

Reuben and the Collecta: A Dossier of Fourteenth-Century Iberian Responsa

Pinchas Roth*

Bar-Ilan University

ORCID ID: <https://orcid.org/0000-0002-3875-4735>

A dispute erupted in 1346 between the Jewish communal leaders of Gerona and Perpignan. It revolved around a wealthy Jewish family (referred to as “Reuben” and his sons) that migrated from the Gerona region to Perpignan after Pedro IV of Aragon’s conquest of the Kingdom of Majorca. At stake was the family’s share in the tax burden, which had moved from the collecta of Gerona to the collecta of Perpignan. The Gerona officials tried to forbid the Jewish family from moving to Perpignan and to penalize them for doing so. The legality of the collecta’s actions, and on the other hand the family’s freedom to move between communities, were the questions debated in a dossier of eight responsa penned by rabbinic scholars and communal leaders. In this article, I explore the legal arguments made by the respondents and the prooftexts they marshalled and I suggest some insights into the way that the dossier was conceived and created.

KEYWORDS: Responsa; Medieval Jewish law; Gerona; Perpignan; Medieval taxation.

RUBÉN Y LA COLECTA: UN DOSIER DE *RESPONSA* IBÉRICA DEL SIGLO XIV.— En 1346 estalló una disputa entre los líderes comunales judíos de Gerona y Perpiñán. La disputa giraba en torno a una rica familia judía (llamada «Rubén» y sus hijos) que había emigrado de la región de Gerona a Perpiñán tras la conquista del Reino de Mallorca por Pedro IV de Aragón. Lo que estaba en juego era la participación de la familia en la carga fiscal, que había pasado de la colecta de Gerona a la colecta de Perpiñán. Los funcionarios de Gerona trataron de prohibir a la familia judía que se trasladara a Perpiñán, y de penalizarla por ello. La legalidad de la actuación de la colecta y, por otro lado, la libertad de la familia para desplazarse entre comunidades, fueron las cuestiones debatidas en un dossier de ocho *responsa* redactados por eruditos rabínicos y líderes comunales. En este artículo exploro los argumentos jurídicos esgrimidos por los *responsa* y los textos de prueba que presentaron, y sugiero algunas ideas sobre el modo en que se concibió y creó el dossier.

PALABRAS CLAVE: *Responsa*; derecho judío medieval; Gerona; Perpiñán; Fiscalidad medieval.

* pinchas.roth@biu.ac.il

The tax payments imposed on Jews in medieval Iberia and elsewhere in Christian Europe were usually levied by civic and royal authorities from the Jewish community as a whole. Individuals were evaluated by Jewish communal officials and were taxed in accordance with their means, and therefore wealthier Jews paid a larger proportion of the communal tax.¹ However, those same wealthy Jews were the individuals most likely to receive a royal pardon from tax payment, for they maintained the strongest ties to the king or local ruler. Such pardons, and indeed the entire issue of tax payment by wealthy Jews, posed what Shmuel Shilo called “one of the most painful problems in the history of the Jewish people during the Middle Ages.”² It was so painful because it exposed fault lines within the Jewish community and formed a triangle of conflicting interests between Jewish individuals, Jewish communities and non-Jewish rulers.

The problems of Jewish tax payment were debated by medieval rabbinic scholars under the rubric of *dina de-malkhuta dina* (the law of the kingdom is the law).³ Attributed to Samuel, a third century Talmudic sage, this short statement was not as simple as it seemed. While the law of the kingdom could hardly be ignored, the degree to which Jewish law must recognize that law and assimilate it into internal Jewish affairs remained a matter of extensive debate among scholars and within communities.⁴

¹ “The principle that any Jew resident in any settlement paid his taxes through the local community was universally accepted throughout the territories of the Crown;” Yom-Tov ASSIS, *Jewish Economy in the Medieval Crown of Aragon, 1213-1327: Money and Power* (Leiden–Boston: Brill, 1997) p. 134. For developments in the fourteenth century, see Alexandra GUERSON, “Death in the Aljama of Huesca: The Jews and Royal Taxation in Fourteenth-Century Aragon,” *Sefarad* 75 (2015) pp. 35-63. For the earlier period, see Elka KLEIN, *Jews, Christian Society and Royal Power in Medieval Barcelona* (Ann Arbor: University of Michigan Press, 2006) pp. 39-45.

² Shmuel SHILO, *Dina de-Malkhuta Dina: The Law of the State is the Law* (Jerusalem: Academic Press, 1974 [in Hebrew]) p. 231.

³ *Babylonian Talmud*, Gittin 10b; Nedarim 28a; Baba Kamma 113b; Baba Batra 54b.

⁴ SHILO, *Dina de-Malkhuta Dina*, pp. 202-264; Yehuda ALTSHULER, *The Development and Significance of Taxation in the Jewish Communities of Ashkenaz, Between the Beginning of Settlement and the Black Death* (Ph.D. dissertation, Bar-Ilan University, 2009 [in Hebrew]).

A dispute that arose in the mid-fourteenth century between a wealthy Jewish family and the tax authorities of a Jewish community in the Crown of Aragon gave rise to a dossier of responsa and letters supporting the position of the Jewish family. The dossier is preserved in a single manuscript from the seventeenth century.⁵ The correspondence itself contains no explicit dates, but Yitzhak (Fritz) Baer was able to narrow it down to between the years 1346 and 1349.⁶ Baer, and other scholars in his wake, have discussed the case described in the responsa.⁷ Ilana Ben-Ezra used these sources as part of an argument for the role of the medieval Jewish individual – as distinct from the Jewish community and its corporate bodies – in determining patterns of Jewish behaviour.⁸ Javier Castaño surveyed the dossier and its historical context while underlining the

