

# What Do They Study in Your Yeshivah?

## The Scope of Talmudic Commentary in Europe During the High Middle Ages

by EPHRAIM KANARFOGEL

AT THE START of the eleventh century, as the last of the great *geonim* were completing their œuvre that consisted principally of responsa and halakhic monographs, leading scholars in Germany and North Africa, such as Rabbenu Gershom (960–1028) and his successors in Mainz, and Rabbenu Hananel (d. 1056) and Rav Nissim b. Jacob (990–1062) in Kairouan, were beginning to produce their talmudic commentaries. By this time, most, if not all, of the Babylonian Talmud had reached

these areas in the west, although the precise details of its transmission and the availability of particular texts in any given area are difficult to pinpoint.<sup>1</sup>

Throughout the twelfth and thirteenth centuries, several dozen talmudic commentaries were produced by the most important rabbinic scholars of Ashkenaz, Sepharad, and Provence, known collectively as the *rishonim*. A perusal of these western European commentaries will reveal those tractates or areas of the Babylonian Talmud that were most popular, although awareness and use of talmudic material can be effectively traced through an analysis of the halakhic writings of the period as well. Moreover, “lost” works of the *rishonim* and the existence of newly discovered talmudic commentaries found in manuscript must also be taken into account.<sup>2</sup> Due to limitations of space, however, we will focus here on one relatively large issue of this type that has been highlighted by some recent scholarship: the study and diffusion of the talmudic tractates that comprised *Seder Kodashim* (and related tractates), as reflected by the pattern of commentaries produced about them.

As the so-called *Perush Magenza* (started by Rabbenu Gershom and continued and expanded by his students and successors at the academy of Mainz) suggests, a commentatorial tradition for tractates in *Seder Kodashim*, including *Menahot*, *Hulin*, *Bekhorot*, *Arakbin*, *Temurah*, *Keritot*, *Meilah*, and *Tamid*, developed early on in Rhineland Germany.<sup>3</sup> The commentaries produced by Rashi (1040–1105) to all of

*mud Yerushalmi* into medieval Europe was somewhat more uneven, and requires separate treatment. See, e.g., E. E. Urbach, *The Tosafists: Their History, Writings and Method* [Hebrew; cited hereafter as *Baalei ha-Tosafot*] (Jerusalem, 1980), v. 2, pp. 703–712; my “The Tosafist Oeuvre and *Torah U-Madda*,” *The Torah U-Madda Journal* 2 (1990), pp. 55–60; and I. Ta-Shma, *Talmudic Commentary in Europe and North Africa* [Hebrew; cited hereafter as *Ha-Sifrut ha-Parshanit la-Talmud*] (Jerusalem, 1999), v. 1, index, s.v. *Talmud Yerushalmi*.

2. Lost works include, for example, the massive halakhic compendium, *Sefer ha-Hokhmah*, by R. Barukh of Mainz (d. 1221), known to us today only by its citation in subsequent German works; newly discovered commentaries range, for example, from *Tosafot* collections from northern France to the commentaries by R. Meir ha-Levi Abulafia (Ramah) of Toledo, Spain.

3. On the nature of the Mainz commentary and its compilation, see Ta-Shma, *Ha-Sifrut ha-Parshanit la-Talmud*, v. 1, pp. 35–40,

1. On the role or place of the Babylonian Talmud in early Ashkenaz (through the first part of the eleventh century), see A. Grossman, *The Early Sages of Germany* [Hebrew] (Jerusalem, 1981), pp. 424–35; idem, “Zikatah shel Yahadut Ashkenaz ha-Kedumah le-Erez Yisrael,” *Shalem* 3 (1981), pp. 53–78; and I. Ta-Shma, *Minhag Ashkenaz ha-Kadmon* (Jerusalem, 1992), pp. 85–105. On the (un)availability of certain texts in medieval Europe, note, e.g., the remark of R. Abraham b. Isaac *Av Beit Din* of Narbonne (d. 1159; cf. below, n. 30), recorded in S. Assaf, *Sifran shel Rishonim* (Jerusalem, 1935), p. 32: “There are no *Mishnayot* of *Seder Zeraim* here for me to peruse [*she-aayen bahem*].” The penetration of the *Tal-*

pp. 56–58. Especially among the earlier commentators, there are cases where an individual *rishon* undertakes the interpretation of a tractate for which he has no firm commentatorial tradition. For Rashi (with respect to tractate *Avodah Zarah*) see *Teshuvot Rashi*, ed. I. Elfenbein (New York, 1941), #382, and cf. H. Soloveitchik, “Can Halakhic Texts Talk History,” *AJS Review* 3 (1979), 158, n. 7. See also Rabad’s introduction to his commentary to *Eduyyot*, and cf. I. Twersky, *Rabad of Posquieres* (Philadelphia, 1980), pp. 40–41, 110, and below, n. 35.

4. Whether Rashi commented on some or all of the remaining tractates in *Seder Kodashim* remains an open question. R. Betzalel Ashkenazi, compiler of *Shtitah Mekubbetzet*, and others have noted that portions of Rashi’s commentaries to *Kodashim* as they appear in the standard edition of the Talmud (as well as the entire commentary to tractate *Meilah*) were in fact not authored by Rashi, although the actual authors may have come from among his colleagues and students. See A. Grossman, *The Early Sages of France* [Hebrew] (Jerusalem, 1995), pp. 216–218. For Rashi’s use of *Perush Magen*, see Ta-Shma, v. 1, pp. 53–54, 105. Ta-Shma suggests (pp. 33, 58) that a greater concentration of *Perush Magen* on the smaller tractates of *Seder Kodashim* has survived (than to any other section of the Talmud) because Rashi’s commentaries to these tractates either did not survive or were never written.

5. See Urbach, *Baalei ha-Tosafot*, v. 1, p. 143, and cf. P. Roth, “Commentary on Tractate *Kinnim* by a tosafist (R. Samson of Sens?),” [Hebrew] *Netuim* 7 (2000), pp. 9–17.

