PHD THESIS

DOROTTYA ZSOM

CONVERSOS IN THE RESPONSAS OF SEPHARDIC HALAKHIC AUTHORITIES
IN THE 15th CENTURY

Doctoral School of History
Dr. Gábor Székely DSc, Professor, Head of the Doctoral School

Hebrew and Jewish Studies Program
Dr. Tamás Dezső, habil. Reader, Head of the Doctoral Program

Members of the examining board and their academic degrees:
Chairman: Dr. Sándor Fodor, Professor
Referees: Dr. Tamás Turán, Senior Research Fellow
Dr. Tamás Iványi, retired Reader
Secretary: Dr. Viktória Bányaí, Senior Research Fellow
Members: Michael L. Miller, PhD, Associate Professor, CEU
Carsten Wilke, PhD, Associate Professor, CEU
Dr. Oláh János, Reader, ORZSE

Supervisor and his academic degree:
Dr. Géza Komoróczy CsC, Professor Emeritus

Budapest, 2011
Table of contents

Notes on transliteration and translations ................................................................................................. V
Glossary ...................................................................................................................................................... VI

Chapter 1 – Introduction .............................................................................................................................. 1
I. Historical background ............................................................................................................................... 1
II. Mumarim, anusim, meshummadim ......................................................................................................... 4
III. Subject and aim of the research .......................................................................................................... 5
IV. Sources of the research .......................................................................................................................... 7
V. A critical survey of the history of the research ...................................................................................... 8
VI. Life and works of the authors .............................................................................................................. 13
   VI.1. Isaac ben Sheshet Perfet (Ribash) .................................................................................................... 13
   VI.2. Simeon ben Žemah Duran (author of the Tashbe孜) .................................................................... 15
   VI.3. Solomon ben Simeon Duran (Rashbash) ....................................................................................... 16
   VI.4. Žemah ben Solomon Duran (author of Yakhin u-Voaz 1) ............................................................. 16
   VI.5. Simeon ben Solomon Duran (author of Yakhin u-Voaz 2) .......................................................... 17

VII. Manuscripts of the responsa studied .................................................................................................. 18
VIII. List of manuscripts related to conversos .......................................................................................... 30

Chapter 2 – Marriage ................................................................................................................................... 34
I. Marriage customs in the Middle Ages .................................................................................................... 34
II. Polygamy ................................................................................................................................................ 36
III. Marriage of conversos in the responsa literature .............................................................................. 38
IV. Isaac b. Sheshet Perfet: Responsum no. 5: on a Christian betrothal in Majorca .................................. 42
   IV.1. Legal value of acts accomplished during Christian betrothal ....................................................... 44
   IV.2. Stipulations involving payment in case of breaking the engagement ............................................ 46
   IV.3. Conclusion ........................................................................................................................................ 47

V. Isaac b. Sheshet Perfet: Responsum no. 6: on a Christian marriage in Majorca .................................. 48
   V.1. Legal value of acts accomplished during Christian betrothal ....................................................... 49
   V.2. Yihud .................................................................................................................................................. 49
   V.3. Licentiousness of the conversos ...................................................................................................... 50
   V.4. Ritual purity of marital life .............................................................................................................. 51
   V.5. Conclusion ........................................................................................................................................ 51

VI. Isaac b. Sheshet Perfet: Responsum no. 14: on reconsidering the terms of marriage under the pressure of riots in Majorca .............................................................................................................. 52

VII. Simeon b. Žemah Duran: Tashbe孜 3:47: on marriage of conversos returning to Judaism .............. 55
   VII.1. The marital status of the conversos ............................................................................................... 57
   VII.2. Witnesses of the betrothal ........................................................................................................... 61
   VII.3. Conclusion .................................................................................................................................... 65

VIII. Solomon b. Simeon Duran: Responsum no. 89: excursus on the marital status of conversos returning to Judaism .............................................................................................................................................. 65

IX. Žemah b. Solomon Duran: Yakhin u-Voaz 1:75: on the marital status of a converso proceeding from an adulterous relationship ...................................................................................................................... 66
X. Zemaḥ b. Solomon Duran: Yakhin u-Voaz 1:107: on the validity of a marriage contracted by a convert woman without divorcing from her former Jewish husband ........................................ 68
  X.1. Marital status of conversos ..................................................................... 69
  X.2. Circumcision ......................................................................................... 70
XI. Simeon b. Solomon Duran: Yakhin u-Voaz 2:3: on kohanim returning to Judaism .................................................................................................................. 71
  XI.1. Returning conversos are presumed to have Jewish mothers ............ 71
  XI.2. Ritual purity of marital life; circumcision .......................................... 72
XII. Simeon b. Solomon Duran: Yakhin u-Voaz 2:19: on double (Jewish and Christian) marriage .............................................................................................................. 73
XIII. Simeon b. Solomon Duran: Yakhin u-Voaz 2:31: excursus on the marital status of conversos ........................................................................................................... 75
  XIII.1. The marital status of a converso is equal to that of a Jew ............... 75
  XIII.2. Returning conversos are presumed to have Jewish mothers .......... 76
XIV. Conclusion ........................................................................................... 76

Chapter 3 – Levirate marriage .................................................................... 78

I. Isaac b. Sheshet Perfet: Responsum no. 1: on the priority of the Jewish brother-in-law over the converso ............................................................. 80
II. Simeon b. Zemaḥ Duran: Tashbeẓ 3:47: on converso levirs ........................ 82
  II.1. If the marriage of a converso is valid, he is suitable for levirate marriage as well in theory, and for giving ḥalizah in practice ........................................ 82
  II.2. Kinship between a Jew and his convert brother ................................ 82
  II.3. Kinship between convert brothers ..................................................... 85
  II.4. If the woman had known that she would be bound to a convert levir, she wouldn’t have married at all. ................................................................. 86
  II.5. Conclusion .......................................................................................... 87
  III.1. A brother who converts does not cease to be a brother ................... 90
  III.2. Even those conversos who were born as Gentiles were born in holiness ........................................................................................................ 90
IV. Conclusion ............................................................................................... 91

Chapter 4 – Divorce ................................................................................... 93

I. Divorce according to Jewish Law ............................................................. 94
II. Isaac b. Sheshet Perfet: Responsum no. 11: on converso witnesses .......... 96
  II.1. Whether those who commit transgressions under compulsion pertain to the category of “the wicked ones of Israel” ........................................ 97
  II.2. Conversos remaining in Iberia got used to transgress Jewish law ....... 101
  II.3. Converso informers ............................................................................ 102
  II.4. Reasons for remaining in Iberia ......................................................... 103
III. Isaac b. Sheshet Perfet: Responsum no. 43: on converso husband called by his Christian name ................................................................. 105
IV. Simeon b. Zemaḥ Duran: Tashbeẓ 2:176: on the husband’s obligation towards contributing to the expenses of his wife’s emigration from Majorca ................................................................. 107
  V.1. Simeon b. Zemaḥ Duran: Tashbeẓ 3:40 .............................................. 110
VI. Zemaḥ b. Solomon Duran: Yakhin u-Voaz 1:125: on a converso occasionally writing a get ........................................................................................ 112
VII. Conclusion .......................................................................................... 113
Chapter 5 – Dietary laws

I. Refraining from eating leaven on Passover
   I.2. Simeon b. Žemah Duran: Tashbeẓ 1:58: on alleged kinship
   I.4. Solomon b. Žemah Duran: Tashbeẓ 1:60: on oath administered to a convert
   I.6. Solomon b. Žemah Duran: Tashbeẓ 1:62: on the depositee seizing part of the inheritance by bribing the Muslim authorities
   I.7. Conclusion

II. Cheese

III. Conversos and Jews eating together, conversos eating non-kosher food

IV. Conversos and Gentiles eating together

Chapter 6 – Death

I. Simeon b. Žemah Duran: Tashbeẓ 2:139: on the obligation of mourning for a convert
   I.1. In case of a minor
   I.2. In case of an adult
   I.3. In case of a person adhering to Judaism in secret

II. Simeon b. Žemah Duran: Tashbeẓ 3:43: remark on a converso refusing to die as a Christian

III. Simeon b. Žemah Duran: Tashbeẓ 3:323: remark on entering Christian cemeteries where conversos were buried

Chapter 7 – Inheritance

I. Isaac b. Sheshet Perfet: Responsa, nos. 46 to 52 and Simeon b. Žemah Duran: Tashbeẓ nos. 1:58 to 62: on the inheritance of a converso claimed by his converso wife and by his alleged Jewish relatives
   I.1. Isaac b. Sheshet Perfet: Responsum no. 46
   I.2. Simeon b. Žemah Duran: Responsa nos. 47-52
   I.5. Simeon b. Žemah Duran: Tashbeẓ 1:60: on oath administered to a convert
   I.7. Simeon b. Žemah Duran: Tashbeẓ 1:62: on the depositee seizing part of the inheritance by bribing the Muslim authorities
   I.8. Conclusion

II. Simeon b. Žemah Duran: Tashbeẓ 2:214: on a converso appointed as an agent by Jewish heirs

III. Solomon b. Simeon Duran (Solomon b. Simeon Duran): nos. 287, 418 on disinheriting converts

IV. Conclusion

Chapter 8 – Returning to Judaism

IV
Notes on transliteration and translations

If otherwise not indicated, quotations from the Bible are from the New International Version; quotations from the Talmud are from the translation of Isidore Epstein. All quotations from the responsa are my translation, from the first printed editions of the collections. The transliteration of Hebrew follows that of the Encyclopaedia Judaica, with the exception that the letters alef and ayin are not indicated. The transliteration of Hebrew and Arabic names is not void of some inconsistencies, since where an Anglicized form exists, it is generally given precedence. Names of mediaeval authors are given as they appear in the Encyclopaedia Judaica.

The Mishnah is quoted according to chapter and halakhah (e.g. mGit 1:1); the Babylonian Talmud according to folio, side a or b (e.g. bGit 2b). Letter “m” preceding the name of the chapter refers to the Mishnah, letter “b” to the Babylonian Talmud. The abbreviations of the chapters are that of Strack, H. L. – Stemberger, G.: Introduction to the Talmud and Midrash. Minneapolis: Fortress Press, 1992.
## Glossary

<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>agadah</td>
<td>non-legal portions of the Talmud and the Midrash</td>
</tr>
<tr>
<td>agunah</td>
<td>woman prevented from marriage</td>
</tr>
<tr>
<td>am ha-arez</td>
<td>ignorant</td>
</tr>
<tr>
<td>anus, anusim (pl.)</td>
<td>forced convert</td>
</tr>
<tr>
<td>Ashkenaz (n.), Ashkenazic (adj.)</td>
<td>Germany, German Jew</td>
</tr>
<tr>
<td>baal teshuva</td>
<td>repentant Jew</td>
</tr>
<tr>
<td>converso, conversos (pl.)</td>
<td>Iberian Jews converted to Christianity and their descendants</td>
</tr>
<tr>
<td>dayyan</td>
<td>judge of a rabbinical court of law</td>
</tr>
<tr>
<td>eirusin</td>
<td>betrothal</td>
</tr>
<tr>
<td>gaon, geonim (pl.)</td>
<td>head of academy in the post-talmudic period.</td>
</tr>
<tr>
<td>gazbar</td>
<td>treasurer</td>
</tr>
<tr>
<td>ger</td>
<td>proselyte</td>
</tr>
<tr>
<td>get</td>
<td>divorce document</td>
</tr>
<tr>
<td>gezerah</td>
<td>religious persecution, oppressive law</td>
</tr>
<tr>
<td>halakhah (n.), halakhic (adj.)</td>
<td>Jewish law</td>
</tr>
<tr>
<td>ḥalizah</td>
<td>ceremony by which the obligation of levirate marriage is dissolved</td>
</tr>
<tr>
<td>ḥazakah</td>
<td>presumption taken to be true unless proven otherwise</td>
</tr>
<tr>
<td>huppah</td>
<td>bridal canopy; nuptials</td>
</tr>
<tr>
<td>ishut</td>
<td>marital status</td>
</tr>
<tr>
<td>karet</td>
<td>punishment at the hands of heaven</td>
</tr>
<tr>
<td>kashrut</td>
<td>Jewish dietary laws</td>
</tr>
<tr>
<td>ketubah</td>
<td>marriage document</td>
</tr>
<tr>
<td>kiddushin</td>
<td>betrothal</td>
</tr>
<tr>
<td>kohen, kohanim (pl.)</td>
<td>descendant of a priestly family</td>
</tr>
<tr>
<td>kosher</td>
<td>fit according to Jewish law</td>
</tr>
<tr>
<td>levir</td>
<td>husband’s brother</td>
</tr>
<tr>
<td>mamzer</td>
<td>offspring of an adulterous or incestuous relationship</td>
</tr>
<tr>
<td>mazzah</td>
<td>unleavened bread</td>
</tr>
<tr>
<td>meshummad, meshummadim (pl.)</td>
<td>voluntary convert</td>
</tr>
<tr>
<td>mikveh</td>
<td>ritual bath</td>
</tr>
<tr>
<td>min, minim (pl.)</td>
<td>sectarian</td>
</tr>
<tr>
<td>minyan</td>
<td>quorum, ten male adult Jews</td>
</tr>
<tr>
<td>niddah</td>
<td>period unfit for marital life; woman who is in a period which is unfit for marital life (like the menstruation and the seven following days)</td>
</tr>
<tr>
<td>nissuin</td>
<td>nuptials</td>
</tr>
<tr>
<td>Sepharad (n.), Sephardic (adj.)</td>
<td>Iberia, Iberian Jews and their descendants</td>
</tr>
<tr>
<td>setam yeinam</td>
<td>wine of Gentiles</td>
</tr>
<tr>
<td>shemad</td>
<td>forced conversion</td>
</tr>
<tr>
<td>shiddukhin</td>
<td>engagement, match</td>
</tr>
<tr>
<td>yein nesekh</td>
<td>libation wine</td>
</tr>
<tr>
<td>yibbum</td>
<td>levirate marriage</td>
</tr>
<tr>
<td>yiḥud</td>
<td>private meeting of a man and a woman</td>
</tr>
<tr>
<td>zenut</td>
<td>licentiousness</td>
</tr>
</tbody>
</table>
Chapter 1 – Introduction

I. Historical background

In the Middle Ages a large and prosperous Jewish community lived in the Iberian Peninsula. In the High Middle Ages they formed an integral part of the Iberian society, being present in every layer of it. They were not confined to certain occupations, neither did they live isolated from their Christian and Muslim neighbours. They took part in the intellectual, politic, financial, economic and agricultural life of Iberia. They served as diplomats, advisors of rulers, courtiers, interpreters, teachers, physicians, merchants, shopkeepers, artisans, tax-farmers, soldiers, and farmers. They always formed a subjugated group of course, whether under Muslim or Christian dominion. For Muslim Jews (just as Christians) belonged to the “people of the Book” and as such formed a protected group (ahl al-dimmah), which through accepting the sovereignty of Islam was granted well-defined rights, hospitality, and protection. The position of both Jews and Christians deteriorated when the Almohads (a Berber dynasty of Morocco that ruled in al-Andalus in the 12th century) adopted an intolerant policy towards their non-Muslim subjects, that led to massive forced conversions and the emigration of numerous Jews to Christian lands or to Muslim East, where they could place themselves under more tolerant Muslim rulers. Although the Almohad persecution was not the first massive forced conversion which the Iberian Jewish community had to face, it was a relatively new phenomenon, for previous massive forced conversions happened long before, in the Early Middle Ages. In the seventh century the Visigoth rulers decreed several times forced conversion or else expulsion of their Jewish subjects, but the mere fact that these decrees were repeated again and again proves that they had not been carried out thoroughly. The tactic to be adopted with regard to the Almohad persecution was determined by Maimonides who in his “Iggeret ha-shemad” (Letter about the forced conversion) established that under such

---

1 I use the name Iberia in an extensive sense, including its dependencies, like the Balearic islands.
2 The involvement of Jews in public life underwent considerable changes during the centuries, depending on time and place. In general it can be said that in the course of the Middle Ages, their position gradually deteriorated and their possibilities became more and more limited; their activities were confined to certain spheres, while they were denied access to others.
3 Cf. the emigration of Maimonides to Cairo, where he became the court physician of the Ayyubid ruler al-Malik al-Afdal. (Not of Saladin, as it is widely believed. Cf. Vajda: “Ibn Maymun” EI 3:876-878)
circumstances one should not choose martyrdom but formally accept Islam. However, one should not remain under the dominion of the oppressive ruler, but leave for a land where he could practice Jewish religion freely.

Jews living in the Christian kingdoms of Iberia in the first centuries of the Reconquista encountered favourable conditions; Christian rulers encouraged their Jewish subjects to settle in the newly conquered territories, since Jews were supposed to be loyal to the new leaders (as opposed to the recently conquered Muslims), and as mostly city dwellers they could contribute to the economic prosperity of the developing Christian kingdoms. They were offered even extensive landed property by the rulers in order to further their settling down. Jews were serfs of the king, property of the royal treasury, and formed autonomous communities. They were granted the right to exercise their own criminal jurisdiction and even inflicting death penalty. With the consolidation of the Christian power by the middle of the thirteenth century, the demographic and economic map of the fourteenth century Iberia underwent considerable changes. The thirteenth century code of law entitled “Las siete partidas” compiled during the reign of Alfonso X el Sabio of Castile contained some restrictive dispositions such as the obligation of wearing a Jewish badge or the prohibition of holding position of authority over Christians. On the other hand, the code of law granted protection to Jewish subjects, and determined the way of coexistence between Jews and Christians. In any case, the Code acquired legal authority only in the fourteenth century. From the middle of the thirteenth century the Church attacked Jews more fiercely; there came the first blood libel case (1250, Saragossa), then the Barcelona Disputation (1263), in another couple of years the Dominican monk Raymond Martini composed his “Pugio Fidei adversus Mauros et Judaeos” (The Dagger of Faith against Moors and Jews) of which accusations were repeated in anti-Jewish campaigns for many years. The Black Death was followed by riots and massacres in Aragon. At the end of the fourteenth century, the Jews’ right of exercising their own criminal jurisdiction was withdrawn by the Castilian Court. In Aragon, Jewish courtiers were dismissed and consequently, the influence of Jews in political life diminished considerably. Their opportunities of social advancement became more and more limited due to the several restrictive measures taken against them. They were banished from an ever growing number of professions and occupations, they were forced to engage in public religious disputations with Christians, and they were compelled to bear the consequences of the sermons directed against them by the militant Dominican and Franciscan orders, especially the violent onslaughts of the archdeacon of Ecija, Ferrant
Martinez. The growing social tension among Jews and Christians erupted in Seville in the summer of 1391, when the kingdom of Castile experienced a period of interregnum. Disorder and riots spread to the rest of Castile, to Andalusia, and to Aragon. Jewish communities were decimated or destroyed, many of their members killed or forcibly baptized; thus originating the social group of converts to Christianity, called “New Christians” or “conversos” by Iberian “Old Christians,” that is, Christians of non-Semitic origin.

Many Jews who managed to escape from the rioting mob left Iberia and emigrated to North Africa or to other parts of the world where they could practice Judaism openly. The part of North Africa called Maghreb\(^4\) in the course of the 15\(^{th}\) century was in a state of total political fragmentation; it was divided between small hostile states ruled by Berber dynasties (the Merinides, the Ziyanids, the Ḥafṣids), which were in constant war with one another. The Jews arriving from Iberia settled along the North African coast, in Honein, Oran, Mostaganem, Tenes, Algiers, Bougie, and Tunis; and in inland cities as Tlemcen, Constantine, and Medea. They sometimes joined the Jewish communities already existent there, but more frequently they formed their own, distinct communities. Even in the course of the fifteenth century, Iberian conversos and their descendants did not cease to flee from Iberia to the Maghreb, despite the repeatedly renewed prohibitions of the Christian rulers to leave their dominium. On the other hand, at that time, the masses of forced converts remaining in Iberia formed a numerous and peculiar group in the society remarkably different from those individual Jews who accepted Christian faith in the previous centuries by choice, for example in the hope of a better carrier. Both Jews and Christians had to face a new social reality, the shaping of a well-defined social and religious group whose members were neither entirely Christians nor Jews. Even the conversos who wished to adopt Christian belief could not assimilate to the majority of the society overnight, let alone those who definitely opposed to following Christian religion and did their utmost to observe Judaism in secret. According to the Catholic doctrine, the effect of the sacraments, therefore that of baptism is irrevocable; a person once baptized remains Christian in any case, even if he was baptized against his will. Furthermore, returning to the former faith was considered a most serious sin, which had to be prevented. In consequence, the conversos had no choice but to live as if they were Christians, mostly because the Papal Inquisition which had been active in Iberia before the establishment of the Spanish

\(^{4}\) Maghreb: meaning “West” in Arabic, a denomination referring to the part of Iberia and of Africa ruled by Muslims, with the exception of Egypt.
National Inquisition (1481) kept an eye on the neophytes, and censured their relapses. The Christian society was by no means prepared to the integration of a mass of newly converted Jews; for they as New Christians meant competition to the Old Christians, since all the opportunities which had been denied them as Jews were opened them as Christians. Still, they were not really integrated to the Christian majority; most of the conversos were ignorant of the details (or in many cases, the essential doctrines) of Christianity, because they were not educated in their new faith. Furthermore, most of them continued to live in the same neighbourhood, streets, and houses as prior to their conversion, frequently sharing their dwelling place with non-convert Jews. Family ties were not necessarily severed because of the (forced) baptism of some members of the family; conversos and Jews formed mixed families interlinked by bonds of kinship, personal interest, custom, and necessity. Jews and conversos were in many aspects interdependent, since Jewish law did not annul certain obligations incumbent upon its followers just because one of the parties was converted. On the other hand, a converso wishing to observe Judaism in secret could not dispense with the assistance of the Jewish community. Such was the situation in which the leading rabbis of the Jewish communities had to formulate their opinions concerning legal problems that emerged in consequence of the coexistence of Jews and conversos, or aroused regarding converts leaving Iberia and returning to Judaism in North Africa.

II. Mumarim, anusim, meshummadim

In theory, three categories of converts can be distinguished, according to the circumstances of their conversion or the measure of their deviation from Jewish law. A person disregarding one or more religious precept for whatever reason is called in Hebrew “mumar” (non-observant; with regard to that specific precept, or with regard Jewish law in general) which is a neutral denomination. A person compelled to violate one or more commandment by whatever reason (out of fear, ignorance, inevitable necessity, etc.) is called “anus” (a forced one). One who disregards a precept or Jewish law in general is

5 For example, a woman wishing to divorce her converso husband was obliged to obtain a bill of divorce from him, or else their marriage was not dissolved; a woman under the obligation of levirate marriage was required to perform a formal act called ḥalizah (taking of the shoe of her deceased husband’s brother) in order to be permitted to remarry even if the brother in question happened to be a converso. About these obligations see the chapters about divorce and levirate marriage.

6 About the categorization of converts of different kinds, and transgressing religious precepts under duress, see bSanh 74a-b; Netanyahu 1966:6-22; the Iggeret ha-Shemad by Maimonides; and the responsa to be discussed in the thesis, especially Isaac b. Sheshet Perfet: Responsa, nos. 4, 11.
called “meshummad” (renegade or apostate). All the three denominations were used referring to conversos, but in the majority of the situations, the last two terms were used. For the sake of clarity, if not otherwise indicated, I will always translate “anus” as “forced convert,” “meshummad” as “voluntary convert,” and “mumar” as “convert,” without any specification.

Although in theory the distinction is sufficiently clear among the above mentioned terms, in practice it was not self evident if a converso had to be considered as a voluntary or a forced one. A person who was violently seized by rioters, and upon whose head the baptismal water was poured against his will was evidently a forced convert. But if the same person remained in Christian land, subject to their laws, and violated certain precepts in order to pretend to be a faithful Christian, could he be considered as someone forced to disregard Jewish law? Or could it be supposed that since he did not leave for a land where he could practice Judaism openly, he became a voluntary convert after all, notwithstanding the fact that his conversion was originally effectuated by obvious compulsion and menace of death? It must be stated that the terms referring to the conversos were not used consistently by the authors of the responsa, and even less so by the inquirers who addressed them with their questions. Not to mention the fact that in the texts the terms “anusim” and “meshummadim” were frequently changed to the neutral term “mumarim” due to censorship. Since these terms were not used systematically, one cannot tell the different groups of conversos merely on the basis of the parlance apart. It seems probable that the Hebrew terms chosen for the specification of the conversos, did not necessarily reflect the circumstances of their conversion, and were frequently used as synonyms. For the same reason insisting on the consequent translation of the terms as forced or voluntary converts may be misleading to a certain extent; in any case, I will point out the inconsistencies of the usage of these terms in every case I find it necessary.

III. Subject and aim of the research

The main sources of the history of the conversos are those of Christian origin; archival documents, files of the Inquisition, polemic literature, and the like. The information obtained from these sources is supplemented by data from Hebrew sources; such as chronicles, letters, polemic and philosophic literature. The responsa written in
Hebrew by leading rabbinic authorities of the time also gained some attention, but they were not taken into consideration as extensively and systematically as the other sources.

The thesis wishes to present a systematic and detailed elaboration of the halakhic (legal) decisions written by five of the most important authors who wrote responsa concerning conversos between the years 1391 and 1492, that is, between the year in which the massive social group of forced converts originated in Iberia, and the year when the expulsion of the Jews from the united kingdoms of the Catholic Monarchs, Queen Isabel of Castile and King Ferdinand of Aragon took place. The expulsion was an event that radically changed the perspectives of the Iberian conversos. The halakhic authorities were confronted with an absolutely new situation, in which they had to reformulate their position towards the conversos. The thesis aims to present all the responsa written in connection with conversos by Isaac b. Sheshet Perfet, Simeon b. Žemaḥ Duran and his descendants: Solomon b. Simeon Duran, Žemaḥ b. Solomon Duran and Simeon b. Solomon Duran.

As the focus of the responsa is the halakhic discussion, the details concerning the circumstances of the case that are not of basic importance in terms of the discussion are often omitted. Unfortunately, the religion of the converted person is often regarded as indifferent in the argumentation, and therefore it is not always explicitly stated. In the thesis I have dealt with the responsa that concern Iberian conversos presumably, whether it was stated expressly in the text or if it could be inferred from the context of the responsum. I have also included a few responsa where it was impossible to determine if they concerned conversos to Christianity or converts to Islam, but had relevance to the subject under discussion. In these cases, the uncertainty concerning the adopted religion of the converts is clearly indicated in the analysis of the given responsum.

The historical data deductible from the responsa will be presented in its original context, that is, in close connection with the halakhic discussion, and not independently of it. This method permits to evaluate the historical evidence offered by the responsum in its proper dimensions, which in many cases shows the limits of the research based on these sources. Consequently, the thesis cannot answer the (in my opinion, erroneous) question whether the conversos were Jews or Christians. The purpose of the research is to present an authentic picture of the conversos containing all the details offered by the sources, but the imperfect picture so produced would not contain the products of my imagination. I did

---

7 Asked more or less literally by Netanyahu 1966:2-3, 22.
not make a selection of the sources unlike many other previous studies, thus I do not present the interesting parts of a discourse only, and moreover, I do not try to reinforce any preconceptions with them (in preconceptions I mean the endeavours of the researches to prove the conversos being “real” Christians/Jews) — I disclose the whole discourses as they are. As a result, after reading the thesis, the reader will not have a unified (and simplified) view of the conversos, mostly because no such unified view ever existed. The thesis is aware of the limits of its subject, and does not want to disclose more than it can, it adheres to the evidence offered by the texts, and does not misrepresent them in order to reach an appealing but unfounded conclusion.