⁵ Oxford, Bodleian Library, ms. Pococke 280B (cat. no. 2218), fols. 166v-181r. Selections from the series of responsa were first published by Fritz BAER, *Die Juden im Christlichen Spanien – Aragonien und Navarra* (Berlin: Akademie Verlag, 1929) pp. 311-317, no. 224a. The dossier was published in its entirety by Leon Aryeh FELDMAN, “Teshuvot Hakhme Bartselona ve-Katalunyah,” *Genuzot* 1 (1984) pp. 67-98 (henceforth: FELDMAN, “Teshuvot”). According to a recent paleographical analysis, the manuscript was probably copied in Turkey in the seventeenth century – Malachi BEIT-ARIÉ, ed., *Catalogue of the Hebrew Manuscripts in the Bodleian Library - Supplement of Addenda and Corrigenda* (Oxford: Clarendon Press, 1994) col. 414. Much of the manuscript is vocalized, which is extremely rare for non-biblical Hebrew manuscripts. It was acquired by Edward Pococke (d. 1691), who lived in Aleppo 1630-1636 and in Constantinople 1637-1640; cf. Stanley LANE-POOLE, “Pococke, Edward,” *Dictionary of National Biography*, vol. 46 (London: Smith, Elder and Co., 1896) p. 8, and Benjamin RICHLER, *Guide to Hebrew Manuscript Collections* (Jerusalem: Israel Academy of Sciences and Humanities, 2014) p. 176. The contents of the manuscript, which include many documents relating to Maimonides, coupled with its vocalization and highly legible script, suggest that the manuscript might have been copied to order for Pococke himself, who devoted his work *Porta Mosis* (Oxford 1655) to the life of Maimonides. This hypothesis obviously requires further study. The seventeenth-century scribe must have had an earlier archetype from which to copy the responsa, but that earlier copy has not survived, to the best of my knowledge, and it is therefore impossible to determine the fidelity of this manuscript to the dossier in its original form.

⁶ BAER, *Die Juden*, p. 317.

⁷ The case is described briefly by Yom-Tov ASSIS, “Responsa Rabínicos y Cartas Reales: fuentes para el estudio de la historia de los judíos en la Corona de Aragón,” *Espacio, Tiempo y Forma* III:6 (1993) pp. 363-376: 373-374.

⁸ Ilana BEN-EZRA, *Recovering the Medieval Jewish Individual: Case Studies in Methodologies and Perspectives* (MA thesis, Binghamton University, 2015) pp. 19-27.

element of demographic mobility in medieval Iberian Jewish history.⁹ In this article, I explore in greater depth the legal arguments made by the respondents, the prooftexts they marshalled and the intertextual links between the different responsa. Based on this analysis, I suggest some insights into the way that the dossier was conceived and created.

1. REUBEN'S STORY

Reuben and a few of his sons lived in a certain place, a possession of one of the lords, and they had been accustomed for several years to pay the tax along with the community of Girona, whether as the result of a compromise or by law. In fact, the fact that they paid the Girona tax was not to the liking of their lord the nobleman, because he held a privilege from our lord his highness the king that freed some of the Jews under his rule [from the tax. But] this Jew did not want to pardon himself with our lord's privilege.¹⁰

This opening scene portrays a wealthy Jew living with his family on baronial lands in a village that belonged to the collecta of Girona, a Jewish communal tax entity that encompassed Girona and the nearby villages.¹¹ "Reuben" paid his share to the Girona collecta even though the king had pardoned him and his local lord did not want him to ignore that pardon.

When his highness the king became lord and ruler of the province of Roussillon, this Jew wanted to leave the realm of this lord along with some of his sons, and it was not long before this Jews and some of his sons uprooted themselves and established their domicile in the city of Perpignan.¹²

⁹ Javier CASTAÑO, "The Peninsula as a Borderless Space: Towards a Mobility 'Turn' in the Study of Fifteenth-Century Iberian Jewries," in *Jews and Christians in Medieval Europe: The Historiographical Legacy of Bernhard Blumenkranz*, eds. Philippe BUC, Martha KEIL and John TOLAN (Turnhout: Brepols, 2016) pp. 315-332: 324-326.

¹⁰ FELDMAN, "Teshuvot," p. 73.

¹¹ On the Girona collecta, see Yom-Tov ASSIS, *The Golden Age of Aragonese Jewry: Community and Society in the Crown of Aragon, 1213-1327* (London-Portland, OR: Littman Library of Jewish Civilization, 1997) p. 186; ASSIS, *Jewish Economy*, p. 199, and Manuel FORCANO and Víctor HURTADO, *Atlas d'Història dels Jueus de Catalunya* (Barcelona: Rafael Dalmau, 2019) pp. 80-81.

¹² FELDMAN, "Teshuvot," p. 73.

Peter IV of Aragon conquered Roussillon in 1344 from his brother-in-law James III of Majorca, whose entire Majorcan kingdom came under direct Aragonese rule.¹³ This political shift created new opportunities for Jews who were close to King Peter. Reuben was just such a Jew, for he had received a personal tax privilege from the king, and he chose to move to the freshly conquered region where a significant Jewish community had existed for centuries.¹⁴

They reached an agreement with the Perpignan community that they would contribute 25 dineri¹⁵ for every thousand that was given to our lord his highness the king each year and for other expenses, from all of their assets that they brought to the province of Roussillon from the day that they first began to transfer their possessions until the completion of one year. This agreement was to stand for five years. However, if they brought additional assets to that province after the first year, they would have to pay the Perpignan community according to all their rules and laws, taxes and fees and payments of aid and other expense and charges on whatever they brought.¹⁶

The tax contribution of this family was clearly significant and required careful negotiation with the Perpignan collecta. However, it seems that the arrangement with the Girona collecta was not dealt with as carefully, and it was there that the problem erupted:

It was the intention of these people who moved to Perpignan, to pay their share to the Girona community or to promise them with a guarantee to pay their share up until the day that they moved away from the

¹³ Thomas BISSON, *The Medieval Crown of Aragon: A Short History* (Oxford: Clarendon Press, 1986) pp. 104-107, and Pierre-Vincent CLAVÉRIE, *La conquête du Roussillon par Pierre le Cérémonieux (1341-1345)* (Perpignan: Éditions Trabucaire, 2014).

¹⁴ On the ties between Jews of Girona and Perpignan, see Sílvia PLANAS I MARCÉ, "Els jueus de Girona i els de Perpinyà: relacions internes de dues comunitats bessones," in *Perpignan: L'Histoire des Juifs dans la ville (XIIIe-XXe siècles)* (Perpignan: Archives communales, 2003) pp. 33-47, and Rebecca Lynn WINER, "Marriage, Family and the Family Business: Links between the Jews of Medieval Perpignan and Girona," in *Temps i Espais de la Girona Jueva* (Girona: Ajuntament de Girona, 2011) pp. 243-256.