6. See also *Tosafot Shantz al Massekhet Bekhorot*, ed. Y. Ilan (Jerusalem, 1997).

7. Cf. *Sefer ha-Yashar le-Rabbenu Tam (Hiddushim)*, ed. S. Schlesinger (Jerusalem, 1974), pp. 294–319, for comments on *Zevahim*, *Menahot*, *Bekhorot*, *Keritot*.

8. For the origins of the standard *Tosafot* to *Seder Kodashim*, see Urbach, *Baalei ha-Tosafot*, v. 2, pp. 661–674. Urbach also notes the references by R. Betzalel Ashkenazi to collections of *Tosafot Tukk* and *Tosafot Rabbenu Peretz* on several additional tractates, and to *Tosafot Evreux* on *Bekhorot*. For additional references to comments from the brothers of Evreux on *Zevahim* and *Menahot*, see *Tosafot Yesbanim ha-Shalem al Massekhet Yevamot*, ed. A.

the larger tractates in *Seder Kodashim*, beginning with tractate *Zevahim* and running through *Keritot*, have survived, although Rashi’s use of the earlier Mainz commentaries appears to have been varied.<sup>4</sup>

The standard edition of the Babylonian Talmud contains *Tosafot* comments to all of the tractates in *Seder Kodashim* that had been interpreted by the scholars of Mainz and by Rashi. The *Tosafot* to *Zevahim* were composed by R. Barukh b. Isaac (d. 1211), author of *Sefer ha-Terumah* and a leading student of Rashi’s great-grandson, R. Isaac of Dampiere (Ri). Virtually all of the earlier tosafists mentioned by *Tosafot Zevahim* were students of Rashi’s grandson, Rabbenu Jacob Tam (c. 1100–1171). Indeed, one of them, R. Jacob of Orleans, was especially involved in the study and interpretation of this and other tractates in *Seder Kodashim*, as well as related *sugyot* found elsewhere in the Talmud.<sup>5</sup> The *Tosafot* to *Menahot* were composed by another leading student of Ri, R. Samson of Sens (d. 1214), as were the *Tosafot* to *Bekhorot*.<sup>6</sup> *Tosafot Keritot* were composed by yet another student of Ri, who was also a student of the tosafist, R. Hayyim Kohen of Paris.<sup>7</sup>

Although the *Tosafot* of R. Samson of Sens were a basis for the standard *Tosafot* to *Hullin*, *Tosafot Hullin* also includes material from later students of Ri in northern France and others who lived in the early thirteenth century. Two late thirteenth-century German rabbinic figures are also mentioned, suggesting that these *Tosafot* were finally redacted by R. Eliezer of *Tukk* (=Tuchheim, Germany) at that

time. The *Tosafot* to *Arakchin* and *Temurah* were composed during the mid-thirteenth century in the tosafist *beit midrash* at Evreux (Normandy) that was led by the brothers, R. Moses, R. Samuel, and R. Isaac b. Shneur. Most of the earlier tosafists cited by the brothers of Evreux resided in northern France during the late-twelfth and early-thirteenth centuries. The *Tosafot* to tractate *Meilah* were composed by students of one of the last of the tosafist scholars and editors, Rabbenu Peretz b. Elijah of Corbeil (d. 1298). In addition to these primarily French collections, two brief German tosafist collections from the early- and mid-twelfth century appear on tractates *Keritot* (the so-called *Tosafot Hadashim*) and *Kinnim*.<sup>8</sup> R. Isaac b. Asher ha-Levi (Riba, d. 1133), the earliest of the German tosafists who

had studied in pre-Crusade Mainz, composed *Tosafot* to *Zevahim*, *Menahot*, and *Hullin* that are no longer extant.<sup>9</sup>

*Sefer Hasidim*, the ethical and pietistic handbook of the *Hasidei Ashkenaz* composed in the first quarter of the thirteenth century, stresses in several parallel passages the importance of studying the tractates of *Seder Kodashim* (as well as other ‘unpopular’ tractates):

If you see a precept that is being neglected, for example, if you see people in your city studying *Seder Moed* [*Seder Nashim*] and *Seder Nezikin*, you should study *Seder Kodashim*. Or if you see that they are not well versed in tractate *Moed Katan* (which contains the talmudic basis of the laws of mourning) and a death has occurred, you should instruct them in this and you will be greatly rewarded. For these neglected tractates and laws that people do not usually study have the status of a *met mizvah*.<sup>10</sup>

The implication of these passages is that students of the Talmud were focusing mostly on the significant tractates in the three orders of *Nashim*, *Nezikin* and *Moed*, while ignoring the order of *Kodashim*. In a similar vein, R. Judah he-Hasid’s major pietist student, R. Eleazar of Worms (d. c. 1230), extols in his prayer commentary, “the souls of the righteous who are involved with [the study of] *Seder Kodashim*, it is as if they have offered sacrifices wherever they are.”<sup>11</sup>

In light of the interpretational patterns within Ashkenaz that have been noted, there are two possible targets for the admonition found in *Sefer Hasidim*. The first is the scholarly class in Germany. Unlike the northern French tosafists of the twelfth century, and the German rabbinic scholars of the eleventh century and their students, German tosafists and rabbinic scholars of the twelfth century outside the circle of the German pietists appear to have produced relatively few commentaries to this order.

Indeed, Yaakov Sussmann has shown that a circle of scholars in Speyer in the late-twelfth century and at the beginning of the thirteenth century, who were closely linked (and in many cases related) to the German pietists, noticeably included *Seder Kodashim*

Shoshana (Jerusalem, 1994), editor’s introduction, pp. 24–25. R. Jacob b. Samson, a student of Rashi who was an older contemporary of Rabbenu Tam, authored a commentary to *Tamid*; see Ta-Shma, *Ha-Sifrut ha-Parshanit la-Talmud*, v. 1, p. 33 (n. 2), and Y. Sussmann, “Rabad on *Shekalim*: A Bibliographical and Historical Riddle,” [Hebrew] *Meah Shearim* [Studies in Medieval Jewish Spiritual Life in Memory of Isadore Twersky], ed. E. Fleisher et al. (Jerusalem, 2000), p. 166. R. Eliezer b. Yoel ha-Levi (Rabiah) of Cologne (c. 1140–1225) included three brief sections of commentary to tractate *Zevahim* just prior to his much more extensive discussion of the practical sections of *Menahot* and other so-called *Halakhot Ketanot*

(cf. below, n. 21). See *Sefer Rabiah (Avi ha-Ezri) le-Massekhtot Hullin, Zevahim, Menahot*, ed. D. Deblitzky (Bnei Brak, 1976), pp. 214–219. See also (the portions of) Rabiah’s *Seder Binyan Bayit Sheni*, published by S. Emanuel in *Ha-Maayan* 34 (1994), pp. 7–11.