**IV. Sources of the research**

The responsa are legal decisions in form of detailed answers given to actual questions send by inquirers who might be rabbis themselves, or anyone capable of formulating a question and forwarding it to a halakhic authority willing to answer it. Some responsa deal with hypothetical cases that certainly reflect the reality nevertheless; otherwise the rabbis would not have found it necessary to expound their opinion in written form concerning the issue. The responsa was frequently copied by its author (or the rabbi’s students) and thus a copy generally remained in the possession of the rabbi as well. These were later collected and edited by the authors themselves or by their students. Furthermore, the responsa were copied by those who got access to them during their way to the addressees; or by those who were permitted by the owners of the collections to copy them for their use. In the course of the repeated transcriptions, the responsa were sometimes remarkably shortened; the data regarded as irrelevant to the halakhic discussion like proper names, dates, etc. were frequently omitted. Sometimes the copied versions were mere digests of the originals containing hardly more than the essence of the question, a brief summary of the halakhic argumentation, and the decision. Despite these deficiencies the responsa are still a most valuable source of history, since it generally treats specific events and therefore is strictly connected with the reality of everyday life. The responsum in most cases originates as an answer to the necessity of the moment, and even if it is not void of certain tendentiousness characteristic of other sources of history (like chronicles, or

---

8 About the origins and development of the responsa literature, and the methods of their study, see Freehof 195, Soloveitchik 1990, Haas 1996.
polemic literature, for example), it certainly offers most realistic information regarding the fate of the majority of the \textit{conversos}.

It has to be noted however, that the most valuable information in this respect lies not in the direct statements or judgments of the rabbis concerning the attitude of the \textit{conversos} in one or another situation, but in the descriptions of the case and in the final decisions themselves. A rabbi might make a remark in the course of the \textit{halakhic} discussion in order to illustrate or support the \textit{halakhic} argumentation without intending it as a statement of absolute value. For example, Simeon b. Solomon Duran when discussing whether \textit{conversos} of priestly origin returning to Judaism enjoy priority in the reading of the Torah, remarked that \textit{conversos} in general used to observe the laws concerning purity of marital life (the third or fourth generation of \textit{conversos} in the last decades of the 15\textsuperscript{th} century), although this obviously exaggerating ascertainment is contradicted by previous and following authors alike. However, since he discussed a case in which the observance of purity of marital life was irrelevant, he presumably permitted himself to make exaggerating remarks in order to illustrate that \textit{conversos} did not differ from Jews to such a great extent.

\textbf{V. A critical survey of the history of the research}


Works dealing with Iberian converts on the basis of responsa literature are scarce. The first such compendium was written by H. J. Zimmels. This relatively short work (less than 200 pages) presents and analyses some 80 sources from the year 1391 till 1737. As a result of the width of the timeframe and the number of the sources treated, the author could not discuss the sources profoundly, and could not relate to all of the available texts. Zimmels did not detail the \textit{halakhic} argumentation, but concentrated on the presentation of the historical data contained in the responsa. In spite of that, his work is of paramount importance until this day, and its approach to the sources is exemplary. As opposed to later historians, the argumentation of Zimmels is accurate and reliable; he does not rush into conclusions and does not draw far-reaching implications on the basis of superficial reading and misinterpretation of the texts. He cannot be accused of trying to prove a presumed thesis at any cost, either through intentional or erroneous false presentation of the sources,
by deliberately ignoring those that contradict the given thesis and emphasizing those that support it, or by quoting passages taken out from their original context.

Zimmels (1932:21) differentiated five phases with regard to the position taken by the majority of the rabbis concerning the converts. From the period of the years 1391-1492 Zimmels presented nineteen responsa written by Isaac b. Sheshet Perfet and the members of the Duran family, all of them pertaining to the first phase. In his view, this phase was characterized by and large by a major adherence to Jewish religion on the part of the converts forcibly baptized in 1391 and their descendants, who were in turn deemed by the rabbinical authorities as Jews who sinned (by living outwardly as Christians), but still remained Jews.\(^9\) It does not mean however that their conversion and staying in Iberia did not have practical consequences regarding their halakhic status. Some of these are briefly mentioned and presented by Zimmels but without going into details.

Simcha Assaf: “Anuset Sefarad u-Portugal be-sifrut ha-teshuvot” [“The forced converts of Spain and Portugal in the responsa literature”] Zion 1932, pp. 19-60\(^{10}\)

Simcha Assaf’s essay on the subject of responsa dealing with Iberian converts was published in the same year as Zimmels’ work. This essay is not a systematic discussion of the subject, but it was not intended as such. The purpose of Assaf was in the first place to call attention to the neglected Hebrew sources regarding the history of the conversos. He emphasized that beside the already researched inquisitorial documents there existed another group of sources that had remained disregarded till then, namely the halakhic decisions written by the contemporary rabbinical authorities. In order to demonstrate the historical relevance of these sources, Assaf presented a selection of some interesting passages. He did not analyze the texts, let alone study them in a systematic way. It is highly probable that Assaf was motivated by the awakening enthusiasm of his time with regard to the descendants of Iberian converts who, after preserving their Jewish identity during four centuries in secret, decided to return to Judaism openly.\(^{11}\) To this end, Assaf outlined a heroic and quite romantic picture of crypto-Jews adhering to their ancient faith with all efforts possible, and his main concern was to illustrate this heroic struggle with proof texts taken from the responsa, from the files of the Inquisition, or from secondary literature. Since he did not clearly distinguish the sources he used, it is not always entirely

---

\(^9\) Cf. bSanh 44a
\(^{10}\) I have used the edition of Assaf’s article published in the collection of his essays (Assaf 193). \(^{11}\) Assaf begins his article with making reference to the descendants of Portuguese converts returning to Judasim. Cf. Assaf 1943:143.
clear to what extent the picture formed is based on the responsa themselves, and how much
it is based on other kind of sources.

*Benzion Netanyahu: The Marranos of Spain from the Late XIVth to the Early XVIth Century according to Hebrew Sources. New York, 1966*

The possibly most widely known and controversial work concerning *conversos* (called also *marranos* in Castilian) was written by Benzion Netanyahu. The scope of this work encompasses three kinds of sources: responsa; philosophic and polemic literature; and homiletic and exegetic literature. The thesis that Netanyahu wishes to prove on the basis of these sources is that “the overwhelming majority of the Marranos at the time of the establishment of the Inquisition were not Jews, but detached from Judaism, or rather, to put it more clearly, Christians” (Netanyahu 1966:3) and consequently, the purpose of the Inquisition was not to confront a Judaizing heresy (as the number of those who adhered to Judaism was insignificant in his view) “but to eradicate the Marrano group from the midst of the Spanish people” (Netanyahu 1966:4) due to “racial hatred and political considerations rather than by religious zeal” (Netanyahu 1966:3). Netanyahu formulated his view in an outspoken defiance against the opinion of Y. Baer: “Conversos and Jews were one people, bound together by ties of religion, and fate, and messianic hope.”

Furthermore, “essentially the Inquisition was right in evaluating the character of the conversos,” i.e., that they observed Judaism, and continued to live as Jews. But such a short introduction cannot treat in details the controversy between Baer and Netanyahu, therefore I wish to limit my comments on Netanyahu’s use of the responsa as historical sources only.

The most problematic aspect of Netanyahu’s method is that he does not relate to the *halakhic* decisions as to integral texts, where even considerations of historical relevance appear in the context of a legal argumentation, and not independently of it. Moreover, these considerations in general do not constitute the essential part of the responsa, but are disclosed *passim* in the course of the discussion. Often they are not meant to be full-fledged statements of universal value, but vague remarks supporting or illustrating the *halakhic* argumentation. It does not mean that they do not reflect historical reality at all, but they must be treated with due circumspection, and first and foremost, always in close connection with their original context. Netanyahu, however, often presents

passages of the responsa without even mentioning the question, or elucidating the specific case they relate to. He aims to decide the question of “Jewishness or non-Jewishness of the Marranos” (Netanyahu 1966:22) without being aware of the fact that this question as such was never addressed to the rabbis, but always in connection with some particular aspects.

Netanyahu frequently reaches false conclusions due to the superficial interpretation of the texts. For example, it should not be automatically supposed that if a consideration is not mentioned in a certain responsum, but it is exposed in another, that necessarily indicates that the opinion of the rabbi has changed in the meantime. All the more so, if the new consideration relates to a social or historical phenomenon, which naturally influences the halakhic argumentation but does not constitute the basis of it. A rabbi might mention a social phenomenon in order to support his halakhic argumentation without attaching cardinal importance to it (as opposed to the historian, who might take out a certain remark of this kind from its original context and relate to it as to an unquestionable historical evidence). For example, if in a responsum (Isaac b. Sheshet Perfet: Responsa, no. 11) informers are mentioned while in another text written possibly before\textsuperscript{14} (Isaac b. Sheshet Perfet: Responsa, no. 4.) they are not mentioned, it does not mean necessarily that they have appeared in the meantime (as it is supposed by Netanyahu, 1966:30). It is even more misleading if the historian rushes into far-reaching conclusions on the basis of such erroneous implications (e.g., when Netanyahu concludes that due to the alleged appearance of the informers, the whole converso community became divided in two conflicting fractions split by an impervious gap, while they formed a unified group beforehand). There are a lot of probable reasons why a text should not mention the informers, and only one of them is the possibility that they have not existed yet. Moreover, nothing in the second responsum indicates that the lack of homogeneity in the group of the converts was a new phenomenon. On the contrary, Isaac b. Sheshet Perfet stated already in the first responsum that some of the converts adhered to Judaism while others abandoned it. The fact that the first responsum does not mention informers does not prove that they did not exist; neither does the fact that the second responsum relates to them demonstrate that the group of the conversos as a whole underwent such an essential change in the time that lapsed between issuing the two responsa, that led to the emergence of a “new […] social panorama” (Netanyahu 1966:30).

\textsuperscript{14} It is supposed that the responsa of Isaac b. Sheshet Perfet concerning converts appear in the printed editions in the order they were issued. Cf. Netanyahu 1966:23 and the bibliography referred to there.
It is even more disappointing when Netanyahu mentions a part of a statement made by an authority (the part supporting his hypothesis of course), ignoring the rest of it (contradicting his theory).\textsuperscript{15}

This is not the appropriate place to offer a detailed critique of Netanyahu’s work. Therefore I wish to choose one typical statement of him in order to demonstrate one of his usual errors.

While by that time Ribash had already abandoned his unreserved faith in the Jewishness of the Marranos and began to limit their validity as witnesses before a Jewish court, Rashba still insisted on treating them as Jews without any reservation whatsoever...\textsuperscript{16}

As opposed to this ascertainment the following must be observed:

1) Isaac b. Sheshet Perfet (that is, the Ribash) never discussed the “Jewishness” of the converts, but their actual or presumed legal status concerning particular issues (as marriage, testifying, writing a divorce document, handling wine, etc.). A person can be considered \textit{as} a Jew from one point of view, while at the same time he can be considered \textit{as} a Gentile from another point of view.

2) In the surviving responsa written by Isaac b. Sheshet Perfet there is no indication whatsoever that he had had “unreserved faith in the Jewishness of the Marranos” (whatever Netanyahu meant by Jewishness). On the contrary, if Isaac b. Sheshet Perfet made general statements about the converts’ degree of adherence to Jewish law, he claimed that they were presumed to violate the law even if they were not literally forced to, and therefore in general they did not qualify as witnesses for example.

3) If Isaac b. Sheshet Perfet really began “to limit their validity as witnesses before a Jewish court” (after abandoning his allegedly unreserved faith in them), that would have been an extremely lenient position towards them, since a person has to comply with a number of severe requirements so that he may qualify as a witness. For example, it must be assumed that he never commits even a minor transgression (the penalty of which is lashing), if he is not evidently and literally forced to.\textsuperscript{17} Whoever is supposed to violate the

\textsuperscript{15} For example, when Netanyahu (1966:42) states that according to Simeon b. Zemah Duran the death of a convert should not be mourned by his non-convert relatives. Netanyahu fails to mention that this responsum differentiates between three types of converts; two of them should be mourned, the third should not. For the detailed discussion of the responsum (Simeon b. Zemah Duran: 2:139) see the chapter about death.

\textsuperscript{16} Netanyahu 1966:33

\textsuperscript{17} Cf. MT Hilkhot Edut 10:1-2
Sabbath when not under threat of death is usually disqualified as a witness.\textsuperscript{18} It has to be noted again, that contrarily to the claim of Netanyahu, Isaac b. Sheshet Perfet never held that converts as a group would qualify as witnesses; on the contrary. A rabbi taking on a more severe position towards converts would not accept them universally as valid witnesses, but might hold, for example, that they were to be considered as Jews with regard to their marital status solely, since it depended on their descent, and not on their manners and customs.

\textit{Moisés Orfali Levi: Los conversos españoles en la literatura rabinica. Problemas jurídicos y opiniones legales durante los siglos XII-XVI. Salamanca, 1982}

The short tractate written by Moisés Orfali Levi is again more a selection of sources than a systematic analysis. Given the limited extension of the work (66 pages), and the five centuries it encompasses, it is obvious that the author could not offer a detailed discussion of the sources, but a kind of anthology drawing the attention of the students of history to a group of less known sources.

Summing up the shared characteristics of these works I wish to point out the following: 1) they relate only to a minor part of the sources available, discussing solely a very limited number of the responsa written on this subject; 2) they do not present the historical data in their \textit{halakhic} context; 3) they do not analyze the texts in a systematic way.

These deficiencies make complimentary research necessary. My work is intended to be a modest contribution in this direction.

\textbf{VI. Life and works of the authors}

\textbf{VI.1. Isaac ben Sheshet Perfet (Ribash)}\textsuperscript{19}

Isaac b. Sheshet Perfet (1326-1408), known also as the Ribash, from the acronym of his Hebrew name, was born in 1326 in Barcelona. His family background is not well


known, but it is probable that his father was not a scholar (Mezger 1993:12). His teachers were R. Nissim b. Reuben Gerondi, R. Perez b. Isaac ha-Kohen, R. Hasdai b. Judah Crescas. He acted as a rabbi or as a dayyan (judge of a rabbinical court of law) in Barcelona until 1370, although he did not hold an official position. In 1370, he was arrested together with other Jewish notables. After several months of imprisonment, he moved to Saragossa, and from there to Valencia in 1385. The assault on the Jewish quarter of Valencia in 1391 that put an end to the powerful Valencian aljama (community) had serious consequences in the life of Isaac b. Sheshet Perfet. After the sack of the Jewish quarter (that happened on the 9th of July, 1391), practically the whole community was converted by force to Christianity. According to Riera i Sans (1983) Isaac ben Sheshet Perfet was baptized on the 11th of July, and took the name Jaime of Valencia, as it is evidenced by the notarial documents of the Valencian municipality. Although finally he left for North Africa, where he reverted to Judaism, in the opinion of Riera i Sans he apparently stayed in Valencia outwardly as a Christian at least for one and a half year.  

Isaac b. Sheshet Perfet was appointed dayyan in Algiers by the Muslim authorities. The appointment was criticized by Simeon b. Zemah Duran, who regarded it as an improper intervention in the internal affairs of the Jewish community. Isaac b. Sheshet Perfet died in Algiers in 1408.

Isaac b. Sheshet Perfet wrote commentaries on several tractates of the Talmud, a commentary on the Torah, and composed a number of liturgical poems as well. However, his most influential work is his responsa. Almost each one of his responsa treating halakhic issues (as opposed to those discussing other matters, as aggadah, philosophy or grammar) are referred to by Josef Karo in the Beit Josef. The numbering of the responsa does not correspond to that of the printed edition, which was established by Samuel ha-Levi, since Josef Karo used three manuscripts containing different sections of the responsa written by Isaac b. Sheshet Perfet, that were organized in different order. (Mezger 1993:15)

The responsa were first published in Constantinople, 1546-47, based on the manuscript in the possession of Samuel ha-Levi. The second edition appeared in Riva di Trento (1559). Subsequent editions appeared in Lemberg (1805), Vilna (1879). A critical

---

20 Riera i Sans reached this conclusion relying on the statement of Hershman, according to which Isaac b. Sheshet Perfet arrived in North-Africa after the arrival of R. Isaac Bonastruc of Barcelona, who was enlisted by the Catalanian authorities among the refugees in November 1392. Cf. Riera i Sans 1983:15

21 Josef Karo (16th century), the author of the most influential halakhic code called Sulkhan Arukh. Beit Josef is his famous commentary on the code of Jewish law entitled Arbaah Turim (Henceforth: Tur) written by Jacob b. Asher in the 14th century.

22 About the identity of Samuel ha-Levi see: Mezger 1993:14, n. 51
edition of his responsa appeared in Jerusalem (1993) in the edition of David Mezger. The so-called Sheelot u-Teshuvot ha-Ribash ha-Hadashot [New Responsa by the Ribash] (Munkacs, 1901) were attributed to Isaac b. Sheshet Perfet, although apparently the author of most of them (Zimmels 1972:33) or all of them (Mezger 1993:17) was another person.

He wrote some twelve responsa relating to conversos, dealing with marriage, divorce, levirate marriage, wine produced or handled by conversos, inheritance, etc. These decisions were written in the decade after the great wave of forced conversion of the year 1391, that is, in a period when conversos as a massive group of the society were still a new phenomenon. His decisions, consequently, laid the foundations for later authorities for their discussion of this problem.

IV.2. Simeon ben Zemaḥ Duran (author of the Tashbez)²³

Simeon ben Zemaḥ Duran was born in Majorca in 1361. He studied in Palma with R. Ephraim Vidal and later in Aragon with R. Jonah Desmaestre, whose daughter he eventually married. Simeon b. Zemaḥ Duran had vast halakhic knowledge, and besides, he was also skilled in natural sciences such as medicine, mathematics and astronomy. After the massive religious persecutions of the year 1391, he left Majorca, and settled in Algiers with his family, where he joined the rabbinical court of law led by R. Isaac b. Sheshet Perfet. As it was stated above, his relationship with Isaac b. Sheshet Perfet was not void of tension. After the death of the Ribash (1408), Simeon b. Zemaḥ Duran became the most prominent rabbi of Algiers. He died in 1444. The responsa of Simeon b. Zemaḥ Duran, known as the Tashbez (from the acronym of the title of his responsa-collection: Teshuvot Shimeon ben Zemaḥ) were first published in Amsterdam, 1738. He wrote some twenty responsum regarding conversos. Most of these decisions are quite elaborate and extensive. It seems probable that the opinion of Simeon b. Zemaḥ Duran concerning the conversos underwent a gradual change in the course of time; his position towards them became more and more severe as he became convinced that the conversos who failed to leave Iberia, finally got used to transgress Jewish law and abandoned it almost completely. The process of this change can be well observed in his responsa concerning wine made or handled by converts. He wrote responsa relating to marriage, divorce and inheritance also. His disaccord with Isaac b. Sheshet Perfet is manifest in his decisions regarding conversos as

well; their opinions diverged in several aspects, and the texts are not void of remarks alluding to their conflicting views. However, the divergence of their opinion is not necessarily due to the fact that they had a conflicting view about the *conversos* as a group. The responsa discusses first and foremost specific cases, and the fact that they differed in the judgement of a specific case does not indicate inevitably that their position towards the *conversos* in general would have been contradicting as well.\(^{24}\)

VI.3. Solomon ben Simeon Duran (Rashbash)\(^{25}\)

Solomon b. Simeon Duran, known also as the Rashbash, from the acronym of Rabbi Solomon b. Simeon, the son of Simeon b. Žemaḥ Duran was born about the year 1400 in Algiers. Like his father, Solomon b. Simeon Duran was versed in medicine, philosophy, and natural sciences as well as in *halakhic* knowledge. He joined the rabbinical court of law led by his father, whom he succeeded after his death. He wrote numerous responsa and an apologetical work entitled *Milḥemet Miẓvah* in which he refuted the accusations against the Talmud made by the convert Joshua Halorki (Gerónimo de Santa Fé). The three sons of Solomon b. Simeon Duran, Aaron, Žemaḥ and Simeon acted as judges in Algiers. Solomon b. Simeon Duran died in 1467. His responsa were first published in Livorno in 1742. Some eight of his responsa deals partly or entirely with *conversos*, among them the so-called “*Maamar ha-anusim*” (Treatise about the forced converts)\(^{26}\) discussing the formalities of the reintegration of *conversos* to the Jewish community. The rest of his decisions treats problems concerning inheritance, wine, taxes, and the observance of dietary laws during Passover.

VI.4. Žemaḥ ben Solomon Duran (author of *Yakhin u-Voaz 1*)\(^{27}\)

Žemaḥ b. Solomon Duran was the second son of Solomon b. Simeon Duran. The details of his life are known mostly from scattered remarks in his responsa. He acted as *dayyan* and rabbi in Algiers in the course of the 15th century. Similarly to his father and grandfather, besides his *halakhic* knowledge he was also versed in medicine and

\(^{24}\) For the divergent views of the two authorities on the same issues see their responsa concerning wine (Simeon b. Žemaḥ Duran: Tashbeẓ 1:63), cheese (Tashbeẓ 2:201, 3:83) and inheritance (Tashbeẓ 1:58-62 and Isaac b. Sheshet Perfet: Responsa, nos. 46-52).


philosophy. Although he lived in Algiers, it is attested that he stayed for some time in Majorca for a medical cure, returning from there in 1468. Due to his visit to Majorca he had the opportunity to become acquainted with the life of the converso community of the island. At that time the Jewish community has already ceased to exist, since after a blood libel in 1432, the majority of the community was forcibly converted and the rest fled to North Africa (the Jewish community was ultimately destroyed in 1435). His responsa was collected in the first part of *Yakhin u-Voaz*. The second part of the book contains responsa written by his brother, Simon b. Solomon Duran. Three of the responsa dealing with conversos written by Zemah b. Solomon Duran survived. Two of them treats conversos leaving Christian land and returning to Judaism in Malaga (which was under Muslim control at that time) and in Algiers. The third one discusses the validity of a divorce document written by a converso. This responsum was written during his sojourn in Majorca, as it is evidenced by the first lines of the answer: “I am staying at the island of Majorca having a serious illness…” This indicates that though the Majorcan Jewish community ceased to exist in 1435, a rabbi visiting the island circa 1468 was still addressed halakhic questions (in this case, related to converts). *Yakhin u-Voaz* was first published in Livorno, 1782.

VI.5. Simeon ben Solomon Duran (author of *Yakhin u-Voaz*)

Simeon b. Solomon Duran was born in Algiers in 1438, and succeeded his brother, Zemah b. Solomon as a rabbi there after the latter’s death. Details of his life are very little known. He fled Algiers when the Spanish army conquered port cities of the North African shore in 1509-1510. That is the last known event of his life; there are no other data after that, we do not even know when he died.

His responsa were published together with his brother’s, in the second part of *Yakhin u-Voaz*, which was first published in Livorno, 1782. Three of his responsa treating

---

28 Zemah b. Solomon Duran: *Yakhin u-Voaz* 1:125
30 Oran, Tripoli, Algiers, Tunis, Bougie and Tlemcen were conquered by Pedro of Navarre in 1509-1510. Bougie remained under Christian rule until 1555. Cf. Marçais: “Bidjāya” EI 1:1204b. Tunis was occupied by the forces of Carlos V in 1535, and remained under a limited Christian dominion (kind of quasi-protectorate) until the first half of the 16th century. Cf. Sebag: “Tūnis” EI 10:629b. In 1510 the Christian troops succeeded to occupy the islets off the north-west coast of Algiers Bay, but could not conquer the city, which sought help from the Turkish corsair, 'Arūğ, who occupied the city itself, but was unable to expel the Christians from the islets, who tried to conquer the city without success in 1516 and 1519. Carlos V attempted to capture the city in 1541 but due to a violent storm half of his landing fleet was lost, and he was forced to abandon the siege. Cf. Le Tourneau: “al-Djazair” EI 2:519b.
conversos survived. The three of them discusses halakhic problems connected with conversos who left Christian land and returned to Judaism in Muslim territory.

VII. Manuscripts of the responsa studied

The following list includes manuscripts containing responsa written by Isaac b. Sheshet Perfet, Simeon b. Zemaḥ Duran, Solomon b. Simeon Duran, Zemaḥ b. Solomon Duran, and Simeon b. Solomon Duran. The descriptions of the manuscripts (date, script, number of folios / pages) follows that of the online catalogue of the Jewish National and University Library (JNUL), if otherwise not indicated.

The JNUL catalogue however offers only selected details about a manuscript, thus I had to read through whole collections, and to identify the responsa concerning conversos one by one. In the course of my work I identified a vast number of responsa addressing other topics, not related to my research matter.

In the following, I enumerate the manuscripts I consulted, indicating the responsa I identified; first I give the page number, and than the number of the responsum in the printed editions. I put the identified responsa in square brackets, and I mark the ones about conversos (and I even indicate if there are not any). I remark if the texts of the responsa concerning conversos present significant differences from the texts that can be found in the first printed editions. Every remark, addition and complement I made to the online catalogue is put in square brackets.

List of the manuscripts consulted:

Isaac b. Sheshet Perfet

1) New York – Jewish Theological Seminary Rab. 1410
Jewish National and University Library Mss. Reading Room Film No.: F 43419
Description: Maaravic script, 16th cent., 56 folios
Contents: responsa by various authors among them Solomon b. Abraham Adret (Rashba), Isaac b. Sheshet Perfet (Ribash), Maimonides, etc.

[1a-3b: Ribash no. 335; 4a: Rashba no. 1:538; 4b: Rashba no. 1:181, 1:308; 5b: Rashba no. 1:314; 6a-7a: Ribash no. 93; 7b: Ribash no. 115; 7b-8a: Ribash no. 134; 8a-9b: Ribash no. 16; 9b-10b: Ribash no. 17; 10b-12a: Ribash no. 18; 12a-b: Ribash no. 126; 12b-13a: Ribash no. 137; 13a-b: Ribash no. 164; 13b-15a: Ribash no. 165; 15a-b: Ribash no. 166;
15b-16b: Ribash no. 167; 16b-17b: Ribash no. 98; 17b-18a: Ribash no. 99; 18b-19b: Ribash no.100; 20a-31a: Ribash no. 127; 31a-32a: Ribash no. 314; 32a-34a: Ribash no. 173; 34a-36a: Ribash no. 178; 36a-37b: Ribash no. 186; 37b-38a: Ribash no. 8; 38a-b: Ribash no. 10; 38b-39b: Ribash no. 2; 39b-40a: Ribash no. 1; 40a-41a: Ribash no. 29; 41a: Ribash no. 40; 41a-b: Ribash no. 84; 41b-43a: Ribash no. 94; 43a-b: Ribash no. 95; 43b-44b: Ribash no. 106; 44b-48a: Ribash no. 107; 48a-b: Ribash no. 150; 49a-50b: Ribash no. 161

[Responsa related to *conversos* written by Isaac b. Sheshet Perfet: 38b-39b: no. 2; 39b-40a: no. 1]

[There are no significant differences from the first printed edition.]

2) St. Petersburg, Russian National Library Evr. II A 406
Jewish National and University Library Mss. Reading Room Film No.: F 65346
Description: Mizrahic script, 16th cent., 12 folios. A greater part of the same collection can be found in St. Petersburg, Russian National Library Evr. II A 116.
Contents: responsa written by Isaac b. Sheshet Perfet

[The ms contains Isaac b. Sheshet Perfet: *Responsa*, nos. 7, 16, 17, 18, 19, 21, 22-26, 34, 35, 37, 38, 20, 290-292]

[The ms does not contain responsa related to *conversos*.]

