of *hatan torah* and it was established that it occurred a little over nine years ago. According to this testimony therefore, the boy is more than thirteen years of age.

All these testimonies were received by us in the city of Tuvia (Thebes) on Monday, 15th of Heshvan, in the year 5321 (1560).

Later on, the father of the betrothed girl appeared before the court and stated under an oath that when he claimed that the boy was thirteen years old he was not definitely certain and that he had said so only to counteract the claim of his opponent.

Here is the form of the (girl's) father's testimony: "We, the undersigned, in a session of three judges make it known that there came before us Jonah Adilah and stated: 'Let it be known to you that when I said sometime ago regarding my daughter's betrothal to this boy, namely, that the boy was thirteen years old or that he was entering on his thirteenth year, I hereby confess to you that I do not know his age at all. I was motivated to say what I did because I figured that possibly there would appear witnesses to testify that he was entering on his thirteenth year which would help to establish the validity of the betrothal. I did so since I am not versed in the Law. But now, after announcements were made in all synagogues that whoever knew that the boy was thirteen years and a day old should testify and since no one came to testify and the boy is, therefore, to be regarded as a minor, I, too, confess that he is a minor.' And to substantiate this statement he took an oath to the effect that he did not know the correct age of

the boy, and that he was in doubt when he had made his original statement that the boy was entering upon his thirteenth year; the boy is, therefore, to be regarded legally as a minor. All this testimony came before us on Friday, 29th of Nisan, in the year 5321."

(In answering this question R. Samuel De Medina ruled that the testimony of the witnesses was unreliable and invalid. He also ruled that the betrothal was to be annulled and that the girl needed no divorce from the boy.)

11

III 35 — A QUESTION WHETHER THE INFORMAL TESTIMONY OF A NON-JEW REGARDING THE IDENTITY OF A SLAIN JEW IS LEGALLY VALID TO PERMIT THE WIDOW TO REMARRY.

Question:

At the fair of the town, Moskolor, there came a non-Jew who speaking inadvertently told a group of Jews gathered at the fair that when he had passed by the road of Platamona he saw the slain body of Jacob Ezer (may God avenge his blood) whom he had known for many years.

When the neighbors and relatives of Jacob's wife, Bievenida (?), heard of this report, and being aware of the woman's loneliness and her desolate plight, they immediately brought the non-Jew before our court.

"We, the undersigned, in a session of three judges, hereby make it known that the aforementioned non-Jew appeared before us, who speaking inadvertently stated that he himself had seen the slain body of Jacob Ezer lying on the road of Platamona, and that he had been a friend of the deceased for many years. This non-Jew also gave all the identification marks required by Jewish law and said that he had seen the slain body about sixteen months ago.

"After we heard the informal testimony of this non-Jew, we recorded all this in a document to which we signed our names and gave it to the widow as documentary evidence of the fact that she was free to remarry.

"This was signed on the first day of the week, the thirteenth day of Sivan, in the year 5332 (1572) at the fair of the town, Moskolor."

Judges: JACOB BARUK
JACOB BERAKAH
JOSEPH MIDIDAH

Answer:

Since I have previously dealt with similar cases I shall not discuss this subject at length, but shall merely allude to a few aspects of it.

Although there is an accepted principle in Jewish law that we permit a woman to remarry when the testimony regarding her husband's death is based on an incidental statement of a non-Jew, even when such testimony came to the non-Jew from another non-Jew, as is evident in the Responsa of Rabbi Israel Isserlein,[1] and of the Maharik,[2] yet it is necessary to examine three aspects of the testimony.

[1] R. Israel Isserlein (died 1460), author of the *Terumat ha-deshen.*
[2] R. Joseph Kolon (1420–80), author of a responsa collection.

The first consideration is the fact that the witness did not mention the name of the father of the deceased and the name of his town. There are legal authorities who require that the witness give both these names, as is stated by the Maharik in his Responsa. Secondly, there is the doubt that possibly when the non-Jew saw the body of Jacob Ezer it had been dead more than three days and, therefore, the face had changed beyond recognition. Thirdly, there is also the fact that the witness did not state, "I have buried it." And it appears that both the Rif[3] and the Rambam[4] are of the opinion that a witness is required to say, "I have buried it," in order to make his testimony acceptable. The Rashba,[5] furthermore, states that we ought to be guided by their opinion in this matter, since both are acknowledged as the greatest legal authorities. Yet, in spite of all these considerations, it is my opinion that the testimony of this non-Jew is sufficient to warrant us to permit this woman to remarry. The following are my reasons for this ruling:

As to the first difficulty, namely, that he had failed to mention the name of the father of the deceased and the name of his town, I am of the opinion that in our case, since the witness mentioned the family of the deceased, that is better than the mention merely of his first name and that of his father. For there are many people whose first names and the names of whose fathers are so common that they are used for illustrative purposes only and are, therefore, not sufficiently distinctive. Hence, when mentioning the first name of a man, we also add the name of his father or that of his town. The same view was expressed by my teacher, the Maharit.[6]

In our case, therefore, where the witness gave the family name of the deceased, Jacob Ezer, it is better than the mentioning of the father's name. And if upon investigation it will be proven that no one in that family by the name of Jacob Ezer is missing except this Jacob Ezer, the husband of Bievenida(?), the woman should be permitted to remarry, especially since the witness also gave the identification marks of the deceased which makes up for his failure to mention the name of his town. And although Rabbi Israel Isserlein affirms that we do not at all rely upon identification marks, yet in a case such as ours, where the witness gave the first and family name of the deceased, the mention of identification marks serves to strengthen the testimony. Also, the

[3] R. Isaac Al-Fasi.

[4] R. Moses ben Maimon (1135–1204).

[5] R. Solomon ibn Adret.

[6] R. Joseph Taitazak (1470–1551), teacher of R. Samuel De Medina; quoted in the *Bet Yosef*, in "Tur Orah Hayyim."

fact that the non-Jew said that Jacob Ezer was his friend whom he knew well, clearly indicates that he identified the right Jacob Ezer who was well known to the people of his town. Thus, there remains no doubt as to the identity of the deceased.

And as to the second difficulty, that possibly the witness found the body after it had been dead for more than three days, I feel that it can be overcome by the following accepted principle: that whenever one testifies that he "had seen a dead body," we take it for granted that he had seen it during the first three days since its death. The same decision was clearly presented by the *Tur*[7]. Although the *Tur* usually offers different views when rendering a decision, in this instance he gives no such views. He states, "Although it is an accepted principle that when the face of a slain body had been deformed by an injury, we can only accept testimony as to its identity provided we know that the body was found during the first three days since its death; yet, if a slain body had been found and it is recognizable, but we do not know when it was slain, we take it for granted that it was found within the first three days since its death, and the testimony as to its identity is accepted."

Thus, we see that even when the face of the slain body was deformed by an injury, yet as long as we are not certain that the body was found after the first three days since death, we take it for granted that it was found within the first three days; how much more so, as in our case, where no one testified that the face of the slain body was deformed by injury, we ought to be guided by those who take the more lenient view (to assume that the body of Jacob Ezer was found during the first three days since its death).

Nor need we be concerned in this case about the third difficulty, namely, that the witness did not say, "I have buried it." For a witness is only required to say, "I have buried it," when he had not mentioned the name of the deceased at all. But since, in our case, the witness did mention the first name and the family name of the deceased, there is no need for him to state, "I have buried it."

There are other reasons to corroborate my decision, but there is no need to deal with them at length. At all events, with this we rest the case and my decision is that the woman is free to marry anyone she chooses, provided two other rabbis concur in my opinion.

SAMUEL DE MEDINA

[7]R. Jacob ben Asher, #56.

12

III 78 — A QUESTION WHETHER RABBENU GERSHOM'S EDICT AGAINST PLURAL MARRIAGES ALSO APPLIES TO PLURAL BETROTHALS AND WHETHER ITS OBLIGATION RESTS ON GERMAN JEWS RESIDING OUTSIDE OF GERMANY IN THE SIXTEENTH CENTURY.

Question:

A German Jew residing in the city of Sofia delegated another to go to Adrianople to betroth a suitable woman in his behalf. The agent carried out his instructions. Upon his return to Sofia he did not find the German Jew. When he finally met him, the German Jew informed the agent that he disapproved of the woman whom the agent had chosen for him and that he had, in the meantime, betrothed another woman, the sister of his deceased wife.

Now people are murmuring against him, claiming that he had violated Rabbenu Gershom's ban against plural marriages. Also the relatives of the rejected woman threaten to inform the government authorities against him. They justify this action on the ground that he had violated the edict of Rabbenu Gershom.

Answer:

God is my witness that I find it difficult to render a decision in such a matter, as I previously stated in another instance. The basis for my reluctance to do so rests upon the following view expressed by the Ran[1] in one of his responsa, "I do not want to become involved in such a case and shall leave it to the French (and German) rabbis to pass judgment on it, for they know how Rabbenu Gershom's edict was established and how it operated in those countries. On the basis of this information they alone are qualified to render a decision in this matter." Now, if so great an authority as the Ran refused to render a decision in such an instance, surely I, who am but a novice in the law as compared with the Ran, ought to be most reluctant to rule in this case. Yet, I decided to present my opinion in order to satisfy the questioner who is eager to know my judgment.

Upon analysis of the case, it appears to me that no distinction ought to be made between the ceremony of betrothal (*erusin*) and that of marriage itself (*nisuin*). And since the people have agreed to abide by the ban of Rabbenu Gershom against plural marriages in our times as well the

[1] R. Nissim ben Reuben Gerundi.

distinction between betrothal and marriage does not enter into the case; for once a woman is betrothed to a man she is regarded as his wife. For the biblical verse, "If any man takes a wife," refers also to the act of betrothal. The Rashba likewise tells us in one of his responsa that if a man divorced the woman he betrothed and referred to her in the writ of divorce as his "wife," the divorce is regarded as valid. Also R. Israel Isserlein, the author of *Trumat ha-deshen*, holds the same view. Thus, we see that a betrothed woman can surely be referred to as a wife.

It is, therefore, obvious that the ban of Rabbenu Gershom also forbids plural betrothals, and hence the German Jew is subject to a penalty not only for having violated the ban of Rabbenu Gershom but also for having misled a Jewish woman. And if he refuses to marry her, he is required to grant her a divorce which ipso facto disqualifies her for marriage to a *Kohen*. And why should he do this to her? If he were to justify his conduct on the ground that he had taken a dislike to her, it can be refuted that it was his own fault since he disregarded a rabbinic commandment, namely, that one ought to perform the act of betrothal himself and not through an agent. He, therefore, is the guilty one; why, then, should his betrothed be victimized considering that she is entirely guiltless?

Yet, in spite of all this, when a full study of the case is made, it appears to me that the rabbi was justified in his decision that this man was not to be penalized for having violated the edict of Rabbenu Gershom. My reason for holding this view is that there exist several doubts regarding the binding force of Rabbenu Gershom's edict. One doubt pertains to the period of this enactment's duration. A number of great authorities are of the opinion that the ban of Rabbenu Gershom ceased to be binding after the close of the fifth millennium. There is also a doubt whether it applied only to Jews living in western Europe. And although one may argue that the German Jews have agreed to abide by this edict to this very day and to observe it in every land in which they live, at all events the doubt regarding its validity remains. One may also argue that their adherence to the practice of monogamy is based upon an accepted custom rather than on the binding force of the ban. It may also be pointed out that the ban of Rabbenu Gershom only forbade plural marriages but not plural betrothals. The same view was expressed by R. Joseph Kolon in his legal writings (Sec. 101), where he states, "The ban (of Rabbenu Gershom) only forbids one to marry a woman in addition to his wife, but where he is only betrothed to a woman and he decides to break relations with her, no one can compel him to write her a *ketubah* (whereby he commits himself to give her that which is due to a wife) . . . and that one cannot be legally compelled to consummate the marriage with his betrothed." I am, therefore, of the opinion that, although a betrothed woman is

legally regarded as a wife, yet in this case the edict of Rabbenu Gershom does not apply to the woman that was betrothed through the agent. For, just as in the case of oaths and vows so here we follow the meaning of words as they are accepted in common parlance; and in the language of the people the terms "betrothal" and "marriage" have distinct meanings.

It, therefore, seems to me that on the basis of Rabbenu Gershom's edict we cannot legally compel him to divorce the second woman to whom he is betrothed, nor can we coerce him to marry the first one who was betrothed to him through his agent. For, the double doubt definitely remains. There remains, first, the doubt pertaining to the duration period of the enactment of Rabbenu Gershom, namely, that it is not binding beyond the close of the fifth millennium . . .; and there is, secondly, the doubt whether it applies to countries outside of western Europe. And even if we are to agree that the ban is binding at all times and in all lands, it is almost certain that the edict only forbids one to marry a second wife. But if one betrothed a woman and then came to dislike her and subsequently betrothed another one, he may divorce the first.

Now, if we are lenient in the case of rigorous biblical prohibitions when a double doubt attaches to them, surely we ought to permit leniency in our case. It is, therefore, obvious that those who intimidate this German Jew by threatening to denounce him before government authorities are to be branded as informers and wicked men.

I do, however, impose on him the duty to pacify the first betrothed woman as much as possible and to try to persuade her to accept a divorce of her own volition. For as the Ran states in one of his responsa, "We have a tradition that there exists a communal ban or an edict of Rabbenu Gershom which has been universally accepted that no woman may be divorced without her consent." Since the term "all women" is used, it implies that the ruling refers both to a married woman and to a betrothed one. The Ran also asserts that "this prohibition has been universally accepted by all Israel," even though it was not included in the original enactment. I feel, therefore, that he must try to appease the woman.

SAMUEL DE MEDINA

13

III 112 — AN ATTEMPT TO DISQUALIFY A RABBI OF MARRANO DESCENT BECAUSE OF A RUMOR THAT HIS MOTHER WAS NOT JEWISH.

Question:

About forty years ago, a Portuguese Marrano and his wife arrived in Turkey with the object of returning to the Jewish faith. They established themselves in Salonika and were blessed with two sons who received a thorough Jewish education. One of the sons was elected to a rabbinic post in another community. A resident of that town who aspired to the same post, prompted by envy and hostility toward the incumbent rabbi and by a desire to replace him, spread a rumor that, while the rabbi's father was a Marrano, his mother was non-Jewish. On the basis of this information, he claimed that the incumbent was no longer qualified to exercise the functions of a rabbi.

The dissemination of this rumor planted a doubt in the minds of some members of the community whether the report might not be authentic and whether the incumbent should be retained in his post. And if it is conceded that the rumor is not sufficiently supported by facts to warrant the removal of the rabbi from his post, there still remains the question how to deal with the man who spread this evil report about the rabbi.

We, therefore, request you to instruct us in this matter.

Answer:

The man who contested the Jewish descent of the rabbi deserves to be punished, for he has maligned him, and his erring ways remain with him. There is no justification for doubting the status of the rabbi's Jewish lineage and he should continue to perform his rabbinic duties.

I do, however, desire to present the halakic basis for my decision.

There is a statement in the Talmud[1] that, "... when one is about to marry a woman of priestly lineage, he should investigate her family records up to four maternal generations. Rabbi Judah in the name of Rab maintains that this is only the opinion of Rabbi Meir, whereas the sages hold the view that no examination of family records is necessary, since we presume that all Jewish families are of legitimate descent. Rabbi Hama in the name of Rab maintains that only when the status of the woman's legitimate descent has been contested, should the man investigate her family records."

[1] Kiddushin, 76a–b.

Although there have been differnces of opinion among the codifiers regarding this subject, all of them agree that the requirement to examine a woman's family record applies only in a case involving her priestly lineage rights. In other cases, however, where the priestly lineage rights are not being considered, there is no need of examining a woman's family records, since we presume that all Israelites are in a status of legitimate descent.

I have in my possession a document containing a legal decision by my great teacher, Rabbi Joseph Taitazak, regarding the daughter of Don Judah Gedaliah, a childless widow, who was subject to a levirate marriage. Rabbi Taitazak released this widow from the obligation of the levirate marriage and permitted her to marry anyone she chose, on the ground that someone testified that her deceased husband had a son by another woman.[2]

Rabbi Taitazak also states, ". . . should anyone raise the question as to the possibility of this son's being of a non-Jewish mother, my answer would be that, unless there is a proof to the contrary, we take it for granted that the son is of a Jewish mother. Furthermore, we presume that all Marranos are descendants of Jews — as has been affirmed by another rabbinic authority (Gaon Zemah) and, just as we presume that every Marrano's father is Jewish, so do we take it for granted that every Marrano's mother is Jewish."