9. See Urbach, *Baalei ha-Tosafot*, v. 1, pp. 165–172. Riba’s commentary on the Yom Kippur service in the Temple (as it is discussed in tractate *Yoma*) is also cited by various medieval commentaries to *Seder Kodashim*, and it is possible that he composed a commentary to *Tamid* as well. See Sussmann, p. 149, n. 72; pp. 160–61, n. 10; p. 166.

10. See *Sefer Hasidim* (Parma), ed. J. Wistinetzki (Jerusalem, 1924), secs. 1 (p. 2), 587–588, and cf. secs. 765–766 (‘If you see that people have abandoned a tractate or a *sefer* or certain *midrashim*, those texts should be strengthened [through study]’), and sec. 1509. The first passage appears in the beginning portion of *Sefer Hasidim*, which has been attributed to the father of R. Judah he-Hasid, R. Samuel b. Kalonymus of Speyer; see, e.g., Urbach, *Baalei ha-Tosafot*, v. 1, p. 194, and Sussmann, p. 151, n. 77.

11. Cited in *Arugat ha-Bosem le-R. Avraham b. Azriel*, ed. Urbach, v. 4 (Jerusalem, 1963), p. 68, n. 86. See also *Perushei Siddur ha-Tefillah la-Rokeah*, ed. M. Hershler (Jerusalem, 1992), v. 1, pp. 348–349, and the preamble to the Ashkenazic commentary to *Tamid* found in ms. Paris 1408/15 (published by S. Hasida in the *Memorial Volume for Rav I. B. Zolty*, ed. Y. Buksboim [Jerusalem, 1986], p. 186): “Torah scholars who study any aspect of the laws of the Temple service, Scripture considers it as if they offered these sacrifices in the Temple.” Cf. Sussmann, pp. 141–142, n. 77, 166; and *Menahot* 110a.

12. See Y. Sussmann, "Masoret Limmud u-Masoret Nosah shel ha-Talmud ha-Yerushalmi," *Mehkarim be-Sifrut ha-Talmud* [A Study Conference in Honor of the Eightieth Birthday of Shaul Lieberman] (The Israel Academy of Sciences and Humanities, Jerusalem, 1983), pp. 14, n. 1, 34–35; idem, "Rabad on Shekalim?" pp. 140–152, 166–70; and cf. Urbach, *Baalei ha-Tosafot*, v. 1, pp. 354–360. Sussmann notes ("Rabad," pp. 143, n. 50, 151, n. 77, 166) that R. Samuel of Speyer, the father of R. Judah he-Hasid, authored commentaries to *Yerushalmi Shekalim* and *Tamid*, as did R. Moses Taku (who also wrote on various tractates in *Toborot* and possibly on *Menahot* and *Tamid* as well); see Urbach in the next note. On R. Eleazar of Worms' commentary to *Shekalim*, see Sussmann, p. 143.

13. On R. Moses' halakhic and rabbinic writings, see, e.g., Urbach, *Baalei ha-Tosafot*, v. 1, pp. 420–425, and my "The Development and Diffusion of Unanimous Agreement in Medieval Ashkenaz," *Studies in Medieval Jewish History and Literature*, ed. I. Twersky and J. M. Harris (Cambridge, Mass., 2000), pp. 29–32.

14. See *Sefer Yam shel Shelomo* to *Hullin*, introduction. Maharshal characterized R. Moses b. Hisdai as one of the leading scholars of his day (*bein ha-gedolim*). R. Moses best known work is his theological treatise *Ketav Tamim* (in which he posits an idiosyncratic theory of anthropomorphism), a portion of which has survived. Maharshal refers to this work, which he notes approvingly is anti-philosophical, and then cites the passage discussed here from another of R. Moses' works (that is no longer extant) entitled *Yeriah Ketanah*. Cf. E. Reiner, "Temurot be-Yeshivot Polin ve-Ashkenaz ba-Meot ha-16/ha-17 ve-ha-Vikuah al ha-Pilpul," *Ke-Minhag Ashkenaz u-Polin* [Jubilee Volume in Honor of Chone Shmeruk] (Jerusalem, 1993), pp. 68–73, and M. Breuer, *Ohalei Torah* (Jerusalem, 2004), p. 88, n. 15.

15. See, e.g., Y. Dan's introduction to the facsimile edition of *Ketav Tamim* [ms. Paris H711] (Jerusalem, 1984), pp. 7–27, and my "Varieties of Belief in Medieval Ashkenaz: The Case of Anthropomorphism," *Rabbinic Culture and its Critics*, ed. M. Goldish and D. Frank (Wayne State University, 2005; in press).