3) St. Petersburg, Russian National Library Evr. II A 116
Jewish National and University Library Mss. Reading Room Film No.: F 64128
Description: Mizrahic script, 16th century, 106 folios. A smaller part of the same collection can be found in St. Petersburg, Russian National Library Evr. A 406. The folios are disordered.
Contents: responsa written by Isaac b. Sheshet Perfet

[1a: no. 264; 1a-b: no. 27; 31b: nos. 274, 233; 2a-b: no. 226; 2b: no. 225; 3a-b: no. 245; 3b: nos. 246, 212; 4a: no. 200; 4a-b: no. 201; 4b: no. 202; 4b-5b: no. 203; 5b: no. 204; 6a: no. 416; 6a-b: no. 417; 6b: nos. 419, 421; 6b-7a: no. 424; 7a-b: no. 425; 8a-b: no. 268; 8b-9a: no. 270; 9b-10b: letter of Isaac b. Sheshet Perfet concerning the issue discussed in no. 270 (the text is probably not included in the printed collection); 10b-11a: no. 177; 11b-12b: no. 102; 12b: no. 103; 12b-14b: no. 104; 14b-15a: no. 105; 15a-15b: no. 106; 15b-16b: no. 107; 17a: no. 110; 17b: no. 119; 18a: no. 217; 18a-b: no. 218; 18b: no. 21; 18b-19b: no. 220; 19b-20b: no. 221; 20b-21a: no. 222; 21b-22b: first part of no. 228; 23a-b: no. 108; 23b: no. 109; 24a-b: no. 161; 25a: second part of no. 228; 25a-b: no. 287; 25b: 288; 26a-b: middle part of no. 271; 27a-b: no. 193; 28a: middle part of no. 306; 28a: no. 307; 28a: no. 308; 28b: middle part of 306; 29a-b: no. 227; 29b-30a: no. 247; 30a-31b: no. 248; 31b-32a: no. 253; 32a-33a: no. 254; 33a-33b: no. 255; 33b: no. 256; 34a: no. 257; 34a-b: no. 258; 34b: no. 259; 34b-35a: no. 260; 35a: no. 262; 35b: nos. 241, 242; 35b-36a: no. 243; 36a: no. 244; 36a-b: part of no. 251; 37a: part of no. 280; 37a: no. 281; 37a-b: 282; 38a: nos. 283, 284; 38b: no. 285; 38b-39a: no. 286; 39a-40a: no. 322; 40a-b: no. 323; 40b-41a: no. 15; 41a-b: no. 28, 41b-42a: no. 29; 42a-b: no. 40; 42b: no. 36; 42b-43b: no. 41; 43b: no. 42; 44a-b: the responsa on these pages are probably not included in the printed collection;]
45a: part of no. 295; 45b-46b: no. 296; 46b: nos. 298, 299; 46b-47a: no. 300; 47a-48a: no. 301; 48a-b: no. 302; 48b-49a: no. 303; 49a-50b: no. 304; 50b-54b: part of no. 305; 55a-56a: part of no. 308; 56a-56b: no. 309; 56b-57b: no. 310; 57b-58b: no. 311; 58b: no. 312; 59a: no. 317; 59a-59b: part of no. 318; 60a-60b: part of no. 305; 61a-61b: part of no. 210; 61b: beginning of no. 211; 62a-62b: middle part of no. 231; 63a-67b: part of no. 207; 67b-68b: part of no. 20; 69a: no. 1; 69a-b: no. 2; 69b-70a: no. 3; 70a-b: no. 4 (the middle part of the responsam is missing); 70b: no. 5 (end missing); 71a-b: no. 207 (beginning and end missing); 72a-b: no. 5; 72b: no. 6 (end missing); 73a: no. 9; 73a-b: no. 10; 73b: no. 11 (end missing); 74a-74b: no. 344; 74b-78a: no. 345; 78a-b: no. 346; 78b-79a: no. 348; 79a-80a: no. 349; 80a-81a: no. 350; 81a: no. 351; 81a-b: no. 352; 81b-82b: no. 353; 82b-83a: no. 354; 83a-b: no. 355 (end missing); 84a: no. 33 (beginning missing); 84a-84b: no. 43; 84b: no. 46 (only the beginning); 85a: no. 90 (only the end); 85a-86a: no. 91; 86a-87a: no. 93; 87b-88a: no. 98; 88a-88b: no. 99 (on the margin); 88a-90a: no. 123; 90a-90b: no. 158; 90b: no. 470 (end missing); 91a: nos. 171 (only the beginning), 172; 91a-b: no. 173 (end missing); 92a: (drawing); 92b: no. 177; 93b: no. 81; 94a: no. 184 (only the end); 94a-b: no. 185; 95a: no. 113 (beginning missing); 95a-b: no. 116; 95b-96a: no. 117; 96a-b: no. 118; 96b: nos. 114, 115; 97a: no. 147 (beginning missing); 97a-98a: no. 159; 98b: blank; 99a-b: no. 175 (beginning missing); 100a: nos. 186 (beginning missing), 111; 100a-100b: no. 112; 100b: no. 113; 101b-103b: no. 475; 103b-104a: no. 176; 104b-105a: no. 177; 105a: no. 141; 105b: nos. 142, 143; 105a-b: no. 146; 105b: no. 147 (end missing)]

[Responsa related to conversos: no. 1 (69a); no. 2 (69a-b); no. 4 (the middle part of the responsum is missing) (70a-b); no. 5 (70b, 72a-b); no. 6 (the end of the responsum is missing) (72b); no. 11 (the end of the responsum is missing) (73b); no. 43 (84a-b); no. 46 (the end of the responsum is missing) (84b)]

[There are no significant differences from the first printed edition.]

4)
Moscow, Russian State Library, Ms. Guenzburg 263
Jewish National and University Library Mss. Reading Room Film No.: F 45718
Description: Sephardic script, 15th cent., 55a-117b
Contents: responsa by Isaac b. Sheshet Perfet

[Responsa related to conversos: no. 49 (55a-b); no. 50 (55b-56a); no. 51 (56a-b); no. 52 (56b-57b); no. 61 (64a-66a)]

[There are no significant differences from the first printed edition.]

5)
Leiden, Universiteitsbibliotheek Leiden Cod. Or. 4788
Jewish National and University Library Mss. Reading Room Film No.: F 17382
Description: Italkian script, 16-17th cent., 91 folios
Contents: responsa mostly by Moses Halawa and some written by Isaac b. Sheshet Perfet.

[The ms does not contain responsa concerning conversos written by Isaac b. Sheshet Perfet.]

6)
London, British Library Or. 6358  
Jewish National and University Library Mss. Reading Room Film No.: 12414  
Description: Sephardic script, 15th cent., 2 folios  
Contents: Isaac b. Sheshet Perfet, responsum no. 372

[The ms does not contain responsum related to conversos.]

7)  
Oxford, Bodleian Library MS Mich. 557  
Jewish National and University Library Mss. Reading Room Film No.: F 19429  
Description: Sephardic script, 15th cent., 81b-257b  
Contents: responsa by Isaac b. Sheshet Perfet  
[responsa related to conversos: 94a-b: no. 1; 94b-95a: no. 2; 95b-96b: no. 4; 96b-97b: no. 5; 97b-99b: no. 6; 102b-104a: no. 11; 104a-b: no. 12; 105b-108b: no. 14; 129a-130b: no. 43; 133a-134a: no. 46; 134a-b: no. 47; 134b-135a: no. 48; 135a-b: no. 49; 135b-136a: no. 50; 136a: no. 51; 136a-137a: no. 52; 141a-143a: no. 61]  
[There are no significant differences from the first printed edition.]

8)  
New York, M. Lehmann FR 14  
Jewish National and University Library Mss. Reading Room Film No.: F 72703  
Description: Sephardic script, 15th cent., 8 folios  
Contents: responsa by Isaac b. Sheshet Perfet (nos. 127-128, 132-135 and fragments of others)  
[The ms does not contain responsum related to conversos.]

9)  
Paris, Collection Jacques Mosseri V, 202-203  
Jewish National and University Library Mss. Reading Room Film No.: F 26202  
Description: Genizah fragment, 2 sheets  
Contents: responsa of Isaac b. Sheshet Perfet, nos. 362, 370  
[The ms does not contain responsum related to conversos.]

10)  
Wien, Oesterreichische Nationalbibliothek Rainer coll. H 9531  
Jewish National and University Library Mss. Reading Room Film No.: F 1477  
Description: Genizah fragment, 15 folios, some pages are very faded and barely legible  
Contents: responsa written by Isaac b. Sheshet Perfet  
[The ms does not contain responsa concerning conversos.]

11)  
Holon, Yehuda Nahum 259/47  
Jewish National and University Library Mss. Reading Room Film No.: F 42077

31 The online catalogue of the Jewish National and University Library of Israel gives the number of the ms erroneously (H 90 instead of H 95).
Description: folios 126-127
Contents: responsa of Isaac b. Sheset Perfet

[It contains nos. 379, 380.]

[The ms does not contain responsum related to conversos.]

12) St. Petersburg, Russian National Library Evr. II A 453/6
Jewish National and University Library Mss. Reading Room Film No.: F 65396, F 46187
Description: Genizah fragment, 1 folio
Contents: fragment of a responsum by Isaac b. Sheshet Perfet

[The ms does not contain responsum related to conversos.]

13) Budapest, Magyar Tudományos Akadémia, MS Kaufmann A 504
Jewish National and University Library Mss. Reading Room Film No.: F 14989
Description: Italkian script, 16th century, pp. 169-171
Contents: Responsa by Isaac b. Sheshet Perfet, nos. 59, 334

[The ms does not contain responsum related to conversos.]

14) New York, Jewish Theological Seminary Rab. 1379
Jewish National and University Library Mss. Reading Room Film No.: F 43371
Description: Sephardic script, 16th century, 18 folios
Contents: responsa by Isaac b. Sheshet Perfet

[The ms does not contain responsum related to conversos.]

15) Holon, Yehuda Nahum 262
Jewish National and University Library Mss. Reading Room Film No.: F 42080
Description: Sephardic script, 15th cent., 13 folios
Contents: responsa by Isaac b. Sheshet Perfet

[It contains nos. 390-391, 418, 497, 508-517. The pages of the ms are disordered.]

[The ms does not contain responsa related to conversos.]

16) St. Petersburg, Institute of Oriental Studies of the Russian Academy B 130
Jewish National and University Library Mss. Reading Room Film No.: F 53065
Description: Sephardic script, 16th cent., 198 folios
[Fol. 109b contains an abbreviated responsum, the original of which might be Ribash no. 43.
The text is the following:

**Simeon b. Zemah Duran (Tashbez)**

1) London, Montefiore Library 101
Jewish National and University Library Mss. Reading Room Film No.: F 4615
Description: Sephardic script, 15-16\textsuperscript{th} century, 128 folios


[The ms does not contain responsum related to conversos.]

2) Escorial, Biblioteca de San Lorenzo del Escorial G-IV-7\textsuperscript{32}
Jewish National and University Library Mss. Reading Room Film No.: F 10075
Description: Sephardic script, 146 folios, according to the colophon (143a) copied in 1447, Algiers
Contents: collection of responsa (Simeon b. Zemah Duran and Solomon b. Simeon Duran), legal documents, etc.


[The ms does not contain responsum related to conversos.]

3) St. Petersburg, Institute of Oriental Studies of the Russian Academy B 130
Jewish National and University Library Mss. Reading Room Film No.: F 53065

\textsuperscript{32} The catalogue of the National Library of Israel gives the number of the ms erroneously (Escorial G-VI-7); although the number written in the ms itself is: G-IV-7.
Description: Sephardic script, 16th cent., 198 folios
Tashbeẓ: 1a-102b, index to the responsa of Simeon b. Żemah Duran: 166a-169b

[It contains the following responsa related to conversos: 32b-33b: Tashbeẓ 1:58; 33b: Tashbeẓ 1:59; 33b-34a: Tashbeẓ 1:60; 34a-b: Tashbeẓ 1:61; 34b-35a: Tashbeẓ 1:62; 35a-36b: Tashbeẓ 1:63; 38a- 40b: Tashbeẓ 1:66]

[The text of the ms is significantly shorter than that of the first printed edition, omitting passages and details not regarded as essential, like toponyms; the introduction of responsum no. 1:58 written in rhymed prose; part of the introduction of responsum no. 1:63 containing some modest remarks of the author concerning his own capacity of answering the question, etc. The halakhic argumentation is abbreviated considerably as well.]

4)
London, Montefiore Library 103/2
Jewish National and University Library Mss. Reading Room Film No.: F 4617
Description: Sephardic script, 16th cent., 203a-213b
Contents: collection of responsa by various authors, among them Simeon b. Żemah Duran.
(Tashbeẓ nos. 1:154, 1:132-133)

[The ms does not contain responsum related to conversos.]

5)
Moscow, Russian State Library, Ms. Guenzburg 401/2
Jewish National and University Library Mss. Reading Room Film No.: F 28013
Description: Italkian script, 16th cent., 49b-121b
Contents: collection of responsa by Simeon b. Żemah Duran


[There are no significant differences from the first printed edition.]

6) London, Beth Din and Beth Hamidrash 23
Jewish National and University Library Mss. Reading Room Film No.: F 4691
Description: Sephardic script, 15th cent., 316 folios
Contents: Collection of responsa by Simeon b. Żemaḥ Duran


[There are no significant differences from the first printed edition.]

7) Moscow, Russian State Library, Ms. Guenzburg 456/2
Jewish National and University Library Mss. Reading Room Film No.: F 47791
Description: Sephardic script, 15th cent., 9a-11a
Contents: Tashbeẓ 3:58

[The ms does not contain responsum related to conversos.]

8) Moscow, Russian State Library, Ms Guenzburg 1596
Jewish National and University Library Mss. Reading Room Film No.: F 48948
Description: Sephardic and Maaravic script, 15th cent., 130 folios
Collection of responsa by various authors. Simeon b. Żemaḥ Duran and Solomon b. Simeon Duran: 11a-105b

[The ms contains the following responsa written by Simeon b. Żemaḥ Duran:

33 According to the online catalogue of the Jewish National and University Library the ms consists of 128 folios. This is erroneous however, since the pagination is inaccurate; after fol. 17a the pagination returns to 15a.
These are the correct page numbers. According to the erroneous pagination of the ms the page numbers are: 25a-b: Tashbeẓ 3:312; 55a-55b: Tashbeẓ 3:40; 55b-56b: Tashbeẓ 3:43; 61a-65a: Tashbeẓ 3:47 About the erroneous pagination of the manuscript see the previous note.

Cf. Katan 1998:54

34 These are the correct page numbers. According to the erroneous pagination of the ms the page numbers are: 25a-b: Tashbeẓ 3:312; 55a-55b: Tashbeẓ 3:40; 55b-56b: Tashbeẓ 3:43; 61a-65a: Tashbeẓ 3:47 About the erroneous pagination of the manuscript see the previous note.

35 Cf. Katan 1998:54

26
The ms does not contain responsum related to *conversos.*

11) New York, Columbia University X 893.15 D 932
Jewish National and University Library Mss. Reading Room Film No.: F 23479
Description: Maaravic script, 15th cent., 14 folios
Contents: Tashbez nos. 1:102-1:120. The numbering corresponds to that of the printed edition.

[The ms does not contain responsum related to *conversos.*]

12) Paris, Collection Jacques Mosseri VII, 416
Jewish National and University Library Mss. Reading Room Film No.: F 26211
Description: from the Cairo Genizah, 1 folio
Contents: Tashbez nos. 1:172-1:173

[The ms does not contain responsum related to *conversos.*]

13) Ramat Gan, Bar Ilan University 1014
Jewish National and University Library Mss. Reading Room Film No.: F 22998
Description: Mizrahic script, 17-18th cent., 354 folios
Contents: Collection of responsa by various authors. Tashbez: 166a-175b.

[The ms does not contain responsum related to *conversos.*]

14) Jerusalem, The Jewish National and University Library, Ms. Heb. 8°3946
Jewish National and University Library Mss. Reading Room Film No.: B 543
Description: Sephardic script, 16th cent. (ca. 1530), 268 folios

[The ms does not contain responsum related to *conversos.*]

*Solomon b. Simeon Duran (Rashbash)*

1) New York, Jewish Theological Seminary Rab. 1352; New York, Jewish Theological Seminary Ms. 7196
Jewish National and University Library Mss. Reading Room Film No.: F 39536
Description: Italkian script, 17th century, 248 leaves
Contents: Responsa by Solomon b. Simeon Duran

36 In the online catalogue of the National Library of Israel the number of the leaves is mistyped (48 instead of 248).
[The ms contains the following responsa related to conversos:
34a-35a: no. 89; 35a-35b: no. 90; 77a-77b: no. 223; 105a-105b: no. 287; 137b: no. 368;
157a-158a: no. 414; 160a: no. 418; 206a-207a: no. 553]

[There are no significant differences from the first printed edition.]

2) St. Petersburg, Institute of Oriental Studies of the Russian Academy B 130
Jewish National and University Library Mss. Reading Room Film No.: F 53065
Description: Sephardic script, 16th cent., 198 folios

[The ms does not contain responsa related to conversos written by Solomon b. Simeon Duran.]

3) Escorial, Biblioteca de San Lorenzo del Escorial G-IV-737
Jewish National and University Library Mss. Reading Room Film No.: F 10075
Description: Sephardic script, 146 folios, according to the colophon (143a) copied in 1447, Algiers
Contents: collection of responsa (Solomon b. Simeon Duran and Simeon b. Zemah Duran), legal documents, etc.

[The ms contains the following responsa written by Solomon b. Simeon Duran:
1b-8a: no. 512; 8b-23a: no. 513; 24a-b: no. 607; 25b: no. 374; 26a-27a: Teshuvot mi-ketav yad38 no. 13; 27a: Teshuvot mi-ketav yad nos. 14, 15, 16; 27b: Teshuvot mi-ketav yad 17; 39b: no. 2; 43b: no. 294; 44a-47a: no. 287; 47a-49a: no. 289; 57b: no. 231; 62a-b: no. 25; 63a-64b: no. 274; 65a: no. 275]

The ms does not contain responsa concerning conversos written by Solomon b. Simeon Duran.

4) London, Montefiore Library 101
Jewish National and University Library Mss. Reading Room Film No.: F 4615
Description: Sephardic script, 15-16th century, 128 folios

[The ms contains the following responsa written by Solomon b. Simeon Duran:
64a-70b: nos. 266-267, 232; 70b-75a: no. 613; 75a-76a: no. 78; 76b-78b: no. 170; 91b-92a: no. 335; 92b-93b: no. 93; 93b-94a: no. 336; 94a-94b: Teshuvot mi-ketav yad39 no. 18; 94b-97a: no. 412; 113b-116a: no. 173; 122b-126a: no. 1; 126a-127a: no. 7]

37 The online catalogue of the National Library of Israel gives the number of the ms erroneously (Escorial G-VI-7); however, the number written in the ms itself is: G-IV-7.
38 Responsa from manuscripts included in the edition of Sobel (1998).
[The ms does not contain responsa related to conversos written by Solomon b. Simeon Duran.]

5) Moscow, Russian State Library, Ms Guenzburg 1596
Jewish National and University Library Mss. Reading Room Film No.: F 48948
Description: Sephardic and Maaravic script, 15th cent., 130 folios
Collection of responsa by various authors. Simeon b. Żemaḥ Duran and Solomon b. Simeon Duran: 11a-105b

[The ms contains the following responsa written by Solomon b. Simeon Duran: 33a-35a: no. 19; 35b: no. 329; 36a-37a: no. 20; 37a-38b: no. 21; 38b-39a: no. 22; 39a: nos. 23, 24; 65b-70a: no. 89; 70b: no. 509]

[Responsum related to conversos: 65b-70a: no. 89]

[There are no significant differences from the first printed edition.]

6) New York, Jewish Theological Seminary Rab. 1477/4
Jewish National and University Library Mss. Reading Room Film No.: F 43496
Description: Sephardic script, 16th cent., pp. 166-169
Contents: correspondence between Solomon b. Simeon Duran and Nathan Nagar from Constantine.

[The ms does not contain responsa concerning conversos written by Solomon b. Simeon Duran.]

 Żemaḥ b. Solomon Duran (Yakhin u-Voaz 1)

1) St. Petersburg, Institute of Oriental Studies of the Russian Academy B 130
Jewish National and University Library Mss. Reading Room Film No.: F 53065
Description: Sephardic script, 16th cent., 198 folios

[110b-111a: an abbreviated version of Yakhin u-Voaz 2:3. In the ms this responsum is attributed to Żemaḥ b. Solomon Duran (the author of Yakhin u-Voaz 1).]

Simeon b. Solomon Duran (Yakhin u-Voaz 2)

1) St. Petersburg, Institute of Oriental Studies of the Russian Academy B 130
Jewish National and University Library Mss. Reading Room Film No.: F 53065
Description: Sephardic script, 16th cent., 198 folios

[110b-111a: an abbreviated version of Yakhin u-Voaz 2:3. In the ms this responsum is attributed to Žemaha b. Solomon Duran (the author of Yakhin u-Voaz 1).]

VIII. List of manuscripts related to conversos

The number of the responsum is always that of the first printed edition.

Isaac b. Sheshet Perfet

Responsum no. 1
1. New York – Jewish Theological Seminary Rab. 1410, fols. 39b-40a
2. St. Petersburg, Russian National Library Evr. II A 116, fol. 69a
3. Oxford, Bodleian Library MS Mich. 557, fols. 94a-b

Responsum no. 2
1. New York – Jewish Theological Seminary Rab. 1410, fols. 38b-39b
2. St. Petersburg, Russian National Library Evr. II A 116, fols. 69a-b
3. Oxford, Bodleian Library MS Mich. 557, fols. 94b-95a

Responsum no. 4
1. St. Petersburg, Russian National Library Evr. II A 116, fols. 70a-b
2. Oxford, Bodleian Library MS Mich. 557, fols. 95b-96b

Responsum no. 5
1. St. Petersburg, Russian National Library Evr. II A 116, fols. 70b, 72a-b

Responsum no. 6
1. St. Petersburg, Russian National Library Evr. II A 116, fol. 72b

Responsum no. 11
1. St. Petersburg, Russian National Library Evr. II A 116, fol. 73b
2. Oxford, Bodleian Library MS Mich. 557, fols. 102b-104a

Responsum no. 12
1. Oxford, Bodleian Library MS Mich. 557, fols. 104a-b

Responsum no. 14

Responsum no. 43
1. St. Petersburg, Russian National Library Evr. II A 116, fol. 84a-b

Responsum no. 46
1. St. Petersburg, Russian National Library Evr. II A 116, fol. 84b
2. Oxford, Bodleian Library MS Mich. 557, fols. 133a-134a

Responsum no. 47

Responsum no. 48
Oxford, Bodleian Library MS Mich. 557, fols. 134b-135a

Responsum no. 49
1. Moscow, Russian State Library, Ms. Guenzburg 263, fols. 55a-b

Responsum no. 50
1. Moscow, Russian State Library, Ms. Guenzburg 263, fols. 55b-56a

Responsum no. 51
1. Moscow, Russian State Library, Ms. Guenzburg 263, fols. 56a-b

Responsum no. 52
1. Moscow, Russian State Library, Ms. Guenzburg 263, fols. 56b-57b
2. Oxford, Bodleian Library MS Mich. 557, fols. 136a-137a

Responsum no. 61
1. Moscow, Russian State Library, Ms. Guenzburg 263, fols. 64a-66a
2. Oxford, Bodleian Library MS Mich. 557, fols. 141a-143a

Simeon b. Zemah Duran

Tashbez 1:58:
1. Moscow, Russian State Library, Ms. Guenzburg 401/2, fols. 78b-81b
2. London, Beth Din and Beth Hamidrash 23, fols. 46a-47a
3. St. Petersburg, Institute of Oriental Studies of the Russian Academy B 130, fols. 32a-33b

Tashbez 1:59:
1. Moscow, Russian State Library, Ms. Guenzburg 401/2, fols. 81b-82a
2. London, Beth Din and Beth Hamidrash 23, fols. 47a-b
3. St. Petersburg, Institute of Oriental Studies of the Russian Academy B 130, fol. 33b

Tashbez 1:60
1. Moscow, Russian State Library, Ms. Guenzburg 401/2, fols. 82a-82b
2. London, Beth Din and Beth Hamidrash 23, fol. 47b
3. St. Petersburg, Institute of Oriental Studies of the Russian Academy B 130, fol. 33b-34a
1. Moscow, Russian State Library, Ms. Guenzburg 401/2, fols. 82b-84a
2. London, Beth Din and Beth Hamidrash 23, fols. 47b-48b
3. St. Petersburg, Institute of Oriental Studies of the Russian Academy B 130, fols. 34a-b

1. Moscow, Russian State Library, Ms. Guenzburg 401/2, fols. 84a-85a
2. London, Beth Din and Beth Hamidrash 23, fols. 48b-49a
3. St. Petersburg, Institute of Oriental Studies of the Russian Academy B 130, fols. 34b-35a

1. Moscow, Russian State Library, Ms. Guenzburg 401/2, fols. 85a-88b
2. London, Beth Din and Beth Hamidrash 23, fols. 49a-50b
3. St. Petersburg, Institute of Oriental Studies of the Russian Academy B 130, fols. 35a-36b

1. Moscow, Russian State Library, Ms. Guenzburg 401/2, fols. 92a-98b
2. London, Beth Din and Beth Hamidrash 23, fols. 52a-55b
3. St. Petersburg, Institute of Oriental Studies of the Russian Academy B 130, fols. 38a-40b

1. London, Beth Din and Beth Hamidrash 23, fol. 158a

1. London, Beth Din and Beth Hamidrash 23, fol. 179b

1. London, Beth Din and Beth Hamidrash 23, fol. 190b

1. London, Beth Din and Beth Hamidrash 23, fols. 192a-b

1. London, Beth Din and Beth Hamidrash 23, fol. 193b

1. London, Beth Din and Beth Hamidrash 23, fol. 208a

1. London, Beth Din and Beth Hamidrash 23, fol. 232b
2. Moscow, Russian State Library, Ms. Guenzburg 1596, fols. 57a-57b

1. London, Beth Din and Beth Hamidrash 23, fol. 233a

40 According to the erroneous pagination of the ms: 55a-b. See the description of the ms in the previous list.
2. Moscow, Russian State Library, Ms Guenzburg 1596, fols. 57b-58b

_Tashbeẓ_ 3:47
1. London, Beth Din and Beth Hamidrash 23, fols. 234a-235b
2. Moscow, Russian State Library, Ms Guenzburg 1596, fols. 63a-67a

_Tashbeẓ_ 3:83
1. London, Beth Din and Beth Hamidrash 23, fols. 243b-244a

_Tashbeẓ_ 3:227
1. London, Beth Din and Beth Hamidrash 23, fol. 278b

_Tashbeẓ_ 3:312
1. London, Beth Din and Beth Hamidrash 23, fol. 299a
2. Moscow, Russian State Library, Ms Guenzburg 1596, fols. 27a-b

_Tashbeẓ_ 3:323
1. London, Beth Din and Beth Hamidrash 23, fol. 302b

_Solomon b. Simeon Duran (Rashbash)_

Responsum no. 89
1. New York, Jewish Theological Seminary Rab. 1352; JTS Ms. 7196, fols. 34a-35a
2. Moscow, Russian State Library, Ms Guenzburg 1596, fols. 65b-70a

Responsum no. 90
1. New York, Jewish Theological Seminary Rab. 1352; JTS Ms. 7196, fols. 35a-b

Responsum no. 223
1. New York, Jewish Theological Seminary Rab. 1352; JTS Ms. 7196, fols. 77a-b

Responsum no. 287
1. New York, Jewish Theological Seminary Rab. 1352; JTS Ms. 7196, fols. 105a-b

Responsum no. 368
1. New York, Jewish Theological Seminary Rab. 1352; JTS Ms. 7196, fol. 137b

Responsum no. 414
1. New York, Jewish Theological Seminary Rab. 1352; JTS Ms. 7196, fols. 157a-158a

Responsum no.418
1. New York, Jewish Theological Seminary Rab. 1352; JTS Ms. 7196, fol. 160a

Responsum no. 553
1. New York, Jewish Theological Seminary Rab. 1352; JTS Ms. 7196, fols. 206a-207a

41 According to the erroneous pagination of the ms: 55b-56b
42 According to the erroneous pagination of the ms: 61a-65a.
43 According to the erroneous pagination of the ms: 25a-b.
Simeon b. Solomon Duran (Yakhin u-Voaz 2)

Yakhin u-Voaz 2:3
1. St. Petersburg, Institute of Oriental Studies of the Russian Academy B 130, fols. 110a-111a
I. Marriage customs in the Middle Ages

Before discussing the problems that were dealt with in the responsa regarding the marriage of conversos it might be of interest to give a short introduction about prescriptions and customs concerning Jewish marriage in medieval Iberia.¹

Jewish marriage in the Middle Ages consisted of three steps: engagement (shiddukhin), betrothal (eirusin / kiddushin), and nuptials (nissuin / huppah). Shiddukhin meant a general agreement concerning the terms and conditions of the marriage, like the obligations of the parties, the time and place of the wedding ceremony, the amount of the dowry, and other financial arrangements. After the parties reached an agreement, they generally put the terms into writing in the document called tnaim (conditions). They usually agreed on a payment of a certain sum in case one of the parties broke the engagement.² The shiddukhin was revocable without consequences with regard to the marital status of the persons involved, that is, they did not need to divorce to annul it (but they had to pay the fines they had agreed on). The shiddukhin did not have religious aspects, there were no blessings associated with it, and it did not surpass the framework of a private agreement. That did not mean the engagement was necessarily a private affair; the fear of breaking the engagement often lead to celebrate it in public, as publicity meant a kind of binding force.