¹⁵ The manuscript reads: *ducati*. BAER, *Die Juden*, p. 313 and FELDMAN, "Teshuvot," p. 73, n. 73 amended this anachronism.

¹⁶ FELDMAN, "Teshuvot," pp. 73-74.

Girona collecta.¹⁷ Some of them had already paid their share of the community debts and the people who were moving intended to pay the Girona community whatever remained to the Girona collecta until after they moved until they transferred their possessions from the Girona collecta. One of the despicable people who have some slight influence with the Crown elicited an order from our lord his highness the king stating that our lord his highness the king did not intend to release them from the communal debt from time past until the day that they moved their domicile, because he ordered them to pay the collecta whatever remained until they removed their possessions from the collecta, as explained above. Also, a year or two before this royal order, they uprooted their domicile from the Girona collecta and established it in the province of Roussillon.¹⁸

The Girona collecta claimed that the family was still required to pay taxes in Girona even after moving, because they still owned assets in the Girona region. The Girona officials also secured a royal order to this effect. Reuben and his family argued that this rule came into effect only after they had left, and therefore it did not apply to them.

Now – [you], the decisors who teach people the laws of God, truth and peace, well-versed in wisdom and fear of God, leaders of the generation, experts familiar with the communal ordinances and just rules who uphold them for the sake of Heaven – instruct us, our rabbis, whether after all these words, the people who uprooted their domicile acted inappropriately by leaving one city for another. Whether they have the right, after all that happened, to leave the Girona collecta, or whether such an act is in opposition and violation of the ordinances or contradiction to the communal rules. Whether the person who intervened by requesting the royal order that allows them to move their domicile on this basis, whether this person is considered a violator of the communal rules and hallowed ordinances or the rules of the true and just Torah. Whether the people who relied upon this royal writ by moving their domicile have sinned so gravely that the leaders of Girona and their new emissaries are allowed to dispossess the assets of these people who moved, and to destroy them and hand them over to the authorities, as they do to people who violate the laws of Judaism or to traitors, for they sent a royal writ to the bailiffs of Roussillon, instructing them to

¹⁷ Literally: *kupah* ('box').

¹⁸ FELDMAN, "Teshuvot," p. 74.

seize all the assets of these people who moved, at the request of the bailiffs of Girona, immediately without warning, and also of anyone who should move in the future, and to order that they may not be buried in Jewish graves if they should – God forbid – die, and to excommunicate them in all the communities and place them under ban. The only justification for this writ was the fact they moved their domicile, nothing else. You, the great mountains who are asked to give just rulings, notice that those bailiffs made a request to the governor of Roussillon and warned him to follow all of the instructions in the royal writ that they requested. Pay heed and notice whether it is pleasing in the eyes of the communities and whether it is in accord with the ordinances that individuals are detained and prevented from moving between cities and places within the kingdom, and whether it is right to imprison them in jail like captives, and whether it is true justice that someone who moves his domicile from one collecta to another should pay future taxes to the collecta that he left. This is the question.¹⁹

It was only in this concluding section of the question that the full dimensions of the controversy were revealed. The Girona officials did not make do with ordering the migrants to pay their taxes. They seized their assets in Perpignan as well as in Girona, they placed them personally under ban (*nidui* and *herem*), and they asserted control over any future Jewish emigration out of Girona. Thus, an argument over taxation morphed into a struggle over freedom of movement.²⁰

2. THE QUESTION - CRESCAS ELIAS

As noted earlier, this account of the story was supplied by Crescas Elias, and as far as I am aware it cannot be corroborated from other

¹⁹ FELDMAN, “Teshuvot,” pp. 74-75.

²⁰ On the connection between taxation and freedom of movement in the Crown of Aragon, see ASSIS, *Jewish Economy*, p. 135; GUERSON, “Death in the Aljama of Huesca,” pp. 47-53, and CASTAÑO, “The Peninsula,” pp. 324-328. See also Norman ROTH, “The Civic Status of the Jew in Medieval Spain,” in *Iberia and the Mediterranean World of the Middle Ages: Essays in Honor of Robert I. Burns S.J.*, eds. Paul E. CHEVEDDEN, Donald J. KAGAY and Paul G. PADILLA (Leiden–Boston: Brill, 1996) pp. 139-161: 142-143. On the limited freedom of movement granted to Muslims during the same period, see John BOSWELL, *The Royal Treasure: Muslim Communities under the Crown of Aragon in the Fourteenth Century* (New Haven: Yale University Press, 1977) pp. 293-321.

sources.²¹ Crescas Elias is an identifiable historical figure and careful consideration of his own life may shed light on his role in drafting the question.²² In 1342 Elias first appeared in Figueres, a town in the county of Empuries that belonged to the collecta of Girona and sat along the road from Girona to Perpignan.²³ He was a physician who served King Peter in a medical capacity and in 1344, during the conquest of Roussillon, his services to the king may have expanded to include espionage. In May 1347 the aljama of Girona was ordered to pay Elias one thousand sous, while his arrangement with the aljama of Perpignan was upheld one month later.²⁴

In short, his biography matches that of Reuben from the question – a Jew from baronial lands in the collecta of Girona with close ties to the king, who saw the conquest of Perpignan as an opportunity. Whether Crescas Elias wrote the question about his own circumstances, or if he was acting on behalf of a friend and neighbour, he worked carefully. The text that he crafted presented Reuben the migrant as a faithful member of his community who paid his taxes scrupulously, and the king of Aragon as a shining example of morality²⁵ whose generosity was abused by the unscrupulous and immoral tax officials of the Girona collecta.

²¹ His name appears first as Elias Crescas (FELDMAN, “Teshuvot,” p. 71) but later as Crescas Elias (FELDMAN, “Teshuvot,” p. 75). BAER (*Die Juden*, p. 312, n. 1) considered Crescas Elias to be the correct version, and that is the form of his name used by Sobrequés i Vidal and Riera i Sans (see following note). I follow this convention.