16. See above, nn. 10, 12.

17. See, e.g., H. Soloveitchik, "Three Themes in the *Sefer Hasidim*," *AJS Review* 1 (1976), pp. 339–345.

18. See, e.g., my *Jewish Education and Society in the High Middle Ages* (Detroit, 1992), pp. 74–79, 172–180. Interestingly and somewhat uncharacteristically, the tosafists of northern France were in agreement with the German pietists in the matter of *Seder Kodashim*, even in the decades before the brothers of Evreux.

in the scope of their study and commentary, along with other relatively neglected areas such as *midreshei halakhah ve-aggadah* and aspects of the liturgy. In addition, the German pietists and their circle were practically the only group of *rishonim* to produce commentaries to tractate *Shekalim* in the Jerusalem Talmud, which is closely related to certain tractates in *Seder Kodashim* within the Babylonian Talmud.<sup>12</sup>

R. Moses b. Hisdai Taku, a German halakhist and tosafist who was a contemporary of R. Eleazar of Worms,<sup>13</sup> is cited by R. Solomon Luria (Maharshal, c. 1510–1574) in the second introduction to his *Yam shel Shelomo* as being sharply critical of those whose talmudic studies were centered around unrestrained casuistry (*pilpul*). In the course of his critique, R. Moses complains that while Ravina and Rav Ashi purposely did not redact any Gemara on the two least practical orders of the Mishnah (*Zeraim* and *Toborot*) in order to allow scholars to concentrate on the remaining four orders, including *Kodashim*, "We put aside most of them, and concentrate only on a portion (of a portion) of the remaining tractates."<sup>14</sup> Although R. Moses had an axe to grind concerning the esoteric teachings of R. Judah he-Hasid,<sup>15</sup> he was apparently in agreement with R. Judah's general concerns about the scholarly curriculum for talmudic study,<sup>16</sup> just as he concurred with the view of the pietists concerning the overuse of *pilpul*.<sup>17</sup>

Literary and doctrinal affinities have been identified between the German pietists and the tosafist academy at Evreux. Although earlier northern French tosafists had produced commentaries to tractates in *Seder Kodashim*, the focused efforts of the brothers of Evreux to produce their own commentaries to these tractates, as well as *Yerushalmi Shekalim*, constitute yet another aspect of the influence of the German pietists on their rabbinic study and teachings.<sup>18</sup>

It is likely, however, that *Sefer Hasidim* also intended to instruct students of the Talmud on a broader, more popular level as to the proper place of the study of *Seder Kodashim*. *Sefer Hasidim* writes that one who is traveling a great distance in order to attend an academy or other Torah center, and has only enough funds to allow for the

study of certain tractates or areas, should first study areas that have regular, practical applications that he can then teach to others. “For if he begins with *Seder Kodashim* and he is not yet knowledgeable in those areas that are necessary for daily religious life such as the laws of slaughtering [*Hullin*], Sabbath, and blessings [*Berakhot*],” he will not be able to teach people the laws that they need to know. “It is not reasonable that those who have not yet studied tractates that have daily ramifications and ought to be taught regularly, should first study tractates that become practical only in the messianic era [when the Temple service will be restored]. And in places where there is controversy about commercial matters, one should study *Seder Nezikin* even as he is also studying other things.”<sup>19</sup> In sum, *Sefer Hasidim* wished to promote the study of *Seder Kodashim* at the highest scholarly levels (as had been the tradition in pre-Crusade Germany), while ensuring at the same time that the study of *Seder Kodashim* not supersede the study and review of more practical halakhic texts and information, according to the needs of each locale.

The Talmud itself already distinguishes between the four mishnaic orders that are at the foundation of all practical halakhic matters, and the two remaining mishnaic orders of *Zeraim* and *Tohorot*. These two orders have virtually no talmudic tractates linked with them, even as they consist of complex texts in their own right whose laws apply generally in the Land of Israel alone, or only at a time when the Temple is standing.<sup>20</sup> Within the “four orders,” however, *Seder Kodashim* has points in common with both of these groups. The bulk of *Kodashim* discusses the Temple service and the sacrificial rite, and other related laws and concepts. There are also complex and obscure mishnaic tractates in this order for which there is no talmudic text, such as *Tamid*, *Middot*, and *Kinnim*. On the other hand, tractate *Hullin*, the (second half of the) third chapter and (the first half of the) fourth chapter of *Menahot* (that deal with the laws of *mezuzah*, *tzitzit*, *tefillin*, and *Sefer Torah*), do contain a large amount of practical halakhic discussion and analysis that is applicable in all periods as well.<sup>21</sup> As we have seen, rabbinic figures in northern France and Germany composed commentaries to those tractates and sections in *Seder Kodashim* that were important sources of current, practical Jewish law, as well as those that related mostly to the Temple and its sacrificial service that did not have any immediate practical relevance.<sup>22</sup>

As opposed to the situation in medieval Ashkenaz, rabbinic figures from both Provence and

19. *Sefer Hasidim*, sec. 1495. R. Moses of Coucy, a younger contemporary of R. Eleazar of Worms, whose *derashot* and exhortations delivered in both Spain and Ashkenaz are reminiscent of, if not linked to, this dimension of German Pietism, stresses the importance for even non-rabbinic laymen to understand precepts that are derived from *Seder Kodashim*. Some laymen had apparently expressed disinterest in them (*ve-yesh ba-kamon am she-omrim, mah lanu u-le-mizvot Seder Kodashim*), and in the other two less practical mishnaic orders of *Zeraim* and *Tohorot*, since the precepts derived from these orders are not currently in vogue. R. Moses responded that even if these precepts cannot be practiced, there is a requirement to study and to understand them. See his *Sefer Mitzvot Gadol* (גמ"ג), introduction to part two (the *mizvot aseih*). On R. Moses and the German pietists,

see my ‘Peering through the Lattices’: *Mystical, Magical and Pietist Dimensions in the Tosafist Period* (Detroit, 2000), pp. 68–80. Cf. I. Twersky, *Introduction to the Code of Maimonides* (New Haven, 1980), p. 209, and below, n. 40.

20. See, e.g., *Megillah* 27b, *Bava Metzia* 114b, and cf. *Sanhedrin* 106b.

21. R. Isaac Alfasi (Rif, 1013–1103) wrote a commentary to these sections of *Menahot* (entitled *Halakhot Ketanot*), beginning with a brief discussion of the laws of ritual impurity (*tumat met*) that are currently applicable, especially as they relate to *kobanim*. A number of *rishonim* in both Ashkenaz and Sepharad whose commentaries typically follow those of the Rif (such as R. Mordekhai b. Hillel, R. Asher b. Yehiel, R. Yosef Habiba) commented on some or all of these sections as well (but not on any other parts of *Menahot*). Cf. below, nn. 26, 33, 42.