The betrothal (eirusin / kiddushin, both terms were used) consisted of reciting the blessing of betrothal (birkat eirusin) over a cup of wine; the groom symbolically bought the bride by giving her money or an object worth at least a fixed minimal value (perutah³) and he recited the formula “you are betrothed to me according to the law of Moshe and Israel.” These two acts, the acquisition and the declaration established the binding relationship between the bride and the groom; and the dissolution of this relationship was possible only by a formal divorce. For this reason, betrothal in Jewish law had much more significance than in Christian law. The couple however was not permitted to live together as husband and wife until the last

¹ About ceremonies and customs related to marriage see e.g.: Grossman 2004:49-51; Klein 1992:390-395; Falk 1966
² Cf. Isaac b. Sheshet Perfet: Responsa, no. 5.
³ Various coins issued by the Hasmonean and Herodian dynasties, as well as by Roman procurators were denominated as perutah. Cf. Kindler: “Coins and Currency” EJ 5:695-721. The Mishnah established three ways of betrothing a woman, one of them is buying her. The minimum price of a woman is a perutah according to the school of Hillel. Cf. mKid 1:1.
step of marriage, the nuptials took place. Before or after the betrothal, the groom gave bridal gifts to the bride. The time that passed between the betrothal and the nuptials varied according to the specific circumstances of the families involved. After the betrothal ceremony, the bride usually (but not necessarily) stayed at her father’s house until the wedding. The groom paid regular visits to his bride particularly on Sabbaths, when he joined the Sabbath meal of the family. During the nuptials, the bride and the groom were brought together under the *huppah* (bridal canopy), benedictions were recited, and afterwards, the couple remained alone in a separate place with those present at the event witnessing the fact of their private meeting. These two formal ceremonies (*eirusin / kiddushin* and *nissuin / huppah*) gradually became united in most Jewish communities during the Middle Ages, especially in Europe, while in the majority of the North-African communities betrothal was kept separately from nuptials. In Iberia, the two models coexisted (Falk 1966:36-37). In Levant, betrothal and marriage became combined in the 16th century, and the terms *shiddukhin* (engagement) and *eirusin* (betrothal) became interchangeable in the responsa. In the opinion of Avraham Grossman, the main reasons for the unification of the two ceremonies were practical ones: the purpose of reducing the costs of the marriage (this reason is mentioned by Rashi); and the large number of childhood marriages. Many betrothals took place at a young age, and since the brides who had already been betrothed were still children, they had to wait many years till marriage was finally formalized. During these years, they were bound to their intended husband and could not marry another person without obtaining divorce previously. Moreover, it frequently happened that the groom disappeared in the meantime (often due to commercial journeys to distant places) and the bride thus remained *agunah* (woman prevented from marriage). The prevalence of this phenomenon in Iberia lead to the propagation of a communal edict in the eleventh century that required to stipulate at

---

4 The customs concerning the timing of the bridal gifts varied from time and place. In Majorca, the custom was to send them before the betrothal, cf. Isaac b. Sheshet Perfelet: *Responsa*, no. 5.

5 Ruth Lamdan mentions the custom of visiting the bride regularly, a practice prevalent among *Sephardic* Jews of 16th century Levant, as opposed to the custom of *Ashkenazic* Jews, who did not foment meetings between the groom and the bride even under the supervision of the parents. I suppose that the custom of the *Sephardic* Jews with all probability had its origin in a longer tradition that went back to their customs practiced in Iberia. About the 16th century *Sephardic* custom see Lamdan 2000:37.

6 It is prohibited that a man and a woman may remain alone in a separate place unless they are husband and wife or close relatives, like father and daughter etc. It is supposed that private meeting (*yihud*, “uniting, being together”) may lead to sexual intercourse. The *yihud* of the groom and the bride at the wedding symbolizes the consummation of the marriage. About a detailed discussion concerning the laws regarding *yihud* see: s.v. “Yihud” ETal vol. 23, cols. 632-732.

7 About the change these terms underwent see Lamdan 2000:37, and especially note 46 there.

8 The opinion of Rashi is quoted by Avraham Grossman: “Since it is shameful for the bridegroom and his relatives if they do not make a large feast and celebrate the entire day, some people make the *erusin* and *qiddushin* together so as to discharge their duty for both of them in one feast on one day.” (Grossman 2004:288, n. 3.)
time of the betrothal that it would be nullified if the bridegroom was absent for more than a year. In the opinion of Grossman, the unification of the ceremonies reduced the dependence of women on their future husbands, since shiddukhin assumed a part of the functions of the betrothal. Retracting from shiddukhin was much easier than breaking a betrothal.

It is prerequisite that prior the marriage a document (called ketubah) should be written containing the obligations of the husband towards the wife, like provision of food, clothing, etc., and the sum he must pay his wife in the event of divorce. The ketubah must have been signed by two witnesses who were present at the nuptials. The wedding had to be public, that is, in the presence of ten adult Jewish males (minyan). The Talmud established that a minyan must be present at the groom’s blessings (cf. bKet 7a). When in the High Middle Ages secret marriages and abuses became frequent, several leaders of the Jewish communities decided that the whole ceremony must be public in order to avoid taking advantage of fraudulent marriages. In response, Jewish communities begun to issue communal ordinances establishing that marriage ceremonies without the presence of a minyan were null and void (Freimann 1965:102-105, 160).

II. Polygamy

Polygamy was permitted in Biblical law, and until the Middle Ages, it was an accepted custom, but then a prohibiting ban was issued which later became gradually accepted in the majority of the European communities. The promulgation of the ban that prohibited polygamy is generally attributed to Rabbenu Gershom Meor ha-Golah (c. 960-1028, Mainz), although the scholarly opinions differ concerning the historical development of the ban. The ban became accepted by the communities of Ashkenaz and France during the twelfth century. In the Iberian Peninsula, the influence of the Muslim culture on Jewish marital customs did not abate even after the last period of the Reconquista. In the territories under Muslim dominion, polygamy was not opposed either by Jewish or Muslim authorities. Moreover, the halakhic authorities of Iberia were under the influence of the Babylonian authorities, who favored polygamy (Falk 1966:11). Most Jewish families in the Iberian Peninsula were monogamous, but polygamy was not rare and keeping concubines was also accepted by the communities.

---

11 For a comprehensive discussion of the question see Grossman 1988. See also the bibliography cited there.
12 About concubinage and related issues see Assis 1988.
When the Christians reoccupied the Iberian Peninsula, the situation changed, since Christian rulers prohibited polygamy. It was possible, however, to obtain the permission of the crown to marry a second wife in exchange of paying a considerable sum. Shlomo Z. Havlin (1975) in his article discussing the influence of the ban in Iberia cited R. Nissim of Gerona, according to whom polygamy was customary in Castile. Yom Tov Assis (1981) examined sources from the royal archives of the Crown of Aragon, and found fifteen cases of polygamy between 1318 and 1338. The conclusion of his research was that polygamy was equally widespread both in Castile and Aragon. On the basis of the evidence of the responsa and the archival sources of the royal archives studied by the scholars, the proportion of the polygamous marriages in Christian Spain cannot be clearly determined. In any case, the study of the responsa literature of the High Middle Ages led to the conclusion that polygamous marriages were not limited to cases involving a religious precept, i.e., when the woman was barren, or cases of levirate marriage (Grossman 2004:79). It is also obvious that the ban prohibiting polygamy was known in Iberia and some responsa even refer to it; it might have been even accepted by some communities. In Provence, there existed also local ordinances prohibiting polygamy (Grossman 2004:88).

It is evident, that the ban accepted by the communities of Ashkenaz and France was never unequivocally adopted in Iberia, and even in the fifteenth century, polygamy was practiced and accepted either in Castile or in Aragon. Women, however, could request the insertion of a specific stipulation in the marriage contract prohibiting the husband to marry a second wife as long as the first wife is alive. This custom already appeared in Aramaic marriage documents of the fifth century, but it was not practiced continuously until the Middle Ages. On the other hand, such stipulations were common among the Muslims. It seems to be plausible that mediaeval Jews in Iberia adopted this custom from the Muslim environment.

13 Although it is not entirely clear if the edict mentioned in the responsa refers indeed to the ban of Rabbenu Gershom, or to other, local edicts. Grossman cited a responsum in which the reference was made in his opinion to the ban of Rabbenu Gershom. The quotation is from a responsum of Solomon b. Abraham Adret (13th century, Barcelona): “The edict [i.e., of Rabbenu Gershom] did not take hold in all our boundaries. Nor have we heard that it took root even in Provence, adjacent to France. And there have been cases in our place where Talmudic scholars married a second wife, as did many others, and no person has ever been concerned about this matter.”

14 See the discussion about the acceptance of the ban in Montpellier: Grossman 2004:87.

15 Cf. e.g. Isaac b. Sheshet Perfet: Responsa, nos. 98, 99.

16 Cf. Falk 1966:12: “The ancient custom referred to above, of ensuring the status of the wife by means of a condition stipulated between bride and bridegroom at the time of the marriage, began to win acceptance among western Jewry. [...] Since there are no signs of a continuous tradition, stretching from the Aramaic documents in which this clause features all the way through to its reappearance in medieval times, we must assume that it is due to the example of the Arabs.” See also Goitein 1955:184.
III. Marriage of conversos in the responsa literature

Problems relating marriage were the most discussed topic in the responsa concerning conversos. The fundamental question was whether a *converso* was fit for establishing marital union from a *halakhic* point of view at all. According to Jewish law, a Jew can marry a Jewess only, a Gentile has no “marital status” (*ishut*). Since the *conversos* abandoned Jewish faith—or voluntary or under duress—they became similar to the Gentiles to a certain extent. Therefore it had to be decided if they had marital status at all. Most of the responsa dealing with a particular question related to marriage strove to clarify this fundamental issue as well. No *halakhic* authority held that a convert *per se* was unfit for marriage in principle. The existence of an opposite view can be inferred on the one hand from the fact that the issue was dealt with extensively, and, on the other hand, from passages quoted in the responsa that reflect the opinion of the inquirers.

Although *conversos* were fit for marriage in theory, their marriages were not always accepted as valid in practice. The reason was, in the first place, that *conversos*, being Christians, had no choice but to contract their marriages in Christian churches, under Christian law. Circa half of the responsa written on the subject of marriage discusses the issue of Christian marriage ceremony.\(^\text{17}\) In some instances, the Christian ceremony was accompanied by acts that could be considered as establishing marital union in accordance with Jewish law as well. These acts could be intentional, in order to contract the marriage appropriate for Jewish law as well (like organizing a Jewish betrothal privately just before the Christian marriage ceremony\(^\text{18}\)); or unintentional, when certain circumstances or consequences of the Christian marriage had a legal effect even in the *halakhic* sense (like having the cohabitation of the pair publicly known, and having Jewish witnesses fit for testifying about it\(^\text{19}\)).

*Conversos* usually married within the *converso* community. This tendency had two reasons: the first is that most *conversos* preferred to establish marital union with persons who had similar social and cultural background to theirs, all the more so, if they wished to stick to their former faith as much as it was possible. Mixed marriages evidently made Judaizing

---

\(^{17}\) Isaac b. Sheshet Perfet: *Responsa*, nos. 5, 6; Simeon b. Zemaḥ Duran: Tashbeẓ 3:47; Simeon b. Solomon Duran: *Yakhin u-Voaz* 2:19


\(^{19}\) Cf. Isaac b. Sheshet Perfet: *Responsa*, nos. 5, 6; Simeon b. Zemaḥ Duran: Tashbeẓ 3:47
efforts extremely difficult.\textsuperscript{20} The responsa often mention that 
conversos refused to marry Christians, and if they did marry, the family originated from such a mixed union became 
ostracised among the \textit{conversos}.\textsuperscript{21} The other reason is that Old Christians themselves were 
reluctant to marry \textit{conversos} (Beinart 1992: 348-349). Still, according to both Spanish\textsuperscript{22} and 
Hebrew sources,\textsuperscript{23} mixed marriages were not entirely uncommon. Extra-marital sexual 
relations among \textit{conversos} and Old Christians were equally or even more frequent.\textsuperscript{24} The 
responsa naturally do not present statistics about the frequency and proportion of mixed 
marriages or extra-marital relations with Old Christians. The statements formulated by the 
halakhic authorities concerning this issue are not independent from the context of the 
discussion of the specific case they happened to deal with. Consequently these statements do 
not have an absolute value, as they were not intended as comprehensive and precise 
descriptions of the situation prevalent in Iberia, but as arguments used pro or contra in a given 
discussion. This does not mean of course that they lack verisimilitude.

Those \textit{conversos} who left Iberia in order to return to Judaism could not necessarily 
prove their Jewish descent. Therefore, the authorities had to formulate legal presumptions to 
make dealing with controversial cases possible. They had to take a stand in the question 
whether the \textit{conversos} in general descended from mixed marriages or not.\textsuperscript{25} Once the descent 
of the \textit{conversos} was clarified, several aspects of the marriages contracted in Iberia had to be 
clarified.

frequency than they married men of converso extraction, her options were inherently limited by the choice of 
spouse. These \textit{conversas} feared judaizing while living with Old Christian men, who certainly would have no 
sympathy for their religious inclinations and loyalties.”
21 Cf. Simeon b. Solomon Duran: \textit{Yukhina u-Voz 2}:3; 231; Moses b. Josef Trani (Mabit, 1500 Salonika - 1580 
Constantinople): \textit{Responsa}, 2:83
22 The most conspicuous examples are two books written in the 16\textsuperscript{th} and 17\textsuperscript{th} centuries; the “\textit{Libro verde de Aragón}” (Green Book of Aragon) and the “\textit{Tizón de la nobleza de España}” (Blot on the Nobility of Spain), 
tracing back the Jewish and \textit{converso} origin of Spanish nobility. (About these books see e.g. Kamen 1985:22-23.) One should not forget however, that both books belong to the genre of anti-Semitic literature, therefore their 
statements and inferences have to be dealt with reservation.
23 See below, the instances mentioned in the responsa.
24 Cf. Isaac b. Sheshet Perfet: \textit{Responsa}, no. 6: “Their deeds give evidence of their licentiousness and their 
frivolousness, that even amidst of the sufferings after the \textit{gezerah} (religious persecution), with the exception of 
some individuals, the minority of the minority, most of them permit themselves to engage in sexual liaisons with 
Gentile women…” See also the remarks concerning this issue made by later authors, e.g. Josef ibn Lev (16\textsuperscript{th} 
century, Constantinople): \textit{Responsa}, 2: 45: “But some […] [said that] the converts were not presumed to marry 
Gentile women as wife, but they had no scruples about engaging in licentious sexual relations with them, since 
they attached importance only to marriage.” Cf. Jacob Berab (16\textsuperscript{th} century, Safed): \textit{Responsa}, no. 39; David ibn 
Avi Zimra (16\textsuperscript{th} century, Cairo and Jerusalem): “It seems to me unlikely that it could be established by means of 
witnesses or legal presumption (\textit{hazakah}) that they never begot children with Gentile women since the 
conversion of their ancestors until now, as the first [wave of] conversion was more than two hundred years ago, 
and who would attest to this \textit{hazakah}.” This responsum does not appear in the printed editions of the responsa 
written by Ibn Avi Zimra. For the Hebrew text see: Zsom 2008:285-286
25 In the responsa of the authors presented in this chapter, the general assumption was that the \textit{conversos} were of 
pure Jewish descent. For the contradictory opinions and remarks concerning this issue made by authors from the 
16\textsuperscript{th} century, see the previous note.
examined, such as the nature of the marriage ceremony and the trustworthiness of the
witnesses. A Christian marriage ceremony evidently did not constitute marriage under Jewish
law, but it had to be decided whether it could be simply overlooked or whether it should be
considered as an overt declaration of intent not to marry as Jews, but as Christians – even in a
case when the groom explicitly stated that he made efforts to make his betrothal valid also
under Jewish law.26

Betrothal in the presence of disqualified witnesses is null and void. The question
arose, whether the testimony of converso witnesses could be accepted as valid or not. A
person who committed idolatry or violated the Sabbath in public is unfit for testifying.27 But if
he committed these offenses under coercion, he is not disqualified as a witness.28 The
conversos were forced to transgress the prescriptions about idolatry and observing the
Sabbath. The question was, whether they transgressed certain laws when they were not in
imminent danger. If the identity and the conduct of the witnesses were known, and the
halakhic authorities had specific information about the witnesses in question, they could base
their decision on these facts. However, they did not necessarily dispose of specific
information regarding the conduct of the witnesses. Therefore, in case of necessity, they had
to formulate their opinion relying upon a presumption (ḥazakah) established concerning the
conversos in general; whether they adhered to Judaism in secret as far as they can, or they got
used to committing transgressions against Jewish law and violated it even if they were not
literally forced to. The decisive factor concerning the judgment of the reliability of the
converso witnesses was the period of time they lived as Christians. For the act of conversion
under compulsion was not regarded as a sin, but staying in the country where they were
forced to transgress Jewish law had serious consequences to their halakhic status. Most
authorities assumed that those who did not leave Iberia and stayed under Christian control
gradually became accustomed to transgress the Jewish law and committed offences against it
even when they were not compelled by the circumstances to do so.29 Such persons were unfit
for bearing testimony. Consequently, marriages witnessed only by conversos were declared

26 Cf. Isaac b. Sheshet Perfet: Responsa, no. 5
27 Even one who commits a minor transgression, on account of which he is liable to punishment of lashes, is
disqualified as a witness; cf. MT Hilkhot Edut, 10:1-2. As Maimonides put it, it is self-evident that converts
(mumarim) are disqualified; cf. MT Hilkhot Edut 11:10.
28 For a detailed discussion of this question see Isaac b. Sheshet Perfet: Responsa, no. 11 concerning converso
witnesses of divorce documents (divorce and marriage pertain to the same halakhic category, therefore the
statements relating to divorce are similar to those relating to marriage).
29 With regard to marriage this opinion was formulated only by Simeon b. Zemah Duran: Tashbez 3:47 as only
he discussed whether conversos in general qualified as witnesses; other authorities either had to formulate their
opinion regarding the validity of specific witnesses (and not in general), or left this problem unmentioned.
null and void. It was also suggested that if non-

_converso_ Jews were aware of the cohabitation
of the couple, that might endow their relationship with legal validity from a _halakhic_ point of

view.\textsuperscript{30}

Some inquirers thought that uncircumcised _conversos_ had no marital status at all, and therefore all marriages contracted by them were null and void. This opinion had no legal basis in Jewish law, but it seems to have been quite widespread among contemporary Jewry, as it is mentioned by various authorities.\textsuperscript{31}

Summing up, the most frequent considerations that appear in the responsa with regard to the validity of a convert’s marriage are the following:

1) whether a convert can contract marriage at all (if he has marital status as a Jew):
   - whether the forced / voluntary convert can be considered Jew
   - whether his descendants can be considered Jews
   - whether an uncircumcised person can be considered Jew

2) the witnesses: whether converts can be valid witnesses of the marriage / the cohabitation:
   - if they commit idolatry and profane the Sabbath publicly
   - if they commit other transgressions when they are not actually forced to do so
   - if for a long time, they remained in a Christian territory where they were subject to religious persecution

3) the ceremony:
   - whether a convert can contract marriage “according to the faith of Moshe and Israel” even though he abandoned the faith
   - whether in the case where Jewish ceremony is followed by a Christian ceremony (or inversely), the Christian ceremony invalidates the Jewish one

\textsuperscript{30} Cf. Simeon b. Zemah Duran: _Tashbez_ 3:47

- whether for lack of Jewish ceremony the cohabitation of the couple can be supposed to have the intention of marriage
- whether problems connected to ritual purity can invalidate the marriage

Marriage is the most discussed topic in the responsa literature regarding converts. Responsa that were written specifically in this issue are the following: Isaac b. Sheshet Perfet nos. 5, 6, 14; Simeon b. Žemaḥ Duran: Tashbeẓ 3:47; Žemaḥ b. Solomon Duran: Yakhin u-Voaz 1:75, 1:107; Simeon b. Solomon Duran: Yakhin u-Voaz 2:19. However, as the responsa generally do not concentrate on one topic exclusively but deal also with related issues, references to marital status can be found in halakhic decisions that deal with other matters, like priestly lineage, reintegration of the returning conversos into the Jewish community, etc. Decisions dealing extensively with marriage, but having a different central topic are: Solomon b. Simeon Duran: Responsa, no. 89; Simeon b. Solomon Duran: Yakhin u-Voaz 2:3; 2:31 – the relevant passages of these decisions are presented in this chapter as well. The responsa concerning divorce and levirate marriage, discussed separately in the following chapters are naturally relevant to marital status in general as well, and frequently contain explicit references to marriage.

IV. Isaac b. Sheshet Perfet: Responsum no. 5: on a Christian betrothal in Majorca

The responsum which lacks the original question, was sent from Honein, and discusses the validity of a betrothal performed in compliance with Christian customs by a converso couple in Majorca. The bridegroom, who was apparently the sender of the question to Isaac b. Sheshet Perfet claimed that several acts connected to the betrothal had legal implications according to the Jewish law, and consequently it was valid. The acts considered by the inquirer as means of betrothal are the followings: 1) he sent bridal gifts to the woman (sivlonot) after the Christian ceremony, 2) after that he stood together with her in a courtyard and he remained alone with her (yihud);

---

32 Honein was an ancient port city of the kingdom of Tlemcen (Algeria). After 1391, a large number of Jewish emigrants arrived in Honein, but the Jewish population left the city in 1509 due to the Spanish invasion of the territory. Cf. Corcos: “Honein” EJ 8:962
33 Cf. bKid 50b
34 Isaac b. Sheshet Perfet explained that the Christian betrothal ceremony consisted of the blessing of the couple and the handing over of a ring, both acts performed by a priest. See below.
3) both acts were attested by witnesses; 4) the fact that these acts took place was well-known in Majorca. The father of the woman, however, changed his mind and refused to give his daughter in marriage to the *converso*. The *converso* in turn stated that the woman was betrothed to him both by means of the presents sent to her and by the implications of their private meeting, since the witnesses to their being together alone were to be considered *ipso facto* the witnesses to their intercourse, i.e. marriage. This statement is based on the Talmudic discussion of the following passage of the *Mishnah*:

If a man has divorced his wife and she spends with him a night in an inn, the school of Shammay says that she does not require a second bill of divorce from him; and the school of Hillel says that she requires a second bill of divorce from him. When [does it apply]? When they have divorced after the marriage, [but even the school of Hillel would] agree that if they have divorced after the betrothal she does not require a second bill of divorce from him, because [in that case] he would not take liberties with her.  

The Talmud discusses the reasons of the difference of opinion and it is suggested that there were witnesses to their being alone, but there were no witnesses to their intercourse; and one party regarded the witnesses of their being alone as witnesses of their intercourse (school of Hillel), while the other party refused this view (school of Shammay). The inquirer held that the witnesses of his private meeting with his fiancée could be considered as the witnesses of their intercourse.

Isaac b. Sheshet Perfet did not leave any doubt about his unwillingness to answer the question. He explained that it was not an accepted custom to take a stand in a quarrel where he knew the statements of one of the interested parties only, and had no chance to hear the other party; the question should have been posed by both parties or by the judge who was entrusted with deciding the case. Therefore he intentionally omitted the original question and replaced it with a short exposition of the case. He explained that by doing so the inquirer could not make ill use of his answer; for the same reason he limited himself to a relatively short discussion of the case.

---

35 mGit 8:9  
36 Cf. bGit 81b
IV.1. Legal value of acts accomplished during Christian betrothal

Isaac b. Sheshet Perfet argued that two requirements had to be accomplished for the betrothal to have legal effect, and these are the “declaration” [of the intention of betrothal] and the “handing over” [of an object of a determined minimum value which becomes the property of the bride]. According to Isaac b. Sheshet Perfet, however, a betrothal carried out in conformity with the Christian custom did not contain these elements, consequently, it had been void even if the witnesses of the betrothal were valid. Even if he supposed that they gathered together for the engagement to be considered as a declaration of intention, “still, he did not give her anything, it was merely the priest who blessed them aloud – may it be considered as a curse for him – and gave a ring to both of them.” 37 Isaac b. Sheshet Perfet did not mention the possibility that delivering the ring could be considered as “handing over,” presumably because the ring was handed over by the priest, even if it was a gift from the bridegroom to the bride. The priest could not by any means be considered as an agent of the bridegroom who could carry out an act on his behalf. 38

IV.1.1. Bridal gifts

As for the effect of sending bridal gifts without explicit declaration of the intention of betrothal, Isaac b. Sheshet Perfet maintained to have any legal effect only in a place where the custom was to send presents after the betrothal. He supports his view through a precedent discussed in the Talmud (bKid 50b) according to which presents sent before the betrothal had to be suspected of being intended for kiddushin. Isaac b. Sheshet Perfet explained that in this case, if a person departed from the general custom (of sending gifts after the betrothal) it could be supposed that he did not intend to change the custom, but had sent the presents for the sake of betrothal. But as Isaac b. Sheshet Perfet pointed out, in Majorca the custom was to send the presents before the betrothal (and therefore for the Majorcan community, it was clear that gifts themselves did not have the effect of betrothal), 39 and even if the custom had been the opposite it would not have had any legal implication regarding the actions of the converso. But —in the reasoning of Isaac b. Sheshet Perfet— the custom was suppressed by the persecution and therefore it could not longer serve as a basis for comparison and legal decision. Moreover, Isaac b. Sheshet Perfet attached great importance to the fact that the first

37 Isaac b. Sheshet Perfet: Responsa, no. 5
38 MT Hilkhot Ishut 3:17
39 Cf. MT Hilkhot Kiddushin 9:28: “In a place where the custom is to send gifts first and then to betroth, if the witnesses saw presents [being sent] it is not a cause for suspicion [that she has been betrothed].”
action in connection with their engagement was carried out according to the Christian ritual. In that light, every further act became questionable, because it could not have been decided whether they were meant as a completion of the Christian procedure, or on the contrary, as a means to establish their relationship in accordance with the Jewish law:

...all the more so in your case, where you began the marriage negotiations (shiddukhin) in compliance with the custom of the Christians, either under compulsion or willingly, and one might say that [the gifts] were sent in pursuance of the custom of the Christians and on account of those marriage negotiations [which follow the Christian customs]. This is analogous to what we have learnt concerning one who betroths a woman with less than a perutah’s worth, notwithstanding that he sends gifts afterwards, the gifts are not suspected [to have legal implications], since he sent them on account of the first, invalid betrothal.\textsuperscript{40}

Moreover, in the opinion of Isaac b. Sheshet Perfet, even those authorities who “paid regard to gifts” i.e. accepted them as evidence of betrothal meant that they suspected that the person who sent gifts had betrothed the woman beforehand in a valid way. “But in your case, you do admit that you did not betroth the woman by virtue of money before sending the gifts, but you claim that the gifts were intended as betrothal.”\textsuperscript{41} Consequently, they did not make any change in the status of the woman.