I have seen a similar view given by Rabbi Solomon, the son of the Rashbaz,[3] quoted in the *Bet Yosef*, "Eben ha-Ezer" *#3*, that ". . . if a Marrano testifies that another Marrano was held to be of priestly descent, then the latter is to be accorded all honors due to a *Kohen*, such as being called first to the reading of the Torah, and we do not apprehend the possibility of his being the son of a non-Jewish woman, for it is well known that in most cases the Marranos were careful not to intermarry with non-Jews."

From all this, it is to be concluded that there should be no doubt about this rabbi's Jewish lineage and that he is fully qualified to exercise his rabbinic functions in his community.

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[2] According to the rabbinic tradition, the wife's childlessness is not taken into consideration but only that of the husband. Hence, if there is proof that the husband had a son by another woman, the need of a levirate marriage is obviated. See L. Epstein, *Marriage Laws in the Bible and Talmud*, pp. 96–97.

[3] R. Simon ben Zemach Duran (1361–1444).

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III 215 — A WOMAN REFUSES TO ACCOMPANY HER HUSBAND WHO DESIRES TO SETTLE IN PALESTINE.

Question:

Reuben, a God-fearing and devout Jew, was prompted by a strong religious urge to settle in Palestine and took a vow to do so. His wife strongly opposes his plan, claiming that she does not want to uproot herself from her home town which is a small community. She also demands that if her husband persists in settling in Palestine, he should pay the sum of money due to her by the marriage contract.

Her husband, on the other hand, claims that she is legally obligated to accompany him to the Holy Land and, because of her refusal to do so, she should forfeit her regular *ketubah* rights and the additional sum of money mentioned in the *ketubah*, and that she is only entitled to receive the dowry she brought with her.

We, therefore, request you to instruct us regarding the legality of these conflicting claims. And if the Law favors the husband, we also desire to know whether the officers of the community or some of its individual members have the authority to use force in order to prevent the husband from carrying out his intentions, or whether they should be rebuked for attempting to do so.

Answer:

In reply to your question, I want to quote the Mishnah dealing with this subject,[1] "A man may compel all his household to go up with him to the Land of Israel."

Although there are differences as to the grade of importance between one town and another in the Diaspora and likewise between towns in Palestine, at all events, when it is a matter of leaving the Diaspora and going to Palestine, if the wife refuses to join the husband on the trip she forfeits the *ketubah* rights. Thus, the Ribah[2] states, ". . . that even when the present city of residence outside of Palestine has a majority of Jewish residents and the city in Palestine to which the husband intends to go has a majority of non-Jewish residents — or in the case when both husband and wife live in Palestine and she insists on leaving

[1] Ketubot, 110b.

[2] R. Jacob ben Asher (1280–1340), author of the *Arba Turim*; "Eben ha-Ezer," #75.

the country — the wife is to forfeit her *ketubah* rights." On this there is full agreement.

But R. Hayyim Hakohen, quoted by *Tosafot*,[3] maintains that in his time no one was compelled to go to Palestine owing to the risk of the journey. The Rashbaz[4] likewise states[5] that we only compel one to settle in Palestine when there is no danger involved in traveling to the land; but when there is danger, it is forbidden to compel one to go to the Holy Land.

I am, therefore, of the opinion that a woman who refuses to go to Palestine with her husband should forfeit all her *ketubah* rights except her dowry. For, in our time, we see many people traveling to the Holy Land and the journey involves no risk, especially since both Palestine and our country are under the same ruler.

Surely those who have attempted to hold back the husband from going to the Holy Land deserve to be rebuked. For our sages have maintained that the religious act of residing in Palestine outweighs all others. They have also affirmed that he who walks four cubits within the Holy Land, his sins are forgiven.[6]

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[3] Ketubot, 110b; R. Hayyim ben Hananel Hakohen, French Tosafist of the 12th century.

[4] R. Simon ben Zemah Duran.

[5] *Bet Yosef*, "Eben ha-Ezer," #76.

[6] Ketubot, 111a.

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IV 101 — A QUESTION WHETHER A SALESMAN IS LIABLE TO PAY FOR THE LOSS ENTAILED IN THE SALE OF GARMENTS WHICH HE SOLD WITHOUT PERMISSION OF THE OWNER BECAUSE HE ALLEGEDLY MISTOOK THEIR IDENTITY.

Question:

The deceased Baruk Krispi, when he was residing in Venice, sent a shipment of garments from Venice to Salonika to his brother-in-law, Jacob ibn Etter. It appears that there was an understanding between them as to what was to be done with these garments. Among these garments which Baruk sent to Jacob were also eight garments belonging to Moshe ibn Alhab which were to be shipped from Salonika to Constantinople. When these garments were received by Jacob, he sold two of the eight garments belonging to Moshe and the other six he sent to him in Constantinople.

After it became known that the two garments belonged to Moshe, the latter appointed someone to be his agent who was to collect the money for them. The agent received the money from Jacob and sent its equivalent in cloth to Moshe. When Moshe received the cloth, he sold it on credit and sustained a financial loss.

Later on Baruk died and, after the passing of time, Moshe came and demanded of Jacob that he reimburse him for the loss he had sustained due to the fact that Jacob had sold his garments in Salonika on six months credit at the rate of 77 aspers per cubit, and also because of the loss Moshe sustained later, when he sold the cloth on credit, and the debtors failed to pay their debts. He maintained that these losses were caused by Jacob. Moshe also claims that all this was done by Jacob although he knew that the garments belonged to him. For, Moshe affirms, it is hard to believe that when Baruk sent the garments to Jacob, he failed to include a written document stating that the eight garments belonged to him.

Jacob, on the other hand, maintains that he was under the impression that all the garments he had received belonged to his deceased brother-in-law. Moshe, however, demands that Jacob take an oath to the effect that he did not know that the eight garments belonged to Moshe both when the shipment of garments was received by him and when he sold the two garments. And even if Jacob be required to take an oath, there is yet the doubt as to whether Jacob is liable to pay a part or the full amount of the loss sustained by Moshe.

Jacob, for his part, claims that he has nothing to do with the loss

Moshe sustained and that he cannot legally be required to take an oath since there is a doubt connected with this claim, and according to the Law one cannot be made to take an oath in such an instance.

Answer:

I note that there are two considerations in this case that should be fully analyzed. First, if we grant that Jacob ibn Etter knew that the two garments belonged to Moshe and yet sold them here in Salonika, what would the law require? The second consideration is whether or not we should grant that Jacob be adjudged legally guilty because he made use of property which belonged to someone else and so caused a loss to the owner; since he affirms that he did not know that the garments belonged to anyone except his brother-in-law, is he to be freed from any liability? And if we believe him, is he to be required to take an oath or to submit to the penalty of a ban if he is not telling the truth? Or is he to be freed even from suffering a ban?

It is my firm opinion that legally Moshe has no claim whatsoever on Jacob. My reason for this judgment is that the law rules that even a robber is not required to pay more than the actual price of the article he robbed as determined by the value of the time and the place of the robbery. Thus, if the price of the article at the time he sold it was four units and he sold it on credit for five units, the law requires that he pay the owner of the article only four units. For the Mishanh tells us that all robbers pay the owners of the robbed articles only according to the current price at the time and the place of the robbery.[1]

We are also told in the Talmud,[2] "Samuel said: If a man robbed his neighbor of a cake of pressed dates containing fifty dates which, sold together, bring fifty (*perutot*) less one, whilst sold separately, realize fifty *perutot;* in case of secular property (to an ordinary man) he must pay forty-nine (*perutot*); in the case of *hekdesh* (if consecrated property was stolen) he must pay fifty plus the fifth thereof." Now, if in the case cited in the Talmud, where the robber surely sold them separately for fifty *perutot*, yet he is required to pay fifty *perutot* plus a fifth of it only when it was stolen from the sanctuary, but otherwise the Law is lenient, requiring the robber to pay only forty-nine *perutot*, surely, all the more so, in our case where we cannot require him to pay according to the current price on a credit basis as prevailed in Constantinople, and not even according to the regular price existing in Constantinople, but according to the price at the time the garments had

[1] Baba Kamma, 93b. [2] Baba Mezia, 99b.

been shipped to Salonika and not more than that. Jacob, however, went beyond that by paying him according to the price on a credit basis of six months, and yet Moshe demands more. Surely, his claims are not justified especially since, when Jacob transacted the sale, he honestly believed that the garments belonged to his brother-in-law, for it is generally accepted that when one sends an article it usually belongs to the sender. Jacob, therefore, committed no wrong. And even if we grant that it is the general practice of merchants to write a statement as to the ownership of the merchandise, it is possible that special circumstances prevented him from doing so.

All these considerations make it clear that the law is on the side of Jacob. And no further proof is necessary except to substantiate the validity of the argument advanced by Jacob in which he said to Moshe, "I have nothing to do with you" (or "I do not recognize you as a litigant."). Jacob's argument is corroborated by the following responsum of the Rash which is quoted by his son, R. Jacob *Baal ha-Turim*, in his works:[3] Reuben demanded books from Simon which Reuben lent to him. These books were later entrusted to Levi as a pledge on a loan which Levi made to Simon. Reuben claims that there was an understanding between Simon and Levi that the latter would return the books to Reuben upon Simon's paying his debt to Levi. This was done. When Levi subsequently returned the books to Reuben, the latter complained that they were damaged. To this Levi replied that Reuben had no claim on him ("I have nothing to do with you"), since Simon who had given the books to him permitted him to use them for the purpose of study. The Rash then states that this claim of Levi would have been valid if Levi were under the impression that Simon had been the rightful owner of the books. But considering that he knew that the books belonged to Reuben and that Simon instructed him to return them to Reuben, there is no validity to Levi's claim.

From this we may conclude that if Levi had not known that the books belong to Reuben, his claim would have been regarded as valid, and he would have been justified to say to Reuben, "I have nothing to do with you." In our case, therefore, since Jacob received nothing directly from Moshe but from his brother-in-law, and since he did not know that the garments belonged to Moshe but thought that they belonged to his brother-in-law, and when the latter learned what Jacob did, he accepted it but instructed him to forward the money for the garments to Moshe, indeed the argument advanced by Jacob is valid and Moshe has no legal claim against him.

[3] R. Jacob ben Asher, *Arba Turim*, "Hoshen Mishpat," #72.

And if one should raise the question how do we know that Jacob did not know that the garments belonged to Moshe, my reply is that we believe Jacob on the basis of the talmudic ruling that when two litigants present conflicting claims, and if one affirms that he is certain and the other says "maybe," we regard the claim of the one who is certain as the better of the two. I also base my opinion on the decision of R. Jacob *Baal ha-Turim*[4] who said, "... whenever a claim of one litigant is of a doubtful character, we do not impose an oath on the other litigant. And even for moral reasons, one is not required to take an oath, if the claimant admits that he is doubtful, while the defendant affirms that he is certain." In our case, therefore, since Moshe cannot affirm that he is certain, whereas Jacob insists that he is certain that he did not know that the garments belonged to Moshe, we should, indeed, believe Jacob and he should not be required to take an oath.

If one should, furthermore, say that Jacob be required to submit to the penalty of a ban (i. e., by stating that if he is lying, he be under a ban), I still maintain that he ought not be required to do so, since, as I have previously indicated that even if Jacob were to be placed in the legal category of a robber, he still would not be required by law to reimburse Moshe for the loss he sustained due to the fact that the garments were sold in Salonika. This conclusion is based on the reasons I have given previously. Nor is there any need to offer additional reasons, for in either event Jacob is free from any liability. Why then should he be required to submit to a ban? And as to the claim advanced by Moshe that he sustained a loss owing to the fact that the cloth was shipped to him and that he sold it on credit, surely there is no validity to this claim, since he brought this loss on himself, for who compelled him to sell it on credit? And especially since it was his own agent that sent him the cloth.

Finally, after a careful analysis of all the phases of the case, I find nothing to warrant the conclusion that Jacob be adjudged liable to pay for the loss. Also the fact that Moshe did not proceed to bring charges against Jacob until after the death of Baruk makes it obvious that he had no legal claim against Jacob during the life of Baruk. It is, therefore, definitely clear that Jacob is in the right and that Moshe has no financial claim on him, not even a superficial claim.

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[4] *Ibid.*, "Hoshen Mishpat," #75.

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IV 128 — A JEWISH RENEGADE IS ENTICED TO RETURN TO HIS FAITH BY BEING OFFERED A REWARD WHICH LATER IS WITHDRAWN.

Question:

Reuben was visiting the home of his relative, Simon, in Frankia (Italy). Simon had been converted to Christianity and resided in a community predominantly Christian. Reuben strongly urged him to return to the Jewish fold, to leave that country and to settle in a more Jewish community. The wife of the renegade also pleaded with Reuben to try to persuade her husband to return to his ancestral faith.

Simon, at first, refused to be influenced by Reuben but finally consented, stipulating the following conditions: that Reuben lend him the sum of a thousand Perahim for a period of two years; that the loan be given to him when he arrived at the place of destination where he would return to the Jewish faith. He also asked that he be given at once 300 Perahim as a guarantee that Reuben would keep his pledge, and should the latter fail to give him the residue of the loan, he would forfeit the 300 Perahim. Reuben, in his eagerness to effect Simon's return to the faith, lent him 300 Perahim and also signed a document in which he committed himself to abide by the conditions set by Simon.

Soon Simon settled in another country, returned to Judaism and asked Reuben to give him the remainder of the loan. Reuben, however, failed to keep his promise, giving the following reasons for his refusal: He maintained that his major purpose was to lure Simon back to his faith and, in order to overcome the latter's obstinacy, he was impelled to make him an attractive offer. He also believed that once Simon was back in the Jewish fold he would ultimately remain there of his own volition, without thought of any reward. He furthermore stated that he was not obligated to fulfill his promise, since it was not made in the form of an oath, nor was it made in the presence of a duly constituted Jewish court, and it lacked the halakic procedure and the formalities required by Jewish Law to make a pledge legally binding. Reuben also demanded that Simon return to him the 300 Perahim which he claimed were not given to the latter as an outright gift, since his readiness to gamble with his money and to make pledges were only motivated by a determination to effect Simon's return to the Jewish fold. Simon, however, demands the remainder of the loan and insists that, unless this is done, he will not return the 300 Perahim.

Now we pose the question: Is Reuben obligated to give him the 700 Perahim because of his written pledge, or is Simon required to return

the 300 Perahim in consideration of the fact that Reuben's promise was not made in a manner that was legally binding? What is the Law in this case?

Answer:

It is quite clear that Reuben is not obligated to keep his promise regarding the loan. And no one ought to say that Reuben's original intentions were to deceive Simon in order to cause him to repent and to become an observant Jew. On the contrary, by this very act Reuben performed a religious duty, for Simon in his former status was like a minor who knows nothing, or like women who are instructed to serve God out of fear or because they are promised some reward. This principle was pointed out by Maimonides[1] who said, "When we give religious instruction to minors, women or common people, we ought to teach them to serve God out of fear or by promising them a reward. This method should be followed until they mature mentally, when we may gradually reveal to them the deeper meanings of religion and, thereby, slowly train them to understand religious values until they attain the level of mental fitness to serve God out of love."

Reuben, likewise, utilized the same approach in dealing with Simon when he offered him an attractive reward to cause him to return to his faith. He believed that, once Simon arrived at a center of Jewish learning, he would himself realize that it was unworthy of a Jew to be enticed by a reward in order to serve God . . . Reuben expected, therefore, that once Simon realized that, he would of his own accord at once return the money he received from Reuben and would also be very grateful to the latter for having aided him to return to his faith and to merit a share in the world to come. And should Simon persist in his demand, then, indeed, he ought not to be befriended by his fellow Jews . . .

From all the aspects of the case, it is evident that Reuben acted wisely and did what a religious Jew should do under the circumstances. Simon, on the other hand, ought to return the 300 Perahim to Reuben and should not show himself to be an ingrate, but should rather manifest profound appreciation to Reuben for helping him to return to Judaism.

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[1] *Mishneh Torah,* "Hilkot Teshubah," Chapter X.

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IV 369 — COMMUNAL AUTHORITIES OF A MAN'S FORMER HOME TOWN DEMAND THAT HE PAY HIS TAX OBLIGATIONS TO IT BECAUSE THEY BELIEVE THAT HE INTENDS TO RESETTLE THERE.

Question:

Reuben moved from his home town and settled in another, where he has resided for a period of twelve months. In the town where he presently resides, he contributes (as do other residents) to the regular charitable funds which are collected weekly.

Now his former townsmen demand that he contribute toward the community taxes of their town. Their reason for making this demand is that in matters pertaining to communal taxes, the determining factor is a man's intentions. And since they know that the reason that prompted him to leave his former town was his fear of being persecuted by the non-Jewish military powers, they believe that his intentions are to return to their town as soon as peace and order are restored in it. They, therefore, demand that either he pay his tax obligation to their town or take an oath to the effect that he had decided to remain permanently in the town where he now resides even if peace be restored in his former town.