²² Enrique FAJARNÉS, “El judío Elías Cresques, médico de la real casa de Aragón en el siglo XIV,” *Revista de la Asociación Artístico-Arqueológica Barcelonesa* 2, no. 15 (1899) pp. 235-238; BAER, *Die Juden*, p. 321; Santiago SOBREQUÉS I VIDAL, “Contribució a la història dels jueus de Figueres,” *Annals de l’Institut d’Estudis Empordanesos* 6 (1966) pp. 85-102: 94-96, and Jaume RIERA I SANS, *Els Jueus de Girona i la seva organització* (Girona: Patronat Call de Girona, 2012) pp. 99-100.

²³ Stephen P. BENSCH, “A Baronial Aljama: The Jews of Empuries in the Thirteenth Century,” *Jewish History* 22 (2008) pp. 19-51.

²⁴ RIERA I SANS, *Els Jueus de Girona*, p. 100.

²⁵ See the section from his letter praising the kings of Aragon, translated into English by Yom-Tov ASSIS, “Jewish Attitudes to Christian Power in Medieval Spain,” *Sefarad* 52:2 (1992) pp. 291-304: 294, and by Norman ROTH, “Critical Notes on Spanish Jews I,” *Iberia Judaica* 9 (2017) pp. 53-82: 58.

3. THE FIRST RESPONSUM – SHEM TOV FALCO

The first responsum that appears in the collection, and – I will argue below – the first to be solicited, was by Shem Tov Falco. This is apparently the same Shem Tov Falco who was a leading rabbinic scholar in Majorca during the first half of the fourteenth century and may have been a disciple of Solomon ibn Adret (d. c. 1310) and would thus have been quite elderly when he received Elias’s query.²⁶ Falco’s response was learned and measured. In a poetical opening, he decried the enslavement, as he called it, of Jews by the Girona collecta. But once he transitioned into the legal section of the responsum itself, he emphasized the power of Jewish communal officials and their control over individuals, while limiting the extent of royal authority over individuals and corporate bodies. He opened with the general declaration that “the leading men of the city and the community leaders are allowed to create rules and ordinations for the people of their city in any way they deem beneficial for the community,” as long as they had the support of the local rabbinic scholar.²⁷ As the prooftexts he cited (bBaba Batra 8b and 9a; pMegillah 3, 1, 74a) indicate, Falco was following closely in the wake of Solomon ibn Adret.²⁸

Turning to the issue of tax exemptions, Falco wrote that a Jew “cannot be excused [from paying taxes] even if the king excused him. This does not fall under the definition of *dina de-malkhuta dina*, but it is brazen theft by the king (*gezelah de-malkhuta*).”²⁹ This provocative expression may have come to Falco via the writings of Adret.³⁰ However, it was Meir ben Baruch (Maharam) of Rothenburg, Adret’s German contemporary, who was particularly fond of denouncing “brazen theft

²⁶ MOSES SCHLESINGER, *Orhot Hayyim* (Berlin 1902) p. VIII; Shlomo Zalman HAVLIN, “Le-inyan ha-sefarim ha-Kolbo ve-ha-Orhot hayyim” (‘Regarding the books *Kolbo* and *Orhot hayyim*’), in *Orhot hayyim – Shabbat*, eds. Shalom Y. KLEIN and Yehudah KLEIN (Merkaz Shapira: Or Etzion, 1996) pp. 41-65: 51-52.

²⁷ FELDMAN, “Teshuvot,” p. 77.

²⁸ SOLOMON IBN ADRET, *Responsa* 1:617 and 1206; DANIEL GUTENMACHER, “The Legal Concept of Political Obligation in Medieval Spanish Jewish Law,” *Diné Israel* 15 (1989-1990) pp. 63-95, and YOEL FLORSHEIM, *Perushe ha-Ramban le-Yerushalmi Seder Moed* (Jerusalem: Mosad Harav Kook, 2004) pp. 320-322.

²⁹ FELDMAN, “Teshuvot,” pp. 77-78.

³⁰ ADRET, *Responsa* 1: 1105; 2: 134, and 2: 356.

by the king.”³¹ At this point Falco began to integrate Meir’s rulings into his responsum, citing him explicitly: “thus wrote Rabenu Meir, of blessed memory, of Rothenburg and Rabbi Simḥah of Speyers.”³² The guiding principle that Falco extracted from Meir of Rothenburg was that the king had no authority to interfere in a Jewish individual’s tax payments once that individual had accepted the assessment of the Jewish communal officials. Prior to that stage, a person would still hold out hope “that perhaps the king will relieve them of part of the assessment or its entirety, and who knows how many openings there are for God?”³³

In a display of his scholastic expertise, Falco then challenged this position based upon a passage from “the Jerusalem [Talmud] cited by Nahmanides.”³⁴ The rather abstruse passage reads:

If the chrysargyros was imposed before the collector of chrysargyros arrived, one is permitted to say ‘X is following my profession, Y is following my profession’. Once the collector of chrysargyros arrived, it is forbidden. It is permitted to bribe the quartermaster before the Roman [soldiers] arrive; after the Roman [soldiers] arrive it is forbidden.³⁵

Nahmanides understood this passage to mean that, once a tax obligation had been imposed on the city, each individual was obliged to participate in its payment. Falco, however, suggested that the passage implied

³¹ “No one besides [Meir of Rothenburg] was as wont to term the impositions of the rulers as *gezalah de-malkhuta*,” SHILO, *Dina de-Malkhuta Dina*, p. 205.

³² FELDMAN, “Teshuvot,” p. 78. Simḥah of Speyers’ position was cited (and disputed) by Meir of Rothenburg in a number of responsa; cf. Simcha EMANUEL, *Responsa of Rabbi Meir of Rothenburg and his Colleagues* (Jerusalem: World Union of Jewish Studies, 2012) p. 261, n. 28. The source that seems to best match Falco’s references is Meir ben Baruch OF ROTHENBURG, *Responsa* (Prague 1608) no. 134.