22. R. Samson of Sens, perhaps reflecting his great love for the Land of Israel that inspired him to make *aliyah* along with several tosafist colleagues in 1210–1211, commented on the *Mishnayot* in *Seder Zeraim* and *Tohorot* as well. See Urbach, *Baalei ha-Tosafot*, v. 1, pp. 298–311, and my “The *Aliyah* of ‘Three Hundred Rabbis’ in 1211: Tosafist Attitudes Toward Settling in the Land of Israel,”

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76 (1986), pp. 191–209.

R. Samson made use of the commentaries to these orders of his Italian predecessor, R. Isaac b. Melchizedek of Simpont [=Siponto, Italy]. Cf. Ta-Shma, *Ha-Sifrut ha-Parshanit la-Talmud*, v. 1, pp. 121, 221–223, and Y. Sussmann, “Rabad on Shekalim,” p. 137, n. 15. R. Meir of Rothenburg authored a commentary to *Tohorot* during his imprisonment c. 1290; see Urbach, *Baalei ha-Tosafot*, v. 2, p. 545. Meir’s student, R. Asher b. Yehiel, commented on both *Zeraim* and *Tohorot*. See below, n. 25.

23. See Meiri’s introduction to his commentary to *Avot*, *Sefer ha-Kabbalah*, ed. S. Z. Havlin (Jerusalem 1992), p. 128, and see also the parallel passage in R. Isaac b. Jacob Lattes, *Shaarei Zion*, ed. Havlin, p. 173. Citing a passage from R. Judah of Barcelona’s *Sefer ha-Ittim*, Meiri intimates that a certain degree of diminution, especially with regard to the study tractate *Nedarim*, occurred already at the end of the geonic period itself, from whence it spread to Spain. See below, n. 35. Earlier in this work (pp. 123–124), Meiri writes that a *hakham* (scholar) in the parlance of the geonic academies was one who had mastered the “three orders,” a *rav* was a scholar who had also mastered *Seder Kodashim*, and a *gaon* was one who had mastered all six orders of the entire Mishnah and Talmud, consisting of roughly sixty tractates. Indeed, the *gematria* of the Hebrew word *gaon* (which equals 60) reflects this mastery.

24. See *Beit ha-Behirah al Massekhet Berakhot*, ed. S. Dickman (Jerusalem, 1965), introduction, p. 32. The difference between this citation and the one in the previous note would seem to stem from the fact that the previous text, reflecting the chain of tradition at the beginning of *Avot*, refers to the situation in the higher echelons of rabbinic scholarship, while the second text describes the state of affairs among all those who study the Talmud with any regularity. Cf. below, nn. 28, 40.

25. *Teshuvot ha-Rosh*, 31:9. R. Asher left his native Germany in 1304 for Toledo, Spain in the face of persecution. In *Perush ha-Rosh*, he himself commented on *Tamid*, *Middot*, *Kinnim*, on part of *Meilah*, and on *Zeraim* and *Tohorot*. See A. H. Freimann, *Ha-Rosh ve-Tze’etzaav* (Jerusalem, 1986), pp. 86–96. The so-called *Tosafot ha-Rosh* that cover several tractates in *Seder Kodashim* are Rosh’s presentation or adaptation of the *Tosafot* of R. Samson of Sens that were produced to many tractates in this order, as we have seen above.

26. See B. Z. Benedikt, *Merkaz ha-Torah be-Provence* (Jerusalem, 1985), p. 232. Rif wrote on all the tractates in these orders, as well as on the individual, practical tractates of *Berakhot* in *Seder Zeraim*, *Niddah* in *Seder Tohorot* (which Rif included in his discussion of the second chapter of tractate *Shevuot*), *Hullin*, and the *Halakhot Ketanot* (above, n. 21). See I. Ta-Shma, *Ha-Sifrut ha-Parshanit la-Talmud*,

Spain in the twelfth and thirteenth centuries noted and generally accepted the dominance of the “three orders” in the Talmud curriculum and the absence of *Seder Kodashim*. Writing at the end of the thirteenth century, R. Menaḥem ha-Meiri of Perpignan (1249–1315) describes the transition from the end of the geonic period to the beginning of the period of the *rishonim* as a time that saw the study of the Talmud reduced “to only the ‘four orders,’ and for some only to the ‘three orders,’” and some even left alone certain tractates [from within the ‘three orders’].”<sup>23</sup> Meiri writes in the introduction to his *Beit ha-Behirah* commentary that only the three orders of *Moed*, *Nashim*, *Nezikin*, are studied regularly (*burgal ha-limmud*). The remaining orders, *Kodashim*, *Tohorot*, *Zeraim*, have been totally abandoned (*azivah muhletet*), except by a select few (*eḥad me-ir, shenyaim me-mishpakhah*), due to decreased knowledge and the deep content [of the latter group of orders].” Meiri continues by noting that already in the geonic period, the first group of orders, together with *Berakhot* and *Hullin*, linked to the study of *Seder Moed*, and *Niddah*, linked to *Seder Nashim*, were organized and designated as the most vital.<sup>24</sup>

R. Asher b. Yehiel (Rosh, 1250–1327) records what he heard from a “great scholar in Barcelona, who was well-versed in the ‘three orders’ of the Talmud.”

In relating to Maimonides’ *Mishneh Torah*, this scholar remarked that “I recognize for myself that in the ‘three orders’ I have studied thoroughly, I understand when I read in his work [despite the absence of sources]. But in his books [the parts of *Mishneh Torah*] that deal with the laws of *Kodashim* and *Zeraim*, I do not understand anything in them.”<sup>25</sup> Nahmanides (1194–1270) outlines the sequence in which he responded to R. Zerahiah ha-Levi’s strictures (*Sefer ha-Maor*) on R. Isaac Alfasi’s *Halakhot (Rabbati)*. The first part of Ramban’s *Milhamot ha-Shem* covered *Nashim* and *Nezikin*, while his response to *Seder Moed* was completed last. Nahmanides adds that he does not engage R. Zerahiah as directly here as he did in the earlier parts of his work.<sup>26</sup> Indeed, the pattern in non-Ashkenazic lands of

commenting only on the “three orders,” and on some of the additional practical tractates just listed, began with Rabbenu Hananel in North Africa.<sup>27</sup>