Reuben, however, maintains that he is neither obligated to take an oath nor to pay taxes to his former town, since he has left that town and has been living in the new community for twelve months where he is regarded as a permanent and tax-paying resident. He asks, furthermore, why he should be legally required to take an oath whether or not he plans to return years later to his former town? He also affirms that, if he should subsequently decide to return to the town and to settle there permanently, then only is he to be regarded as a permanent resident and subject to pay taxes due at that time.

We, therefore, request you, our revered and learned teacher, to instruct us as to the legality of Reuben's claim.

Answer:

My primary purpose in this responsum is to ascertain what the Law is according to the teachings of the Talmud and the codifiers. If, however, this community has agreed upon ordinances pertaining to this matter, they should be guided by such regulations, provided they had been enacted before the events in question occurred.

It seems to me that talmudic law is on the side of Reuben, and this

is the reason for my opinion. The Mishnah states,[1] "How long must one live in a town to be counted as one of the townsmen? Twelve months. But if he purchased a home, he is at once counted as one of the townsmen." And we read in the Gemara, "But is twelve months' residence required for all imposts? Has it not been taught: (A man must reside in a town) thirty days to become liable to contribute to the soup kitchens, three months — for the charity box, six months — for the clothing fund, nine months — for the burial fund, and twelve months — for contributing to the repair of the town walls? (Why then does the Mishnah say that twelve months' residence is required for all imposts?) R. Assi replied in the name of R. Yohanan: 'Our Mishnah, in specifying the period of twelve months, was thinking of the repair of the town walls.' " (This agrees with the Baraita.)

And the Rif[2] states, "Because all these imposts are mandatory, we can collect them even against one's will, since they are all comparable to the tax used for the repair of the town walls." Also the author of the *Nimuke Yosef*,[3] when commenting on the talmudic passage, "When one resides in a town for a period of thirty days, he is to be counted as one of the townsmen and is liable to contribute to its charity funds," explains that the charity fund known as *kuppah* is for the town poor only; the fund *tamhoy* is for all poor people wherever they may come from; the clothing fund is for the poor; the burial fund is for additional expenditures to pay for shrouds needed for the poor; and the fund for the repair of the town walls is for the care of the valleys that surround the town wall. And the *Nimuke* furthermore states that, when the Mishnah speaks of the fund for the repair of the town walls, it also refers to all other taxes of the town and to the funds needed to cover its general deficit.

I, therefore, say that since we read in the Mishnah, "How long must one be in the town to be counted as one of the townsmen?", it seems clear that the man to whom the Mishnah refers is not a permanent resident of the town, but to one who had recently arrived there from another community. It is with regard to such a newcomer that the Mishnah asks, "How long must one be in the town to be counted as one of the townsmen?" Of such a man, the previously-quoted Rif says, "Because all these imposts are mandatory, we can collect them even against his will."

It is, therefore, obvious that, since Reuben had resided in the new

[1] Baba Bathra, 8a.
[2] R. Isaac Al-Fasi.
[3] Joseph Habiba, 14th century, author of *Nimuke Yosef*.

community twelve months, and since the people of this town are legally empowered to compel him to pay the town taxes, how can one claim that he be made to pay taxes in two towns? Such a conclusion, indeed, would make no sense. For it is well known that our sages have set fixed limits in such cases, and there are definite rules as to whether one is liable to be taxed in the country in which he lives or in the country from which he departed.

I also want to mention a responsum of R. Israel Isserlein,[4] which is relevant to our case. The responsum deals with four wealthy men who departed from Tiberias to settle in Sepphoris. R. Israel states, "At all events, it appears to me that if these four men fail to pay the regular annual imposts in Sepphoris it would be tantamount to robbing the government treasury . . . And considering that these four men are transacting their business affairs and are earning their livelihood in Sepphoris, is it justified to expect them also to pay taxes to Tiberias and thereby be taxed in two places?" I am glad that my view is in agreement with that of R. Israel Isserlein. In our instance, where talmudic law requires Reuben to pay taxes to the town in which he has resided for twelve months, he surely is not obligated to pay taxes to two towns. Thus, if one left his home town and settled in another, where he resided for a fixed period, in accordance with the time requirement stipulated by our sages, then, though he intends to return to his former town, he is only obligated to pay taxes to the town where he presently resides. The same opinion was given by the author of the *Nimuke*, who said, "We derive from the Gemara the ruling that when a man settles in a town even temporarily, yet if he lived there for twelve months he is regarded as one of the townsmen and is required to pay all the taxes of the town and to share in raising funds for its communal needs." Thus, we note that a man's tax obligation is limited to the time and the place of his residence.

Nor is there any obligation on the part of Reuben to take an oath, for even though we knew that he intended to return to his former town, he could not because of this be required to contribute to the imposts of that town. And although the Talmud states[5] that when a man intends to return to his former town he is obligated to abide by the rigorous practices that prevail both in his former and in his present town of residence, yet this principle applies only to religious matters, but not to money matters; and one cannot be derived from the other.

[4] R. Israel Isserlein, author of the *Terumat ha-Deshen*, #346.

[5] Pesahim, 50a.

Furthermore, I maintain that when our sages dealt with this problem, their only concern was whether the authorities of the town where he presently resides can compel him to contribute toward its taxes and when this tax obligation begins. But there was no doubt in the mind of the rabbis that, once one leaves his town, he is immediately freed from the obligation of paying its taxes, even though he had not as yet lived twelve months in the new town of his residence.

The same conclusion is to be drawn from what the author of the *Mordecai*[6] wrote in the name of R. Tam,[7] that when the ruler of a town levied a regular tax or a special impost on his subjects and some of them fled the town, then those who left the town are not obligated to contribute toward such taxes, and those who remained cannot legally compel them to do so. R. Tam, however, states that if they returned to the town and settled there again, there is a possibility that they may be required to contribute toward this tax. Thus, we see that where the men who fled the town later returned, R. Tam does not rule that they are definitely obligated to pay to the taxes of the town, but is rather in doubt as to whether they are under any obligation. We also note that R. Tam holds the view that, even though the tax was levied on the town while the men were still living in it, yet, if they fled the town and did not return, they are not obligated to pay the town taxes, and if they did return to town there is a doubt as to whether or not they are legally required to pay this impost. If, therefore, one left his town prior to the time when the impost was levied, he surely ought not be required to pay such tax, even if he has intentions of returning; or if he did return to the town, in either event he is not required to pay toward this tax.

And although R. Isserlein opposes the view of R. Tam and states that, "It is the general custom in all communities that once a tax has been levied on a town, no resident leaving the town is free from the obligation to pay his share of the tax. And even if we disregard this communal custom, Jewish Law requires that once the tax was levied by the king, all the townsmen, including their personal effects, are subject to this tax obligation. And even if one fled the town prior to the collection of the impost, he is still legally obligated to pay his share of it," yet we see that all authorities agree that if a man leaves his town prior to the time when the tax was levied by the king, he is definitely not obligated to pay his share of this impost. All the more so in our case, where Reuben left his town and resided twelve months in

[6] Mordecai ben Hillel, *Mordecai* on the *Al-Fasi*, Baba Bathra, Chapter I.
[7] R. Jacob ben Meir.

the new community, it is certain that the people of his former town cannot legally compel him to contribute toward their taxes.

Moreover, if one examines the writings of the Maharik[8] in which he refers to the controversy between R. Isserlein and R. Tam, he will note that all that I have written regarding the legal aspects of this case is strictly in accord with the Law. I do, however, reiterate that this conclusion of mine is based on the talmudic law which is to be followed only where there are no definite communal ordinances previously enacted. I am prompted to say this because our legal authorities, especially those of a later age, have ruled that in all matters pertaining to taxation we are to be guided by the existing customs of each community, provided that the communal enactment, which supersedes the Law, had been in force for a long time and is widely known to all.

SAMUEL DE MEDINA

I wrote the preceding responsum some time ago at the request of Rabbi Hayyim Obadiah. I just received a letter from the people of the community of Lepanto who ask that I give my opinion (on a subject similar to that of the preceding responsum). On reading their correspondence I was happy to note that my conclusions, which are based on the Law, were in agreement with their customs and the communal enactments which prevailed there for many years.

[8] R. Joseph Kolon, section 2.

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IV 407 — THE JEWS OF JANINA ATTEMPT TO EXCLUDE VISITING JEWISH MERCHANTS WHO COMPETE WITH THE LOCAL MERCHANTS AND WHO REFUSE TO ABIDE BY EXISTING COMMUNAL ENACTMENTS.

Question:

A. The Jews of Janina complain about visiting Jewish merchants who compete with the local shopkeepers, depriving some of them of their livelihood. They also refuse to abide by the existing communal enactments. They, therefore, desire to know whether these visiting merchants can legally be kept out of the city. And if there is no halakic basis to exclude these merchants, would it be permissible for the Jews of Janina to use their influence with the local government officials to forbid these non-resident merchants to sell their merchandise in the city?

B. They also desire to know whether a dissenting minority can legally prevent the enactment of an ordinance approved by the majority members of the community for the general public welfare?

Answer:

A. I have read the legal correspondence sent by the local rabbi and, although I partly agree with him, yet the subject under discussion is not as simple as he considers it to be. This, in essence, is what I wrote to him:

I was asked to answer two questions in a hurried manner, without being given sufficient time to make a thorough study of the cases and to arrange systematically the reasons for my decision. And since the *tanna* cautions us to be careful and patient in judgment, I was reluctant under the circumstances to present my views in these two matters. I was, however, prevailed upon by the persistent pleas of the questioner and I shall, therefore, present my views as briefly as possible, relying on the proofs of the case as they are presented by the rabbi who was the first to adjudicate it.

Let me first reiterate that the law pertaining to this case is not as simple as it appears to the local rabbi. The reason (for the difficulty) is that the opinions expressed in the Talmud and by the halakists of former generations regarding such cases do not apply to our own time, for in their times Jews lived in countries governed by different rulers, whereas we Jews live under one sovereign who imposes no restrictions on travel or on commercial activities on any of his subjects. We see,

for instance, that merchandise from Sofia is sold in Angora without any opposition on the part of the local merchants. The same is the case regarding the sale of Turkish products in Egypt and in other places. And considering the fact that Moslem and Christian merchants are permitted to sell their wares all over the Empire, why should Jews discriminate against Jewish merchants, especially since the law of the land offers freedom to all people to pursue their mercantile activities in every part of the Empire?

It is, therefore, obvious that it is illegal to deny these non-resident merchants the right to sell their products in Janina. This opinion is substantiated by a responsum by the *Haze ha-Tenufah*[1] in which it is maintained that in a country where all inhabitants are the subjects of the same sovereign and all are required to pay taxes to him, the residents of one city may pursue their business activities in another. The same is the opinion of the Rash[2] who states in his Responsa that, if a city is inhabited exclusively by Jews, Jewish merchants from the outside may sell their merchandise in that city, provided that they are all subjects of the same sovereign. This is all the more true in the case of the Ottoman Empire where no trade barriers whatsoever are put in the way of foreign merchants. Surely, the Jews of one city cannot legally keep out Jewish merchants of another city or of another kingdom.

This opinion is also in agreement with a responsum by the Rashba who states that the residents of a city are not permitted to impose their local tax laws or interdictions on visiting merchants. The Rashba, however, adds that if the visiting merchants were warned in advance that in the event that they sell their wares in the city and derive profit from the sale, they would be required to share with the residents in the local tax obligations in proportion to their earned profits, they are subject to local imposts. Thus, we see that once the visiting merchants are warned in advance, they may be required to pay local taxes. Similarly, in the case of Janina, local taxes may be imposed on the visiting merchants.

Also relevant to this case is a responsum by the Maharik[3] who maintains that, while the law does nor permit Jews to exclude visiting merchants from their town, yet the local residents may indirectly set up barriers to prevent visiting merchants from entering the city, such as influencing the city government officials to keep them away from the city. Although this is on the surface a rather surprising decision, yet who would question the authority of the Maharik?

[1] Mentioned in the *Bet Yosef*; R. Moshe ben Moshe of Brussels.
[2] R. Asher ben Yehiel.
[3] R. Joseph Kolon, #195.

Although no restrictions are imposed upon visiting non-Jewish merchants in Janina, there may be a justification for the attempt on the part of the Jews to exclude Jewish non-resident merchants in order to protect the interests of the Jewish community in its relationship to the government. For Jews have a greater moral responsibility in their relations to the government than the non-Jews, for it bears out the saying in the Talmud[4] that, "The wrong conduct of Jews is often responsible for the suffering that is visited upon the world."

I am, therefore, of the opinion that the visiting merchants are to be warned in advance (according to the decision of the Rashba) that, if they derive profit from the sale of their wares, they will be subject to the local enactments regarding taxation. And if the visiting merchants refuse to submit to the local tax enactment, the residents may set up barriers to prevent them from coming into the city as suggested by the Maharik.

B. As to the second question, I am of the opinion that although the earlier halakists have pondered over it and followed the principle that, where an existing communal ordinance benefits one group and harms another, even one member of the community may stand in the way of its enactment, yet after a careful analysis of the case, it is my judgment that all members of the community are required to submit to an ordinance adopted by the majority. This also applies to any ordinance that the majority of the community is about to enact to serve the general welfare of the community. In such a case, too, the minority must abide by it. Similar decisions were rendered by the Rashba and the Rash and are based on the biblical law that we must follow the rule of majority.

I have once before rendered a decision[5] regarding the ordinance pertaining to wool made in Salonika, where I ruled that the dissenting minority must submit to the enactment adopted by the majority, and that the minority cannot oppose it on the ground that it would harm the interests of a few. The doubt regarding the ban is one related to a biblical law, and one is required to abide by it. Above all, since the enactment has already been adopted, it is surely binding on all members of the community.

[4] Yebamot, 63a.

[5] Responsa of R. Samuel De Medina, II, 117.

Notes

Chapter I

BACKGROUNDS

Notes consisting of Roman and Arabic numbers, without author and title, refer to the four divisions of De Medina's Responsa (see above, p. 1), the Arabic numeral indicating the responsum.

[1] This study is based on De Medina's collection of Responsa entitled, *She'elot u-Teshubot Maharaschdam*, ed. Lemberg, 1862.

[2] This brief account of the history of the Ottoman Empire is based on the articles by J. B. Bury in the *Cambridge Modern History*, vol. I, pp. 67–103, and by Moritz Brosch, *ibid.*, vol. II, pp. 104–139.

[3] J. Reznick, *Le Duc Joseph Nasi*; Cecil Roth, *The House of Nasi*: *Duke of Naxos*.

[4] M. Franco, *Essai sur l'Histoire des Israelites de L'Empire Ottoman*, p. 28.

[5] According to S. W. Baron, *The Jewish Community*, vol. I, p. 106, neither the Christian Patriarch nor the *Hakam Bashi* was a regular member of the Supreme Council, known as the *Divan*.

[6] H. Graetz, *Dibre Yeme Yisrael*, vol. VII, p. 28

[7] S. W. Baron, *The Jewish Community*, vol. I, pp. 197–198.

Chapter II

THE JEWISH COMMUNITY OF SALONIKA

[1] S. Rosanes, *Dibre Yeme Yisrael be-Togarma*, vol. II, p. 18.

[2] Abraham Danon, *R. E. J.*, vol. XL, p. 206.

[3] III, 124: שאלוניקי שהיא עיר שרובה ישראל; II, 181; IV, 339, 445.

[4] IV, 12.

[5] According to I. S. Emmanuel, *Histoire des Israelites de Salonique*, p. 13, the phrase "from Salonika will go forth the law," was frequently used.

[6] II, 181; III, 124; IV, 339; IV, 445.

[7] Abraham Danon, *R. E. J.*, vol. XL, p. 207.

[8] I. S. Emmanuel, p. 14.

[9] II, 55: בזמננו זה שהוא דבר מפורסם בין הגוים שאין אנו יוצאים ממקומנו ביום השבת. ואפילו דייני המלכות ממתינים כשיש הפרש בין אדם לחברו גוי עם ישראל בשבת ואומרים שאין להכריח לישראל לדבר דינו בשבת.

[10] M. Franco, p. 23. According to I. S. Emmanuel, the earliest Jews to settle in Salonika came from Alexandria about 140 B. C. E.

[11] Benjamin of Tudela, *Itinerary*, ed. Asher, p. 18.

[12] I. S. Emmanuel, p. 50.

[13] IV, 364.

[14] II, 40: והדבר ידוע שהאשכנזים קדמו לישב בשאלוניקי.