³³ FELDMAN, “Teshuvot,” p. 79. The phrase “who knows how many openings there are for God” first appears, as far as I am aware, in Menahem HA-MEIRI, *Magen Avot*, ed. Ye-
kutiel COHEN (Jerusalem: Cohen, 1988) p. 169. I am grateful to Yaakov Yisrael Stal for his assistance in locating this source. Menahem ha-Meiri lived in Perpignan and died c. 1316.

³⁴ MOSES NAHMANIDES, *Novellae to Baba Batra 8a*. The manuscript reads *Rambam* (Maimonides) rather than *Ramban* (Nahmanides), a miniscule scribal error corrected by FELDMAN, “Teshuvot,” p. 79, n. 72. The reference to Nahmanides appears again, this time correctly, in the responsum of Nehemiah ben Isaac (FELDMAN, “Teshuvot,” p. 85).

³⁵ pBaba Kamma 3, 1, 3c; *The Jerusalem Talmud*: Fourth Order: Neziqin, trans. Heinrich W. GUGGENHEIMER (Berlin: Walter de Gruyter, 2008) pp. 69-70.

only a moral obligation, “that people should not engage in subterfuge by preemptively petitioning the king to exempt them from the full weight of the tax, for it is unjust that their fellows should pay while they are exempt due to their subterfuge.” If people did nevertheless engage in such subterfuge, they were not legally liable. In any case, Falco concluded, this stringent position was found only in the less authoritative Palestinian Talmud. The law followed the Babylonian Talmud, which allowed Jews to avoid paying their tax share even after it had been fully imposed upon them, and it was on this note that Falco signed off.

Two important features of Falco’s responsum emerge. First, that it reflected its author’s deep learning and wide reading. It strengthens the suspicion that Falco’s letter appeared first in the dossier because of his seniority. Second, that regarding the case at hand, it offered only a backhanded allowance for Reuben’s escape from the Girona tax authorities. Legally, it might hold water, but morally it was uncommendable. Furthermore, in the triangle of interests between the Jewish individual, the Jewish community and the gentile king, Falco clearly favoured the Jewish community and expressed profound distrust for royal authority – perhaps uncoincidentally, the same royal authority who had recently seized control of Majorca, Falco’s home.

4. LEARNED RESPONSES FROM BARCELONA

The second scholar whose responsum appears in the collection was Hasdai Crescas of Barcelona, grandfather of the famous philosopher by the same name and an important personage in his own right.³⁶ Hasdai Crescas opened with the selfsame passages from the Palestinian and

³⁶ Hasdai was the eighth patron mentioned by Kalonymos ben Kalonymos at the end of *Even Bohan*, completed in 1323: “Young in years with the flavour of age, he and I – I and he are one in nature but two in name, unnaturally and miraculously as one body in two places – the acclaimed scholar, the Nasi Don Hasdai Crescas’ KALONYMOS BEN KALONYMOS, *Even Bohan* (Naples: Joseph Gunzenhauser, 1489) fol. [49]r-v. For another responsum by Hasdai, see Judah BEN ASHER, *She’elot u-Teshuvot Zikhron Yehudah*, ed. Avraham Yosef HAVATZELET (Jerusalem: Makhon Yerushalayim, 2005) p. 60; cf. Pinchas ROTH, “‘My precious books and instruments’: Jewish divorce strategies and self-fashioning in medieval Catalonia,” *Journal of Medieval History* 43 (2017) pp. 548-561: 554.

Babylonian Talmud quoted by Shem Tov Falco at the end of the previous responsum.³⁷ He dealt quickly with these rabbinic sources, since “this question does not require serious consideration according to the law of the Gemara.” After stating his legal position, which allowed a Jew to move freely as long as he paid the past taxes in which he was already obligated, Crescas threw himself into an invective-laden historical account:

As to the question of the lord, whether, according to the law of the communities and their just procedure, these people who moved their residence committed any “iniquity that were sin”³⁸. And whether they must be reprimanded with royal force and a yoke of iron be placed upon their necks... [in the past] it was never heard, nor did anyone imagine, nor was it ever seen that someone could reek with such a stench that he would exile individuals and communities, hurting their legs with fetters and placing an iron yoke on their necks and turning their homes – God forbid! – into their graves. Rather, whenever an individual, when things became difficult in his place or without any pressing reason, would move his place of residence to another city in the kingdom or to one of the towns, he would leave and no one would stop him. This matter spread and the custom became so strong that in the courtyards and the castles of the kings, it became fixed in their mouths and their advisors, that all of the Jews in all of their places of residence were free to go wherever they desired, without protest or duress. When the small foxes arose and destroyed the vineyard,³⁹ the people who created the first Capitulos... they extracted royal writs that were sent throughout the kingdom... saying: “No man can leave his place and leave the kingdom, even to move to an area ruled by lords or knights”... The representatives of the Girona community at that time collaborated with this evil by upholding the Capitulos...⁴⁰

Baer understood that the Capitulos referred to so bitterly by Hasdai Crescas were the ordinances promulgated by Peter IV in 1346 on the basis of similar rules set by Alfonso IV in 1333).⁴¹ According to those ordinances, Jews from outside the royal realm must record any debts

³⁷ FELDMAN, “Teshuvot,” p. 80; pBaba Kamma 3, 1, 3c; bBaba Batra 8a.

³⁸ Hosea 12, 9.

³⁹ Song of Songs 2, 15.

⁴⁰ FELDMAN, “Teshuvot,” pp. 80-81.

⁴¹ BAER, *Die Juden*, pp. 316-317.

they held within the realm (so that they could be taxed) or risk confiscation of their assets.⁴² Hasdai Crescas saw this legislation as a dangerous precedent which had led directly to Reuben's predicament and was liable to affect more Jews in the future. Jewish communal officials had, in fact, been made attempts to limit the freedom of movement between locales. For example, several decades earlier, the *berurim* of Zaragoza had tried to enlist the support of Solomon ibn Adret in limiting the ability of a Jew to leave their *aljama* for the lands of Lope Ferrench de Luna, lord of Pedrola. Adret rejected their attempt and upheld the principle that individuals were obligated to pay taxes to an *aljama* only as long as they were living in that place.⁴³ Hasdai Crescas believed that such ongoing attempts by "small foxes," Jews who intervened with the king, had led to the *Capitolos*. He accused the Girona collecta officials of having been directly involved in that earlier intervention besides their present actions against Reuben.