\textit{IV.1.2. Yihud}

Isaac b. Sheshet Perfet refused the claim of the \textit{converso} regarding the legal effect of the \textit{yihud} (being together with a woman privately). He argued that the case discussed in the Talmud\textsuperscript{42} concerned a divorced couple; the private meeting of a divorced couple was not analogous with the private meeting of two persons who were never before in an intimate relationship. Moreover, the \textit{yihud} might have had any legal effect only in case the \textit{converso} had declared clearly in the presence of witnesses that his intention was to establish sexual relation with the woman in order to contract marriage with her in this manner. Only in this case, the witnesses of their being together could have been considered \textit{ipso facto} as witnesses of the intercourse. In the opinion of Isaac b. Sheshet Perfet, even if the \textit{converso} had claimed that he had an intercourse \textit{de facto} with the woman it would not have a legal effect, because

\textsuperscript{40} Isaac b. Sheshet Perfet: \textit{Responsa}, no. 5
\textsuperscript{41} Isaac b. Sheshet Perfet: \textit{Responsa}, no. 5
\textsuperscript{42} Cf. bGit 81b
the universal custom of the Jewish communities was to contract marriage through acquisition (transfer of money or a valuable object) and not through establishing sexual relation.\textsuperscript{43}

\textbf{IV.1.3. Publicity of the betrothal}

Isaac b. Sheshet Perfet refused the other argument of the \textit{converso}, namely, that the betrothal was well-known among the Jews of Majorca. The \textit{converso} referred to a passage of the \textit{Mishneh Torah} according to which if a report circulated that a woman has been betrothed, and witnesses gave testimony about the ground for such a rumor in the rabbinical court of law, it could be supposed that the betrothal indeed took place.\textsuperscript{44} But, as Isaac b. Sheshet Perfet pointed out, the case of the \textit{converso} was completely different from the example mentioned in the \textit{Mishneh Torah}, since in the former case the betrothal was celebrated in compliance with the Christian tradition, and consequently was invalid from the outset.

\textbf{IV.2. Stipulations involving payment in case of breaking the engagement}

After refuting the arguments of the \textit{converso}, Isaac b. Sheshet Perfet advised him not to persist in his claim by stating that the betrothal was valid because by that the marital status of the woman could become controversial and the woman might become \textit{agunah}. On the other hand, Isaac b. Sheshet Perfet encouraged him to reclaim the expenses he spent on the woman in the belief that they would give her in marriage to him:

But you can legally demand the repayment of the expenses you had because of them, and the costs you spent on them, since they promised to give her to you and now they changed their mind. And if you made stipulations involving payments [if one of you retracts], as it was accustomed among Jews, you can claim them before the judges of the country (\textit{shoftei eretz}), but nothing else.\textsuperscript{45}

The expression \textit{shoftei eretz} refers to Christian jurisdiction. As Avraham Grossman pointed it out, in Spain, it was an accepted routine to provide financial guarantees that compelled the party breaking the engagement to pay monetary penalty, and it was even

\textsuperscript{43} MT Hilkhot Ishut 3:21: “It became a custom that all Israel betroths by virtue of money or by [an object] worth of money. […] If a man betroths a woman through sexual relations, he is subject to the punishment of lashes.” Cf. bKid 12b

\textsuperscript{44} MT Hilkhot Ishut 9:22: “If two witnesses came and said: ‘We saw something similar to the festive rejoicing of betrothal and we heard noise [of celebration] and we heard from so-and-so who heard form so-and-so that so-and-so was betrothed in the presence of so-and-so and so-and-so but the witnesses left to an other country or they died.’ – this is a report on the basis of which an assumption can be established concerning her marital status.”

\textsuperscript{45} Isaac b. Sheshet Perfet: \textit{Responsa}, no. 5
permitted to turn to the Gentile authorities to enforce payment if the party obliged to penalty refused to pay.⁴⁶

**IV.3. Conclusion**

As far as it can be deduced from the text of the responsum, the *converso* had every intention to make the betrothal valid according to the Jewish law, although he did not turn to the Jewish community in order to formalize the betrothal in the presence of the representatives of the *community*, conforming to Jewish laws and customs. The reason is not mentioned in the responsum, therefore several possible explanations can be suggested. Maybe a secret Jewish betrothal that had involved the presence of Jewish witnesses would have been public enough to convey a considerable danger for the *converso* couple. An event like that could not be easily hidden from the Christians or from any possible denunciator (Christian, *converso* or Jew). Or maybe the bride or her family did not want to hold a Jewish betrothal at all. The remark of Isaac b. Sheshet Perfet, that the custom of sending gifts after the betrothal was suppressed due the persecution indicate a major discontinuity in the life of the Majorcan Jewish community in general. One might suggest that the Jewish community of Majorca was weakened to such an extent that they did not wish to endanger themselves by further organizing Jewish betrothal ceremony to a *converso* couple.⁴⁷ In any case, the *converso* tried to attach legal value to the betrothal from a Jewish point of view, and his intention regarding the case seems to be evident – at least, according to his presentation of the events. Isaac b. Sheshet Perfet, however, did not accept his efforts as proof of his intention to arrange a Jewish betrothal, and the main argument for the refusal was the fact that the marriage negotiations started with the involvement of the Christian church. On the other hand, Isaac b. Sheshet Perfet recognized that the *converso* had justified claims to the expenses of the preparations for the marriage, and he advised him to try to enforce his rights in the possible extent, even by turning to the Christian authorities.

⁴⁶ Cf. Grossman 2004:51: “Such a document is preserved in R. Judah Barzeloni’s *Sefer ha-Shtarot* (late eleventh and early twelfth century), which even involves permission to make use of the Gentile authorities to force the one cancelling the engagement to pay the fine, a fact indicative of the widespread nature of the phenomenon and the seriousness with which it was regarded.”

⁴⁷ When disturbances in Majorca begun in 1391, hundreds of Jews were killed, others fled to Algiers, many were forcibly baptized, and some 800 Jews managed to seek refuge in the fortress of the city, where they were under the protection of the governor. In the subsequent months, however, the rioting peasants of Majorca demanded again and again the baptism of these Jews. It seems that a large number of them had been forcibly baptized in the end. Although in 1434-35, the Aragonese government made some efforts to restore Jewish communities pertaining to the Crown of Aragon, but without much success. Cf. Baer 1966:102-103, 245
The following question was asked by a certain Binyamin Ammar from Bejaia. The responsum shows considerable similarity to the previous one. It discusses the validity of a marriage contracted in accordance with the Christian laws, before a Christian priest. The difference lies in the fact that in the case presented in the former responsum, the converso intended to make the betrothal effective through various acts that might have legal effect according to the Jewish laws; while here the couple married in every respect as Christians do, and they did not have the slightest intention to follow the Jewish tradition in their marriage (or at least, nothing in the responsum hints at it).

The converso couple was married by a Christian priest a week after the end of the riots and religious persecution (gezerah) in Majorca. The husband left his wife after three months of living together. The wife gave birth to a child with whom she immigrated to North Africa. Her legal status had to be clarified. If the marriage contracted in Majorca was considered valid, she would have been prohibited to marry another man, if she did not divorce the converso before. But as the converso left the woman and traveled to a distant land the arrangement of the divorce would have been virtually impossible.

The question is the following:

A woman from among the forced converts came from Majorca with her child. She was asked about her conditions and about that of the child, and she said that a forced convert from Aragon wanted to marry her before the gezerah according to the law of Moshe and Yehudit but he could not. A week after the gezerah, a Gentile friend of that converso came and set his eyes on her and persuaded her to marry him. And she consented and the marriage was contracted but there were neither [valid] witnesses nor ten adult Jewish males present, but the marriage was contracted in the presence of Gentiles, in accordance with the laws of their religion and by the agency of their priests. She stayed at his house as his wife in every respect, and she was considered as a married woman. This was widely known among the conversos. She stayed with him for about three months, and she got pregnant, and she gave birth to this child. But the man left and went to the other side of the sea, and he did not return to her.

48 Bejaia (Bougie) is port city in North Africa, East from the city of Algiers.
49 The discussion of the case makes it evident that although the husband is called “Gentile” by the inquirer, he must have been a converso himself. If he was a Gentile, the whole question and discussion would have been unnecessary, since Gentiles have no marital status. The word goy (Gentile) appears also in the manuscripts (St. Petersburg, Russian National Library Evr. II A 116, fol. 72b and Oxford, Bodleian Library MS Mich. 557, fol. 97b).
50 Isaac b. Sheshet Perfet: Responsa, no. 6
V.1. Legal value of acts accomplished during Christian betrothal

The beginning of the answer corresponds almost word by word to the first lines of the former responsum; it emphasizes that the Christian wedding ceremony has no validity from the halakhic point of view since the two main requirements of betrothal are not realized in it.

V.2. Yihud

The main topic of the answer is the discussion of the cohabitation; whether the fact that a couple lived together for a period can be considered as a kind of marital union or not. The text that serves as basis of this reasoning is again the case of the divorced couple who spent a night together in an inn. Isaac b. Sheshet Perfet remarked that the divergence of views concerning the judgment of the legal consequences of the case mentioned in the Mishnah originated in the interpretation of the word “divorced;” whether it was a divorce after betrothal or after nuptials. In the latter case, it could be supposed that the couple had sexual relation (since they used to be in an intimate relation beforehand), and that they had it with the purpose of marriage. But it is agreed that if there was no doubt that they had intercourse, they had to be considered as a married couple regardless of the exact nature of their former marital status. Since in the case discussed in the responsum, the woman got pregnant, thus it was clear that they had sexual relation, but it still remained controversial whether their intention was marital union or not. Isaac b. Sheshet Perfet observed that some geonim ruled on the basis of the Mishnah that sexual relation with an unmarried woman established with the knowledge of witnesses had the legal validity of marriage. But he added that this conclusion was refuted by the vast majority of the later authorities, among them Maimonides, Solomon b. Abraham Adret, and Asher b. Jehiel (Rosh). In the opinion of Isaac b. Sheshet Perfet, the intercourse can be regarded as a means of marriage only if the man declared explicitly in the presence of witnesses of yihud that by secluding himself with the woman his intention was to engage in sexual relation with her with the purpose of marriage. This never happened in the case of the converso couple under discussion. Isaac b. Sheshet Perfet raised and refuted a possible counter-argument: one may say that since the converso made wedding arrangements and he talked with the woman about the wedding,

51 The declaration of the intention of marriage (statement) and the handing over of money or an object worth of money (acquisition).
52 Cf. mGit 8:9, bGit 81b
53 MT Hilkhot Gerushin 10:19
54 Solomon b. Abraham Adret: Hiddushei ha-Rashba, Gittin 81b
these preparations might be considered as a declaration of his intention to marry her. But Isaac b. Sheshet Perfet interpreted these arrangements in the opposite way: in his opinion the fact that they married according to Christian law proved that they did not wish to establish their union according to Jewish law:

Here, in this case, he did not have sexual relation with her for the sake of kiddushin, since they negotiated their marriage according to the laws of the Gentiles, in the house of their altar [i.e. church], and they have heard the curse [i.e. the wedding benediction] from the mouth of the priest – this is like the explicit statement that they do not wish to marry under the law of Moshe and Yehudit, but as Gentiles do. […] Therefore she is not like a married woman but she is at his place as a concubine without ketubah and kiddushin.56

Isaac b. Sheshet Perfet treated briefly the possibility that the marriage might be valid in accordance with the law of the sons of Noah, as they also recognize marriage bond.57 He concluded however, that this question was indifferent at last, since the sons of Noah were not obliged to divorce by giving a get, but simply by abandoning each other.

V.3. Licentiousness of the conversos

The final part of the responsum contains some derogatory remarks on the sexual behaviour of the conversos:

In the case under question, it is evident that none is more licentious than those who present themselves before the idols in order to prostrate themselves by their free will. Their deeds give evidence of their licentiousness and their frivolousness, that even amidst the sufferings after the gezerah, with the exception of some individuals, the minority of the minority, most of them permit themselves to engage in sexual liaisons with Gentile women, moreover, they think that sexual relation with the unmarried women of Israel is absolutely permitted. And this is evidently so in case of such a worthless man; the end [of his deeds] shows [his intention at] the beginning, that he left the pregnant woman and he went away.58

The generalizing observation that most of the conversos had liaisons with Gentile women might be an exaggeration but in any case, it shows the presence of a tendency of

56 Isaac b. Sheshet Perfet: Responsa, no. 6
57 Cf. bSanh 57b; 82a
58 Isaac b. Sheshet Perfet: Responsa, no. 6
abandoning the observance of the Jewish law concerning private life and intimate connections.

V.4. Ritual purity of marital life

Isaac b. Sheshet Perfet brought one more argument in order to prove that the sexual relation of the couple lacked the intention of establishing marriage bond under Jewish law. For a Jewish woman is obliged to undergo ritual immersion before marriage, but this was evidently impossible a week after the riots that seriously damaged the infrastructure of the Jewish religious establishments: “At that time, they had no pure ritual baths (mikveh) after the gezerah.”59 Therefore the woman in question evidently did not purify herself after her menstruation. Sexual relation with such woman is prohibited. In the opinion of Isaac b. Sheshet Perfet, this prohibition being a so-called “issur karet”60 was more severe than the prohibition of establishing sexual relation with a maiden: “If he permitted himself [to disregard] a karet prohibition by establishing sexual relation with her, how should he respect a light prohibition concerning sexual relation with a maiden?!”61 It follows, according to Isaac b. Sheshet Perfet, that the converso did not have any intention of marrying the woman in compliance with Jewish law.

V.5. Conclusion

This decision was favorable for the woman, who left Majorca and moved to North Africa with her child,62 where she returned to Judaism. If the marriage was null and void, she did not have to obtain a divorce from the husband who had disappeared, and she could marry again. The argumentation of the responsum shows great similarity to the reasoning of the former one: the fact that the marriage was celebrated according Christian law proves that the couple did not have intention of getting married as Jews. The difference lays in the circumstances of the wedding: in the former responsum the converso – according to his words – made several arrangements to give validity to the betrothal also from a halakhic point of view, while in the latter case, there was no information about such efforts.

59 Isaac b. Sheshet Perfet: Responsa, no. 6
60 Karet (“extirpation”): punishment at the hands of heaven for certain sins committed deliberately. It is understood usually as premature death, although several other explications exist. Issur karet: prohibition for the violation of which the punishment is karet. See: Ta-Shma: “Karet” EJ 10:788-789
61 Isaac b. Sheshet Perfet: Responsa, no. 6
62 The child, although was born from a relationship considered as extra-marital, did not become a mamzer, because the relation was not adulterous.
VI. Isaac b. Sheshet Perfet: Responsum no. 14: on reconsidering the terms of marriage under the pressure of riots in Majorca

The question of the following responsum is quite elaborate and sheds light on the difficult circumstances the conversos faced in consequence of the riots in Majorca. It concerns the reconsideration of the terms of a marriage defined previously, before the disturbances of 1391. The new preparations for the marriage were carried out in the greatest haste, as both the father of the bride and the future groom were about to leave Majorca escaping from the riots. The question is the following:

Before the gezerah in Majorca, Reuben engaged his underage daughter to the son of Simeon. He agreed to give him 500 libras as her dowry. Simeon also agreed to provide his son at the time of the marriage 1000 libras and a house the value of which was then more than 500 libras. Thereafter, the gezerah came, in which Reuben and Simeon had lost most of their property, thus both of them became unable to comply with the conditions they stipulated. Moreover, as they and their families were subject to religious persecution they needed to utilize every artifice and ruse in order to escape the upheaval, and there was a chance they would lose sight of each other. So both of them thought that the engagement and the stipulations should be automatically annulled. After this, Reuben boarded a ship that was about to depart to Muslim territory to save himself and to escape from the threat of the persecution, and he left his wife and his family in Majorca. But the ship tarried in the port of Majorca for a number of days. In the meantime, Simeon agreed on new conditions [for the marriage] with the wife of Reuben and with his son, and they engaged the girl to the son of Simeon. And the son of Simeon even betrothed the girl at once in secret with their consent. But the girl was still underage, and the betrothal took place without the knowledge of her father, although the father was still in the port, and they could have asked his opinion. The witnesses of the betrothal were two forced converts who were relatives. Their degree of relationship is that the wife of the first is the cousin of the other. Even before this betrothal, one of the witnesses got used to profane the Sabbath publicly after the gezerah. He used to write on Sabbaths and feasts on behalf of the forced converts although he was not forced to do that; he was motivated only by financial gain. The other witness used to eat with the Gentiles forbidden meat that was not slaughtered according to Jewish law, and he used to share their company all the time, and they used to invite him and he used to eat their meat. Afterwards the son of Simeon, who betrothed the girl, boarded the same ship in order to go with Reuben where he would go. And he told Reuben that he betrothed his daughter. Reuben became very angry but he

\footnote{For the discussion of this responsum see Zimmels 1932:90-91.}
kept silence because he was not in the position to quarrel with him loudly, after all he was aboard the ship. So he went far away with the young man who betrothed his daughter, and the daughter remained in Majorca. [He kept silence] also because he did not dare to speak openly in front of the Gentiles with whom he was aboard the ship [saying] that his daughter was betrothed without his consent, for fear that they would denounce that they were still observing Jewish law. But he sent a letter to his son in secret, in which he rebuked him for doing what he did without his consent, and that he did not confirm this betrothal. Tell us, our master, whether this betrothal has any validity and whether she is obliged to obtain a get or not.64

Underage engagements and betrothals were not unusual phenomena in medieval Jewish society (both in Muslim and Christian countries).65 According to Grossman, one of the factors that led to the growing number of child marriages66 was the involvement of Jews in international trade: “Due to the numerous journeys of Jewish tradesmen to other countries, and the grave dangers of the roads, they preferred to see their sons and daughters “arranged” in life as early as possible.” (Grossman 2004:45) One may suggest also that in the Iberian Peninsula at least, the influence of Muslim culture was and remained strong even after the advancement of the Reconquista. In medieval Muslim society, most children were betrothed and married at a very young age, although the marriage was not consummated until they have reached sexual maturity (defined by a minimum age and physical signs).67 The reason of this phenomenon might have been the high infant mortality; most families had only one or two

64 Isaac b. Sheshet Perfet: Responsa, no. 14
65 See Grossman 2004:34, and the bibliographical references cited there. Grossman admits that this view is not shared by Goitein, who, on the basis of the material contained in the Cairo Genizah, concluded that child marriages were a rare phenomenon and were limited above all to orphan girls. See Goitein 1978:76-79.
66 Apparently Grossman used the term “marriage” in a broader sense, mostly referring to betrothal, although some of the cases discussed by him indeed concerned childhood marriages. See the second chapter, entitled “Age at Marriage” (Grossman 2004:33-48), where most of the responsa quoted by him deal in fact with betrothals (not marriage) of underage children, but Solomon b. Abraham Adret: Responsa 4:169 for example concerns a married couple in fact, where the wife was a minor: “You have asked further: if the husband is obliged to hire a maidservant for her to make his bed since she is small (ketana), and her hands are not fit for this work.” Ketana as a term means minor, that is, a girl under the age of twelve (cf. MT, Hilkhot Ishut 1:1). Making the bed is one of the special obligations of the wife that is supposed to awaken the love of the husband towards his wife.
67 About cases of child marriages among Muslims of al-Andalus and North-Africa in the second half of the fifteenth century see the responsa of Wānšarīsī (d. 1508): Kitāb al-mīyār, vol. 3, pp. 96-97, 196-198. About child marriages in the Ottoman Empire see the entry by Yazbak 2006:57-58. There it is explained that according to the Hanafi legal school (the one which was adopted by the Ottoman state) a minor is a person who has not yet reached physical puberty, which is marked for girls by the first menstruation (held to be at the age of 12 or 13), and for boys by the first nocturnal seminal emission (at the age of 13 or 14). If no physical signs appeared, both girls and boys were acknowledged as matures at the age of 15. On the other hand, sexual maturity could be acknowledged by the age of 9 at girls and 12 for boys. There was no minimum age fixed for concluding marriage contracts on behalf of children, and it was a widespread custom that marriages were arranged on behalf of babies. However, contracting marriage and its actual consummation was clearly distinguished by Islamic law, permitting the consummation only after reaching maturity. On the other hand, on the evidence of the court records from Haifa, Nablus, Jaffa and Jerusalem it is clear that the phenomenon of consummating marriage with prepubescent girls did exist.
children who reached the age of ten. By arranging early marriage for the children, the families could supply their households with lacking members; the underage girl for example usually moved in with the family of the future husband, where she shared the housework with the mother-in-law. The same phenomenon could be observed in medieval Jewish society, namely, that girls betrothed or even married at a very young age (under the age of ten) went to live with the parents of the groom or husband, where they were subject to the will of their mother-in-law.  

In the case under discussion the underage girl was betrothed to her future groom by her mother and brother in a situation which probably was considered an emergency; they had previously agreed on the terms of the marriage, but the events of the riots and the religious persecution changed their prospects. Both families lost their wealth and some of their members were about to leave the family while others were still remaining. The responsum does not contain detailed information about the split of the families apart from the remark about the father’s intention of saving himself by fleeing to Muslim territory. His plans concerning his family are not stated. It could be supposed that they did not have enough money to board the ship together as the costs of maritime travel were quite high; or maybe other members of the family refused to leave; or the father wished to prepare the emigration for the family first, and they were expected to follow him. In any case, in a situation like that, the mother and the brother of the girl might have seen it appropriate to arrange the marriage of the girl urgently, before his fiancé would have left, too. This haste might be indicative of the financial pressure and the existential insecurity the family experienced in consequence of the riots. If they lost the major part of their possessions during the riots, they might have been afraid that they would be unable to find an appropriate husband for the girl, and therefore they wished to reformulate the conditions of the marriage with the former fiancé and even to perform the betrothal in a formal way as far as it was possible. The fact that the witnesses of the betrothal were *conversos* further corroborates the assumption that the betrothal was not carefully arranged and that it was performed in complete haste. One can only guess the reasons why they did not ask the father’s permission although he was still in the port; maybe they were unaware that he did not leave yet, or they knew he would not agree to the betrothal, or they did not know that the permission of the father was absolutely essential for the validity of the betrothal.

68 For the consequences of early marriage or betrothal see Grossman 2004:46-48.
69 Cf. Isaac b. Sheshet Perfet: *Responsa*, no. 11
The betrothal was therefore problematic in several respects, and it was declared null and void by Isaac b. Sheshet Perfet. His decision was based on three arguments: 1) According to Jewish law a minor could not be betrothed without her father’s knowledge and consent, even if the father later consented. In this case, however, the father was clearly displeased with the betrothal, even if he did not express his feelings openly due to the circumstances. Moreover, it would have been possible to ask his opinion before the betrothal since he was still in the city. 2) The witnesses were relatives, and due to the family relationship between them they were disqualified by Torah law according to Isaac b. Sheshet Perfet, although he mentioned that in the opinion of Maimonides, maternal relatives were disqualified according to rabbinic law only. 3) The witnesses were conversos who violated the precepts of the Torah by their own will without being forced to do so. Isaac b. Sheshet Perfet explained that converts in general were not disqualified from being witnesses, if they only violated the law under coercion. However, if they committed a transgression for which the punishment was lashes without being compelled to do so, they became disqualified. Therefore neither the converso who was accustomed to write on Sabbaths nor the other who was accustomed to share the company of Christians and eat with them meat of animals that were not ritually slaughtered could serve as witness: “If he was able to avoid the company of the Gentiles but he did not avoid them, but was in their company and imitated their ways and ate their meat, by that he became undoubtedly disqualified.”

VII. Simeon b. Žemaḥ Duran: Tashbeẓ 3:47: on marriage of conversos returning to Judaism

The following is the sole responsum by Simeon b. Žemaḥ Duran relating to the marital status of conversos. It contains a very detailed discussion of marriage and levirate marriage.

---

70 Cf. MT Hilkhot Ishut 3:13
71 Cf. bSanh 27b; MT Hilkhot Edut 13:1
72 The argumentation concerning transgressions committed under coercion is a brief version of the reasoning in Isaac b. Sheshet Perfet: Responsa, no. 11. The prooftexts that are mentioned in this responsum (i.e., no. 14) are the following: Lev 18:5, 22:32; Deut 6: 5, 22:26, 25:2; bBK 28b; bSanh 26b, 27a, 74a-b; MT Hilkhot Edut 10:2.
73 Isaac b. Sheshet Perfet: Responsa, no. 11 offers a more detailed discussion of the subject.
74 For the discussion of this responsum see Netanyahu 1966:38-41, Orfali Levi 1982:28
75 For the discussion of those parts of the responsum that deal with levirate marriage, see the chapter about levirate marriage.
as well, treats the issue of marriage celebrated with the involvement of the Christian Church, and the capacity of *conversos* to bear witness.

The question arrived from Oran bears evidence of a great perplexity concerning the marital status of *conversos* who left Iberia in order to return to Judaism in North Africa:

Concerning these forced converts who marry forced convert women by means of *huppah* and *kiddushin* – if one of these forced convert women leaves [Christian territory] in order to enter our covenant, and her husband is still alive: should she be considered as a Gentile, or as a *yefat toar*, since Gentiles have no marital status? Does the same rule apply to a person who is uncircumcised because he was born after the massive forced conversion (*shemad*) and to a person who married after being converted?  

The inquirer evidently did not attach any legal consequence to the marriage of *conversos* even if it was contracted according to Jewish law (*huppah* and *kiddushin*). These two terms cover the two main parts a Jewish marriage consisted of: *kiddushin* being the betrothal and *huppah* the ceremony by which the marital union was finally established. In the question, there is no indication of any Christian ceremony that necessarily followed the Jewish marriage. This might be a simple omission since for the inquirer the Jewish marriage bore primary importance; or it might be suggested that some *conversos* established their marital union under Jewish law only, and lived together in extramarital relationship in the eyes of the Christians, that is, without having been married in a Christian church.  

The reason of the clear-cut opinion of the inquirer disregarding the Jewish marriage of the *conversos* is not specified in the question. In any case, the wording of the question makes evident that in the view of the inquirer, *conversos* by and large were like Gentiles: this might explain why according to his words women who escaped from Christian territory had to “enter the covenant” (*le-hikkanes le-briteinu*) although the term normally used for returning to

77 Simeon b. Zemah Duran: *Tashbez* 3:47
78 In mediaeval Christian society, marriage was not the only possibility of cohabitation for a couple. In the eleventh century, the relationship of Concubinage (or extramarital relationship) was still accepted by the Church. In the council held in Roma in 1069, the resolution of the council of Toledo of the year 398 prescribing monogamy, whether in the form of marriage or concubinage, was repeated. Until the twelfth century, marriage was a private matter in Christian society, performed at home. The involvement of the Church began only in the twelfth century, but marriage ceremonies performed in churches became widespread only by the end of the thirteenth century. Although in the fifteenth century, celebration of the marriage in church had already been an established practice, cohabitation without being married was still a possibility. See Duby 1987:144, 185, 187-189. About marriage in mediaeval Christian society see Duby 1994.
Judaism is “to repent” (la-ḥazor bi-teshuvah, la-asot teshuvah). The two possibilities mentioned by the inquirer concerning the legal status of the women (Gentile or yefat toar) are identical in the sense that the second category is a subclass of the first (the yefat toar is Gentile); although the laws regarding the conversion of a Gentile woman or a yefat toar so that a Jew could marry her are, of course, different. But in either case, the woman can be married by a Jew after she “entered the covenant” even if she was married to a Gentile before, since “Gentiles have no marital status.”

The answer presents a very detailed discussion of the converts’ marital status, dealing first with marriage and then with levirate marriage.