[15] S. Rosanes, *Dibre Yeme Yisrael be-Togarma*, vol. I, p. 170.

[16] III, 120: כי בעונות הדור אפסו האמונים הרבנים הזקנים מאשכנז באלו הגלילים; this statement was written about 1568.

[17] II, 40, 42.

[18] I, 26.

[19] S. Rosanes, vol. I, p. 165.

[20] I. S. Emmanuel, p. 58.

[21] I. S. Emmanuel, pp. 60, 63; Rosanes, vol. I, p. 149.

[22] I, 35. See I. S. Emmanuel, p. 64; also I. Sonne, מנהג האנדלוזים שהתגוררו בסיציליא, in *Journal of Jewish Bibliography*, Vol. III, No. 3, July, 1942, pp. 84 ff.

[23] S. Rosanes, vol. I, pp. 145, 146.

[24] I. Loeb, *R. E. J.*, vol. XV, p. 270. This letter is a tribute to the spirit of solidarity and Jewish loyalty that animated the Jews of Salonika toward their oppressed brothers in other lands. Mention should be made that at the time when this letter was written many Salonika Jews were themselves impoverished owing to a series of calamities that had befallen them.

[25] I. S. Emmanuel, p. 144.

[26] S. Rosanes, vol. I, pp. 133, 134.

[27] I. S. Emmanuel, p. 57.

[28] I, 35: ונתבלבלו המנהגים וכמעט נהפך כל העולם לסדר התפילות ספרד יען כי הם הרבים במלכות זה ותפילתם צחה ומתוקה וכולם או רובם הניחו מנהגם ונמשכו אחר מנהג הספרד כמו שהוא היום בעיר שאלוניקי.

[29] Abraham Danon, *R. E. J.*, vol. XL, p. 209. A Spanish writer, Gonsalvo de Illescas, states: "The Jews of Salonika . . . . . use the Castilian dialect as their daily tongue. I observed that the Jewish children in Salonika speak Spanish as I do, or even better."

[30] H. Graetz, *Dibre Yeme Yisrael*, vol. VII, pp. 34, 35. See also I. S. Emmanuel, pp. 204–5.

[31] IV, 296. De Medina states that when his deceased brothers had sold his right of occupancy in a house, he received 4,000 aspers, whereas ten years later he would have received 100,000 aspers for the same.

[32] IV, 12: שכל קהל וקהל יוון ויפרנס לעניים שבבית הכנסת שלו . . . שכל קהל וקהל כעיר בפני עצמו; I, 28; Isaac Adarbi in his Responsa collection, *Dibre Ribot*, #60 sets down the following qualifications for a congregation: בית הכנסת נקרא במקום שיש להם פרנסים וחברת קברים וגובים תמיד וצדקה.

[33] IV, 12: ידוע ומפורסם בעיר הזאת שכל עם ולשון חונים במקומם המיוחד להם. Rabbi Joseph ibn Leb in his *She'elot u-Teshubot*, II, 72, states: ואפילו בשאלוניקי שכל איש ואיש מדבר בלשון עמו וכשבאו מן הגירושין כל לשון ולשון קבעו קהל בפני עצמו.

[34] IV, 402. Each of these Lisbon synagogues later claimed the membership of David ben Nahmias, who was a wealthy man and who had returned from another city. His father had been affiliated with the old Lisbon Congregation prior to its division.

[35] I. S. Emmanuel, p. 146.

[36] II, 182.

[37] I, 36.

[38] IV, 278.

[39] II, 76. See Chapter III about the controversy between R. Samuel and the rabbis of Safed regarding the forced resignation of Rabbi Jacob Samut.

[40] II, 87.
[41] II, 89.
[42] II, 76, 89.
[43] I, 36. It is surprising that the leaders of Salonika congregations did not enact a decree forbidding synagogues to accept new members without the consent of the majority of the members of their former congregations.
[44] II, 55.
[45] IV, 371.
[46] I. S. Emmanuel, p. 90.
[47] III, 127; IV, 12, 224.
[48] Joseph Karo, *Abkat Rokel*, #56.
[49] Azulai, in his *Shem ha-Gedolim*, p. 40, says that Joseph Taitazak did not sleep in a bed for forty years, which was one of the many aspects of his ascetic life.
[50] IV, 203.
[51] S. Rosanes, vol. II, pp. 28, 32.
[52] IV, 353.
[53] I. S. Emmanuel, pp. 176–184.
[54] II, 94; III, 34, 38, 52, 200; IV, 316, 353, 369, 401.
[55] I. S. Emmanuel, pp. 159, 160; II, 55.
[56] III, 43.
[57] I. S. Emmanuel, p. 160.
[58] See Chapter VI, under the subtitle, *Takkanah*.
[59] I. S. Emmanuel, pp. 156, 157.
[60] II, 97, 109, 140, 220; III, 31, 37, 48, 51, 59, 70, 86, 138, 165, 179, 208, 240; IV, 224, 305.
[61] I. S. Emmanuel, p. 185.
[62] II, 87, 158; III, 50, 61, 85, 89; IV, 40, 369.
[63] I. S. Emmanuel, p. 186.
[64] *Ibid.*, p. 188. III, 213; IV, 244, 464.
[65] I. S. Emmanuel, p. 107.
[66] IV, 283, 323. This fine collection of books was destroyed by the fire in the year 1545.
[67] III, 127, 129; IV, 380.
[68] I, 20.
[69] IV, 372.
[70] Isaac Adarbi, *Dibre Ribot*, p. 68, #223.
[71] II, 158: ומאחר שידוע לנו מעלת תהלת קודש חברת ת"ת אשר בעיר הזאת שאלוניקי יע"א בכמו' בזמן הזה . . . לא נשמע מקום מקודש: II, 174; ובאיכות אשר אין למעלה הימנה בגלות ישראל אשר ידענו ממנו מרוב יתומים ובני עניים.
[72] II, 172, 174; IV, 357; Responsa of R. Joseph ibn Leb, p. 37, #58.
[73] II, 175.
[74] II, 175.
[75] I. S. Emmanuel, p. 105.
[76] Abraham Danon, *R.E.J.*, vol. XL, p. 228; vol. XLI, p. 264; I. S. Emmanuel, p. 105.
[77] II, 172: זמן השריפה הגדולה אשר היתה בשנת הש"ה ליצירה; IV, 94, 228, 262.
[78] David Conforte, *Kore ha-Dorot*, p. 37; David Kaufmann, *R. E. J.*, vol. XXI, p. 294; S. Rosanes, vol. II, p. 242.
[79] IV, 94.
[80] III. 43

[81] I. S. Emmanuel, p. 221; IV, 276. A place alongside of each house was set apart where the dirt and dung were deposited; they remained there until they were thrown into the river.

[82] IV, 14, 239, 320; Isaac Adarbi, *Dibre Ribot*, #347, p. 103 states: טלטלני טלטלת גבר כי הנה רוב הקהל עדת ישראל אשר משאלוניקי הם מפוזרים בנבעות ובהרים בעיירות ובכפרים מחמת אימת הנגף אשר החל בעם.

[83] I. S. Emmanuel, pp. 156, 221, 222.

[84] I, 19: שיש שם רחוב כמו מבוי גדול ודרים בכולו יהודים מזה ומזה . . . ונקרא אצלם הרחוב של יהודים.

[85] IV, 284. An *Aksadrah* was similar to our modern parlor or veranda, extending from the front of the house.

[86] IV, 462: לפי שאין דרך בנות ישראל להתבזות ע"ג הנהר.

[87] IV, 266: מצד שהדליקו התנור לאפות פת כתקנת בנות ישראל אשר בשאלוניקי לאפות בכל ערב שבת.

[88] IV, 267.

[89] III, 200; IV, 236, 240.

Chapter III

LIFE OF RABBI SAMUEL DE MEDINA

[1] His son, Moses, in his introduction to the revised edition of his father's Responsa collection, states that his father died during the year of its publication, 5350 A. M., corresponding to the year 1589–90 C. E. Shemaya De Medina, a grandson of De Medina, who published his sermons under the title of *Ben Shemuel*, tells in his introduction to this collection that he died October 12, 1589. See I. S. Emmanuel, *Gedole Salonika le-Dorotam*, pp. 167–168. In Conforte's *Kore ha-Dorot*, ed. Cassel, p. 38, Solomon De Medina, another grandson, is said to have told the author that his grandfather lived 84 years. From this it is to be concluded that he was born in 5266 A. M., which corresponds to the year 1505 or 1506 C. E. De Medina mentions Salonika as his native city. Cf. IV, 370.

[2] II, 37: De Medina states that he did not know his father.

[3] A brief sketch of the careers of both of these men is given in Chapter II, which deals with the rabbis in Salonika.

[4] IV, 20. I. S. Emmanuel, p. 167.

[5] III, 220.

[6] I, 21; I. S. Emmanuel, p. 132. Joseph Zarfati, who died at an early age, was a scholarly and pious person.

[7] III, 166.

[8] II, 37; IV 234, 296.

[9] I. S. Emmanuel, p. 168; S. Rosanes, vol. II, p. 103.

[10] III, 17. In the midst of a legal correspondence, De Medina voices his bereavement. "I feel speechless and crushed," he wrote. "I was smitten and sorely wounded. My crown was taken from my head. My heart is broken because of the death of my oldest son."

[11] S. Rosanes, vol. II, p. 103. He probably held rabbinic posts in neighboring communities.

[12] II, 62; IV, 104.

[13] IV, 119. This absence from Salonika was probably a few years before that of 1551 when he spent more than a year in Constantinople as representative of the community.

[14] I. S. Emmanuel, p. 169.

[15] III, 17.

[16] I, 29.

[17] III, 100, 123.

[18] IV, 40, 61.

[19] IV, 193, 210, 248.

[20] According to J. Nehama, in his *Histoire des Israelites de Salonique*, vol. III, p. 175, De Medina was the chief rabbi of Salonika. I. S. Emmanuel, pp. 168–170; A. H. Freiman, *Seder Kiddushin ve-Nisuin*, p. 165.

[21] II, 72, 182.

[22] I. S. Emmanuel, 170.

[23] III, 203, 226; IV, 239.

[24] IV, 370, 399, 400. In 1552 he returned to Salonika, as is indicated by the fact that his name was signed to a rabbinic enactment, issued by the rabbis of Salonika, dated 1552. See A. Danon, *R. E. J.*, vol. XLI, p. 256.

[25] I. S. Emmanuel, p. 169.

[26] IV, 95.

[27] IV, 260.

[28] III, 68; II, 20: Another contemporary rabbi addressed De Medina by saying: אור עולם המאיר לארץ ולדרים עליה בחכמתו ובתורתו סיני עוקר הרים מופת הדור והדרו . . . אדוננו נאוננו אלופנו . . .

[29] III, 17: כי אור עיני גם הם אין אתי; II, 62; III, 240, 242; IV, 320, 363.

[30] IV, 61, 103.

[31] IV, 278: שזה כמה שנים פשטתי כתנתי כתונת עבודת הרבים.

[32] Two of his responsa bear the date of 1586; III, 201; IV, 175.

[33] The chronicler, David Conforte, in his *Kore ha-Dorot*, p. 38a, relates the following story that was told to him by De Medina's grandson. De Medina at the age of eighty could read only with the aid of his glasses. One day, in 1586, he had forgotten to bring his glasses to the *Yeshibah* and was, therefore, unable to read the text of the Talmud. He then handed the volume to another scholar to read it for him. When he returned home he discovered that he could read without the aid of glasses. From that day on, he no longer used glasses for reading.

[34] D. Conforte, p. 38a; I. S. Emmanuel, *Gedole Salonika le-Dorotam*, p. 165. S. Rosanes, vol. II, p. 103, states that he died in 1590. This is incorrect, for while the year of his death is 5350 A. M., it was not yet 1590 C. E. See note 1 in this Chapter.

[35] Psalm, 119:165.

[36] S. Rosanes, vol. II, p. 105.

[37] *Ben Shemuel*, Mantua, 1622.

[38] Azulai, *Shem ha-Gedolim*, ed. Ben Jacob, p. 176.

[39] D. Conforte, p. 38a.

[40] D. Conforte, p. 34b. See also Moses' preface to his father's Responsa. Moses died young and left two sons, Yehudah and Shemaya. It was the latter who published the sermons of his grandfather.

[41] II, 104; III, 11, 15.

[42] II, 111. De Medina censured the correspondent and said: ולענין הכתב אני אומר שהיטב חרה לי שהעליתני למקום שאין ידי מגעת. עשיתני כרועה בקר ואיני אפילו כרועה צאן.

[43] II, 208.

[44] Joseph ibn Ezra, *Massa Melek*, p. 38a.

[45] II, 100; II, 99. He gave similar advice to a scholarly layman who was unjustly put under the ban by his rabbi.

[46] IV, 234, 346.

[47] III, 220.

[48] III, 25.

[49] III, 23; III, 95. In another case, a father included a clause in his will forbidding his son to marry a certain girl. The young man, who loved the girl, consulted De Medina, and he agreed that the wish of his father was unfair and did not have to be heeded. He told the young man that he need have no scruples about marrying the girl if she was honest and God-fearing and if he truly loved her.

[50] IV, 40.

[51] IV, 204.

[52] IV, 45.

[53] III, 17. De Medina harshly attacked his opponent and accused him of lacking critical judgment. He said: ומי שאין לו דעת להבחין הכל שוה לפניו כחשיכה כאורה, אבל מי שחננו ה' דעת מבחין כי ע"כ אנו מברכין בכל יום ברוך הנותן לשכוי בינה. ואולי אינו בסדר ברכותיו.

[54] II, 153.

[55] Ibid.

[56] IV, 399, 400.

[57] II, 220.

[58] A. Danon, *R. E. J.*, vol. XLI, pp. 112, 113.

[59] II, 76.

[60] Joseph Karo, *Abkat Rokel*, responsum 192 (Salonika, 1791).

[61] S. Rosanes, II, p. 100. Although a complete account of all the facts of the controversy between De Medina and Samut are not available, making it difficult to determine who was right, yet there appears to be more merit to the arguments advanced by Karo than to those offered by De Medina, in spite of the fact that the former lived at a distance from the scene of the quarrel. After reading carefully the correspondence of both rabbis, one is inclined to agree with the judgment of Karo that Medina's stand was unfair and that he was blinded by personal animosity, especially since De Medina was chiefly responsible for the enactment that forbade Jews to resort to government courts. One feels that instead of being primarily concerned with the binding force of Samut's oath regarding which there were contradictory testimonies, De Medina should have been more interested in the task of safeguarding the enactment which was violated by Samut's opponents. Regardless of the charges levelled against Samut, the circumstances of the case should have prompted the rabbis of Salonika to give their moral support to one of their colleagues rather than to side with men who acted as informers against their rabbi.

[62] II, 86. It is surprising to see De Medina address such severe remarks to Joseph Karo who was seventeen years his senior and who at that time had attained world-wide prominence as the outstanding authority on Jewish Law.

[63] The institution of ordination or *Semikah* was in effect during the tannaitic period and as a rule was exercised by the recognized rabbinic authorities or the heads of the academies. The recipient of the title held the right of jurisdiction in ritual matters as well as in civil matters. In certain cases he was limited in his rights of jurisdiction only to ritual matters. Cf. Sanhedrin 5a; 14a. The real intention of Berab was to re-establish the *Sanhedrin*, which he felt could be accomplished by reviving the ceremony of official ordination.

[64] H. Graetz, *Dibre Yeme Yisrael*, ed. Rabinowitz, vol. VII, p. 221, note 3, tells that

Joseph Karo was informed by his mentor: ארוסמך להיות שר ונגיד על כל גלות ישראל שבמלכות ערביסתאן.

[65] The *Semikah* controversy began about 1528.

[66] II, 82, 90. See Chapter V, dealing with rabbis.

[67] II, 96.

[68] II, 77, 80; IV, 1.

[69] IV, 335. He often introduced a legal decision with this statement: "After having gone through the talmudic sources and the views of later halakists and after having made a logical analysis of the case, it appears to me . . ."

[70] Baba Kamma 35b; Baba Mezia 2b. The talmudic principle is: המוציא מחברו עליו הראיה, that the claimant must bring evidence to substantiate his claim or that, if a man had immediate possession of an object, he is lawfully entitled to its ownership, unless there is proof to the contrary.

[71] IV, 346.

[72] IV, 304; IV, 127. He reiterates that one must follow the dictates of logic when rendering a decision.

[73] II, 200; III, 45.

[74] IV, 336.

[75] III, 63; IV, 210.

[76] III, 17: עת לדבר ועת לחשות, עת לאסור ועת להתיר. כפי השתנות הזמן ישתנה הדין.