Hasdai Crescas's approach was echoed by his fellow Barcelonan scholar and leader Bonsenior Gracian.⁴⁴ Gracian began with a series of Talmudic citations supporting an individual's freedom of movement. He then moved on to the question of where an individual who moved to a different city must pay his taxes after moving. Like Crescas, his treatment of this question consisted exclusively of the passage from the Palestinian Talmud introduced by Shem Tov Falco.⁴⁵ Again like Crescas, Gracian's letter was focused on the communal bylaws and on the scandal of the *Capitolos*. He emphasized that the *Capitolos* could be justified since they prevented Jews from moving out of royal lands into baronial holdings and thus shifting their tax payments from the king's coffers. Therefore, the

⁴² For Alfonso's legislation, see Francisco DE BOFARULL, "Los dos textos catalán y aragonés de las ordenaciones de 1333 para los judíos de la Corona de Aragón," *Boletín de la Real Academia de Buenas Letras de Barcelona* 8 (1913-1914) pp. 153-163: 160, and BAER, *Die Juden*, p. 275 (German translation). On the term *capitolos*, see Eduard FELIU, "Mots catalans en textos hebreus medievals: els dictàmens de Salomó ben Adret," *Calls* 3 (1988-1989) pp. 53-73: 59-60.

⁴³ Solomon IBN ADRET, *Responso* 3:421, and ASSIS, *The Golden Age*, p. 168.

⁴⁴ Gracian was the seventh patron mentioned by KALONYMOS BEN KALONYMOS (*Even Bohan*, fol. [49]r.) who called him "a gracious sage," punning on Ecclesiastes 10, 12 and on Gracian's surname.

⁴⁵ FELDMAN, "Teshuvot," pp. 82-83.

original legislation protected royal interests. This latest move by the Girona collecta, however, was pointless from the king's point of view since Perpignan was equally under royal rule. "Preventing individuals from moving from place to place among the places of our lord the king - this is unheard of and their decree is worse than the decree of Pharaoh."⁴⁶

The fourth responsum in the dossier was penned by Nehemiah ben Isaac, who mentioned that he was writing his letter in the wake of "my elders and nobles who have already sanctified themselves in sufficient number."⁴⁷ Nehemiah's brief responsum cites only two legal prooftexts, namely the same passage from the Palestinian Talmud and the line from bBaba Batra 8a cited by his predecessors.⁴⁸ Nehemiah ben Isaac was located in Toledo, although he probably originated somewhere to the north-east.⁴⁹ This fact seems to be echoed in the next letter in the collection – a collective statement by a number of signatories including Bonsenior Gracian – which included the cynical suggestion that the Girona officials ought to be exiled to Toledo.⁵⁰

5. RESPONSA BY LAY OFFICIALS

After four learned responsa (Shem Tov Falco, Hasdai Crescas, Bonsenior Gracian and Nehemiah ben Isaac), the dossier contains six statements without any treatment of rabbinic texts. They were penned by men

⁴⁶ FELDMAN, "Teshuvot," p. 83: ואולם למנוע היחידים מלכת ממקום למקום במקומות אדונונו המלך זה לא נשמע ובאמת קשה גזרתם משל פרעה.

⁴⁷ FELDMAN, "Teshuvot," p. 84, based upon IIChronicles 30, 3.

⁴⁸ FELDMAN, "Teshuvot," p. 85.

⁴⁹ Another responsum by Nehemiah ben Isaac appears in *Zikhron Yehudah*, ed. HAVATZELET, pp. 131-133, no. 100. Jacob and Judah, sons of Asher ben Yehiel and among the leading scholars of Toledo, posed a question to Nehemiah, who explained that he found himself living in Toledo. Interestingly, that responsum also deals with taxation. Israel TA-SHMA (*Ritual, Custom and Reality in Franco-Germany, 1000-1350*) [Jerusalem: Magnes Press, 2000 {in Hebrew}] p. 232) refers to Nehemiah as a Provençal scholar, but I am not aware of a basis for this claim. Perhaps Ta-Shma confused Nehemiah ben Isaac with Nehemiah ben Jacob, on whom see Abraham SCHREIBER-SOFER, *Teshuvot Hakhme Provincia* (Jerusalem: Schreiber, 1967) p. xxi.

⁵⁰ FELDMAN, "Teshuvot," p. 86: נקדים אליהם ונקהיל קהלות ועד העיר טוליטולה טלטלה דגברא נטלטלם טלטלה.

with experience in communal administration, as Samuel ben Benveneste wrote: “I am no sage... but I spent my years on public affairs... from my youth, I was raised with communal affairs as a father.”⁵¹ Astruc Vidal Gracian referred specifically to the preceding responsa when he said “I did not acquire the wisdom to adduce proofs from Tosefta, Palestinian Talmud and Babylonian Talmud.”⁵² Isaac Berfet Bonafos likewise explained that “I will respond based on the custom and not on Halakhah because I do not know.”⁵³ Yehudah ben Reuben Ben Hasdai of Cervera, whose vernacular name was Bonastruch Zabara, made no attempt at legal argumentation and simply bemoaned the erstwhile glory of the Jewish community in Girona that had once provided spiritual guidance for the entire region.⁵⁴

These explicit distinctions between the rabbinic and non-rabbinic responses in this dossier may betray underlying tensions about the nature of Jewish communal discourse in medieval Iberia. While laypeople felt compelled to voice their respect for Talmudic law and its contemporary practitioners, they recognized that the issue at hand stemmed from communal by-laws and royal privileges and had precious little to do with rabbinic sources. They made no mention of the fact that rabbinic scholars (*talmide ḥakhamim*) were exempt from paying communal taxes – a privilege that was recognized in Iberian communities but not, for example, in France or Germany.⁵⁵ While this fact went unacknowledged

⁵¹ The sixth responsum, FELDMAN, “Teshuvot,” pp. 88-89: אני איני חכם ואולם חי אני ומנעורי גדלתי כאב עסקי וחכמי הדורות ראו עיני תושיה נדחה ממני אך בעסקי רבים כליתי שני... ומנעורי גדלתי כאב עסקי והקהלות; cf. Job 31, 18.