VII.1. The marital status of the conversos

VII.1.1. A Jew, even if he sinned, is still a Jew

Simeon b. Żemaḥ Duran started his discussion with quoting a well-known passage of the Talmud which ascertained that a Jew who committed transgressions still remained a Jew. “Israel hath sinned. [Jos. 7:11] R. Abba b. Zabda said: Even though [the people] have sinned, they are still [called] ‘Israel’. R. Abba said: Thus people say, A myrtle, though it stands among reeds, is still a myrtle, and it is so called.” (bSanh 44a)

VII.1.2. If the betrothal of a proselyte who later renounced Judaism is valid, all the more so that of a converso

In the view of Simeon b. Żemaḥ Duran the passage quoted above (bSanh 44a) proves that there is no difference between the marital status of a Jew and a convert. He backed up this statement with two other passages of the Talmud that ascertain that even the marriage of a proselyte who later renounced Judaism was valid:

1) [The proselyte] “When he comes up after his ablution he is deemed to be an Israelite in all respects. In respect of what practical issue? – In that if he retracted and then betrothed the

80 By which the inquirer meant here that the marriage of a Gentile couple is not recognized as a bondage by Jewish law and therefore establishing sexual relation with a married Gentile woman was not adultery; if the Gentile woman became a proselyte she could be married by a Jew without obtaining divorce from her Gentile husband. About the possibility of recognizing the marriage of Gentiles in accordance with the law of Noah see bSanh 57b, 82a.
daughter of an Israelite he is regarded as a non-conforming [mumar] Israelite and his betrothal is valid.”

2) “…a proselyte, who accepted the teachings of the Torah, though he is suspected of ignoring only one religious law, is suspected of disregarding the whole Torah, and he is considered as a non-observant [mumar] Israelite. […] if he betroths a woman, […] his betrothal is valid.”

That is, if the betrothal of a non-observant proselyte is valid, all the more so the betrothal of a non-observant Jew (i.e., converso).

Simeon b. Žemaḥ Duran mentioned a possible counter-argument that might challenge the applicability of the quoted passages: a proselyte who retracts is a sectarian (min). (That is, his status is inferior to that of a non-observant Jew.)

Simeon b. Žemaḥ Duran refuted this argument with the following explication: the statement in bGit 45b (that a non-observant proselyte is a sectarian) referred to a specific matter discussed in the Talmud, but had no universal validity; it did not affect the marital status of the sectarians in general. Consequently, if the marriage of a sectarian is valid, the marriage of a converso must be valid, too.

VII.1.3. Disparity between the conversos and the ten lost Israelite tribes

The next issue explained by Simeon b. Žemaḥ Duran concerned the second generation of conversos. He established that the second generation did not differ from the first with regard to marital status, “even if he was born to convert parents, and he is uncircumcised.”

He clarified, however, that the mother should be of Jewish origin, no matter whether she was a convert or not. Even if the father was a Gentile, since “the son of your daughter, even if the father [of the son] was a Gentile, is called your son.” Simeon b. Žemaḥ Duran reinforced this ruling by making reference to a discussion that concerned the descendants of the ten lost Israelite tribes. The Talmud, by means of two alternative explications, establishes that the descendants of the ten tribes got entirely mixed up with the Gentiles and therefore their marriages were invalid. The conversos of Iberia may show a certain similarity to the members of the lost tribes, as they were equally exposed to the immense influence of the Gentile environment. Therefore one may assume that their marriages were invalid, too. Simeon b.

81 bYeb 47b
82 bBek 30b
83 bGit 45b. The matter of dispute in this passage of the Talmud is a Torah scroll written by a sectarian.
84 Simeon b Žemaḥ Duran: Tashbeẓ 3:47
85 bYeb 23a, my translation.
86 The ten tribes who were taken captives by the Assyrians and finally got mixed up totally with the nations of the Assyrian empire. See: II. Kings 15:29; 16:9
Rav Yehudah said in the name of Rav Assi: Nowadays, if a Gentile betroths a Jewess, we suspect that the betrothal is valid, because he might be [a descendant] of the ten tribes. [And therefore he is not a Gentile but a Jew. An objection is raised:] But [there is a rule according to which] everything that originates [from a heterogenic group], originates from the majority? [As the majority of men are Gentiles, it should be assumed that the man who betroths is Gentile as well. This argument is refuted by stating that the statement of Rav Assi referred to a place where [the ten tribes] are settled. [If the origin of a settled (kavua) thing is doubtful, the law of majority does not apply. In this case it is assumed that the chances concerning its origin are fifty-fifty; the chance that it is from the majority is equal to the chance that it is from the minority. Consequently, the probability of the man in question being a Jew is fifty percent.] [...] [In the following the Gemarah enumerates places where the ten tribes were settled.] R. Yohanan said: [These places were enumerated] in order to declare them unfit. When I said this [halakhah] before Shmuel, he said: Your son who comes from a Jewish woman is called your son; but your son who comes from a Gentile woman is not called your son, but her son. [That is, the descendants of the ten tribes were not Jews, since the male members of the tribe married Gentile women. An objection is raised:] But there were no [Jewish] daughters? [The members of the ten tribes were not males only, but females as well. Even if these Jewish women married Gentiles, their descendants were still Jews, consequently the man in question might be a Jew.] Ravina said: It follows, that your daughter’s son who comes from a Gentile [father] is called your son. [That is, he is a Jew, and his marriage is valid. But this objection is refuted:] We have learned that the daughters of that generation were barren. [Consequently the descendants of the ten tribes came from Gentile women, and therefore they are Gentiles. An alternative tradition is quoted:] Some say [the previous tradition as follows:] When I said this [halakhah] before Shmuel, he said: They did not move from there until they became Gentiles completely, as it is written: ‘They are unfaithful to the Lord; they give birth to illegitimate children.’ [Hosea 5:7]87

It follows that according to both versions the descendants of the ten tribes, who got mixed up with the Gentiles are not Jewish, and their marriages are invalid. This is a possible argument for declaring that neither the conversos are Jews, and consequently their marriages are invalid. But Simeon b. Žemah Duran explained that the two cases (that of the ten tribes, and that of the conversos) are not commeasurable, because the objections of Shmuel (according to whom the descendants of the ten tribes were not Jews) referred only to the following specific cases: 1) if the descendants came from a Gentile woman, as in case of the

---

87 bYeb 16b-17a, my translation.
ten tribes where they indeed came from Gentile women, since the Jewish women were barren (first version of the tradition quoted in the name of Shmuel); 2) if the descendants became Gentiles completely – but this applied only to that generation and to the ten tribes\(^88\) (second version of the tradition quoted in the name of Shmuel). Consequently, the objections raised in the name of Shmuel were irrelevant with regard to the conversos. As Simeon b. Žemaḥ Duran explained, it followed that even Shmuel would agree that the descendants of the conversos were Jews, if their mothers were of Jewish origin.

\(\textbf{VII.1.4. Marital status of conversos who desecrate the Sabbath and participate in Christian worship}\)

Simeon b. Žemaḥ Duran discussed extensively a passage of the Sefer Ittur Sofrim that deals with the status of Jews who commit idolatry or publicly profane the Sabbath.\(^89\) The arguments brought there are the following:

1) One who profanes the Sabbath publicly is not regarded as a Jew, “…you must observe my Sabbaths. This will be a sign between me and you for the generations to come…” (Ex 31:13)
2) “One should accept sacrifices from the transgressors of Israel, so that they may be inclined to repent, but not from an Israelite apostate \([\text{mumar}]\), or from who offers a wine libation [to idols], or from one who profanes the Sabbath publicly.” (bḤul 5a)

The Sefer Ittur Sofrim raised the possibility that Jews who commit these two transgressions are not to be considered Jews at all, and that they may not have marital status. But this proposal is refuted by the author, Isaac b. Abba Mari immediately with the following arguments:

1) Only performing a derivative work pertaining to the primary category of agriculture is considered as a public profanation of the Sabbath. Unfortunately this statement is not further expounded.

2) Gentiles (with the exception of those living in Israel) are no longer considered as idolaters: “The Gentiles outside the land [of Israel] are not idolaters; they only continue the customs of their ancestors.” (bḤul 13b)

According to the interpretation of Simeon b. Žemaḥ Duran, it might follow that a convert who commits idolatry in the land of Israel, or who profanes the Sabbath in public by performing a

---

\(^{88}\) Simeon b. Žemaḥ Duran adopted the explication of Solomon b. Abraham Adret: Hiddushei ha-Rashba, Yeb 22a

derivative work pertaining to the primary category of agriculture “is not called a Jew”\textsuperscript{90} (i.e., he has no marital status). But he explained that this did not seem to be correct for him, since in his opinion, these kind of transgressors also are called Jews, as it can be seen from the following passage of the Bible: “Speak to the children of Israel and say to them: When someone among you brings an offering...”\textsuperscript{91} In the Talmud the expression “among you” is interpreted as phrase of exclusive meaning in order to emphasize that “someone among you” may bring an offering, but not “anyone among you,” thus excluding the converts (cf. bḤul 5a). According to Simeon b. Zemaḥ Duran this expression excludes the converts from bringing offerings indeed, but does not exclude them from those called “sons of Israel.” Consequently, in the view of Simeon b. Zemaḥ Duran, even those converts who commit idolatry and profane the Sabbath publicly are “called Jews” and have marital status. He reinforced his opinion by quoting the Tur: “A convert (mumar) Jew who betroths a woman, his betrothal is valid, and she needs a get in order to be divorced. And some say that the convert who profanes the Sabbath publicly and commits idolatry is to be considered exactly as a Gentile from the halakhic point of view, and his betrothal is null and void. But this position is not clear.”\textsuperscript{92} The opinion introduced by the phrase “some say” is a minority view, and the remark of Jacob b. Asher stating that “this position is not clear” indicates that he refuted this view.

\textbf{VII.2. Witnesses of the betrothal}

Simeon b. Zemaḥ Duran dealt extensively with the problem of the validity of the converts’ testimony, which could invalidate the marriage and consequently annul the obligation of the levirate marriage as well.

In his opinion, if the marriage was celebrated in the presence of Jewish witnesses, it was valid. However, if the witnesses were conversos, the marriage was undoubtedly null and void, as the legal presumption concerning the conversos was that they were unfit for bearing witness:

As they remained there [in Iberia] on their own accord, they permit themselves to disregard certain prescriptions of the Torah even if they are alone [i.e., when Gentiles do not see them], such as eating non-kosher meat and profaning the Sabbath, let alone committing idolatry. It is evident that

\begin{flushright}
\textsuperscript{90} Simeon b. Zemaḥ Duran: Tashbeẓ 3:47 \\
\textsuperscript{91} Lev 1:2, my translation. \\
\textsuperscript{92} Jacob b. Asher (ca. 1269 Cologne – ca. 1343 Toledo): Tur, Even ha-Ezer no. 44.
\end{flushright}
they are unfit for bearing witness, and the woman betrothed before them is not betrothed at all.\textsuperscript{93}

VII.2.1. Betrothal under Jewish law before converso witnesses followed by Christian marriage ceremony

It has already been noted that the \textit{conversos} if they wished to establish marital union had no choice but to celebrate their marriages according to Christian law.\textsuperscript{94} Some of them tried to stick to the Jewish customs to a certain extent, and performed acts connected to the betrothal or the marriage that had legal validity under Jewish law as well,\textsuperscript{95} while others organized their marriage completely conforming to Christian customs and law.\textsuperscript{96} As it has already been presented, the opinion of Isaac b. Sheshet Perfet concerning marriages celebrated partly or entirely under Christian law was that these marriages were null and void from the \textit{halakhic} point of view, as the mere fact that the couple negotiated their marriage as Christians questioned their intention of marrying under Jewish law; and it even could be suggested that the involvement of the Church is an explicit declaration from the part of the couple that they did not wish to establish a marriage union but a sort of concubinage (\textit{zenut}). It has to be emphasized that in practice both decisions issued by Isaac b. Sheshet Perfet in this matter favored the women. As to the first case, it can be surely ascertained that the decision of Isaac b. Sheshet Perfet aimed to dissolve every doubt concerning the marital status of a woman (by establishing that she was never betrothed to the \textit{converso} who posed the question, after her father decided not to give his daughter in marriage to the \textit{converso}), and having a doubtless marital status is in general from the women’s best interest.\textsuperscript{97} In the second case, the woman left Majorca and immigrated to North Africa without having been divorced from her husband who left her. Obtaining a divorce probably would have been impossible to her, and therefore nullifying the marriage was the best way to solve her problem and to let her to marry again.\textsuperscript{98}

Simeon b. Žemaḥ Duran discussed the issue of a double, Jewish and Christian marriage ceremony, too. The (hypothetical) case presented by him differs from the cases Isaac

\textsuperscript{93} Simeon b. Zemah Duran: \textit{Tashbez}, 3:47
\textsuperscript{94} Isaac b. Sheshet Perfet: \textit{Responsa}, no. 14 discusses a betrothal without reference to a planned Christian ceremony, but in that case the betrothal was not followed by marriage and actual cohabitation, since the bride was still a minor, moreover, the couple apparently planned to leave for North-Africa as soon as possible.
\textsuperscript{95} Cf. Isaac b. Sheshet Perfet: \textit{Responsa}, no. 5 discussed above, and Simeon b. Solomon Duran: \textit{Yakhin u-Voaz} 2:19 to be discussed later.
\textsuperscript{96} Cf. Isaac b. Sheshet Perfet: \textit{Responsa}, no. 6 discussed above.
\textsuperscript{97} Cf. Isaac b. Sheshet Perfet: \textit{Responsa}, no. 5 discussed above.
\textsuperscript{98} Cf. Isaac b. Sheshet Perfet: \textit{Responsa}, no. 6 discussed above.
b. Sheshet Perfet dealt with, and consequently the conclusions reached by both authorities are divergent.

If he betrothed the woman according to the law of Moshe and Israel before forced convert witnesses, as their custom, if it is a widespread custom among them, and he married her afterwards as Gentiles marry, according to the law of the Gentiles they got mixed up with, could it be supposed that the marriage was valid [...] since they expressed their wish that they do not want to live together in mere cohabitation (be-torat zenut) [but as a married couple] [...] and since there are a lot of Jews fit [for testifying] in the city, and they were aware of their cohabitation, so we could say that the witnesses of the yihud are ipso facto the witnesses of the sexual intercourse, and the betrothal [i.e. the marriage] is effective from the moment of their [first] intercourse.99

As opposed to the cases discussed by Isaac b. Sheshet Perfet, Simeon b. Žemaḥ Duran deals with the (hypothetical) case of Jewish betrothal preceding a Christian marriage ceremony. Although the betrothal follows the Jewish customs, it is performed in the presence of converso witnesses. Simeon b. Žemaḥ Duran held that this kind of Jewish betrothal was to be considered as a declaration from part of the couple that they did not wish to establish extramarital relationship merely but aimed to live together as a married couple. Simeon b. Žemaḥ Duran referred to the same precedent as Isaac b. Sheshet Perfet,100 but due to the difference between the cases discussed by them they reached opposite conclusions. Isaac b. Sheshet Perfet and Simeon b. Žemaḥ Duran agreed on the point that it was necessary that the man who engaged in sexual relation with a woman with the knowledge of witnesses had to declare explicitly his intention of establishing with her a marital union by means of intercourse in order to make the union effective.101 In the opinion of Isaac b. Sheshet Perfet, preparations for the marriage according to the Christian customs, or a Christian marriage ceremony could not be considered as such a declaration; on the contrary, in his view, it was an evidence that they did not wish to establish marital union. If the marriage negotiations were started in accordance with the Christian customs, every subsequent act related to the marriage supposedly was meant to complete the first act; even if the groom explicitly stated otherwise. No matter that he tried to validate his betrothal with acts that had legal validity under Jewish

99 Simeon b. Zemah Duran: Tashbez, 3:47
100 Cf. bGit 81b, Isaac b. Sheshet Perfet: Responsa, no. 5
101 As it has been discussed above, in the view of certain geonim sexual relation with an unmarried woman established with the knowledge of witnesses had the legal effect of marriage. This view was refuted by Maimonides, Asher b. Jehiel (Rosh), and Solomon b. Abraham Adret. Both Isaac b. Sheshet Perfet and Simeon b. Zemaḥ Duran held however, that if the man declared explicitly his intention of marriage before witnesses, the intercourse indeed established marital union.
law; the first, Christian act related to the marriage negotiations was to be considered as a declaration of intent to form a marital union under Christian law.

In the case discussed by Simeon b. Zemah Duran, however, a formal Jewish betrothal preceded the Christian marriage, which is a completely different situation than those discussed by Isaac b. Sheshet Perfet. In the opinion of Simeon b. Zemah Duran, the Jewish betrothal could be considered as a declaration of intent from the part of the couple, namely, that they wish to establish marital union under Jewish law, even if the betrothal was invalid due to the presence of converso (that is, disqualified) witnesses. The following Christian marriage does not overrule this declaration, and it can be simply ignored. In the opinion of Simeon b. Zemah Duran, as the converso betrothed the woman before converso witnesses, he probably thought that she was his wife under Jewish law, and therefore his intimate relation with her was not a sort of licentiousness (zenut) but an act by which he meant to accomplish the marital union. Consequently, if they lived together with the knowledge of (non-convert) Jewish witnesses, all requirements of establishing marriage were fulfilled: 1) removal of the doubts concerning the nature of their intimate relationship (if it was licentiousness or a marital act) by means of the invalid betrothal before converso witnesses; 2) Jewish witnesses of their living together, considered as the witnesses of their union.

Since he betrothed her before forced convert witnesses similar to them, it is beyond doubt that their intimate relation had the purpose of accomplishing marital union and was not an act of licentiousness. And that he did not betroth her before valid (kosher) witnesses [i.e., non-convert Jews] is because in his opinion the forced converts are more kosher than the [non-converso] Jews. It is similar to what is said [...] concerning the ignorant (am ha-arez): “The vessel of an am ha-arez is unclean or clean? He said to him: Unclean. But if you say to him that it is unclean, he won’t listen to you. On the contrary, he will say to you: Yours is unclean, but mine is clean!”102 Similarly here, if the forced convert asks you, whether he is kosher or non-kosher [for testifying]; if you say to him that he is non-kosher, he won’t listen to you, on the contrary, he will say to you: You are the one who is non-kosher, but I am kosher! – because his heart is directed towards Heaven. [i.e., he is prevented from observing Jewish laws in public, nevertheless, he strives for observing them to the possible extent in private.]103

These observations regarding the self-esteem or even pride of the conversos are indicative of a certain tension that obviously existed between the converso and the Jewish communities. It is not hard to imagine that the conversos might have felt a kind of resentment

102 bHag 22b, my translation
103 Simeon b. Zemah Duran: Tashbeẓ, 3:47
towards their former brothers of faith, who disqualified them in several respects due to their failure of observing the commandments. This could have meant a serious psychological burden especially for those who indeed tried to adhere to Judaism in secret, notwithstanding all the dangers involved.

Simeon b. Žemaḥ Duran remarked that it might be objected that as the betrothal before converso witnesses was invalid, every act accomplished mistakenly on account of the first, invalid act became of no legal effect. He refuted this possible counter-argument by saying that this reasoning would hold true in case of bridal gifts sent mistakenly on account of an invalid betrothal, but not in case of intercourse.

VII.3. Conclusion

The conclusions reached by Simeon b. Žemaḥ Duran are the following: 1) if the converso betrothed the woman before (non-convert) Jewish witnesses, the betrothal is valid; 2) if the converso betrothed the woman before converso witnesses, the betrothal is null and void; 3) if the converso married the woman under Christian law, the marriage is null and void and the woman is like a concubine; 4) if the converso betrothed the woman before converso witnesses, and after the betrothal he married her under Christian law in a city where there were Jews fit for testifying, then it might be suggested that the marriage was valid.

VIII. Solomon b. Simeon Duran: Responsum no. 89: excursus on the marital status of conversos returning to Judaism

The responsum discusses the formalities the conversos had to undergo if they decided to return to Judaism. First of all however, Solomon b. Simeon Duran found it necessary to clarify that returning converts were similar to repentant Jews, and not to Gentiles accepting Jewish religion. He expounded upon the marital status of the conversos in this context.

The considerations that are relevant regarding the marital status of the conversos were discussed formerly by Simeon b. Žemaḥ Duran:

1) A Jew, even if he sinned, is still a Jew. (cf. bSanh 44a)

104 Cf. bNid 52a
105 Cf. bKid 50b
106 For the discussion of this responsum see Netanyahu 1966:45-48.
107 For the discussion of this responsum see the chapter about returning to Judaism.
2) If the betrothal of a non-observant proselyte is valid, all the more so that of a convert. (cf. bYeb 47b, bBekh 30b)

3) The descendant of a Jewish mother is a Jew, even if his father is Gentile. This ruling is proved by expounding the passage of the ten lost Israelite tribes. Solomon b. Simeon Duran’s explication about the lost tribes does not present any novelty compared to the explication of Simeon b. Žemaḥ Duran, discussed above. On the other hand, concerning the Gentile fathers Solomon b. Simeon Duran added an argument which was not previously mentioned by Simeon b. Žemaḥ Duran; namely, that “the Merciful detaches his seed from its owner,” which statement in its original context in the Talmud was aimed as an explication to the assertion that “Egyptians have no father” (ibid.), by what it is meant that due to a rabbinic prohibition their fatherhood is not recognized. The scope of this statement is widened by Solomon b. Simeon Duran to include all Gentiles.

IX. Žemaḥ b. Solomon Duran: Yakhin u-Voaz 1:75: on the marital status of a converso proceeding from an adulterous relationship

The following responsum discusses the difficult situation a second-generation converso had to face after he left Christian territory and returned to Judaism. Conversos from the second generation onwards had limited knowledge of Jewish law, and were unable to foresee all halakhic consequences of their decision of joining the Jewish people.

The inquirer presented his case in person, as it becomes clear from the text of the responsum. Žemaḥ b. Solomon Duran described in detail the antecedents of the case. Some thirty years beforehand in Algiers a Majorcan converso merchant committed adultery with a married Jewess, whose husband had been absent for years. The converso merchant moved to the house of the Jewess and they lived together openly to the indignation of the Jews of the town. The Jews tried to put an end to this relationship and “they took pains and tried to put pressure on them by different means, sparing neither trouble nor expenses.” But all their efforts were futile, as the merchant was wealthier and more influential than them, “and his hand was stronger than the ruler of the city, because he was a merchant and also because he

---

108 Cf. bYeb 23a
109 Cf. bYeb 16b-17a
110 bYeb 98a, my translation.
111 For a brief presentation of this responsum see Zimmels 1932:100-101.
112 Žemaḥ b. Solomon Duran: Yakhin u-Voaz 1:75
had spend a lot of money against the Jews [i.e., bribed the Muslim authorities], more than the Jews did in order to cross their plan.”

Time passed and the couple continued to live together, and they even had two children. The husband of the woman did not turn up during these years. Finally, the merchant decided to return to Majorca and to take the woman and the children with him. When they arrived at Majorca, the woman and the children were baptized. Some time after that news arrived at Algiers about the death of the husband, but the news did not reach the woman. Many years later, one of the sons who were born in Algiers decided to immigrate to North Africa and to return to Judaism. As the merchant engaged in the adulterous relation some thirty years before writing the responsum, it is clear that the son was a relatively young man. He returned to Judaism in the city of Constantine where he wanted to marry a Jewess. After the engagement they were told that in the opinion of Zemaḥ b. Solomon Duran the young man was a mamzer and thus prevented from marrying a Jewess. The unhappy man went personally to Algiers in order to ask Zemaḥ b. Solomon Duran to find a solution to his problem.

Zemaḥ b. Solomon Duran explained that if the converso merchant was considered a Gentile, the children born from his relationship with the Jewess (whether married or not) would have the marital status of a Jew. On the other hand, if the conversos in general were considered Gentiles, after their return to Judaism they would be proselytes, and would be permitted to marry native Jews. In both cases, although the general ruling would have been that the conversos are not Jews, this exclusionary ruling would have favored the converso youth in practice, because this ruling would have made possible for him the easiest integration to the Jewish community. Therefore Zemaḥ b. Solomon Duran asked the question “whether these meshummadim who are called anusim have to be considered as Jews or as proselytes [i.e., after they return to Judaism]? His answer was that the conversos were Jews, and he made reference to the passages of the Talmud that were mentioned in the responsa discussed formerly as well. Consequently, if the father of the converso youth, the merchant had the marital status of a Jew, his relationship with the married Jewess was adultery from the halakhic point of view, and their son was a mamzer, therefore he could not marry the Jewess engaged to him. He gave two pieces of advice to the converso:

---

113 Zemaḥ b. Solomon Duran: Yakhin u-Voaz 1:75
114 Constantine (Qusantinah): In North-Eastern Algeria, about 80 kilometers from the Mediterranean coast.
115 Person born from a relation prohibited by Torah law, like the adulterous relationship. Cf. Deut. 23:3; MT Hilkhot Issurei Biah, 15:1
116 Cf. MT Hilkhot Issurei Biah 15:3
117 Irrespective of their descent, i.e., even if the mother was a Jewess.
118 Zemaḥ b. Solomon Duran: Yakhin u-Voaz 1:75
119 Cf. bSanh 44a; bYeb 23a, 98a
1) He may marry a proselyte woman (Żemaḥ b. Solomon Duran emphasized that by proselyte he did not mean *converso*, but someone who is of Gentile descent and embraced Judaism), as the marriage of a *mamzer* and a proselyte is permitted. In this case however, the children born from this marriage would inherit the marital status of the father, and will be considered *mamzerim*.

2) He may marry a maidservant who underwent ritual immersion and accepted upon herself the prescriptions bounding for servants. For Jews this kind of marriage is prohibited, but for *mamzerim* it was made possible by a rabbinic permission, so that they could legitimize their descendants, because although the children born from such a marriage are servants like their mother, they can be freed, and after that they could marry Jewish women.

**X. Żemaḥ b. Solomon Duran: Yakhin u-Voaz 1:107: on the validity of a marriage contracted by a convert woman without divorcing from her former Jewish husband**

Voluntary conversion of one party of a married couple in theory should have led to the dissolution of the marriage. This was not necessarily complied with in practice, however. If the person converted under force, the marriage should not have been dissolved, but the couple was obliged to find a way to escape persecution and to resume their normal life as Jews. As for the Christians, they naturally did not approve of marital relation between two persons who followed different religions. From the Christian point of view, marital relation established under any other law than Christian was null and void, therefore no divorce was necessary in order to establish a new, Christian marriage.

The following responsum treats the case of a wife who converted to Christianity and married a *converso* without divorcing first his Jewish husband. The circumstances of the conversion are not specified, and it is not clear whether it occurred voluntarily or under duress. The couple finally decided to return to Judaism, so they moved to Malaga, which was under Muslim rule at that time. The Jewish community took care of their reintegration.

---

120 Cf. MT Hilkhot Issurei Biah 15:7
121 Cf. bGit 41b; MT Hilkhot Issurei Biah 12:11
122 Cf. MT Hilkhot Issurei Biah 12:11
123 Cf. MT Hilkhot Issurei Biah 15:3-4
124 For some brief references to this responsum see Netanyahu 1966:53, Orfali Levi 1982:32.
125 Cf. Gratianus de Clusion: Decretum Collectanea Paris 1547, vol. II., fols. 505b-508b
126 Malaga, a port city in Andalusia, Southern Spain, was under the control of the Muslims till 1487 when the troops of the Catholic Monarchs captured it. And that time some 100 Jewish families lived there, and some 55 other Jews lived in the nearby Vélez-Malaga. See: Beinart: “Malaga” EJ 11:817-818
and formalized their marriage under Jewish law by issuing a Jewish marriage document. But then it turned out that the first husband of the woman, whom she never divorced, was alive.