[77] II, 213: שאין כל הזמנים שוים ולא כל האנשים שוים לנדות ולהתגרות. ובעונותינו נתמעטו הלבבות וגם הזמנים רעים ואי אפשר להעמיד דיני תורה על תילם.

[78] II, 193.

[79] III, 45. De Medina states: כמעט אין הלכה שאין בה מחלוקת . . . וצריך אדם לראות איזה דרך ישכון אור לעשות מעשה, שאם ירצה לתפוס לעולם לילך בדרך החומר אפשר שיתקיים עליו הכתוב והכסיל בחושך הולך ח'ו וכן בהפך מכ'ש שצריך אדם להתרחק מאותם שמקלו יניד להם.

[80] III, 51; III, 54. De Medina laid down this principle with regard to freeing an *agunah*, "When a rabbi examines the testimony in order to identify a lost husband, he must not be too strict in the process of examining the witness and the testimony. One who does so is not only unfair but also incurs the displeasure of his rabbinical predecessors."

[81] III, 35; III, 240: In the opinion of De Medina, when a Jew testified that he had seen another Jew die and he mentioned the name of the deceased and that of his father or the name of the city, such evidence was deemed sufficient to permit the woman to remarry.

[82] III, 51; III, 55: It appears that De Medina had established for himself the reputation of being very lenient towards *agunot*, since in writing to a colleague he assured him that before he freed a wife of a missing husband he carefully went through the legal sources on the subject.

[83] S. Rosanes, vol. II, p. 24.

[84] III, 21, 63.

[85] III, 120.

[86] III, 78: . . . כי [ב]תקנה זו יש כמה ספיקות אי מצד הזמן שיש כמה נדולים אומרים שלא נזר אלא עד סוף האלף החמישי . . . ואעפ'י . . . שהרי האשכנזים נוהגים איסור בדבר עוד היום, ובכל מקום מידי ספק לא יצא ואפשר לומר שהם נוהגין כן מכח מנהג ולא מכח חרם.

[87] III, 91; III, 44. When a case came to him concerning the identity of three men who had been killed by Moslems on a ship, and when the evidence of identification seemed inconclusive, he ruled that the three widows could not be legally freed from their bonds of marriage.

[88] IV, 275. De Medina states: אני אומר כי מי שאינו מחלק בין נזלן ישראל לנזלן נוי אינו מבחין בין יום ללילה.

[89] IV, 184.

[90] II, 188. De Medina affirmed: הדבר ברור מעצמו כי הגוים הם כזבים לכל דבריהם לעולם לכן הם טמאים אפילו יעלו עליהם כל מימי ים הגדול ולפיכך סתם גוי טמא וסתם טמא גוי . . . מה שאין כאן ישראלים שאפילו כשהם בטומאה נקראים טהורים . . . ואפילו כשהם בטומאתם שם העצם שלהם טהורים ואומות העולם הטומאה להם עצם.

[91] IV, 417.

[92] II, 192.

[93] III, 227; IV, 30, 61, 186. Cf. Levi ibn Habib, *She'elot u-Teshubot*, #143.

[94] II, 255: כי כהונה בזמן הזה אין ולאו ורפיא בידן כי אין לנו ספר היחס בזה. Cf. III, 235.

[95] IV, 75. See end of Chapter IV.

[96] II, 221: הרי אנו רואים כמה יפה כח מנהג הגוים בענין ממון למדין ממנהג הגוים וכן דנין וכ"ש במקום שאין הדין ברור בתלמודא דידן ובפוסקים. Cf. IV, 170, 175.

[97] III, 17.

[98] I, 1: ומכל מקום אנו אין לנו אלא הפוסקים המובהקים והמפורסמים אשר על פיהם אנו חיים ואין לחצוב לברכת מים מבורות שלא חפרום רבותינו ולא שתו מהם במקום הרי"ף והרמב"ם והרשב"א והרא"ש ובנו ורבינו ירוחם והר"ן והריב"ש זכר כולם לברכה. עליהם אנו סומכין בין להקל ובין להחמיר ואין לנטות ימין ושמאל מהם; II, 62; IV, 376.

[99] III, 51.

[100] IV, 307. Speaking of Maimonides, De Medina said: אחר שהרמב"ם שהוא גדול הפוסקים בדיני ממון ברוב פעמים אזלינן בתריה; II, 193.

[101] IV, 341.

[102] IV, 249. De Medina states that, "we rely on the Rashba because he is the greatest of all the later halakists."

[103] IV, 249, 257, 283, 293, 323.

[104] IV, 210.

[105] II, 176; IV, 249, 293, 429.

[106] I, 1.

[107] III, 93.

[108] IV, 60, 407.

[109] II, 46; IV, 210.

[110] III, 10; IV, 327.

Chapter IV

ECONOMIC CONDITIONS

[1] Nicolas de Nicolay, a French geographer, author of *Des Navigations . . . en Turquie*, tells that the traffic of all merchandise by land and sea was in Jewish hands. See H. Graetz, ed. Rabinowitz, vol. VII, p. 283.

[2] IV, 28, 63, 100, 119, 134, 142, 154; Joseph ibn Leb, *She'elot u-Teshubot*, I, 93, 100.

[3] IV, 33: והלא מעשים בכל יום בין הסוחרים שמבטיחים סחורה בין הספינות ממקום למקום; IV, 100, 220; Isaac Adarbi, #81, p. 22a.

[4] IV, 112, 164, 165, 192, 418.

[5] IV, 79, 101, 119, 122, 125, 210, 384.

[6] IV, 122: ראובן שלח סחורה לשמעון פקודו שהיה פורע לו שכר טרחו ב' למאה כמשפט הסוחרים.

[7] IV, 103, 384, 386. Agents who transacted business for more than one merchant were called *Fator*, *Fattore*, or *Pator*.

[8] IV, 84, 120, 134, 418.

[9] IV, 153.

[10] II, 102; IV, 125, 334, 394.

[11] IV, 422: ויעשו החשבון . . . לערך י"ב למאה כמנהג הסוחרים במשאם ובמתנם כשלוקחים בהמתנת זמן. Joseph ibn Leb, *She'elot u-Teshubot*, I, 49.

[12] IV, 20, 38.

[13] IV, 18, 65, 380: שדרך התגרים כמנהג פשוט בעיר אנקונה היה לקנות חובות חבריהם.

[14] IV, 37: This was a debt due from a Moslem which was not too secure, hence, the high rate of discount.

[15] IV, 71, 218, 221. The reason for paying this high rate of profit to the creditor was the many risks involved in shipping merchandise from one port to another.

[16] IV, 28, 62.

[17] IV, 33, 142.

[18] II, 60; IV, 18, 83, 113, 145, 162, 206, 214, 244.

[19] IV, 390: אין לשום ישראל לחבוש לחבירו בבית האסורין בשביל חוב.

[20] IV, 121.

[21] IV, 184.

[22] IV, 56, 64, 103, 147, 165, 184, 210, 219, 386.

[23] IV, 28, 50, 54, 59, 81, 193, 397, 416, 438.

[24] IV, 64, 100, 114, 115, 118, 130.

[25] IV, 116. This responsum indicates that Judah Benveniste bought the entire supply of paper that was brought from Flanders with the object of cornering the market in this commodity.

[26] II, 138.

[27] II, 67, 221; IV, 119, 440.

[28] IV, 33, 115. See Cecil Roth's *History of the Jewish Community of Venice*, pp. 176–177.

[29] I. S. Emmanuel, p. 228, note 86.

[30] IV, 99.

[31] IV, 33, 80, 118, 142; IV, 70: In one instance, a boat with Turkish Jews was captured and its cargo confiscated by the enemy. The money spent to feed the captives was deducted from their possessions. They were later freed through the intervention of the Sultan and part of their property was returned after a peace treaty was concluded. I. Adarbi, #391, p. 109a.

[32] A. Danon, *R. E. J.*, Vol. XL, p. 216.

[33] II, 70; IV 142.

[34] IV, 59. ירדו מנכסיהם הנקרא אצלם פאליר [אנקונה] משם גוים הרבה. See Chapter "Marranos."

[35] IV, 101, 418.

[36] IV, 142, 373, 384, 418, 427.

[37] IV, 100, 117, 154.

[38] III, 54; IV, 15, 18, 24, 47, 63, 66, 134, 173, 221, 346.

[39] III, 53; IV, 48, 137, 157; Joseph ibn Leb, *She'elot u-Teshubot*, #1, 2, 3, 4; IV, 48: In one instance, which was not unusual, an innkeeper put a sleeping drug into the food of a Jewish merchant and robbed him of his possessions.

[40] IV, 395.

[41] III, 165; IV, 100.

[42] IV, 33, 220.

[43] IV, 343, 344.

[44] IV, 376.

[45] IV, 79, 164, 173, 360, 379, 459.

[46] II, 122; IV, 28, 123, 148, 166.

[47] II, 53, 54, 55, 56; IV, 250. The same legal problems arose in Champagne, France, during the lifetime of Rashi. Rashi permitted the Jewish winegrowers to use non-Jewish teamsters since he felt that the laws of the Talmud applied only to heathens and not to Christians. See *Tosafot*, Abodah Zarah, 57b, s. v. "le-afuke."

[48] II, 53.

[49] II, 52, 53.

[50] IV, 190.

[51] III, 53; IV, 160.

[52] IV, 58, 354; IV, 156: In one responsum De Medina points out that the profits derived from a toll were not earned honestly. He affirms: שכפי האמת במלכות שאנו עומדים בו הריוח שהמוכסין מרויחין אינו אלא גזלה שגוזלין מהמלך.

[53] IV, 354.

[54] II, 221; IV, 158, 202, 401. Although Jews were moneylenders, they borrowed money from Moslems to a greater extent than the Moslems did from the Jews. See Chapter on "External Relations."

[55] III, 212, 213; IV, 17, 247, 248.

[56] IV, 45; IV, 267, 462. Many Jews in Salonika would dye their wool in the courtyard. This gave rise to numerous quarrels among neighbors and between home-owners and their tenants. The landlords frequently complained about the offensive odor caused by the dyeing process. Joseph ibn Leb, III, 33, records the same facts and states: כל פרנסת בני העיר תלויה במלאכת הבגדים.

[57] IV, 147. At this time the price of *Alquimia* cloth was 55 aspers per yard; I. S. Emmanuel, *Histoire de l'Industrie des Tissus*, p. 17.

[58] III, 18, 123.

[59] I. S. Emmanuel, *ibid.*, p. 20.

[60] IV, 372.

[61] II, 123.

[62] IV, 259.

[63] IV, 372.

[64] IV, 153.

[65] I. S. Emmanuel, *ibid.*, p. 20.

[66] II, 117, 118; Joseph ibn Leb, I, 47.

[67] I. S. Emmanuel, *ibid.*, p. 26.

[68] IV, 462. This enactment was passed in the days of Rabbi Levi ibn Habib. De Medina gives the reason for this ruling, namely, that many Jews in Salonika derived their living from this occupation.

[69] A. Danon, *R. E. J.*, vol. XLI, p. 252. This regulation was enacted during the first half of the 16th century; its object was to retain the industry within Salonika. Joseph ibn Leb, III, 16.

[70] A. Danon, *ibid.* The purpose of this ruling was probably to prevent anyone from cornering the market of raw wool.

[71] A. Danon, *ibid.*, p. 255. The object of this decree was to protect the local labor market.

[72] IV, 335.

[73] I. S. Emmanuel, *Histoire de l'Industrie des Tissus*, p. 28.

[74] I. Adarbi, *Dibre Ribot*, #138.

[75] Joseph ibn Leb, *She'elot u-Teshubot*, I, 44, p. 33a.

[76] II, 81.

[77] *Ibid.*

[78] II, 122; IV, 363.

[79] IV, 407. This responsum is translated in full in the last chapter.

[80] II, 126; IV, 441.

[81] II, 150. This responsum is translated in full in the last chapter.

[82] III, 187; IV, 322; Joseph ibn Leb, II, 20.

[83] IV, 368, 451.

[84] IV, 358: והקול נשמע . . . שהיה אמור בנכסים רבים רבו מלמנות ועצמו מספר והמעט מזער שהיו הוא הבטיח לתת לחתן א' אלף ש"ח; III, 181: מחזיקין אותו לאיש אשר מצאה ידו ששים או ע' אלף לבנים אישקודיש זה מורה שהוא עשיר.

[85] III, 95, 121, 181, 187; IV, 96, 323, 346.

[86] III, 189; IV, 311, 338.

[87] IV, 63, 112, 164, 165, 172, 173, 174, 349.

[88] III, 95; IV, 283, 311, 322, 323; IV, 40: One man, Judah Oberlin, who departed from Salonika to settle in Palestine, left behind him an estate of 200,000 aspers.

[89] IV, 293.

[90] IV, 110.

[91] IV, 230; II, 176, 223; III, 237; IV, 296.

[92] IV, 246, 262, 284.

[93] Isaac Adarbi, #425, p. 116a.

[94] IV, 28, 147, 335, 422, 433.

[95] III, 218.

[96] Fifty aspers were equivalent to one altoon or sultanes which was the largest coin in Turkish currency. A perah, altoon or sultanes was equivalent to a Venetian ducat. A Venetian ducat was equivalent to 48 or 50 aspers, and weighed 3.49 grams of gold. Part of this information was obtained from Professor L. A. Mayer of the Hebrew University in Jerusalem, who is an acknowledged authority on this subject. I. Adarbi, #111, p. 32b.

[97] IV, 30, 114. The Turkish name of asper was *akcheh*, meaning white.

[98] IV, 40, 142, 167.

[99] IV, 75; II, 176; S. Rosanes, vol. I, p. 8, states that a gerush weighed 9½ drams. One dram was equal to 3¼ grams of silver.

[100] II, 176; IV, 93.

[101] IV, 75, 80, 93.

[102] II, 124; IV, 80, 100.

Chapter V

COMMUNAL ORGANIZATION

[1] See Chapter II, dealing with congregational divisions.

[2] S. W. Baron, *The Jewish Community*, Vol. I, p. 168.

[3] II, 82: קציניה ומטוניה רבניה ופרנסיה . . . הסכימו כל הקהילות.

[4] II, 78, 125, 126, 141, 144, 151; Isaac Adarbi, #53, p. 12a.

[5] II, 227.

[6] Isaac Adarbi, #197, p. 63b.

[7] II, 227.

[8] IV, 144.

[9] II, 150.

[10] IV, 216.
[11] II, 141.
[12] II, 97, 227.
[13] II, 82.
[14] II, 118.
[15] II, 97.
[16] II, 227.
[17] I. Adarbi, *Dibre Ribot*, #224, p. 69a.
[18] II, 90, 135, 152, 226.
[19] I, 37; IV, 421.
[20] II, 152.
[21] I, 20, 28; II, 137.
[22] II, 143, 154, 189.
[23] I, 20; II, 137, 206.
[24] III, 239; Isaac Adarbi, #224, p. 137a.
[25] II, 99; II, 145: כל הסכמות והחרמות . . . נקראים בבית הכנסת במעמד כל הקהל פעם אחת בכל חודש וחודש.
[26] II, 98, 152, 212.
[27] III, 122.
[28] IV, 16: בשבתות וימים טובים חופות חתנים וברית מילה מוציאים ומעטרים הבית הכנסת בתכשיטין וברמונים.
[29] III, 122.
[30] II, 132; IV, 1.
[31] II, 85.
[32] IV, 1: ולענין אם יש לחלק בין זמננו זה לזמן התלמוד נראה בעיני דבר ברור שיש לחלק ולומר דכל אלו הדברים נאמרו בזמן התלמוד שהיו כל הדינים יוצאים על פי הסברא והכל על פה ומי שהיה יושב על הוראה הוא הנקרא דיין אמת אבל בזמננו זה אין התלמיד חכם המורה כי אם הספר . . . Also II, 255: כי בזמן הזה ליכא צורבא מדרבנן מה שעביד דינא לנפשיה. See note 63 in Chapter III, on the ancient institution of *Semikah*.

At the end of the 14th century, Rabbi Meir Halevi of Vienna found it necessary, in order to improve the status of the rabbinate and to prevent undeserving people from assuming the office, to institute a quasi-ordination, which conferred on the deserving scholar the formal title of *Morenu*. The recipient of this title was permitted to act as rabbinic judge, and it meant that he possessed sufficient knowledge to exercise the functions of rabbi. In no wise, however, did it confer upon him the privilege of ordination that had prevailed in talmudic times. The new form of ordination was soon adopted in Germany, Poland and Italy. The name of the authorized rabbi was *Rab*. Azulai, *Maareket ha-Gedolim*, p. 47; M. Güdemann, *Ha-Torah ve-ha-Hayyim*, Vol. II, Chapter 2; S. W. Baron, *The Jewish Community*, vol. II, pp. 66–68, and pp. 90–91 containing a writ of ordination.