⁵² The seventh responsum, FELDMAN, “Teshuvot,” pp. 90-91: ולהביא ראיות מתוספתא: וירושלמי והגמרא לא למדתי חכמה.

⁵³ The tenth responsum, FELDMAN, “Teshuvot,” p. 97.

⁵⁴ The eleventh and final responsum, FELDMAN, “Teshuvot,” p. 98. Bonastruch Zabara died c. 1351, and his family may have originated in Girona; cf. Santiago SOBREQÜÉS VIDAL, “Familias Hebreas Gerundenses – Los Zabarra y Los Caravita,” *Annals de l’Institut d’Estudis Gironins* 2 (1947) pp. 68-98: 79, and María José SURRIBAS CAMPS, “Onomástica dels jueus de Cervera (1281-1492),” *Miscel·lania Cerverina* 23 (2018) pp. 197-258: 221 and 245.

⁵⁵ TA-SHMA, *Ritual, Custom and Reality in Franco-Germany*, pp. 228-240, and Bernard SEPTIMUS, “‘Kings, Angels or Beggars’: Tax Law and Spirituality in a Hispano-Jewish Responsum,” *Studies in Medieval Jewish History and Literature*, vol. II, ed. Isadore TWERSKY (Cambridge, MA: Harvard University Center for Jewish Studies, 1984) pp. 309-335.

throughout the dossier about the Girona collecta, it may have had some bearing upon the weight that lay leaders were willing to grant to rabbinic authorities in determining tax law.

6. VIDAL DE TOLOSA

In their letter, situated as the eighth document in the dossier, the four communal leaders (*ne'emanim*) of Vilafranca made no mention of rabbinic sources. In fact, all four of them – Salomon de la Cavalleria, Vidal di Tholosa, Vidal de Beders and Isaac ben Moses H̄en (Gracian) – are named among the Jews of Vilafranca del Penedès, whose community belonged to the Barcelona collecta, in documents from 1350-1352.⁵⁶ However, one of their number was in fact an important rabbinic scholar, Vidal de Tolosa, whose commentary *Magid Mishneh* is printed in standard editions of Maimonides' Code to the present day.⁵⁷ Vidal conceded that everything that needed to be said had already been written “above by the sages of the generation.” He chose to write a responsum nevertheless, but about a different question that bore some similarity to the case at hand “from which an irrefutable deduction (*kal va-ḥomer*, a fortiori) can be made.”⁵⁸ The

⁵⁶ Antoni MASSANELL I ESCCLASSANS, “La Població Jueva Vilafranquina i Llocs d'Emplaçament del seu Call i Fossar,” *Miscel·lània penedesenca* 6 (1983) pp. 99-126: 103 (Salamó de Cavalleria and Isach Gràcia), 106 (Vidal de Beers, d. 1352) and 108 (Vidal de Tholosa, d. before 1352). FELDMAN, “Teshuvot,” p. 92, n. 66, wrote explicitly that the town in question was Villa Franca de Conflent, near Perpignan.

⁵⁷ Ya'akov Shmuel SPIEGEL, “The Book Magid Mishneh on Maimonides' Mishneh Torah,” *Kiryat Sefer* 46 (1971) pp. 554-579 and “On Two Commentators of Maimonides' Mishneh Torah: Migdal Oz and Magid Mishneh,” *Mi-Birkat Mosheh: Kovets Ma'amarim be-Mishnat ha-Rambam*, eds. Zvi HABER and Karmiel KOHEN (Maaleh Adumim: Ma'aliyot, 2011) pp. 929-993, and Ya'akov Hayyim SOFER, “Be-Inyan Sefer Magid Mishneh me-Rabenu Don Vidal de Tolosa,” *Ohr Yisroel* 54 (2008) pp. 206-220. Israel Netanel RUBIN (“Rabbi Vidal de Tolosa, Author of Magid Mishne, and His Attitude to Philosophy and Science,” *Daat: A Journal of Jewish Philosophy and Kabbalah* 84 [2017] pp. 139-154) based his argument for Vidal's intellectual background on Feldman's identification of Vidal's town as Villa Franca de Conflent; see esp. pp. 140-141. In light of the data presented in the preceding footnote, Rubin's argument must be reconsidered.

⁵⁸ FELDMAN, “Teshuvot,” p. 94: אכתוב מה שיראה שהוא ענין ויחס דמיון אל המבוקש ... ואם לא באה על זה השאלה הכתובה, מדברי ילקח קל וחמר שאין עליו תשובה לכל הכתוב בה.

hypothetical case that he posed as an analogy to Reuben's situation was that "our lord his highness the king and his sons" decided arbitrarily and of their own accord to confiscate a certain person's possessions. Debating the rectitude of the king's actions would have no direct impact on the decision itself (since he did not expect the king to defer to his opinion), but it would determine whether a Jew who purchased those confiscated lands from the king was entitled to claim them for his own against the claims of the original Jewish owner.⁵⁹ Vidal marshalled the opinions of Joseph ibn Megas, Maimonides and Nahmanides, all of whom agreed that a royal decree targeted at a specific, individual Jew did not carry the legitimacy of *dina de-malkhuta dina*.⁶⁰ The direct implication was that the king was at fault not only in Vidal's hypothetical scenario but in the case of Reuben as well – an implication Vidal explicitly acknowledged by declaring: "Far be it from our lord his highness the king to commit theft, for he loves true justice and his throne is founded on grace."⁶¹ From the king, Vidal turned to the collecta, arguing that even when the tax officials had a legitimate claim against a Jewish individual, they had no right either to physically punish the individual nor to confiscate his possessions, but only to extract the amount that they were owed. He placed limits on both king and community, upholding individual liberty even when the individual was legally in the wrong.

7. CONCLUSIONS

Stepping back from this detailed analysis, I want to suggest two frames of reference for thinking about this dossier of responsa. First, in terms of what might be loosely termed political philosophy, this case

⁵⁹ FELDMAN, "Teshuvot," p. 94.