You have asked about a Jewish woman who was married [to a Jew] in Toledo (Tuletula), but she converted (hemirah datah) and married a forced convert and they had five children. After eighteen years they came to Malaga and returned to Judaism, and a marriage document was written for them as to all returning Jews (baalei teshuvah). Later on there came witnesses who testified that the first husband was alive. What did they do? They sent to him [an envoy] and [the first husband] divorced her. So they were very happy with this divorce document, but some people said to them that they did not gain anything, and that she is prohibited both to her first husband and to her second husband. And others replied that [the law prohibiting the woman to both husbands] should be disregarded, since forced converts do not have marital status. The discussion was not settled, so they asked some learned people (yodei sefer), and they answered: Check the books, and you will find that it is permitted. You have asked me to tell you the ruling concerning this matter.127

On the basis of the discussion of the case it is evident that in the opinion of Žemaḥ b. Solomon Duran the woman in question was not a forced convert but “she went and converted out of her free will.”128 The reasons and circumstances of her conversion unfortunately are not detailed in the responsum.

Žemaḥ b. Solomon Duran ascertained that a woman who engaged in an adulterous relationship became prohibited both to her husband and the person with whom she had an affair, and the children born from the adulterous relation were mamzerim.129 This meant in practice that the second husband of the woman was obliged to divorce her (as well as her first husband).

X.1. Marital status of conversos

Žemaḥ b. Solomon Duran tried to find out the reason why some argued that the woman might marry the second husband. He suggested that those who were of this view might have thought that the forced convert husband was in fact a voluntary convert, and voluntary converts were similar to Gentiles. Now, if the convert before his return to Judaism did not have marital status, their relation was not adultery, and their children were not to be

---

127 Žemaḥ b. Solomon Duran: Yakhin u-Voaz 1: 107
128 Žemaḥ b. Solomon Duran: Yakhin u-Voaz 1: 107
129 Cf. bYeb 87b; MT Hilhhot Gerushin 10:7
considered mamzerim, because the children of a Jewess and a Gentile are Jewish, and the same applies to the children of a convert woman and a Gentile. But Zemaḥ b. Solomon Duran proved with passages mentioned in the responsa formerly discussed that the conversos, even the voluntary ones were considered as Jews as to their marital status. He emphasized that this ruling held true concerning the descendants of the conversos as well.

X.2. Circumcision

Zemaḥ b. Solomon Duran discussed the issue of the lack of circumcision in the context of marriage, which might indicate that there existed an opinion according to which those whose father had been uncircumcised were not to be considered as Jews. Zemaḥ b. Solomon Duran did not explicitly mention such a view, but the fact that he found it necessary to discuss the issue of circumcision may suggest that this matter presented problems.

Zemaḥ b. Solomon Duran explained that there was no difference between conversos born from circumcised fathers and those born form uncircumcised ones, since “a Jew, even if he is uncircumcised, is regarded as being circumcised.” Zemaḥ b. Solomon Duran illustrated this statement with the following passage of the Talmud:

[One who says:] ‘I swear I won’t profit from the uncircumcised’, may profit from uncircumcised Jews, […] since ‘uncircumcised’ means: Gentile (goy).

[One who says:] ‘I swear I won’t profit from the circumcised’, may profit from the circumcised Gentiles (goyim), […] since ‘circumcised’ means: Jew. As it is written [Jer 9:25]: ‘all nations (goyim) are uncircumcised, and Israel is uncircumcised in the heart’ [but only in the heart].

Zemaḥ b. Solomon Duran remarked that this referred to those conversos whose mother was of Jewish descent: “but it is necessary that her mother should be a meshummmedet and not a Gentile woman, because if his father is meshummad or Jew, but his mother is Gentile, their child is Gentile.”

Zemaḥ b. Solomon Duran repeated the arguments advanced by Simeon b. Zemaḥ Duran and Solomon b. Simeon Duran that proved that the statements regarding the

---

130 Cf. bYeb 44a
131 Cf. Solomon b. Zemaḥ Duran: Tashbeẓ 3:47; Solomon b. Simeon Duran: Responsa, no. 89; Zemaḥ b. Solomon Duran: Yakhin u-Voaz 1:75; bSanh 44a; bYeb 23a, 47b, 98a; bKid 68b.
132 Cf. also the remarks in Simeon b. Solomon Duran: Yakhin u-Voaz 2:3, 2:19 to be discussed below.
133 Zemaḥ b. Solomon Duran: Yakhin u-Voaz 1:107
134 bNed 31b, my translation.
135 Zemaḥ b. Solomon Duran: Yakhin u-Voaz 1:107. He made reference to the passages that had been already mentioned in the previously discussed responsa as well, cf. Ex. 31:13; bKid 68b, bYeb 98a, bḤul 5a, etc.
marital status of conversos included those who committed idolatry and desecrated the Sabbath in public.\(^{136}\)

The conclusion of the discussion was that the converso couple did not differ in any sense from a normal Jewish couple, and exactly the same rules applied to them. In this case, that meant the dissolution of both marriages, and the classification of the children born from the second marriage as *mamzerim*.

**XI. Simeon b. Solomon Duran: Yakhin u-Voaz 2:3: on kohanim returning to Judaism\(^{137}\)**

The question was sent from Fez, by a certain Natan Bustay. It seeks answer to the question concerning the status of alleged kohanim (descendants of priestly families), who could not prove their descent. The original question did not survive, but some passages of it are quoted in the text of the responsum, which makes clear that the question referred to conversos of the third or subsequent generation (since according to the quoted passages their fathers were uncircumcised) “coming from the kingdoms of Catalonia, Castile and Portugal.”\(^{138}\) As an integral part of the discussion, the answer elaborates the marital status of the conversos. On the one hand, it repeats the arguments that were advanced by Simeon b. Žemaḥ Duran, Solomon b. Simeon Duran, and Žemaḥ ben Solomon Duran.\(^{139}\) As in the formerly presented responsa written by these authors, here again it is repeated that all statements about the marital status of conversos apply only in cases where the mother of the converso was of Jewish descent.

**XI.1. Returning conversos are presumed to have Jewish mothers**

Simeon b. Solomon Duran established a legal presumption concerning the pedigree of conversos that was not formerly formulated. This element of novelty is of great significance concerning the conversos’ descendants: in their case, the Jewish origin of their mother has to be presupposed. The reason is, that in the opinion of Simeon b. Solomon Duran, it is a well-known fact that the vast majority of conversos did not marry Gentile women, and they adhered to this practice during all the time that had passed from the beginning of the

---


\(^{137}\) For the discussion of this responsum see Zimmels 1932:98, Netanyahu 1966:65-68, Orfali Levi 1982:34.

\(^{138}\) Simeon b. Solomon Duran: *Yakhin u-Voaz* 2:3

\(^{139}\) Cf. bSanh 44a; bYeb 37b, 98a; bKid 68b; MT Hilkhot Ishut 4:15
persecution until his days. The number of those who did marry Gentiles was so insignificant that it could be disregarded when establishing the pedigree, and consequently, the marital status of a given converso. All the more so, since the conversos knew each other very well, and they kept count of every case of intermarriage with Gentile women:

Although some of them do intermarry with Gentiles, and they do marry the Gentiles’ daughters, but their number is insignificant; one from a city, or two from a family. And the one who does such a thing becomes alienated and despised among them, and they do not marry with his descendants, because his descendants are considered as Gentiles by them, which is in fact the [correct] ruling, since the mother [of his children] is Gentile.

Simeon b. Solomon Duran explained that the case of the conversos, whose vast majority marry only within the converso community, and whose negligible minority marry non-Jewish women, is analogous to the Talmudic precedent of the ten meat shops, out of which nine sell kosher meat and one doesn’t. The meat found in the street is presumed to be kosher, since anything separated [from a heterogeneous group] is regarded as having been separated from the majority. Similarly, according to Simeon b. Solomon Duran a converso who left Iberia in order to return to Judaism had to be considered as originated from the majority of the group of conversos, whose mothers were Jewish. Simeon b. Solomon Duran made reference to a number of further cases where the halakhah can be decided on the basis of established legal presumptions. In his opinion, similarly to these cases also the halakhic problem of the conversos can be decided on the basis of presumption, namely, that their mothers were of Jewish descent.

XI.2. Ritual purity of marital life; circumcision

Some passages of the question quoted in the responsum refer to the conditions of the marital life of the conversos:

…you have also written – I quote it – but their fathers were uncircumcised and were voluntary idolaters, and their mothers were not engaged, neither

140 “Two from a family” does not sound a negligible number at all. Surely, Simeon b. Solomon Duran did not mean it in the literal sense of the word, as this is a Biblical expression that appears in Jer 3:14 and was used extensively by mediaeval authors. In any case, when this passage of the responsum was referred to by Josef ibn Lev (16th cent., Salonika, Constantinople), the expression “two from a family” was changed to “one person out of a thousand.” Cf. Josef ibn Lev: Responsa, 1:15.
141 Simeon b. Solomon Duran: Yakhin u-Voaz 2:3
142 Cf. bHul 95a
143 Cf. bBM 5b; bHul 12a; bShebu 42b
betrothed nor [properly] married, and they did not have marriage documents, and they did not observe the precepts concerning the purity of marital life – they were born from niddah\textsuperscript{144} women and uncircumcised men!\textsuperscript{145}

Simeon b. Solomon Duran refuted these statements firstly as irrelevant to the question of being a \textit{kohen} or not; but then he disproved them also, by citing the same arguments that appear in the previously discussed responsa.\textsuperscript{146} Concerning the marital life of \textit{conversos}, Simeon b. Solomon Duran again went a step further than his predecessors. He established as a general rule that \textit{conversos}, who did not marry their wives under Jewish law, did not cohabit with them in licentious relation, but with the intention of marital unity.\textsuperscript{147} He stated also that \textit{conversos}, even their third and fourth generations, as a rule did observe the precepts concerning the ritual purity of marital life, and they did not engage in sexual relation with women in their period of menstruation (including the seven subsequent days when women are still prohibited to their husbands). It has to be emphasized that these statements were made in the context of the status of \textit{kohanim}. Purity of marital life is irrelevant as to the status of \textit{kohanim} (as it is remarked by Simeon b. Solomon Duran as well), consequently he might have permitted himself to make general statements regarding questions that emerged along the way, and these statements are not necessarily well-founded.

\textbf{XII. Simeon b. Solomon Duran: Yakhin u-Voaz 2:19: on double (Jewish and Christian) marriage\textsuperscript{148}}

The question was sent by a certain Josef Zurafa, from Valencia. It describes what is called by the inquirer the marriage custom of the \textit{conversos}, namely, that before the Christian ceremony organized in the church, they perform the marriage corresponding to the prescriptions of the Jewish law. The double, Christian and Jewish marriage ceremony was

\begin{footnotes}
\item[144] \textit{Niddah}: period unfit for marital life; woman who is in a period which is unfit for marital life (like the menstruation and the following days).
\item[145] Simeon b. Solomon Duran: \textit{Yakhin u-Voaz} 2:3
\item[146] The betrothal of a willful idolater is valid: cf. bSanh 44a; a Jew, even if he is uncircumcised, is considered as being circumcised: cf. bNed 31b, discussed by Zemah b. Solomon Duran: \textit{Yakhin u-Voaz} 1:107, etc.
\item[147] Simeon b. Solomon Duran did not specify his statement, therefore it can be supposed that it referred also to those who married their wives in the church, under Christian law. As it has been already discussed before, such a marriage was considered as evidence of the intention of licentious relationship (and not marital union) by Isaac b. Sheshet Perfet (cf. his responsa nos. 5, 6); but could have been overlooked in the opinion of Simeon b. Zemah Duran, if the couple gave evidence of their intention to marry as Jews also (cf. \textit{Tashbez} 3:47).
\item[148] See a brief reference to this responsum by Netanyahu 1966:66, n. 171a.
\end{footnotes}
dealt with by the Isaac b. Sheshet Perfet and also Simeon b. Žemaḥ Duran. Unfortunately, Simeon b. Solomon Duran did not treat the problems that such double ceremony might have raised, but limited himself to the discussion of the *conversos’* marital status.

You have asked about these forced converts who follow here this custom when they marry: that before they go to the [Christian] priest, they bring two Jews to their house, and the groom betroths her before them, and they say the blessing of the betrothal, and after that they go to the [Christian] priest and they marry by means of the Edomites [Christians] ("*al yedei ha-seirim*"). It happened recently that a woman from among the wives of these forced converts climbed down out of the window leaving behind her suckling son and her husband, and went to a place where she is [living as a] Jewess now. And she says that she wants to marry another Jew, one who returned to Judaism like herself. And they say that some learned persons said to her that she can marry [again without obtaining divorce from her husband] because the betrothals of the forced converts are null and void, since they are not circumcised. But others said that their betrothals were valid, since a Jew, even if he sinned, is still a Jew. And the problem is not resolved.

In his answer, Simeon b. Solomon Duran limited himself to the repetition of the formerly presented arguments concerning the marital status of *conversos*, and he established that their marriage was undoubtedly valid. He declared that acts connected with Jewish divorce were carried out by the *conversos* frequently and no one questioned their legality, therefore the validity of the marriage should not be questioned either: "this is proven by such everyday acts as divorce executed by converts, and their bills of divorce are considered valid, and all the later authorities agree on this." Unfortunately, Simeon b. Solomon Duran did not express his view regarding any possible consequence of the Christian

149 Cf. Isaac b. Sheshet Perfet: *Responsa*, nos. 5, 6; Simeon b. Žemaḥ Duran: *Tashbeẓ* 3:47

150 The Hebrew word "*seir*” has various meanings and connotations. Its first meaning is “hairy” and it is an adjective that applies in the Bible to Esau (cf. Gen 27:11, 23), the brother of Jacob, considered the ancestor of the Edomites (cf. Gen 36:1). It means also goat (cf. Gen 37:31; Lev 4:28); a certain pagan deity (cf. Lev 17:7, Isaiah 13:21); the land of the Edomites was called the land of “*Seir*” (cf. Gen 32:4; Judges 5:4). In rabbinical literature Edom became a synonym for Christian Rome and for Christianity in general. See Herr: “*Edom*” EJ 6:369-379

151 Simeon b. Solomon Duran: *Yakhin u-Voaz* 2:19

152 Cf. bSanh 44a; bYeb 23b, 47b; bGit 45b; bNed 31b; MT Hilkhot Ishut 4:15, discussed by Simeon b. Žemaḥ Duran: *Tashbeẓ* 3:47; Solomon b. Simeon Duran: *Responsa*, no. 89, Žemaḥ b. Solomon Duran: *Yakhin u-Voaz* 1:107.

153 Simeon b. Solomon Duran: *Yakhin u-Voaz* 2:19. In another responsum dealing with marriage (Yakhin u-Voaz 2:31), he attributed this statement to Isaac b. Abba Mari, the author *Sefer ha-Ittur*. Yet it seems plausible that the remark was originally made by Simeon b. Žemaḥ Duran. For the discussion of this issue see Tashbeẓ 3:43 in the chapter about divorce. In any case, it is not evident if the phrase as used by Simeon b. Solomon Duran in 2:19 described the actual situation in Valencia or elsewhere, or if it is only phraseology adopted from a previous author.
marriage ceremony (whether it could question the couple’s intention to establish marital union under Jewish law, or it could be simply ignored).

This answer was unfavorable for the woman in question, who was forced to leave her husband and suckling child, supposedly under duress, climbing out of the window. It is not mentioned in the responsum to where exactly the woman escaped in order to return to Judaism. But as the question was sent from Valencia it is reasonable to suppose that she did not leave Iberia. There is practically no information in the responsum about the circumstances of the separation of the wife from her husband, and neither about the willingness or unwillingness of her husband to give her a bill of divorce. One can only suppose that obtaining a divorce document from her husband was not impossible for the woman, otherwise the problem of becoming an agunah might have been mentioned by Simeon b. Solomon Duran.


The question concerns a converso of the third or fourth generation living in Iberia. His brother immigrated to Muslim territory in order to return to Judaism and married a woman there, but died without having a child. The responsum deals with levirate marriage but makes references to the marital status of the conversos in general as well. For the extensive discussion of the responsum see the chapter about levirate marriage. The considerations regarding marriage are the following:

XIII.1. The marital status of a converso is equal to that of a Jew

The answer uses the general arguments: the converso is fit for marriage; therefore he is fit for every act connected to marriage (divorce, levirate marriage, ḥalizah), because these pertain to the same category; even if he desecrates the Sabbath publicly and commits idolatry, even if he is uncircumcised. The descendants of the converts are considered Jews regarding their marital status as long as the mother is a descendant of a Jewish or convert woman. The problem of the validity of the conversos’ testimony, which would render the decision more difficult, is simply disregarded.

154 For the discussion of this responsum see Netanyahu 1966:55-65, Orfali Levi 1982:33-34.
XIII.2. Returning conversos are presumed to have Jewish mothers

The responsum repeats the novelty concerning the *haqakah* of the descendants of the returning converts, namely, that their mothers were Jews. In conformity with this *haqakah*, if someone left Christian land in order to revert to Judaism, and could not prove that his mother was Jewish, nevertheless he had to be accepted as someone reverting to Judaism (*baal-teshuvah*), and not as a Gentile converting to it (*ger*).

XIV. Conclusion

Since only about ten responsa survived that deal with marriage or elaborate the issue in detail, it is not possible to draw far reaching conclusions regarding the rabbinic authorities’ view on marriages contracted by *conversos*. It can be stated with certainty, however, that the marital status of the *conversos* was not challenged by the authorities, although the inquirers were not aware their being equal to that of the Jews. Therefore after the rabbis discussed whether the *conversos* were similar to Gentiles in this respect, they refuted this suggestion unanimously. In the opinion of the authorities, marital status of the *conversos* depended solely on their origin, or more precisely, on the Jewish origin of their mother. No other circumstance influenced their marital status; the lack of circumcision, disregarding the laws concerning purity of marital life, violation of the laws of the Sabbath and other commandments, participation in Christian worship—were all irrelevant in this respect. In this context, the rabbis discussed extensively the difference between proselytes and repentant *conversos*; and this fact indicates that these terms were confounded by the inquirers and the members of the Jewish communities.

The question of witnesses in betrothal and marriage ceremonies was not dealt with systematically in these responsa, but in the specific cases where the witnesses were *conversos*, the general agreement was that they did not qualify as valid witnesses to a betrothal or a marriage. Only Simeon b. Žemaḥ Duran formulated this view into a general ruling applied to the *conversos* as a group. On the other hand, he suggested a solution to settle the problem of the marriages contracted in the presence of *converso* witnesses. His suggestion supposed the fulfillment of three conditions: 1) Jewish betrothal in the presence of *converso* witnesses; 2)
Christian marriage; 3) the marriage of the couple should be well-known among Jews fit for testifying (publicity). It must be noted, however, that the proposal of Simeon b. Zemaḥ Duran was only hypothetical and were not connected to a specific case. Moreover, Simeon b. Zemaḥ Duran himself did not intend his suggestion as a general ruling, but as a possibility to validate marriages contracted by *conversos.*

From a historical point of view, the most interesting information the responsa contain are those referring to the *conversos’* custom of celebrating their marriages under both Jewish and Christian law. That might include a betrothal carried out in the presence of valid Jewish witnesses, or of fellow *conversos* who did not necessarily qualify as valid witnesses. Christian marriage ceremony was inevitable for the *conversos* if they wished to contract a formal marriage in Iberia, but it did not necessarily invalidate their efforts of establishing their marital union according to Jewish law as well.

---

156 The fact he did not take a definite stand is indicated by the cautious wording of his responsum: “What could be taken into consideration regarding this is that if he betrothed her before forced convert witnesses, and married her under Gentile law in a city where there are Jews living, then it may be said that he had intercourse with her with the intent of marriage, and it may be supposed that their marriage is valid. It seems to me like that.” (Simeon b. Zemaḥ Duran: *Tashbeẓ* 3:47)
Chapter 3 – Levirate marriage

Levirate marriage (yibbum) is an obligation that falls on the paternal brother1 (levir) of a Jew who married a woman but had died without fathering a child. According to the regulation of the Torah in a case like that the widow of the deceased cannot marry whomever she wishes, but should be married to a brother of his deceased husband.2 The widow is prohibited from marrying any other man. If the brother does not want to marry the widow (or the widow convinces him not to marry her), he must release the widow from the levirate tie in a formal way by performing the symbolic act of ḥalizah (loosening, i.e. the shoe of the brother-in-law).3 After that, the woman is free to marry anyone she wishes. If, for any reason, the brother-in-law does not perform either the levirate marriage or the ḥalizah, the widow becomes an agunah, that is, a woman prevented from marriage. Although the text of the Torah makes evident that refusing levirate marriage is a shameful act, yet, in the Talmud, the priority of ḥalizah over levirate marriage is under question. As opposed to the practice in Ashkenaz and France where during the Middle Ages ḥalizah became the preferred action, in Iberia and North Africa it was levirate marriage that was widely practiced. In the course of the thirteenth century, a gradual growth in the number of those Sephardic authorities who held that the commandment of ḥalizah took precedence over the commandment of levirate can be observed. This phenomenon was due to the growing influence of the French Rabbis (Grossman 2004:97-98).

Due to massive forced conversions to Christianity in 1391, fulfilling the obligations of levirate marriage became a serious problem that affected more and more families. If a woman remained Jew, while the brother of her husband was converted, and the husband died without fathering a child, in accordance with the law of levirate marriage the woman became obliged to marry the brother. However, as the brother was a Christian, the fulfillment of this obligation in practice meant dissolving the bound existing between the two parties by performing the ḥalizah. If this ceremony was not performed, the woman was prohibited from marrying again. It has to be noted, however, that levirate marriage became a really ferocious issue in the course of the sixteenth century when a great number of

---

1 Cf. bYeb 17b
2 Deut 25:5-6: “If brothers are living together and one of them dies without a son, his widow must not marry outside the family. Her husband’s brother shall take her and marry her and fulfill the duty of a brother-in-law to her. The first son she bears shall carry on the name of the dead brother so that his name will not be blotted out from Israel.”
3 The description of the ceremony can be found in Deut 25:7-10.
responsa treated this subject. A possible explanation of this phenomenon might be that until the expulsion of the Jews in 1492, the ḥalīzah ceremony was possible to be organized, since Jews and conversos were living still side by side, in the same neighborhoods. Even if the woman and the brother-in-law were not living in the same city, country, or land (for example, in case the woman had left Iberia), it was still possible, in theory at least, to arrange a meeting between the parties. Although this ceremony required the presence of three members of a rabbinical court of law, and in fact it was generally performed in the presence of ten adult Jewish males, i.e., it was a public act, it was not necessarily publicized as, for example, a marriage. It was not a social event like a marriage that inevitably would have called the Christian neighbors’ attention. In the responsa, I could not find any remark about performing ḥalīzah being dangerous for the converso brother-in-law; and the references to this practice in the Inquisitorial processes are also scarce. This might be a coincidence; but it could also be concluded that performing this particular precept did not convey such great dangers as observing other, more commonly known Jewish laws, like those connected to Sabbath, or dietary laws. In any case, after the expulsion, such arrangements became absolutely impossible. Jews in general, and among them Jewish women who were bound to their converso brothers-in-law were prohibited to enter the dominium of the Catholic Monarchs; and the conversos, similarly, were prohibited to leave the dominium of the Catholic Monarchs. Therefore in the years and decades subsequent to the expulsion, the controversy concerning levirate marriage became quite heated, and communal ordinances were accepted to regulate the problematic situation. In the decades preceding the expulsion, however, references to levirate marriage are sporadic in the responsa dealing with the marital status of conversos, and the number of the responsa treating this problem in particular is still quite limited. I have found only two questions related specifically to levirate marriage (Isaac b. Sheshet Perfet: Responsa, no. 1; Simeon b. Solomon Duran: Yakhin u-Voaz 2:31). Moreover, a long responsum written by

---

4 Encarnación Marin Padilla who studied the Inquisitorial processes from the second half of the fifteenth century in Aragón had found only two references about the precept of levirate; one detailed description of a ḥalīzah ceremony and a case when the converso brother-in-law insisted to establish sexual relation with the widow of his brother (without marriage); a proposal that was refused by the widow making references to the licentious sexual behaviour of the brother-in-law, who was also a Christian priest. Cf. Marin Padilla 1982:293-298

5 That, of course, does not mean that conversos never left Iberia after 1492, but presumably none of them risked such a journey exclusively to perform yibbum or ḥalīzah.

6 See for example the debate of Moshe b. Elijah Capsali and Binjamin Zeev (in: Binjaim Zeev: Responsa, nos. 75-76), which is not void of some passionate remarks.

7 Cf. the communal ordinances promulgated in Salonika, in 1499 and 1510 concerning marriage and levirate marriage. For the text of the ordinances see: Samuel de Medina (Rashdam): Responsa, no. 10; Zera Anashim, Even ha-Ezer, no. 53, pp. 89-90.
Simeon b. Žemah Duran (*Tashbeẓ* 3:47) about the marital status of the *conversos* deals extensively with levirate marriage. The relevant passages of this responsum will be included in the discussion.

The main considerations appearing in the responsa with regard to levirate marriage are the following:

2) whether *conversos* have marital status at all (see the detailed discussion of this question under the chapter about marriage)

3) whether the fraternal relationship of two brothers ceases with the conversion of one of them

4) whether an elder, *converso* brother is inferior in position with regard to levirate marriage to his younger, non-convert brother

5) whether the obligation of levirate marriage in case of a convert brother-in-law means actual marriage or *halizah* only

6) being anchored to a *converso* brother-in-law is an unforeseen consequence of the marriage that might nullify it retrospectively, since it was contracted without the full knowledge of the future consequences

---

8 That in practice means that the marriage was mistaken (*kiddushei taut*): “The determination of *kiddushei taut* was derived from the general principle of *mekah taut* (‘mistaken transaction’), the rabbinic ruling that a commercial transaction based on a mistake was invalid. Rabbis have applied this principle to *kiddushin*, the marital transaction. Since consent based on full knowledge of all the critical facts is a *sine qua non* of a halakhic marriage, if a woman or a man entered a marriage without all of these facts known, the marriage might be deemed invalid from its very inception. If a marriage was determined never to have been valid, then no *get* is necessary.” (Hacohen 2004:2)

9 Now Sagunto, city in the kingdom of Valencia, near to the Mediterranean coast.

10 The name that appears in the first printed edition is in later editions it is changed to . (Cf. the editions of Vilna, 1879; Jerusalem 1993)

11 Isaac b. Sheshet Perfe: *Responsa*, no. 1
unable to marry her because of the persecution which enforces conversion (gezerat ha-shemad)”12 or the younger who can either marry the widow or perform ḥalīzah.

Isaac b. Sheshet Perfet ruled that the Jewish brother should perform the ḥalīzah, because he was the one who was actually capable of marrying the woman. Therefore with respect to levirate marriage he was preferred to his brother, even if his brother was elder than him. But if the elder, converso brother had already performed the ḥalīzah, it was undoubtedly valid, “because he is considered as a Jew with respect to divorce and marriage.”13 The distinction between the two brothers was based upon practical considerations and not upon an inherent inequality between them. One of them, due to the religious persecution, could not freely follow the precepts of the Jewish law; he might have been able to perform the ḥalīzah which is a more private act than a marriage, and therefore could be performed secretly, but being a convert to Christianity he could not marry the Jewish woman. Consequently, he was in an inferior position regarding the laws of levirate marriage than his brother. The question expressly stated that levirate marriage was impossible due to the religious persecution, and the answer accepted this statement as given. Unfortunately, the responsum did not deal with the possible dangers the converso could incur due to the ḥalīzah, but both the inquirer and the respondent presumed that its execution was feasible. The underlying reason could be that in contrast to marriage ḥalīzah was a single act carried out more privately and therefore did not call the attention of the Christian authorities or potential denunciators to it. Or maybe, since the ḥalīzah abolished a certain relationship among the convert and a Jewish member of his family, it was not censured by the Christian authorities as strictly as other Jewish practices. In this case the ḥalīzah would be similar to the divorce by means of get (divorce document issued according to the Jewish laws), about which the responsa never stated to be prohibited or dangerous, their only concern being the opposition of Christian authorities to the use of the former Jewish names of the conversos in the get.14

---

12 Isaac b. Sheshet Perfet: Responsa, no. 1
13 Isaac b. Sheshet Perfet: Responsa, no. 1
14 Cf. Isaac b. Sheshet Perfet: Responsa, no. 43
II. Simeon b. Žemaḥ Duran: Tashbez 3:47: on converso levir

The responsum discusses the validity of marriages contracted by conversos. In this context, Simeon b. Žemaḥ Duran extensively treated the issue of levirate marriage as well. This topic was originally not mentioned by the inquirer at all; Simeon b. Žemaḥ Duran on his part formulated the (hypothetic) question as follows:

What should be discussed concerning this matter is if a non-convert Jew married a non-convert Jewess and he died without fathering a child, and he had a voluntary convert (meshummad) brother, is the woman bound to him by the law of levirate marriage or not?