Nonetheless, a number of leading Provencal rabbinic figures commented on or referred to commentaries on tractates in *Seder Kodashim* and other less popular tractates. R. Abraham b. David of Posquières (Rabad, 1125–1198) commented on *Hullin* and *Kinnim*, perhaps on *Middot*, and possibly on the *Mishnayot* of tractate *Shekalim*. It should be noted, however, that when taken together with his commentary to *Eduyyot*, this suggests that Rabad’s main aim with respect to *Seder Kodashim* was to comment on those mishnaic tractates (outside of *Zeraim* and *Tohorot*) that had no analysis within the Babylonian Talmud, a pattern that was followed to an extent by R. Menaḥem ha-Meiri as well.<sup>28</sup> R. Yonatan ha-Kohen of Lunel (c. 1135–1215), R. Meshullam b. Moses of Beziers (c. 1175–1250, *Sefer ha-Hasblamah*), and his nephew, R. Meir of Narbonne (d. 1270, *Sefer ha-Meorot*) wrote commentaries to *Hullin* and to the *Halakhot Ketanot* sections of *Menahot*, but these talmudic portions had significant practical relevance, as has been noted.<sup>29</sup>

Following B.Z. Benedikt, Isadore Twersky wrote that “Provencal scholars were accustomed also to study less practical orders such as *Kodashim*.” According to Twersky, Rabad’s teacher, R. Moses b. Yosef (Rambi) consciously limited the scope of talmudic interpretations to the “three orders” only because these were the orders that occupied Spanish scholars, whose impact within Provence Rambi sought to control.<sup>30</sup> R. Judah b. Jacob Lattes of Carcassonne, author of the thirteenth-century halakhic compendium, *Baalei Assfuot*, composed a commentary to tractate *Tamid*, and Yaakov Sussmann has suggested that there were also a number of other Provencal commentaries to talmudic tractates in *Seder Kodashim* written in the thirteenth century.<sup>31</sup> To this point, however, the strongest and earliest evidence for a Provencal tradition of *Kodashim* commentary and study derive from the oft-cited letter by R. Yosef ha-Levi ibn Migash (1077–1141) to the rabbinic scholars of Narbonne, requesting from them a commentary to *Seder Kodashim*.<sup>32</sup>

Indeed, we can find no talmudic commentaries to *Seder Kodashim* written in Spain throughout the twelfth and thirteenth centuries, with the understandable exception of *Hullin* and the practical sections of *Menahot*.<sup>33</sup> As Israel Ta-Shma has noted,

v. 1, pp. 145–146. In the introduction to his *Tzeidah la-Derekh* (repr. Jerusalem, 1977), R. Menaḥem b. Aaron ibn Zerah of Toledo (c. 1310–1385) characterized Rif’s *Halakhot* as a “little Talmud” that encompassed the “three orders.” Ramban also composed his *Milḥamot ha-Shem* to *Berakhot* and *Hullin*, but not to the so-called *Halakhot Ketanot*. Cf. below, n. 33.

27. Ta-Shma, *Ha-Sifrut ha-Parsbanit la-Talmud*, v. 1, pp. 120–121. The commentary on the last part of *Zevahim* attributed to R. Hananel was not authored by him. See, e.g., *Sarei ha-Elef*, ed. M.M. Kasher and D.B. Mandelbaum (Jerusalem, 1979), v. 1, p. 314, and S. Abramson, *Perush Rabbenu Hananel la-Talmud* (Jerusalem, 1995), pp. 61, 338.

28. See Isadore Twersky, *Rabad of Posquières*, pp. 78, 106–110; H. Soloveitchik,

“Rabad of Posquières: A Programmatic Essay,” *Studies in the History of Jewish Society in the Middle Ages and in the Modern Period* [presented to Prof. Jacob Katz], ed. E. Etikes and Y. Salmon (Jerusalem, 1980), pp. 13–14; and Y. Sussmann, “Rabad on Shekalim,” pp. 138–140, 152–153. Meiri also commented on the *Niddah*-related tractate of *Mikvaot* (see Ta-Shma, v. 2, p. 159), and (definitely) authored a commentary to *Mishnayot Shekalim* in *Seder Moed*. Indeed, in the introduction to his commentary to *Shekalim* (see Sussmann, p. 161, n. 112), Meiri writes that “we are used to studying this tractate (*burgalnu be-limmudah*) after tractate *Pesaḥ sheni* [in *Seder Moed*].” In his introduction to tractate *Tamid* (Sussmann, p. 150, n. 74), he writes that “*Tamid* and *Middot* are part of *Seder Kodashim*. [Nonetheless,] I usually include their study together with *Seder Moed* after tractate *Shekalim*.”

29. See Ta-Shma, v. 1, pp. 208–214; v. 2, pp. 154–155; and above, n. 26.

30. Twersky, *Rabad of Posquières*, p. 15. Cf. Ta-Shma, v. 1, pp. 194–195. Rabad’s father-in-law and teacher, R. Abraham b. Isaac *Av Beit Din*, refers to a commentary or rendition of tractate *Temurah*. See also B. Z. Benedikt, *Merkaz ha-Torah be-Provence*, p. 52, n. 145a.

31. Sussmann, pp. 139, n. 21, 167.

32. See Twersky and Benedikt, above, n. 30, and see also Benedikt, pp. 11, 18. The letter was composed for Ri Migash by his contemporary and friend, R. Yehudah ha-Levi.