[33] II, 132, 135.
[34] Isaac Adarbi, #66, p. 16a; II 135.
[35] II, 90, 132; Nehama, *Histoire de Salonique*, Vol. III, p. 84.
[36] I. S. Emmanuel, *Histoire des Israelites de Salonique*, p. 71, pp. 172–4.
[37] S. W. Baron, vol. II, p. 31.
[38] II, 55, 148; IV, 370, 399, 400.
[39] IV, 12.
[40] IV, 361: דבר גלוי כי הכרנ"א שאנו פורעים בזה המלכות . . . לכ"ע התלמידי חכמים פטורים . . . שכל ת"ח שעוסק בתורה ואין לו אומנות אחר, כלומר שתורתו קבע ועסקו עראי שפטור מכל מסים אפילו מכרנ"א במלכות זה . . . ואפילו מכסף גולגלתא הקצוב על כל איש ואיש.

[41] IV, 406.

[42] A. Danon, *R. E. J.*, Vol. XLI, p. 116.

[43] II, 156. These privileges were denied to one who was not acknowledged as a professional rabbi.

[44] II, 139, 153, 188.

[45] II, 188. An *arel tame* meant an "impure heathen."

[46] II, 96.

[47] II, 90, 135, 205, 226.

[48] IV, 2. In the early Middle Ages there was objection to paying salaries to rabbis on the basis of a talmudic tradition, "Make not the Torah a crown wherewith to aggrandize thyself, nor a spade wherewith to dig." In Western Europe prior to the fourteenth century, rabbis generally received no salaries for their services. By the sixteenth century, rabbis were salaried officials in most European countries. M. Güdemann, *ibid.*, vol. III, Chapter 22, pp. 22–23.

[49] II, 90, 226. When considered in the light of the fragmentary information given in Chapter IV, dealing with Standards of Living, it seems that an annual salary of 4,000 to 6,000 aspers, plus other remunerations, was relatively high and was probably at or above a middle-class level.

[50] II, 90, 205; IV. 262

[51] II, 90. This is the text of a contract made between the three congregations in Magnasia and Rabbi Isaac le-Bet Hazan: ולכן נתרצו הק'ק יצ'ו שלשלת' יחד והקימו עליהם לשר ולקצין ולהיות מרביץ תורה בתוכם . . . ונתחייבו הק'ק יצ'ו לתת לו פרס מידי שבת בשבתו פ' לבנים בכל שבוע ושבוע כזה האופן, ק'ק לורקה יצ'ו נתחייבו לתת חמישים לבנים בכל שבוע, וק'ק טולידו נתחייבו לתת שלשה עשר לבנים בכל שבוע, וק'ק של'ו נתחייבו לתת שבעה עשר לבנים שהם בין הכל פ' לבנים וזה לא יחסר בכל שבוע ושבוע. ובית מדור לפי כבודו וכל מה שימשך לו ריוח מסופרות כל הדברים הנמשכים בק'ק יצ'ו מדי יום ביומו ונדרים ונדבות ומתנות ג' פעמים ומעות פורים לזמנים קבועה כמנהג והחכם יצ'ו קבל עליו לשרתם ולברך בשמם . . . לדרוש ולקבוע עתים לתורה להורותם הדרך ילכו בה ולצבא צבא מידי חדש בחדשו ומידי שבת בשבתו . . .

ועוד נתחייבו הק'ק יצ'ו לתת להחכם הנ'ל עשרים פרחים זהב לפזור הדרך מלבד פרעון שכירות החמו' שיצטרך להבאות ביתו בע'ה. וחיוב כל הכתוב לעיל הוא לזמן ג' שנים רצופות נמנות מיום יציאת החכם מעיר אינדרינופלי לבא הנה מאז נתחייבו כל הק'ק יצ'ו לפרוע הפרס הנז' בכל שבוע ושבוע עד תשלום הש'ש תמימות מיום יציאתו משם. Isaac Adarbi, *Dibre Ribot*, #347, p. 103b.

[52] II, 227.

[53] II, 205. One rabbi received a call from a congregation that offered him an increase of 2,000 aspers per annum, besides 1,000 aspers for travelling expenses to bring his family. He was persuaded to accept it, as the cost of living there was lower than that in his own town. In order to induce him to stay, his congregational officers promised to give him in addition to his salary 1,000 aspers per year from a private fund.

[54] II, 156.

[55] II, 85.

[56] II, 132.

[57] II, 137.

[58] II, 99, 161.

[59] III, 63. A rabbi knowingly became an accomplice to an unworthy man who tried to extort money from his former bride by arguing that her release from him was invalid.

[60] IV, 1: אבל אין ספק שראוי לגדור גדר בזמננו זה כי רבו בקיעי הזמן השועלים קטנים מחבלים כרם ה' צבאות . . . ובלא דעת ותבונה ביד רמה יושבים על כסא ההוראה . . . על זה ישתומם כל חסיד כי אין ספק כי בזה יצא משפט מעוקל.

[61] I. S. Emmanuel, *Histoire des Israelites de Salonique*, p. 172.

[62] A. Danon, *R. E. J.*, Vol. XLI, p. 108.

[63] II, 82, 90.

[64] In 1220 a communal decree was enacted in Mayence, Germany that no rabbi was to impose a ban to protect his honor without the consent of a majority of the *Parnassim*. This ordinance was not accepted in Spain, nor later in Turkey. I. Epstein, *The Responsa of Rabbi Solomon ben Adreth*, p. 77. S. W. Baron, Vol. II, p. 231.

[65] II, 82, 90.

[66] I. Adarbi, #296, p. 90b.

[67] II, 154. The contract of one cantor includes the clause: ואם לא אהיה טלמד . . . חזן הקהל שהוא סופר הכתובות :III, 187 ;קבוע . . . במדרגות התלמידים אשר נתנו לי פרנסי החברה.

[68] Joseph ibn Leb, I, 35: הייתי שליח צבור בקהל גם סופר ומלמד לבניהם וכותב ספר תורה, תפילין ומזוזות ושוחט ובודק.

[69] Isaac Adarbi, #299, p. 91b.

[70] I, 33: אבל תרעומותי כי חזני הארץ הזאת הן להנאת' לשמוע קול ערב. אם הוא רשע גמור אין חוששין רק שיהיה נעים זמירות.

[71] *Ibid.*; II, 113.

[72] II, 41, 47.

[73] II, 41.

[74] II, 166.

[75] II, 47.

[76] II, 40, in Sofia; I, 13.

[77] II, 239. There prevailed considerable rivalry among *mohalim* who were eager to be invited to perform a circumcision.

[78] See Chapter II dealing with congregational divisions.

[79] II, 87, 147.

[80] I, 36.

[81] I, 36; II, 125, 153.

[82] II, 153. It is of interest to note the strong ties of loyalty that united the Sicilian Jews residing in different cities in Turkey. See Chapter III regarding the controversy between De Medina and Rabbi Formon.

[83] I, 20. This responsum is translated in full in the last chapter.

[84] I, 20; II, 125.

[85] II, 154.

[86] II, 143.

[87] II, 92, 97.

Chapter VI

HOW THE JEWISH COMMUNITY FUNCTIONED

[1] A. Danon, "Etude Historique sur les Impôts en Turquie," *R. E. J.*, vol. XXXI, pp. 52–61.

[2] IV, 364: והטיל תחילה על היהודים אקרקפתא דאינשי ונקרא בלשונם 'באש אכרנ'י'; IV, 361: אבל בזמן הזה . . . שאין כאן אלא הכל מוטל על הצבור שאין כל אנשי העיר המחוייבים כרנ'א מדינא דמלכותא ידועים למלך ולא לעבד השלוח מאתו אלא הצבור מתפשר עם עבד המלך כל מקום ומקום כפי ערכו. אבל בזמננו שאין עבד המלך גובה מכל אחד אלא הצבור גובים ופורעים.

[3] IV, 398: ידוע כי יש שני מיני מסים אחד המוטל אקרקפתא דגברי היינא כראג' ורב. והשני מה שמטילים בכל קהל וקהל לפרע בשביל עניים והדלים אין להם כח לשלם מה שמחוייבים לשלם כפי דינא דמלכותא וגם שאר צרכי צבור שיש בכל שנה ושנה ובכל קהל וקהל.

[4] A. Danon, *R. E. J.*, Vol. XXXI, p. 57; IV, 364, 370; De Medina lists the following levies, the nature of which I do not know: פקשימט, פרחים, שלגון, אזאפ, אשפידיש, קורקצי.

[5] III, 225. In order to evade this harsh ruling, a number of evasions were resorted to. One was to make a distant relative claim that he was a son of the deceased. See I. Adarbi, #292, p. 90a.

[6] A. Danon, in *R. E. J.*, Vol. XXXI, pp. 57, 58; I. S. Emmanuel, pp. 122–124.

[7] I. S. Emmanuel, *Histoire de l'Industrie des Tissus*, p. 41. Each piece was of a definite measure; 1,000 pieces were blue in color and 200 red.

[8] I. S. Emmanuel, pp. 123–124; Joseph ibn Leb, *She'elot u-Teshubot*, I, p. 67a.

[9] II, 138, 225. See Chapter IV dealing with Exports and Imports.

[10] A. Danon, *R. E. J.*, Vol. XXXI, p. 54; IV, 441.

[11] I. S. Emmanuel, p. 126.

[12] II, 93. This might have been a luxury tax intended to discourage Jews from wearing expensive garments.

[13] A. Danon, *R. E. J.*, Vol. XXXI, p. 56.

[14] *Ibid.*, Vol. XLI, p. 250.

[15] IV, 364, 401, 404, 436.

[16] IV, 371; I. S. Emmanuel, pp. 127–128.

[17] II, 152.

[18] *Ibid.*

[19] IV, 406.

[20] I. S. Emmanuel, p. 128.

[21] *Ibid.*

[22] II, 128; IV, 447.

[23] IV, 398.

[24] IV, 362.

[25] IV, 399, 403.

[26] IV, 441.

[27] II, 126: כי מלכות זה . . . פרוצה אין חומה כל דכפין יבא ויסתחר . . . דהא לא שייך במלכות זה שכל מדינות הם של מלך אחד ואין בני העיר יכולין לעכב בבן עיר אחרת. See also IV, 407.

[28] IV, 404.

[29] I. Adarbi, #139, p. 42b. I. S. Emmanuel, p. 131, however, states that such exemption was granted only in the case of wealth above 400,000 aspers.

[30] IV, 436; IV, 401: אבל במלכות הזה . . . אין מחייבים לא לנשים אעפ"י שידען שיש להם ממון רב ולא לקטנים. הדבר ברור שאין לחייב לבעל לפרוע מס מנכסי מלוג של אשתו ולא מפירות I. Adarbi, #139, p. 42b: בכל הקהילות כל זמן שהיתומים אינם נושאים ונותנים ואינם יודעים בטיב משא ומתן אין מטילים עליהם מס.

[31] IV, 401: אין נוהגין לתת מס מן הרבית. De Medina quotes the legal opinion of Rabbi Israel Isserlein who points out that interest on unpaid loans should not be subject to taxation because its payment is in doubt. It appears, however, where both the principle and the interest were paid in full that interest was subject to taxation. IV, 436.

[32] I. Adarbi, #139, p. 42b.

[33] A. Danon, *R. E. J.*, vol. XXXI, p. 59.

[34] I. Adarbi, #139, pp. 42a–42b; IV, 404.

[35] IV, 361, 406. See Chapter V, dealing with Privileges of Rabbis.

[36] A. Danon, *R. E. J.*, vol. XXXI, p. 59.

[37] IV, 371, 372.

[38] IV, 370. In one instance, the executors of orphans paid 4,000 aspers so as to exempt the estate forever.

[39] A. Danon, *R. E. J.*, vol. XXXI, pp. 52–61.

[40] IV, 364. The name of this physician, Jacob, is not mentioned by De Medina; but see Graetz, ed. Rabinowitz, vol. VI, p. 432, note 2, and S. Rosanes, vol. II, p. 232.

[41] IV, 436.

[42] IV, 364: ופוק חזי כמה איכא בשוקא שאין להם משא מלך ושרים.

[43] Baba Bathra, 28a.

[44] S. W. Baron, *The Jewish Community*, vol. II, pp. 293–296. Louis Finkelstein, *Jewish Self-Government in the Middle Ages*, pp. 31, 175 f., 181, 209, 265, 275 f., 302, 305.

[45] IV, 232: אלו הדברים שחדשו קדמונינו לתקון היושבים בארצות הגוים שאלמלא ההסכמות איש את רעהו חיים בלעו.

[46] J. Nehama, *Histoire des Israelites de Salonique*, vol. II, pp. 84 seq.

[47] IV, 237, 273, 296.

[48] *Ibid.*; IV, 228.

[49] IV, 232.

[50] A. Danon, *R. E. J.*, vol. XLI, pp. 261.

[51] IV, 232; I. Adarbi, #75, p. 20a.

[52] IV, 227.

[53] IV, 253.

[54] IV, 225.

[55] IV, 226. It appears that this ruling was not rigidly enforced since there were individuals and congregations that possessed rights of tenure to more than one home or store.

[56] IV, 354.

[57] IV, 228: ובהמשך הזמן ראו הק'ק שהיו רבים קונים חצרות מהגוים והיו מעקרים חזקות המחזיקים, הסכימו שכל קונה חצר או בית שלא יוכל להשתמש וליהנות ממנו עד שיפרע הקונה למחזיק חזקתו כפי אשר ישומו שני אנשים . . . והטעם לע'ד שלא תקנו מתחילה שתי הסכמות יחד לפי שבאותה שעה שהסכימו שלא ישכיר כו' היה נראה להם הקניה מלתא דלא שכיחא שישראל הבאים מארצות הגוים . . . היו באים נעים ונדים גרים ודלים לא עולה בדעת יקנו חצרות והיה נראה להם דבר רחוק ומלתא דלא שכיחא לא גזרו ביה רבנן. אבל אחר שראו שהצליחו בני ישראל בנכסיהם . . . שהיו קונים אותם . . . ולכן עמדו הקדושים אשר בארץ המה וחזרו ותקנו תקנה שנית.

[58] IV, 296. De Medina states that during the middle of the sixteenth century, one needed a full year to find a place of residence. IV, 245.

[59] A. Danon, *R. E. J.*, vol. XLI, p. 259; vol. XL, p. 227.

[60] IV, 246.

[61] IV, 228, 244.

[62] IV, 246.

[63] IV, 233, 253.

[64] IV, 228.

[65] IV, 280, 281.

[66] IV, 297, 299; Joseph ibn Leb, #41; I. Adarbi, *Dibre Ribot*, #99, p. 28b.

[67] IV, 238, 239, 241.

[68] IV, 227; I. S. Emmanuel, *Histoire des Israelites de Salonique*, p. 76.

[69] IV, 290.

[70] IV, 237: כן כתב מורי מהר'ר לוי 'ן חביב שאביו שהוא מיסד החזקות הוא תקן שיהיה להן דין קרקע; IV, 252, 278.

[71] IV, 206.

[72] IV, 225.

[73] IV, 296.

[74] IV, 246.

[75] IV, 352.

[76] I. S. Emmanuel, p. 78.

[77] Joseph ibn Leb, I, 77.

[78] IV, 236, 252, 260.

[79] IV, 278: אמנם דבר ידוע שהענין החזקות פורחות באויר ואין להם מה שיסמוכו רק התקנות והגדרים שעשו קדמונינו. Also IV, 231.

[80] IV, 7.

[81] II, 101: ותבע ממנו שיעמוד בדין עמו בפני אנשי הקהל או המעמד.

[82] IV, 2: למנהג שאלוניקי יע"ה שהתובע הולך אחר הנתבע; IV, 1, 7, 12, 105.

[83] IV, 5: כי בזמן הרע הזה אין בנו כח לדון דיני נפשות.

[84] IV, 211, 215, 222, 290; II, 60.

[85] II, 192; III, 131; IV, 224, 368. See Chapter X, dealing with Turkish Courts.

[86] IV, 13, 218.

[87] III, 131; A. Danon, *R. E. J.*, vol. XLI, pp. 112, 113.

[88] I. Adarbi, #122, p. 36a.

[89] IV, 7: לכופו עד שיתרצה לדון עם חברו לב"ד ואם לא יתרצה יכפוהו בשוטים או בחרם סתם או בשמתא.

[90] IV, 28, 92, 360.

[91] III, 71, 122.

[92] II, 183.

[93] II, 225.

[94] III, 122.