⁶⁰ They disagreed among themselves whether every policy of the king (as long as it was not directed at a private individual) was legitimate, or only time-honoured laws; cf. Menachem LORBERBAUM, *Politics and the Limits of Law: Secularizing the Political in Medieval Jewish Thought* (Stanford: University Press, 2001) pp. 61-65, and Bernard SEPTIMUS, "Kings, Coinage and Constitutionalism: Notes on a Responsum of Nahmanides," *Jewish Law Annual* 14 (2003) pp. 295-313. The opinion of Nahmanides was cited by Vidal de Tolosa in *Magid Mishneh* to Maimonides, *Mishneh Torah*, Laws of Theft 5, 13.

⁶¹ FELDMAN, "Teshuvot," p. 96.

presented a triangle of interests between the king, Jewish communal officials and the Jewish individual. Virtually all of the respondents upheld the rights of the individual, the generic Reuben, and they all faulted the Jewish officials of Girona. Most of them, following the lead of Crescas Elias who sent them the question, did their utmost to absolve the king from taint of wrongdoing. Two of them – notably, precisely the two whose responsa were clearly written independently of their peers – did not. Vidal de Tolosa used an analogous case to make it clear that he believed the king had overstepped his authority. Shem Tov Falco, the very first respondent, was the only one who seemed relatively unmoved by the actions of the Jewish communal officials while he too placed the blame on the king and invoked the concept of *gezalah de-malkhuta*, theft by the kingdom. This suggests that the perspective of rabbinic scholars on the balance of political power in medieval Jewish life differed from the perspective of the people who served in official capacities within the communities.⁶²

Second, this chain of responses did not spring spontaneously into existence. It was curated by Crescas Elias. Most of his respondents belonged to the Barcelona collecta, with seven signatories from Barcelona itself⁶³ and letters from Vilafranca del Penedès and Cervera, both of which belonged to the Barcelona collecta. Outside of Catalonia, we find Shem Tov Falco in Majorca and Nehemiah ben Isaac in Toledo. Perhaps unsurprisingly, no letters were sent from within the Girona region, where potential respondents would have hesitated before defying the local collecta.

If Crescas Elias had written to all of these people at the same time, one might have expected him to receive the first responses from Catalonia, and only afterwards from more distant correspondents. Instead, Shem Tov Falco's responsum appears first, while Nehemiah's responsum – sent from Toledo – is located between two letters from Barcelona, one of which explicitly mentions Toledo. This structure strongly suggests

⁶² Cf. ASSIS, "Jewish Attitudes to Christian Power," pp. 291-304.

⁶³ Hasdai Crescas, Bonsenior Gracian, a group of five signatories that included Bonsenior Gracian and was therefore probably also in Barcelona (FELDMAN, "Teshuvot," pp. 85-88) and Astruc Vidal Gracian, who referred to the custom of Barcelona (FELDMAN, "Teshuvot," pp. 90-91).

that the dossier took shape as a chain letter, with Elias sending each respondent an edited version of the responsa that he had received until that point, starting with the response by Shem Tov Falco. It allowed respondents to allude to the letters that had already been written and facilitated the recurrent use of Talmudic texts first cited by Falco. Falco's invocation of the Palestinian Talmud struck a particular chord, perhaps because it was a relatively inaccessible work during the Middle Ages.⁶⁴ Hasdai Crescas cited only two rabbinic texts, including the passage from the Palestinian Talmud, presenting it as "the ruling of the Gemara (*din ha-Gemara*)."⁶⁵ He explained the passage, following the interpretation of Nahmanides and without making use of Shem Tov's innovative reading, but concluded that it was irrelevant to the case at hand since it did not relate to taxes imposed after an individual had left the city. Bonsenior Gracian cited the passage more briefly, stating simply that it proved an individual could avoid future tax payments according to "the ruling of the Talmud (*din ha-Talmud*)."⁶⁶ Nehemiah ben Isaac did not bother to cite the passage at all, simply noting that "it is written so in the Palestinian [Talmud], and Nahmanides recorded it."⁶⁷ Even a self-confessed layman such as Astruc Gracian of Barcelona felt the need to explain that he could not cite the Palestinian Talmud because he was not a scholar.⁶⁸ It is possible that each of the scholarly respondents had independently hit upon this passage by studying the commentary of Nahmanides, as Yom Tov Asibili had done in one of his responsa.⁶⁹ However, it is difficult to imagine that each of them chose precisely the same texts, while the pattern of "diminishing returns," whereby each successive response devoted less attention to analyzing the text, suggests that the respondents were each familiar simply with the letters that preceded their own.

⁶⁴ Jacob SUSSMAN, "Introduction," in *Talmud Yerushalmi according to Ms. Or. 4720 (Scal. 3) of the Leiden University Library* (Jerusalem: Academy of the Hebrew Language, 2001 [in Hebrew]) pp. 9-11.

⁶⁵ FELDMAN, "Teshuvot," p. 80.

⁶⁶ FELDMAN, "Teshuvot," p. 83.

⁶⁷ FELDMAN, "Teshuvot," p. 85.

⁶⁸ FELDMAN, "Teshuvot," p. 90.

⁶⁹ Yom Tov ASIBILI, *Teshuvot Ritva*, ed. Joseph KAFIH (Jerusalem: Mosad Harav Kook, 1959) pp. 186-187, no. 157.

Crescas Elias probably wrote first to Shem Tov Falco because Falco was a venerable sage, a disciple of the revered Solomon ibn Adret, who could lend scholarly prestige to the dossier. But Falco was also far away from Barcelona, and he saw things differently. When Falco failed to denounce the Girona collecta in the dire terms that Crescas Elias had hoped, Elias was able to mitigate the effect by turning to two Barcelona scholars who repurposed Falco's rabbinic sources and produced the type of harsh attack on Girona that Elias had been looking for. Once it was bundled with the others, Falco's moderate position was lost in the noise while continuing to lend rabbinic legitimacy to the general thrust of the dossier. By crafting a carefully designed account of the story that he sent to his correspondents and by choosing whom to ask and in what order, Crescas Elias displayed a canny grasp of the political use that could be made of rabbinic legal discourse.

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