33. See Ta-Shma, v. 1, pp. 33, 58. Rambam’s *Hilkhot Bekhorot*, published

together in the standard edition of the Talmud with a similar work of his, *Hilkhot Hallab*, is a monograph of practical Jewish law based on the talmudic tractate. These monographs were meant (as was Ramban's *Hilkhot Nedarim*) to provide guidance on the basis of these tractates to which R. Isaac Alfasi did not comment, and Nahmanides attempted to imitate Rif in terms of both the style and language of his presentations. The so-called *Hiddushei/Tosafot ha-Rashba to Menahot* [=Hiddushim le-Ehad min ha-Rishonim le-Massekhet Menahot (Jerusalem, 2000)] are in all likelihood a version of northern French *Tosafot* (from Evreux). See, e.g., *Sarei ha-Elef*, v. 1, pp. 316–317; A. Arieli in *Alei Sefer* 16 (1989), pp. 149–150; and above, n. 8. There is reference to a commentary on *Seder Kodashim* by R. Barukh b. Isaac *me-Halab* (=Aleppo). R. Barukh appears to have

studied in Spain in his youth, but he lived for most of his life (c. 1075–1125) in Aleppo. See Ta-Shma, v. 1, p. 121; idem, *Kenesset Meḥkarim* (Jerusalem, 2004), pp. 9–10; and Sussmann, pp. 149, n. 73, 167, 169.

34. Ta-Shma, *Ha Sifrut ha-Parshanit la-Talmud*, v. 1, p. 164.

35. See A. Marmorstein, "Mitteilungen zur Geschichte und Literatur aus des Geniza," *Monatsschrift für Geschichte und Wissenschaft des Judentums* 67 (1923), pp. 134–135; R. Brody, "Sifrut ha-Geonim ve-ha-Tekst ha-Talmudi," *Meḥkerei Talmud*, v. 1, ed. Y. Sussmann and D. Rosenthal (Jerusalem, 1990), pp. 283–284; idem, *The Geonim of Babylonia and the Shaping of Medieval Jewish Culture* (New Haven, 1998), pp. 45, 156. Cf. above, nn. 23–24.

36. Sussmann, pp. 155–157. Sussmann includes a parallel suggestion, that the affinities in the realm of mystical studies between Germany and Provence also played a role, or at least reflected the linkage, in rabbinic studies. For additional examples of affinities between Ashkenaz and Provence in the realm of mysticism, see my 'Peering through the Lattices,' pp. 51–56, 193–195. At the same time, however, Sussmann apparently believes that the linkages between Ashkenazic mysticism and Spanish Kabbalah that are found already in the first quarter of the thirteenth century had no such impact. Cf. 'Peering through the Lattices,' pp. 197–200, 205–213, 256–257.

this absence was evident from the earliest days of medieval Spanish rabbinic interpretation. R. Yosef Migash's request to Narbonne strongly implies that R. Isaac ibn Giyyat (d. 1089), R. Yosef's (and Rif's) predecessor as head of the academy at Lucena, who had authored a no longer extant commentary that covered most of the Talmud, did not include *Seder Kodashim* in that commentary.<sup>34</sup>

Although there are indications that not all the tractates of the Babylonian Talmud were studied in the geonic *yeshivot*, including several *Kodashim* tractates, *Keritot*, *Temurah* and *Meilah*, the impetus for this curricular policy appears to have been the unusual structural and terminological characteristics of the excluded tractates, rather than their subject matter *per se*. Thus, in a fragment from the Cairo Genizah, *Nedarim* and *Nazir* are also not mentioned in the unique list of the tractates studied in the geonic academies. Indeed, there is additional, significant evidence to suggest that the tractate of *Nedarim* in particular was not studied during a large portion of the geonic period. At the same time, the Genizah curricular listing that excludes the tractates just noted includes *Zevahim* and *Menahot*, the two largest tractates in *Seder Kodashim*, which were studied in their entirety, as well as *Bekhorot* and *Arakhim*.<sup>35</sup> In short, geonic curricular practices, in and of themselves, cannot account for the absence of the study of *Seder Kodashim* in medieval Spain.

Yaakov Sussmann has noted that the affinities between Ashkenazic rabbinic scholarship and its Provencal counterpart with respect to *Seder Kodashim*, and in a number of other areas of study, and the fact that Provencal rabbinic figures did not follow the Spanish pattern here as they did in other aspects of rabbinic composition and analysis are linked to a rather large geographic and socio-religious reality.

Torah scholars who lived in Christian lands tended to expand the contours of rabbinic literature to include the study of tractates beyond the three central orders of the Babylonian Talmud, and to delve into lesser traveled and more esoteric realms of talmudic and midrashic study and texts. In comparison, Jews who lived in Moslem lands, from the *geonim* through the subsequent rabbinic commentators and scholars of Spain and North Africa, took a narrower view in which the Babylonian Talmud, and only its "three order" core at that, was given a privileged place.<sup>36</sup>

Sussmann's observation, however, does not sufficiently account for the nuanced geonic position that we have seen, nor does

it fully explain why the Spanish rabbinic tradition shied away from *Seder Kodashim* even when the bulk of its rabbinic scholarship during the Middle Ages, from the middle of the twelfth century onward, took place in Christian-dominated areas. In my view, the key to the curricular differences in talmudic study and interpretation between *Hakhmei Ashkenaz* and *Hakhmei Sepharad* was also the result of differing views about the goal of Torah study and the mandate of rabbinic scholarship. Simply put, Sephardic rabbinic tradition viewed the deciding of (practical) Jewish law as the single most important goal of talmudic study and Torah scholarship.<sup>37</sup> Although Ashkenazic rabbinic scholarship did not gainsay in any way the critical need to provide practical halakhic guidance and rulings, the ultimate goal of Torah study, and the mark of exemplary Torah scholarship in Ashkenaz, was to master all parts of the Talmud and beyond.<sup>38</sup>

Thus, the four monolithic codes of Jewish law produced during the Middle Ages, the *Hilkhot ha-Rif*, the *Mishneh Torah* of Maimonides, the *Arbaah Turim* of R. Jacob b. Asher and R. Yosef Caro's *Shulhan Arukh*, were all produced in a Spanish or Sephardic milieu.<sup>39</sup> To be sure, Maimonides is, at the same time, a notable yet nuanced exception, who further demonstrates the rule in his day. As he describes in his introduction to *Mishneh Torah* and elsewhere, unlike others among his Sephardic colleagues and contemporaries, Maimonides wished to promote the re-creation or revitalizing of the entire mishnaic and talmudic corpus. To that end, he commented on all six orders of the Mishnah in his *Perush ha-Mishnayot*, and he included all areas of Jewish law, including those that were not applicable in his day, in his halakhic *magnum opus*, *Mishneh Torah*. On the other hand, the commentaries of Maimonides to the Babylonian Talmud, none of which are extant, that he began in his youth and revised later in life were planned and written only on tractates within the "three orders."<sup>40</sup> Although it is possible that Maimonides simply rejected the regnant Spanish approach as he matured, it may also be that Maimonides continued to hold, with his Sephardic colleagues, that deciding Jewish law was the supreme goal of Torah study. His conception of Jewish law, however, was broader than that of anyone else in Sepharad.<sup>41</sup>