[95] II, 139, 188: In such case the penalty of being lashed was imposed on the culprit, who also had to fast and ask forgiveness from the one he insulted.

[96] II, 255.

[97] I, 8; II, 139, 183, 225; III, 71; IV, 6.

[98] II, 124.

[99] I. Adarbi, #182.

[100] II, 98.

[101] II, 124. I. S. Emmanuel, *Histoire de l'Industrie des Tissus*, p. 37. A. Danon, *R. E. J.*, vol. XLI, p. 253, gives the following form of the *herem*: ארור הוא בשכבו. ארור הוא בקומו. ארור הוא ביום ארור הוא בלילה. ארור הוא בשמים ובארץ. ארור הוא מפי שם המפורש ארור הוא מפי שרפים ואופנים וחיות הקודש. אל אלהי הרוחות לכל בשר השפילהו והכניעהו. אל אלהי הרוחות לכל בשר הכריתהו אל השמידהו אל השחיתהו אל האבידהו. מלאכי חבלה יפגעו בו. ארור הוא בכל אשר יפנה. בבהלה תצא נפשו באסכרה תהא מיתתו. לא יצא ולא יעבור חדשו. יכנו השם בשחפת ובקדחת. חרבו תבא בלבו וקשתותיו תשברנה. יהיה כמוץ לפני הרוח ומלאך ד' דוחה. יהי דרכו חשך וחלקלקות ומלאך ד' רודפו. תבואהו שואה לא ידע ורשתו אשר טמן תלכדו. יהדפו מאור אל חושך ומתבל ינידהו. יבעתוהו צר ומצוקה יראו עיניו כידו ומחמת שדי ישתה. ילבש קללה כמדו יאכל בדי עורו. לא יאבה ד' סלוח לו כי אז יעשן אף ד' וקנאתו באיש ההוא. ורבצה בו כל האלה הכתובה בספר הזה ומחה ד' את שמו מתחת השמים. והבדילו ד' לרעה מכל שבטי ישראל ככל אלות הברית הכתובות בספר התורה הזאת.

[102] II, 145.

[103] II, 99, 213, 255.

[104] II, 145.

[105] A. A. Neuman, *The Jews in Spain*, vol. I, p. 53.

[106] II, 156.

[107] II, 76, 80.

[108] II, 152.

[109] IV, 355.

[110] IV, 159: וכבר נהגו הכל להיות ס"ת ביד החזן הכנסת או שאר העם בעת שמשביעין שבועות היסת כדי לאיים עליו . . . הנשבע אוחז ס"ת בזרועו והוא עומד ונשבע בשם או כנוי ונשבע שבועה . . . בנקיטת חפץ או תפילין; IV, 76.

[111] II, 152; III, 43, 179: . . . אלו ההערמות שעושים אנשים לבטל התקנות והתנאים שתקנו קדמונינו IV, 275, 279.

[112] D. Conforte, p. 37b; S. Rosanes, vol. II, pp. 56–59, 235; I. S. Emmanuel, *Gedole Salonika le-Dorotam*, pp. 121, 122; *Histoire des Israelites de Salonique*, pp. 152–154.

Chapter VII

MARRIAGE CUSTOMS

[1] One illustration of this was the trend on the part of Jews in Turkey to return to the practice of bigamous marriages. I. Abrahams, *Jewish Life in the Middle Ages*, p. 118.

[2] III, 31. This applied to girls who were minors as well as to girls who reached their majority. III, 50: שאין דרך הבחורות להתקדש בלי רשות אביהן.

[3] III, 4.

[4] III, 29.

[5] III, 87. Such a marriage could be annulled by *Mi-un*, that is by the girl declaring before a Jewish court of three and before she reached her majority, that she refused to live with her husband any longer. See Joseph Karo's code, *Shulhan Aruk*, "Eben ha-Ezer," #155.

[6] II, 114; III, 5, 9, 19, 33, 41, 87, 135; I. Adarbi, #12, p. 105b. Joseph ibn Leb, II, 4, 43; III, 1.

[7] III, 28: ראובן קבל קידושין בעד בתו קטנה בת שני שנים; III, 29, 39.

[8] III, 33. It is interesting to note that child marriages were contrary to the advice of the Talmud, which says, ". . . A man must not betroth his daughter while she is a minor. He must wait until she attains her majority and can say, 'I love this man.' " Kiddushin 41a.

[9] III, 9; J. Karo, *Shulhan Aruk*, "Eben ha-Ezer," 43; Yebamot, 96b; M. Güdemann, *Ha-Torah ve-ha-Hayyim*, vol. I, p. 187.

[10] Mishnah Ketubot, ch. V, 2.

[11] Louis Epstein, *The Jewish Marriage Contract*, pp. 13, 14; I. Epstein, *Responsa of Adreth*, p. 79.

[12] III, 72, 152, 201, 210.

[13] III, 26, 72.

[14] III, 26: שמנהג ידוע בכל תפוצות ישראל להתנות קנס בשידוכין והחוזר פורע קנס אל כת המקיימים.

[15] III, 72. A betrothal contract drawn in Sofia in 1582: בס' טוב ובשעת ברכה ערוכ' בכל נגמרו השידוכין מה"ר בנימין כהן עם הבחורה בתולה מרת לידיסיא בת הנעלה הזקן כ"ר שלמה סרוק נ"ע תושב פליבנה. ואלו דברי הברית אשר כרתו לשנים. ראשונה נדרה אם הנערה מרת סיטי מב"ת לנדונית בתה לידיסיא הנ"ל קאמה די רופה אחת כפי יכלתה וכבודה וקצת מלבושים שיש לבחורה נ"כ לזמן הנשואים בע"ה שיהיו מהיום עד שתי שנים וחצי. והתנו ביניהם שאם באולי לא יבא ה"ר בנימין הנ"ל לזמן הנ"ל לכנוס את לידיסיא הנ"ל לחופה בסבת מה שיהיה בעולם בין באונס בין ברצון מעתה ומעכשיו נתן לו מתנה גמורה שרירא וקיימא מתנת בריא חתוכה וחלוטה כדת וכהלכה כל התכשיטין והחפצים אשר שלח בעת השידוכין בלי שום ערעור ופקפוק. ואלו צמידין על ידיה ויירדאן א' וטבעת א' ונזמים וכובע ובתי שוקים ופרשמאקאש, סך כל זה שני אלפים ומאתים לבנים כל זה מתנה גמורה לבחורה הנז' אם לא יבא לזמן הנז'. עוד קבל עליו הר' בנימין הנ"ל שבועה חמורה ע"ד המב"ה וע"ד לידיסיא הנז' ובנזרת נח"ש שלא לקדש שום אשה בעולם זולתי לארוסתו לידיסיא הנז' ולכנסה לחופה כדת מה לעשו' לבת ישראל, ננמר וחזק כו' מסודר כו' בכל חזוקי סופר כו' היום יום ב' ר"ח שבט שנת השמ"ב ליצירה פה עיר סופיאה והכל שריר וקים.

[16] III, 31.

[17] III, 3, 4, 12, 23.

[18] Kiddushin, 50b; *Shulhan Aruk*, "Eben ha-Ezer," 45.

[19] III, 14, 15, 17, 36, 74. In Salonika, *siblanot* were not regarded as tokens of marriage, whereas in Constantinople and Sofia these gifts which the groom sent to his betrothed were so regarded. Joseph ibn Leb, I, 17; II, 43; III, 1; A. H. Freiman, *Seder Kiddushin ve-Nisuin*, p. 156.

[20] III, 134.

[21] III, 25; IV, 345. It varied from one to five years.

[22] II, 79, 104; III, 95, 148, 187.

[23] III, 188: שנתפשט המנהג שרוב בני אדם רובא דרובא נותנים לבתם נדוניא יותר מעישור נכסיהם. ורבים יותר ממה שיש להם . . . שמנהג הרע בזמן הזה שיש כמה אנשים פושטים בגדיהם להשיא את הבת בכבוד.

[24] III, 109, 224.

[25] III, 191: ואם ח'ו תפטר כלתו דא בחיי בעלה בלא זרע קיימא יחוייב להחזיר לאחיה חצי מהנדוניא כמנהג בני דמשק. This practice was based on the Spanish custom known as *Minhag Toledo*; III, 134, 227; L. Epstein, p. 270.

[26] III, 150; IV, 308.

[27] III, 125, 150, 187. I. Adarbi, #50, p. 11a. This practice of the German Jews was based on the *Takkanot Shum*, the marriage enactments adopted by the German communities of Speyer, Worms and Mayence. This enactment about the husband keeping a part of his deceased wife's dowry was probably based on the Takkanah of Rabbi Jacob Tam. See Louis Finkelstein's *Jewish Self-Government in the Middle Ages*, p. 58.

[28] III, 231.

[29] II, 91, 105, 106, 109; III, 71, 118; IV, 309, 449; Joseph ibn Leb, I, 16.

[30] III, 3, 4, 17, 19.

[31] III, 12, 33.

[32] III, 21: . . . הסכימו והכריזו בחרם חמור ונמור . . . שלא לקדש אשה כי אם בעשרה ושיהיו העשרה מבן י"ח שנה ומעלה והחרימו את העדים שימצאו בקדושין שלא יהיו על האופן הנזכר; III, 12, 50. The following text of the communal enactment, made by the rabbis of Salonika in 1567, is given in the *R. E. J.*, vol. XLI, pp. 256–257: יען ראו עינינו רבו היום עבדים המתפרצים פורצים גדר בבנות ישראל הכשרות והצנועות עומדות בירכתי ביתן ומעלילין עליהם שנתקדשו להם ונמצאו בנות ישראל כהפקר ח'ו ומסיתים ומפתים עדים רעים וחטאים כיוצא בהן לקיים מעשיהם הרעים. ועל כן ראינו לחדש מה שכבר נשמע אלינו מאבותינו הקדושים אשר בארץ המה והוא לנדות ולהחרים לכל אשר בשם ישראל יכונה שיקדש אשה גדולה או קטנה לא על ידה ולא ע"י שלוחה ולא ע"י אביה ולא ע"י שלוחו. ואם ח'ו שום בר ישראל יעבור על החרם הזה הנה מעתה ומעכשיו אנו מבדילין אותו מכלל עדת ישראל, כעכו"ם גמור לכל דבריו ולא יקבר בקבר ישראל. פתו פת כותי ויינו יין . . . ארור הוא ביום וארור הוא בלילה. ורבצה בו כל האלות הכתובות בספר תורת מרע"ה ובכלל החרמות והשמתות והאלות והחומרות הנז' יחולו על העדים שיזמינו עצמם להעיד על דבר כזה. ארורים הם לה' והנם פסולים לכל עדות. וכל זה יובן אם לא יהיו הקידושין בעשרה מישראל גדולים בני חורין [מבן י"ח שנה ובכללם חזן הקהל].

והיה זה ביום ד' ז' לחודש חשון שנת השכ"ח ליצירה פה שאלוניקי יע"א

שמואל די מדינה
יעקב בכמהר"ר שמואל טייטאצאק
דניאל ב"ר פרחיא הכהן
אליהו בכמהר"ר חיים עובדיה
יצחק בר' שמואל אדרבי
שלמה לבית חזן
מרדכי מאטלון
משה בכ"ר יאודה נארסון
משה אלמושנינו

Although Rabbi I. Adarbi was a co-signer of this enactment, he vigorously disagreed with De Medina's ruling which declared all those who served as accessories to a secret marriage to be disqualified as Jewish witnesses. I. Adarbi, #369, p. 105b.

Similar enactments prohibiting secret marriages were also promulgated in other communities such as in Arta, III, 50; Magnasia, III, 30; Uskup, Adrianople and Sidero-Kapsa. A. H. Freiman, pp. 180–206.

[33] Louis Epstein, *Marriage Laws in the Bible and Talmud*, pp. 31, 32; De Medina, III, 78, 120; I. Adarbi, #294, p. 90b; #305, p. 93a; Joseph ibn Leb, II, 22.

[34] III, 198: בעיר הזאת שאלוניקי דאיכא מנהג שלא לישא אלא אשה אחת; II, 105, 119; III, 181; IV, 449.

[35] See above, note 28.

[36] II, 109, 119; III, 113, 120.

[37] II, 140; III, 120.

[38] III, 71, 192.

[39] Isaac Adarbi, *Dibre Ribot*, #13, p. 5b: לפרט בשאלוניקי . . . מצאנו ראינו שבכל יום ויום מיבטין ואין פוצה פה ומצפצף.

[40] II, 91; III, 41, 67; Isaac Adarbi, #13, p. 5b, quotes the decisions of Rabbis Isaac Al-Fasi, Maimonides, the Rashbam, and the Raabad that מצות יבום קודמת למצות חליצה ואין כופין אותו לחלץ וגם ר' אליהו מזרחי . . . אם נפלה יבמה לפני יבום שיש לו אשה יכול ליבמה ולא יחוש לחרם ר"ג; Yebamot, 39b, Joseph ibn Leb, I, 18, 79; II, 16.

[41] III, 73, 75, 114, 183.

[42] III, 123: כי הטוב והישר היא לקיים נשואי בת אחיו וינוחו עצמות אחיו בזה; II, 105. The widow of Rabbi David Halevi was so eager to have her daughter married to her husband's brother that she promised the latter never to remarry if he fulfilled her request. Yebamot, 62b.

[43] III, 212; IV, 17.

[44] III, 74; IV, 17.

[45] III, 161.

[46] III, 120, 214.

[47] III, 89, 159, 210, 233; IV, 212.

[48] IV, 378, 396.

[49] III, 123, 233; IV, 345, 346.

[50] II, 105; III, 123; IV, 317.

Chapter VIII

RELIGIOUS LIFE

[1] I, 35. The Sephardic order of services is chiefly based on that used in Castile. This differs somewhat from the Catalonian and Aragonian ritual. The older order of services which prevailed among the Byzantine Jews in Turkey prior to the arrival of the Sephardim was known as the Romania ritual.

[2] II, 40, 42, 153: וכמו בשאלוניקי האשכנזים היו אוכלים חלב הנקרא חמש אצבעות ושאר הקהילות נזהרים משום כרת. והאשכנזים נזהרים מנפיחה ושאר הקהילות נופחים; I. Adarbi, #52, p. 11b. For a fuller discussion on this practice see Ben Zion Katz, *Mizkenim Etbonan.*

[3] II, 44.

[4] IV, 402.
[5] III, 9.
[6] II, 193.
[7] III, 145.
[8] Joseph ibn Leb, III, 25.
[9] I, 28.
[10] The fact that open violations of the law do not appear frequently in the Responsa is no proof that they did not exist, since most of the cases did not require a written legal decision from a rabbi.
[11] III, 220.
[12] II, 53.
[13] Milk bought from a non-Jew was considered prohibited because of fear lest the non-Jew might have mixed with the cow's milk the milk of an unclean animal, or that he used unclean utensils. There was no apprehension, therefore, when the animal was milked in the presence of the Jew who bought it. See Joseph Karo's code, "Yore Deah," 151:1.
[14] Joseph ibn Leb, I, 53.
[15] II, 55: כי הגוים בזמן הזה יודעים שאפילו יפסיד מה הישראל לא ילך מעיר לעיר ביום טוב. See Chapter II, note 9.
[16] IV, 105.
[17] II, 155.
[18] Joseph ibn Leb, II, 53.
[19] II, 155.
[20] II, 120; See Joseph Karo's *Shulhan Aruk*, "Orah Hayyim," #537.
[21] II, 120; Joseph ibn Leb, III, 60.
[22] III, 12, 19, 21, 50, 59, 62.
[23] I. Adarbi, #186, p. 56a. See Chapter VII.
[24] See Chapter VII, note 31. III, 19: . . . רבו היום פריצ', מחללים הקדשי' קדשי בנות ישראל ובלתי ידיעתן מעלילים עליהם שנתקדשו והנם כשבויות; III, 101. In one instance, a man forced an orphaned girl, with the aid of the police, to become his wife, while his brother performed the marriage ceremony.
[25] III, 161, 168.
[26] III, 65.
[27] II, 215; III, 19, 50, 220.
[28] IV, 5. This responsum tells of a boy who stole money from three Jews, one of whom was the famous physician and former Marrano, Amatus Lusitanus. When the guilty boy was apprehended, Lusitanus was persuaded by others to forgive the boy and not to demand the return of his money for the boy had threatened that, if prosecuted, he would desert his faith and become a Moslem. The other two men were not as magnanimous and subjected the boy to physical torture to recover their money. Later on, the boy was found dead. It was the conviction of De Medina that the boy died at the hands of his Jewish tormentors.
[29] IV, 355.
[30] II, 152, 204; III, 10, 55, 81, 82, 168, 170; IV, 52, 88, 128, 130, 200, 331, 359.
[31] II, 104; III, 81, 168, 170; IV, 88, 128.
[32] III, 168; IV, 331, 359.
[33] III, 55.
[34] II, 152.
[35] II, 204; IV, 128.

[36] III, 115; IV, 64, 305, 354.

[37] IV, 354. This proselyte derived his living from farming a toll. He obtained this franchise with the aid of Jewish merchants. De Medina harshly censured another Jew who attempted to take from the proselyte the right to this toll. He pointed out that it was a grave sin to harm the interests of a proselyte.

[38] S. W. Baron, *The Jewish Community*, vol. II, pp. 119–207.

[39] I, 20; I. S. Emmanuel, p. 106; Joseph Nehama, vol. II, pp. 142, 143.

[40] II, 166: כ"ש למי שהיה יכול ליקח ד' או ה' תלמידים ללמדם תורה ולהתפרנס מהם; IV, 396.

[41] II, 141.

[42] *Ibid.*; IV, 396.

[43] IV, 29: להלבישו ולפרע שכר המלמד בכל שנה ושנה עד שינדיל וישא אשה . . . לפרנסו; IV, 373; Joseph ibn Leb, I, 75.

[44] IV, 222.

[45] I. S. Emmanuel, p. 168. This account is based on a manuscript in the Bodleian Library, according to Neubauer, #986, 3b.

[46] IV, 266.

[47] See this Chapter, dealing with charity; II, 170; III, 237.

[48] II, 210.

[49] *Ibid.*

[50] II, 132. One of the requirements of a rabbi was to conduct daily study groups.

[51] IV, 304, 357.

[52] IV, 222: שהרי הטור ז"ל כל ישראל שותין מימיו ומצוי הספר ביד כל אדם.

[53] I. S. Emmanuel, *Histoire des Israelites de Salonique*, p. 222.

[54] II, 170, 174.

[55] IV, 41.

[56] II, 172; III, 237; IV, 366.

[57] II, 169, 173.

[58] II, 128.

[59] IV, 219.

[60] II, 86. See Chapter III in which De Medina, writing to Joseph Karo, censures the rabbis of Safed for rendering a decision contrary to that of the Salonika rabbis. See Schechter's essay on the "Saints of Safed," in his *Studies in Judaism*, 2nd series.

[61] II, 58, 168, 173; IV, 366. Judging from the nature of the bequests made by the Jews of Turkey, it appears that they considered Safed more important than Jerusalem.

[62] II, 167, 174: In another instance De Medina expressed a similar view and opposed the plan of an executor who desired to send to an educational institution in Palestine part of the income of an estate designated originally for the Salonika Talmud Torah.

[63] II, 121, 179, 180; III, 55, 215; IV, 40, 174, 262, 289.

[64] IV, 326, 431. One left 1,000 aspers in his will to enable his mother-in-law to settle in Palestine; another left 5,000 aspers for his aged mother to do likewise.

[65] II, 173, 203: כי ידוע לכל כמה גדולה מעלת המקום א"י תוב"ב וכמה חבבו אותה אבותנו הקדושים . . . שאפילו שמת חוצה לארץ זכות גדול ליקבר בא"י; I. Adarbi, #125, p. 37a; Joseph ibn Leb, I, 58.

[66] S. Rosanes, vol. II, Chapter 5, p. 141.

[67] *Ibid.*; II, 40: אעפ"י שיש שם קהל נדול מאנשי עיר הזאת שאלוניקי.

[68] III, 215. A translation of this responsum is given in full in the last chapter. III, 123.

Chapter IX

MARRANOS

[1] IV, 46; Joseph ibn Leb, II, 23; Cecil Roth, *History of the Marranos*, pp. 199–201; *The House of Nasi; Duke of Naxos.*

[2] IV, 305.

[3] H. Graetz, *Dibre Yeme Yisrael*, ed. Rabinowitz, Hebrew, vol. VII, Chapter II, p. 28.

[4] IV, 296; I. S. Emmanuel, p. 134. See Chapter II, "History of the Jewish Community of Salonika."

[5] III, 110: וזה הלשון שמצאתי כתוב וחתום . . . כי הוסכם עפ"י כל חכמי העיר הזאת שאלוניקי יע"א . . . שכל אשה שנשאת לשום איש מבני ישראל בעודם בגזירת השמד אעפ"י שקדש אותה בפני ישראל העומדים שם אשר צפו טי השמד על ראשם שאין לחוש לאותם קידושין כלל והרי היא מותרת לכל אדם אשר ירצה לכנוס אותה הן שמה במקום השמד הן אחר הנצלם מחרב השמד; III, 10; Joseph ibn Leb, I, 19.

[6] This ruling which was sponsored by Jacob ibn Habib was later approved by Rabbis Judah Benveniste, Joseph Fasi, Meir Arama, Joseph Taitazak, Levi ibn Habib and Abraham Sarvallo. I. S. Emmanuel, p. 136; S. Asaph, "Marranos in Responsa Literature," in *Zion*, vol. V, p. 57, Jerusalem, 1933; Joseph ibn Leb, I, 15.

[7] III, 10; IV, 328: דאנוסים שהם בארצות הגוים יש מהם שהם כישראלים גמורים ויש מהם שאין להם כלל דין ישראל. שחיטתם כשחיטת נכרי ואוסרים היין במגעם. IV, 332. De Medina was guided by the same principle when settling the controversy that occurred among the members of the Mendes family. Joseph ibn Leb, I, 19: שאין סומכין על העדיות של האנוסין בהיותם בגיות בפלאנדיש או בויניציאה.

[8] IV, 315. Isaac Adarbi, *Dibre Ribot*, #198, p. 64a, rendered a similar ruling where a mother and her daughter returned to Judaism and the son remained in Portugal. The mother died and Adarbi ruled that the daughter was the legal heir and not the son.

[9] IV, 327; Joseph ibn Leb, II, 23; Joseph Karo, *Abkat Rokel*, #80, 81, was the only rabbi who took the opposite stand. S. Asaph, *Zion*, vol. V, Jerusalem, 1933.

[10] IV, 327: שכל אנוסי פורטוגל כשנושאים נשים הכוונה בין הוא בין היא לעקור דירתם משם ולבא למקום שיהיה יכולת בידם לעבוד את ד' אלהינו . . . ומסתמא יש לנו להחזיק בכל אנוסי פורטוגל שלבם תמיד בכל עת לשמים.

[11] III, 112: דאנו מוחזקים בכל בני האנוסים דמישראל הם. This responsum is translated in full in the last chapter.

[12] *Ibid.*

[13] S. Asaph, *Zion*, vol. V.

[14] II, 199.

[15] IV, 54, 55: עד שקם האפיפיור שגזר על היהודים האנוסים באנקונה להומם ולאבדם בממונם וגופם . . . ונלכדו כל הישראלים אשר היו מקודם אנוסים ורובם הפסידו נכסיהם ומלבד כמה נפשות שנהרגו שם על קדושת הש"י.

[16] David Kaufmann, "Les Marranes de Pesaro," *R. E. J.*, vol. XVI, p. 61; "Les 24 Martyrs d'Ancône," *R. E .J.*, vol. XXXI, p. 222; Cecil Roth, *History of the Marranos*, p. 206.

[17] IV, 54, 55, 303; I. Adarbi, #83, p. 23a; #365, p. 105a.

[18] Jacob Reznick, *Le Duc; Joseph Naxos*, p. 121; S. P. Rabinowitz, *Motzoe Golah*, pp. 294–297; H. Graetz, vol. VII, pp. 257–259; Joseph ibn Leb, I, p. 63b. D. Kaufmann, *R. E. J.*, vol. XVI, p. 61. Cecil Roth, *The House of Nasi: Doña Gracia*, pp. 135–175.

[19] IV, 28, 54, 59, 438.

[20] IV, 330.

[21] IV, 331, 332.

[22] J. Reznick, *Le Duc*; *Joseph Naxos*, p. 83; S. P. Rabinowitz, *Motzoe Golah*, pp. 286, 287.

[23] II, 97; IV, 266; I. S. Emmanuel, p. 217; S. Rosanes, vol. II, p. 72.

Chapter X

EXTERNAL RELATIONS

[1] IV, 46, 403.

[2] IV, 364; II, 124: כי מי שלא חס על כבוד מלכנו המלך הגדול והחסיד יר"ה ראוי לו שלא בא לעולם כי מצוה . . . לירא ממאמרו ולקיים מצותיו וגזרותיו כמו שמצוה לקיים מצות וגזרת מלכו של עולם . . . ואוי לנו שצריכים לעשות הסכמה כזאת.

[3] See Chapter I.

[4] Jacob Reznick, pp. 19, 22.

[5] IV, 364. This physician, Jacob, is not to be confused with the ancestor of Moses Hamon. S. Rosanes, vol. II, pp. 232–233. See Chapter VI, dealing with tax exemptions.

[6] S. Rosanes, vol. II, p. 230.

[7] A full biography of Joseph Nasi is in J. Reznick's *Le Duc*; *Joseph Naxos*. Cf. Roth, *The House of Nasi: The Duke of Naxos*, Philadelphia, 1949.

[8] IV, 344.

[9] S. Rosanes, vol. II, p. 90; H. Graetz, ed. Rabinowitz, vol. VII, pp. 284, 308.

[10] See end of this chapter on "Dress," and "Slavery."

[11] H. Graetz, ed. Rabinowitz, vol. VII, p. 308.

[12] See also of the political influences of Esther Kiera Handali in the court of Sultan Murad III. H. Graetz, vol. VII, p. 427.

[13] See Chapter VI, dealing with specail taxes imposed on Jews.

[14] I. Goldziher, *R. E. J.*, vol. XXX, p. 7.

[15] III, 45, 211, 218.

[16] IV, 58, 157, 388: גם ידענו בעונותינו רוע הנהגת אלו השרים שאין מדרכם להתפייס בדברים.

[17] IV, 336: וכמו שידוע במלכות זה כי כאשר אין לאדם בנים או יורשים . . . אנשי המלכות העומדים על המלאכה תיכף ומיד כשנפטר אדם מעלילים על נכסיו שהם למלך לפי שאין לו יורשים ומי יוכל לדון עם מי שתקיף ממנו.

[18] IV, 336, 358.

[19] IV, 58, 135, 340.

[20] I. S. Emmanuel, pp. 117, 118. J. von Hammer in his *Histoire de l'Empire Ottoman*, vol. IV, p. 301, tells that these mercenaries were so powerful that when Selim II was about to ascend the throne, the Janissaries stopped the procession, demanding an increase in their pay. Selim II had to consent to this demand because he was utterly helpless.

[21] IV, 300.

[22] III, 131. See Chapter VI, dealing with Jewish Courts. IV, 224. De Medina's ruling is based on the legal decision rendered by his teacher, R. Joseph Taitazak, which is included in his own responsum. He also quotes the responsa of Rabbis Samuel Halevi and Abraham Yerushalmi who concur with him.

[23] *Ibid.*; R. Solomon ibn Adret, *She'elot u-Teshubot*, III, 109.

[24] I, 5: יש מהם רבים חומדי מטון ישראל וכאשר נפל בידם אין חומלין עליו; II, 109; IV, 145, 157, 188, 336, 348.

[25] IV, 224.

[26] II, 55.

[27] II, 64, 66, 75; III, 159, 170; IV, 18, 26, 60, 81, 126, 200, 214, 285, 341, 418; I. Adarbi, #189, p. 58b.

[28] IV, 37, 138, 225.

[29] II, 93; IV, 56, 131, 138.

[30] III, 53: כי סתם גוי גזלן; IV, 50: וכי דרך הגוים ארורים לחמול ולדאג על היהודים; IV, 275: כי אין דרך ישראל להניח שלו ביד גוי אלא אם מתיאש או שאין לו מקום להוציא את שלו מיד גוי כשאנוס הוא ישראל. All these references pertain to Christians, since Moslems were referred to as *Tugar* or *Ishmael*.

[31] IV, 59, 184.

[32] IV, 417.

[33] III, 53. One case tells of the genuine concern felt by a Turk who had lodged in his home a Jewish travelling merchant. When his guest was about to continue his journey before daylight, the Turk urged him not to do so since his life would be in danger.

[34] IV, 272: ראובן קנה בית ברחוב היהודים; I, 19; IV, 284.

[35] IV, 281: מפני שהוא בין בתי היהודים ולא ישב [התוגר] ביניהם בכל ממון שבעולם.

[36] III, 155; IV, 188, 207, 300: גם כן העלילות שמעלילים התוגרמים ליהודים בזמן גלותינו נמצאים בכל יום ויום ובכל עיר ועיר.

[37] I. S. Emmanuel, p. 246.

[38] II, 55; S. P. Rabinowitz, *Motzoe Golah*, Warsaw, 1894, pp. 345–48.

[39] II, 194: בזמן הזה לכ"ע אין עבד קנוי לישראל לגופו לפי שחוק המלכות הוא שאין אדם חוץ מדחם יכול לקנות עבד אלא שכירא בעלמא. כפי אין כח ביד ישראל במלכות זה לקנות עבד ושפחה אם לא בדרך שכירות. II, 195, 196; III, 211, 218; IV, 88, 211, 212, 375, 396.

[40] *Ibid.*; A. Danon, *R. E. J.*, Vol. XL, p. 219.

[41] Solomon le-Bet Levi, *She'elot u-Teshubot*, H. M., #6; Moses di Trani, *She'elot u-Teshubot*, II, 199.

[42] S. Asaph, *Zion*, vol. IV (1940).

[43] *Ibid.*

[44] III, 211; IV, 211, 375; IV, 203: Rabbi Samuel Taitazak provided in his will that his female slave, Catalina, be freed.

[45] II, 194: עבדים ושפחות הקנויים לישראל בזמן הזה ומתגיירים וישר' נושאין אותם. II, 195, 196; Joseph ibn Leb, I, 13.

[46] II, 195.

[47] III, 218.

[48] IV, 88.

[49] Ilse Lichtenstadter, "The distinctive dress of non-Moslems," in *Historia Judaica*, vol. V (1943).

[50] III, 53, 85, 155: דוקא שמלבושו מוכיח עליו שאינו יהודי שהוא לבוש האסור ליהודים. באלו הכובעים שלובשים עתה ע"פ גזירת המלך I, 4:.

[51] Joseph ibn Leb, I, 6; II, 15.

[52] I. S. Emmanuel, p. 243. The Jewish women of means were adorned with bracelets, necklaces of precious pearls, earrings, diamonds and silks.

[53] II, 149.

[54] I. S. Emmanuel, pp. 243, 244; J. Nehama, *Histoire des Israelites de Salonique*, vol. IV, pp. 141–142.

[55] I. S. Emmanuel, p. 244.

[56] J. von Hammer, *Histoire de l'Empire Ottoman*, vol. II, p. 237.

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לוי 'ן חביב (הרלב"ח)
מאיר הלוי אשכנזי
מאיר ב"ר טודרוס הלוי (הרמ"ה)
מאיר ב"ר ברוך מרוטנבורג (מהר"ם)
מאיר ב"ר שמואל יצחק מפדואה קאטצענעלענבאגען
מנחם מריקאנטי
מרדכי ב"ר הלל אשכנזי (בעל המרדכי)
משה אלשקר
משה מקוצי (בעל הסמ"ג)
משה בן מימון (הרמב"ם)
משה בן נחמן (הרמב"ן)
משולם
רב נסים ב"ר ראובן (הר"ן)
רב סעדיה
ר' עובדיה מברטנורא
רבינו פרץ
שמואל פראנקו
רב צמח נאון
רב צמח (בנו של הרשב"ץ)
צדקיה ב"ר אברהם (בעל שבלי הלקט)
שמעון קיירא (בעל הלכות גדולות)
שלמה אבן אדרת (הרשב"א)
שלמה בן שמעון בן צמח (מהר"ש)
שלמה יצחקי (רש"י)
שמואל בן מאיר (הרשב"ם)
רבינו שמחה (בעל מחזור ויטרי)
שמעון בן צמח דוראן (הרשב"ץ)
רבינו שמעיה

Halakic Works in the Responsa

אבי עזרי	— אליעזר בן יואל הלוי
האגור	— יעקב ברוך בהרב יהודה לאנדא אשכנזי
אדם וחוה	— ירוחם בן משולם
אור זרוע	— יצחק מווינא
האלפס	— יצחק אלפסי
בנימין זאב	— בנימין בכה"ר מתתיהו
בית יוסף	— יוסף קארו
בעל המאור	— זרחיה הלוי
הגהות אשרי	— ישראל מקרעמז or קרעמזיר
הגהות מיימוניות	— מאיר הכהן
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מגיד מנשה	— וידאל דטולוסא
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