In any case, the Ashkenazic ideal is also reflected in a pithy comment of *Tosafot* to *Bava Metzia*.<sup>42</sup> The Talmud records a halakhic conversation between Elijah the Prophet and the *amora* Rabbah bar Avuha. At one point, Elijah is surprised that Rabbah bar Avuha was not aware of a relevant tannaitic (mishnaic) passage in the name of R. Shimon bar Yoḥai in *Seder Tohorot*. Rabbah bar Avuha responded that since he was struggling to master the "four orders," how could Elijah expect that he also be well versed in "the sixth order" (presumably *Tohorot*). *Tosafot* notes, however, that the passage that Elijah had cited is not found in a Mishnah. Indeed, the prevalent assumption was that the *amoraim* did know all six orders of the complete Talmud, including the *Mishnayot*

37. See, e.g., A. Grossman, "Yeziratam ha-Hilkhatit shel Hakhmei Sepharad," *Moresbet Sepharad*, ed. Haim Beinart (Jerusalem, 1992), pp. 150–166; B. Z. Benedikt, *Merkaz ha-Torah be-Provence*, pp. 11–12; I. Twersky, *Introduction to the Code of Maimonides*, pp. 164–165, 204–205; S. Abramson, *Perush Rabbenu Hananel la-Talmud*, pp. 31–32, 48–49, 146–148; and M. Breuer, *Ohalei Torah*, pp. 83–86, 164–165.

38. See my "Torah Study and Truth in Medieval Ashkenazic Rabbinic Literature and Thought," *Torah Study and Knowledge in Jewish Thought*, ed. H. Kreisel (Ben-Gurion University, 2005; in press).

39. See, e.g., Ta-Shma, "Kelitatom shel Sifrei ha-Rif, ha-Rah ve-ha-Halakhah Gedolot be-Tzoref ve-Ashkenaz ba-Meot ha-11 ve-ha-12," *Kenesset Meḥkarim*, pp. 43–59.

Even the most extensive contemporary Ashkenazic codes, such as *Sefer Mitzvot Gadol* and *Sefer Or Zarua*, were

much less monolithic and much more open, and they incorporated a great deal of talmudic commentary and discussion as well. The somewhat unique nature of R. Jacob b. Asher's *Arbaah Turim* within the group of the four monolithic Sephardic codes can be readily explained by R. Jacob's Ashkenazic training and background during his student days in Germany. Cf. above, n. 25.

40. See I. Twersky, *Introduction to the Code of Maimonides*, pp. 205–214, and Ta-Shma, *Ha-Sifrut ha-Parshanit la-Talmud*, v. 1, pp. 185–191.

41. Cf. above, n. 23.

42. *Tosafot Bava Metzia* 114b, s.v. *de-tanya*.

43. Cf. *Tosafot Hullin* 110, s.v. *di-tenan*; Rashi to *Bava Metzia*, ad loc., s.v. *be-arbaah*; and above, n. 11. The tosafist R. Isaac of Corbeil (d. 1280), author of *Sefer Mitzvot Katan* (ספר מצוות קטן), was said to review each year "the six orders [of the Talmud] and the twenty-four books [of the biblical canon], with his students or without them." See M. Breuer, *Obalei Torah*, pp. 506, 511. Note also Rashi's comment to Exodus 32:18 (based on a passage in *Midrash Tanhuma*) that a *talmid ḥakham* must be very

well versed (*baki*) in the twenty-four books of the biblical canon. R. Menaḥem ibn Zerah's description (in the introduction to his *Tzeidah la-Derekh*) of the "sixty rabbis who studied before the tosafist Ri . . . each of whom mastered one tractate of the talmudic (and mishnaic) corpus by heart" is juxtaposed (and thereby contrasted) by R. Menaḥem with the situation in Spain, where the "three orders" alone were studied by the leading Spanish scholars (see above, n. 26), with the exception (noted also by R. Menaḥem) of Maimonides. [On the historicity of R. Menaḥem's description of the study hall of Ri, cf. my *Jewish Education and Society in the High Middle Ages*, pp. 66–67.]

44. See, e.g., Urbach, *Baalei ha-Tosafot*, v. 2, pp. 680–688, 715–734; my *Jewish Education and Society*, pp. 48–49, 69–70; and my "Progress and Tradition in Medieval Ashkenaz," *Jewish History* 14 (2000), pp. 287–315.

45. For some suggestive albeit partial manuscript data, see Michael Krupp, "Manuscripts of the Babylonian Talmud," *The Literature of the Sages*, pt. 1, ed. S. Safrai (Assen, 1989), pp. 346–366.

of *Zeraim* and *Tohorot*. Rather, the text that Elijah had adduced was from a *Tosefta*, and this is the sixth (extra-talmudic) order that Rabbah bar Avuha did not fully know.<sup>43</sup> The implication of this *Tosafot* text and its tosafist author(s) is that even in their day—and given their demonstrated admiration for and studied imitation of the *amoraim* in a host of ways—knowledge in all areas and parts of the Babylonian Talmud (if not in other dimensions of rabbinic literature) was to be expected from a bona fide Torah scholar.<sup>44</sup>

In the curricular conflict between Spanish halakhic-centricity and the Ashkenazic notion of completeness, the rabbinic elite of Provence appears to have sided with Ashkenaz, at least with respect to *Seder Kodashim*. Thus, *what they studied in your yeshivah* during the Middle Ages, depended not only on textual availability,<sup>45</sup> but also and perhaps mostly on the overall conception of Torah scholarship and rabbinic tradition that was espoused.