II.1. If the marriage of a converso is valid, he is suitable for levirate marriage as well in theory, and for giving halizah in practice

In the first place, Simeon b. Žemaḥ Duran cited the Sefer Halakhot Gedolot, according to which the obligation of levirate marriage exists even in the case of a voluntary convert brother-in-law, since his marriage is counted valid; but since he is a convert, the obligation of levirate marriage in practice means releasing the widow by means of the halizah.

II.2. Kinship between a Jew and his convert brother

As the obligation of levirate marriage is based on a duty that concerns the integrity of the family by means of substituting the deceased husband by his brother, the obligation is annulled if the relationship of brotherhood is broken. It may be suggested that conversion puts an end to relation of brotherhood. Simeon b. Žemaḥ Duran enumerated the following arguments supporting this suggestion:

II.2.1. The opinion of R. Judah quoted in the Tur

Simeon b. Žemaḥ Duran cited the divergent opinions of two geonim regarding levirate marriage in case of a convert levir. According to the opinion of R. Judah the

---

15 See the discussion of this responsum by Netanyahu 1966:38-41, Orfali Levi 1982:28.
16 For the discussion of those parts of the responsum that deal with marriage see the chapter about marriage.
17 Simeon b. Žemaḥ Duran: Tashbez no. 3:47
18 Sefer Halakhot Gedolot, Hilkhot Yevamot, no. 28, p. 290. Halakhot Gedolot is a code from the geonic period.
19 Gaon, plural: geonim: head of academy in the post-talmudic period.
relation of brotherhood ceases with the conversion of one of the brothers. This view is quoted by Jacob b. Asher in his halakhic compendium:

R. Sherira gaon wrote: a woman, whose brother-in-law is a voluntary convert – since [the brother-in-law] was conceived and born in holiness, the obligation of the levirate marriage exists, and the woman cannot remarry as long as she does not obtain halizah from him. But R. Judah gaon wrote: if in the moment of the marriage the brother-in-law has been already a convert, there is no obligation of halizah. And if the husband was voluntary convert, and he died without reverting to Judaism – if the couple hasn’t got a child, the brother-in-law is not obliged to marry the widow, since [the converted husband] is not his brother, and there is no obligation of halizah either.20

Jacob b. Asher added: “I do not know, why the brother-in-law should not marry the widow of the voluntary convert, and I do not understand, what difference it makes if in the moment of the marriage the brother-in-law was already a convert or not.”21 Simeon b. Ṣemaḥ Duran remarked that Solomon b. Abraham Adret22 disagreed with R. Judah for the reason that “a Jew, even if he sinned, he is still a Jew.”23

II.2.2. “If brothers are living together” (Deut 25:5)

If a convert brother is not considered a relation any more, the obligation of levirate marriage does not apply. The temporal correlation of the marriage and the conversion has primordial importance in the argumentation of Simeon b. Ṣemaḥ Duran. According to his view, if in the moment of the marriage, both the husband and his brother were (non-convert) Jews, the obligation of the levirate marriage exists, since the existence of the obligation is determined by the moment of the marriage. If, however, in that moment one of them was already a convert, in the time of the contraction of the marriage they could not be considered as brothers, and the protasis of the Torah law “if brothers are living together”24 does not concern them. Therefore, if a couple married after having converted to Christianity, and the brother of the husband was not a convert in the moment of the marriage, he was not obliged either to marry the widow or to give her halizah. On the other

20 Jacob b. Asher (ca. 1269 Cologne - ca. 1343 Toledo): Tur, Even ha-Ezer, 157:4-5
21 Jacob b. Asher: Tur, Even ha-Ezer, 157:4-5
22 Solomon b. Abraham Adret (Rashba), 1235-1310, Barcelona.
23 bSanh 44a, my translation.
24 Deut. 25:5: “If brothers are living together and one of them dies without a son, his widow must not marry outside the family. Her husband’s brother shall take her and marry her and fulfill the duty of a brother-in-law to her.”
hand, if the brother-in-law had converted before the marriage of the non-convert couple, the woman was not bound to him in any way. This opinion differs from the codified view of Jacob b. Asher.

II.2.3. Non-observant Jews “may be cast in [to the pit],” and “need not be brought up” from it

He who comes under the category of those who “may be cast in [to the pit]” (i.e., whose destruction may be actively promoted) is not considered a brother. Simeon b. Zemah Duran explained that the converts pertained to this category, as it can be seen from the following passage of the Talmud:

R. Abbahu recited to R. Johanan: ‘Idolaters and [Jewish] shepherds of small cattle need not be brought up though they must not be cast in, but minim,25 informers, and apostates26 may be cast in, and need not be brought up.’ Whereupon R. Johanan remarked: I have been learning that the word, And so shalt thou do with every lost thing of thy brother’s [thou mayest not hide thyself],27 are also applicable to an apostate, and you say he may be thrown down; leave out apostates! Could he not have answered that the one might apply to the kind of apostate who eats carrion meat to satisfy his appetite, and the other to an apostate who eats carrion meat to provoke? — In his opinion, an apostate eating carrion meat to provoke is the same as a min.28

This passage means that a person who violates the precepts out of obstinacy is not counted as “brother.” As most of the conversos forsake Jewish faith out of fear or opportunism (which is similar to the motivation of those who cannot resist temptation), they were not considered to be similar to sectarians, who were not to be counted as “brothers.” On the other hand, this interpretation means that according to Simeon b. Zemah Duran the conversos who converted to Christianity because they despised Jewish religion were not to be considered as “brothers.”

---

25 Sectarians.
26 That is, mumarim.
27 Deut. 22:3
28 bAZ 26b
II.2.4. Lending money on interest

Simeon b. Żemah Duran quoted the view of Nahmanides according to which it is permitted to lend money for interest to the son of a non-observant Jewess, because he does not count as brother.29

II.2.5. Priests should not defile themselves for the sake of their convert brothers

A priest should not defile himself for his deceased relatives if they separated themselves from the Jewish people, i.e., if they converted. This ruling is based on the interpretation of the following verse: “Speak to the priests, the sons of Aaron, and say to them: ‘A priest must not make himself ceremonially unclean for any of his people who die, except for a close relative, such as […] his brother.” (Lev 21:1-2) In the Talmud, it is explained that the phrase “of his people” has a restrictive sense;30 if the relatives enumerated in the Torah dissociate themselves from the practices of Jewish people, the priest should not defile himself by attending, for example, their funeral. This tradition presumes that conversion annihilates family relationship. Simeon b. Żemah Duran added that corpse-uncleanness and levirate marriage pertained to the same category as far as the meaning of the word “brother” was concerned.31

II.3. Kinship between convert brothers

Obviously, in Simeon b. Żemah Duran’s view, if in the moment of contracting the marriage both brothers have already been converted, family relationship existed between them, since even the family relationships of the Gentiles were acknowledged,32 a fortiori that of the converts. This means that if the woman returned to Judaism afterwards, she could not contract a new Jewish marriage without being released by her levir, who possibly remained a converso. Simeon b. Żemah Duran did not explain here the possible consequences of this ruling, but it should be remarked, that if in the moment of the marriage, the couple have been already converted, their marriage was celebrated in all probability according to Christian ceremony (solely, or besides a Jewish ceremony), which

29 Cf. Nahmanides: Hiddushim, Bava Mezia 71b
30 Cf. bSanh 47a
31 The reason is that fraternal relations derive from the father; brothers with same mother but different fathers are not subject to the laws of levirate marriage. Similarly, the passage of Lev cited above referred to brothers from the same father, and not to brothers with the same mother. Cf.: Sifra, Kedoshim, 11:4 (p.93a); Emor, 1:8 (p.94a)
32 Cf. bYeb 62a
makes the validity of their marriage dubious, and after all, may result in the nullification of both the marriage and the levirate tie.  

II.4. If the woman had known that she would be bound to a convert levir, she wouldn’t have married at all.

This presumption is based on the following passage of the Talmud: “The woman, whose levir is affected with leprosy could be released without the act of ḥalizah, for she would not have consented to get betrothed [to the healthy husband] if she had known that this would happen [if she had foreseen the future consequences].” This sentence in its original context is intended as an absurd statement. In the Talmudic discussion, one of the authorities intended to introduce a new principle according to which if unforeseen circumstances bring about an unforeseen obligation, that obligation becomes null, supposing that if a person knew that such and such would happen, they wouldn’t have done what they did. This proposition is refuted by several examples where although an unforeseen circumstance brought about an obligation, the obligation existed nevertheless.

The case of the levir affected with leprosy is the third of such examples:

But if that would be the case, the woman, whose levir is affected with leprosy could be released without ḥalizah, for she would not have consented to get betrothed [to the healthy husband] if she had known that this would happen?! [Refusal of this objection:] In that case we all can bear witness that she was pleased in any case, as Resh Lakish used to say: It is better to live together than to live in widowhood.

That implies that it is better to dwell together with another person under all circumstances than to be a widow. Simeon b. Žemaḥ Duran refuted this argument declaring that it might be better to live with a leper than to remain a widow, but surely it is better to be a widow than to live with a convert. Consequently, the argument that if she knew that such and such would happen, she would not have done what she did – is valid in the specific case of a woman bound to a convert brother-in-law. Simeon b. Žemaḥ Duran remarked that this is an argument in favor of Judah gaon, who held that if the levir had already converted before the marriage of his brother, the widow was not obliged to obtain ḥalizah from him. In this case, the condition “if she knew that such and such would

33 About the discussion of the effect of the Christian ceremony and the problems connected with secret Jewish betrothal and marriage see the chapter about marriage.
34 bBK 110b, my translation.
35 bBK 110b-111a, my translation.
happen” does not refer to the conversion of the brother-in-law – for he has been already converted before the marriage – but to the fact that she won’t have a child, and that his husband will die before her.

II.5. Conclusion

Summing up the discussion of the issue, it can be inferred that Simeon b. Ẓemah Duran tended to disqualify some of the potential convert levirs arguing that they ceased to be brothers. In his view, as the obligation of levirate marriage becomes existent in the moment of contracting the marriage, their family relation existent in that moment was decisive.

It must be noted however, that Simeon b. Ẓemah Duran ascertained that his ruling, which made the decision of the question dependent upon the temporal correlation of the marriage and the conversion, was intended as a ruling in theory (“le-halakhah” as opposed to “le-maaseh” which is a ruling that should be followed in practice). With this remark he restricted the applicability of his legal opinion concerning the question, establishing that he suggested this ruling in principle, but because of certain considerations he left unexplained, he refrained from implementing it in practice. The reason might be that his interpretation was unprecedented and was not backed up by other rabbis (that is why Simeon b. Ẓemah Duran did not refer to other authorities who might have shared his view). By suggesting the application of this consideration, namely, the decisiveness of the temporal correlation of marriage and conversion, Simeon b. Ẓemah Duran offered a possibility to resolve the problem of a significant number of women anchored to convert levirs.36

---

36 According to Netanyahu this responsa proves that in the view of Simeon b. Ẓemah Duran the conversos were “enemies of the Jewish people”: “It is obvious, then, that Duran completely rejected the idea of “brotherhood” between Jews and Marranos, except in a purely ethnic sense, and that he favored separation between the groups as the only way out of a harmful entanglement. As he saw it, the Marranos ought to be treated realistically according to what they actually were – not unwilling, but willing converts, and consequently, traitors of the Jewish religion and the Jewish people.” (Netanyahu 1966:41-42) This kind of argumentation is typical of Netanyahu; he interprets passages of the responsa independently from their original context. Although Simeon b. Ẓemah Duran in fact raised the possibility of disqualifying some converts from being levirs, he did not state that converts, as a whole, were the enemies of the Jewish people; neither did he say that they were all willful converts. Moreover, in all probability his intention was to find a solution by means of which at least some women bound to their converso levirs could remarry without obtaining ḥalitza first. However, he did not disqualify the converts as a group from being levirs, not even in theory.

The responsum answers a question concerning levirate marriage but discusses quite extensively the marital status of the *conversos* in general as well. The responsum was sent to a certain Haggai b. Solomon b. Alzuk, to Mostaganem.

The question comprises a kind of historical introduction or evaluation of the situation of the *conversos*. It describes that some ninety years before massive conversions occurred in the Iberian Peninsula, and that the *conversos*, although they could have left Iberia and return to Judaism in Muslim territory, choose to stay there:

It happened that some ninety years ago, or more, in the land of the Christians because of the frequent persecutions (*gezerot*) and forced conversions (*shemadot*) a lot of men, women, and children converted (*nishtamdu*). And this generation, which converted (*nishtamed*) although they could have fled to the land of Ishmael [i.e. Muslim territory], which is close to them, in order to return to their first faith, they did not flee; but they remained as Gentiles, and they begot sons and daughters being as Gentiles. And also their sons, who descended from them, remained as Gentiles all of their life. Afterwards their sons, some from the third generation, and some from the fourth generation, awake to return to the God of Israel, and they fled from the land of Edom [i.e., the Christians] to the land of Ishmael, and they returned to their first faith, and these persons, when they were still Gentiles, most of them married women of their kind, that is, voluntary convert women (*meshummadot*) of Jewish origin, and their minority married Gentile women of Christian origin. And now it happened that someone came from the third or the fourth generation and became a proselyte ("*nitgayyer*”) and after that he married a woman, but he died without a child. And I ask if the woman is bound to the levir, since there remained a convert (*mumar*) brother of him in the land of the Christians, who was born as a Gentile, similarly to his father.

It is noteworthy that the question uses the term “*nitgayyer*” (to become a proselyte) with respect to the returning *converso*. It is evident that this expression is used loosely, since the *converso* in question could not have been a proselyte, because in that case his brother would not have been considered a levir. That indicates that these terms were not used consequently, and whatever the process of his reintegration to the Jewish community

---

37 For the discussion of this responsum see Netanyahu 1966:55-65, Orfali Levi 1982:33-34.
38 For the discussion concerning marriage and marital status in general, see the chapter about marriage.
39 Mostaganem is a port city in Algiers, about 90 km East from Oran.
was, the inquirer called it “giyyur,” like the process Gentiles have to undergo if they wish to embrace Jewish faith. Simeon b. Solomon Duran established a legal presumption (hazakah) regarding the descent of the returning conversos in general. According to it, if a converso left Christian land with the intention of returning to Judaism, even if he could not prove that his mother was of Jewish origin, he had to be accepted as a non-observant Jew reverting to Judaism (baal-teshuvah), and not as a Gentile converting to it (ger).41

It is also evident from the wording of the text that the terms “meshummad” and “mumar” were used synonymously; and that the conversos who were baptized obviously by force (because of “the persecutions (gezerot) and forced conversions (shemadot)”42) are nevertheless called meshummadim (voluntary converts). That, in my opinion, does not mean necessarily that Simeon b. Solomon Duran treated them as such since they remained in Iberia, but maybe because the widely used expression for forced conversion is “shemad,” and a person converted under the duress of “shemad” might be called “meshummad” notwithstanding the exact meaning of this term (that is, voluntary convert).

The answer discusses lengthily the marital status of the conversos. An equally long discussion is dedicated to the problem of levirate marriage. The argumentation is focused on the question whether the convert levir counts as a brother or not. Simeon b. Solomon Duran several times referred to the ruling of his grandfather, Simeon b. Zemaḥ Duran regarding this issue, and he repeatedly stated that Simeon b. Zemaḥ Duran had demonstrated that the converso undoubtedly had to be regarded as a brother, and the fraternal relationship did not cease due to the conversion of one of the brothers. However, as it has been presented before, Simeon b. Zemaḥ Duran in his responsum no. 3:47 enumerated several arguments supporting the opinion that conversion annuls the relation of brotherhood, and he did not refute all of them. On the contrary, he held that under specific circumstances, a convert did lose his status of a brother. Moreover, he brought arguments that supported the view of Judah gaon, according to which the temporal correlation between the contracting of the marriage and the conversion of the levir was a decisive factor. On the other hand, Simeon b. Solomon Duran (the author of Yakhin u-Voaz 2) presented only those authorities who refuted the view of Judah gaon43 without mentioning

41 The same legal presumption was formulated by Simeon b. Solomon Duran in Yakhin u-Voaz 2:3. The case of the returning conversos is compared to the passage of the Talmud about butchers’ shops selling kosher and non-kosher meat, cf. bḤul 95a. For the extensive discussion of this issue see the presentation of Yakhin u-Voaz 2:3 in the chapter about marriage.
42 Simeon b. Solomon Duran: Yakhin u-Voaz 2:31
43 Cf. the opinion of Solomon b. Abraham Adret quoted in Vidal mi-Tolouse: Maggid Mishneh, Hilkhot Yibbum we-ḥalizah 1:6 and quoted in Simeon b. Zemaḥ Duran: Tashbez 3:47 also; Jacob b. Asher: Tur,
any of the arguments brought up by his grandfather. The reason might be that Simeon b. Solomon Duran was aware of the fact that his grandfather, Simeon b. Zemaḥ Duran did not intend his argumentation as a ruling in practice, but only as a theoretical possibility, and therefore Simeon b. Solomon Duran considered it as irrelevant to the case under discussion.

III.1. A brother who converts does not cease to be a brother

Simeon b. Solomon Duran ascertained that if one of two Jewish brothers converted, he still had to be considered as the brother of the other one; the relation of brotherhood did not cease because of the conversion of one of them. Thus Simeon b. Solomon Duran inferred that a converso brother is fit for being a levir. He mentioned the same passage of the Bible that was interpreted by his grandfather, Simeon b. Zemaḥ Duran beforehand, but in the opposite sense. Simeon b. Zemaḥ Duran said that if one of the brothers converted, then the protasis of the Torah law ―if brothers are living together‖ (Deut 25:5) ceased to describe their situation, as they are no longer “living together.” Consequently, the apodosis “her husband's brother shall […] marry her” (ibid.) loses its validity. As opposed to the view of his grandfather, Simeon b. Solomon Duran put the emphasis solely on the first words of the protasis: “if brothers” saying that the only condition implied in this sentence is brotherhood, i.e. in the biological sense, any other nature of their relationship described by the phrase “are living together” does not count as a the protasis of the conditional sentence.

III.2. Even those conversos who were born as Gentiles were born in holiness

The aim of this statement is to settle every possible doubt concerning the marital status of the converts that could be raised due to the fact that the conversos from the second generation onwards were not born in families observant of the Jewish law. Simeon b. Solomon Duran discussed this matter in the context of levirate marriage,
although these considerations are relevant to the marital status of the *conversos* in general. His argumentation is a kind of *reductio ad absurdum*, according to which if it was accepted that the *conversos* hadn’t been born in holiness, they would have been similar to proselytes, and in this case, they would have been permitted to marry their sisters, as the family relationships of the proselytes cease with their conversion to Judaism, and therefore in theory, they are permitted to marry their former sisters.\(^\text{46}\) However, it was evident that the descendants of the *conversos* were not permitted to marry their sisters. Therefore they were not similar to Gentiles embracing Judaism, and although the descendants of the *conversos* were born in conditions similar to those of the children of the Gentiles, they still were born in holiness.

**IV. Conclusion**

The chapter presented *halakhic* problems that appear in the responsa regarding the obligation of levirate marriage with converts. This obligation in practice meant the releasing the deceased brother’s widow by means of performing the ceremony of *ḥalizah*. All of the authorities agreed that *conversos* had a marital status similar to that of the Jews and therefore they were fit for levirate marriage in theory, and for giving *ḥalizah* in practice. The only question controversial to a certain extent was whether conversion put an end to fraternal relationship between brothers. If the convert brother was not considered a relation any more, evidently he would be disqualified as a potential *levir*. This suggestion was discussed by two of the three authorities. In the opinion of Simeon b. Žemah Duran, the disqualification of the convert brother-in-law on the basis of the argument that he ceased to be a brother might be valid in a certain case, namely, if at the moment of a Jew’s marriage his brother was already converted. However, Simeon b. Žemah Duran made it clear that he did not intend this ruling as a *halakhah* to be followed in practice. His grandson, Simeon b. Solomon Duran, on the other hand, reasoned in favor of the existence of the kinship between a Jew and his *converso* brother regardless the circumstances, like the temporal relation of the conversion and the contracting of the marriage. In short it

\(^{46}\) In practice, however, they are prohibited to do so, but not because their kinship would be recognized, but in order not to dishonour Judaism. As Simeon b. Solomon Duran explained, if their marriage was permitted, they could say that being Gentiles they were subject to more strict moral requisites, since as Gentiles they were forbidden to marry their sisters. This supposition would be dishonourable for the Jewish faith.
could be said that in practice, none of the authorities held that a woman might be released from the bond of levirate without performing the ceremony of ḥalizah.

It has to be noted that the number of the responsa regarding levirate marriage in the period under discussion is very limited, especially compared to the number of responsa written on this subject in the decades after the expulsion. Apparently this issue became more urgent after the expulsion of the Jews from Iberia, when a lot of women who emigrated to North Africa were unable to remarry because they were bound to their converso brothers-in-law who remained in Iberia. After the expulsion, performing the ḥalizah in such cases was practically impossible, which led to the revaluation of the former practice based on the decisions that were written in the fifteenth century.
Chapter 4 – Divorce

The conversion of an individual naturally affected family relationships as well. As forced conversion generally was imposed upon communities as a whole, in most cases entire families converted.\(^1\) This is not to say of course that all members of an extended family were necessarily baptized by force during riots causing massive conversions, but households or married couples were likely to undergo forced conversions together. However, it could happen that a couple became separated by conversion if one of them was baptized and the other was not. In such cases if they wished to remain together, they either had to leave for a land where they could both practice Judaism openly, or the one who had not been converted yet had to accept baptism. The other possibility would have been to continue conjugal life in a mixed marriage, but this was not tolerated by the Christian environment in general. Although cohabitation not sanctified by the Church was an existent phenomenon in the society of the Late Middle Ages, but not a real option for those who as recently converted, or as members of a marginalized minority were constantly under the watchful and frequently hostile eyes of their Christian neighbours.\(^2\)

If the couple decided to break off, the woman got to a difficult situation in case she wished to remarry under Jewish law. In order to do so she had to leave Christian territory with or without her children (if she had any), establish herself in a wholly new environment, and be able to present a get (divorce document) acceptable for the rabbinical court of law testifying that she was not bound to her former husband any more. Also if both of them were baptized, eventually only one of them decided to leave Christian territory, which led to the same problems as the ones enumerated above. The fact that in the responsa only cases of women wanting to obtain divorce from their baptized husband are treated follows from the nature of Jewish law that did not grant equality to genders: if the woman converted and wanted to stay Christian, the husband remaining Jewish (or returning to Judaism) could marry another woman without any difficulty, therefore cases like that are not dealt with in the responsa, since they did not lead to a halakhic problem. This should be remembered

\(^1\) It is important the recall that collective, literally forced conversions that confronted the communities with the option of baptism or death happened only during the riots of 1391 and in Majorca in 1435. The massive conversions of the 15\(^{th}\) century were motivated by political, social and psychological pressure, but were not caused by imminent threat of death.

\(^2\) It has to be remembered that before the foundation of the National Inquisition in 1481 the Papal Inquisition (established by George IX in 1230-1232) already has been operating in Iberia. About marital life, sexual relations and related issues in Mediaeval Iberian Jews, see Assis 1988.
otherwise one would get the erroneous impression that women were more eager in returning to Judaism than men, which is not the case. Summing up the possibilities a couple had if one of them converted: a) the party remaining Jewish could accept baptism; b) they could emigrate together to Granada or North-Africa and live as Jews; c) the party adhering to Judaism could emigrate alone, in which case the woman had to obtain a Jewish divorce from the husband staying behind, so that she could remarry. This last point is the one discussed in the responsa, since only this constituted a halakhic problem.

It is needless to say that obtaining a valid divorce document was not at all simple. It needed a competent person to write it, witnesses to sign it, and eventually an agent to deliver it to the woman. Leaving aside halakhic considerations one should ask whether convert husbands were ready to write (or at least, sign) such documents connecting them to their former faith at all; whether witnesses were willing to participate; whether convert witnesses and husbands were not afraid of using their former Jewish names; whether the document could be delivered to the wife; whether there remained any connection between them at all if great distance separated them. Divorce documents and arrangements connected with divorce apparently are rarely if ever mentioned in inquisitorial processes. Also the number of the responsa dealing with this problem is quite limited, and the descriptions of the cases under question generally lack details.

I. Divorce according to Jewish Law

Dissolution of Jewish marriage is possible by handing over a divorce document by the husband to his wife. The basic formal requirements of this act are referred to in the Torah and were elaborated by the rabbinical authorities. According to Maimonides there are ten requisites deduced from this passage which are indispensable for the validity of the divorce document: 1) the husband should divorce his wife by his free will; 2) he should divorce her by means of a written document; 3) it should be stated explicitly that the get severs the relationship between the husband and the wife; 4) it should be stated explicitly that the get severs the relationship between the husband and the wife; 5) the document should specify

---

3 For example, I could not find any reference to inquisitorial processes mentioning divorce in Levine Melammed 1999 presenting the life of Castilian crypto-Jewish women in the 14-16th centuries based on inquisitorial documents.
4 Cf. Deut 24:1
the husband’s and the wife’s name; 6) the get should be complete and elaborate, lacking only the act of handing it over in order to be effective; 7) it should be given to the wife; 8) it should be given her in the presence of witnesses; 9) it should be given her with the intention of divorce; 10) it should be given her by the husband or by his agent.® Rabbinical sources include other requirements, such as those concerning dating and signatures of the witnesses. The Mishnah enumerates five categories of those who are unfit for writing the divorce document, among them the Gentiles.® With respect to the issue of conversos an important and much quoted statement made by Maimonides establishes that a convert is like a Gentile® and it may be deduced from this statement that he is unfit for writing the divorce document.

Divorce becomes effective when the get reaches the hand of the wife. If for some reason the husband cannot deliver the get personally, he can appoint an agent for the delivery, who conveys the divorce document to the wife. On the other hand, the wife can appoint an agent for acceptance who can receive the get on her behalf. In this case the divorce becomes effective when the get reaches the hand of the agent. If the husband is unable to make the arrangements for the divorce himself, he can appoint a scribe, witnesses and an agent of delivery to settle the whole process of the divorce. In this case the husband must state his intention of divorce in the presence of the scribe, the witnesses and the agent by saying “write and give a get to my wife.” The get in absence originally was not meant to solve problems emerging due to religious persecutions, but a reaction to situations arising from the lasting separation of husband and wife due to the engagement of the latter in such activities as e.g. long distance trade. These arrangements however became of paramount importance in times of religious persecutions when couples easily became separated by the vicissitudes of the circumstances.® It was not infrequent that one of them

® Cf. MT Hilkhot Gerushin 1:1
® Cf. bGit 2:5
® MT Hilkhot Gerushin 3:15: “Everyone is suitable for writing a get, with the exception of five: a Gentile, a servant, a deaf-mute, a mentally retarded person and a minor. […] A Jew who becomes a voluntary convert (nishtamed le-avodah zarah) or violates the laws of Sabbath in public, is like a Gentile in every respect.” It has to be noted here that a voluntary convert is not equal to a forced convert, and that the conversos and their descendants did not come under the category of voluntary converts inevitably even if their adherence to Judaism was questioned more and more with the lapse of time.
® Cf. for example Simeon b. Solomon Duran: Yakhin u-Voaz 2:19 discussing the case of a woman who escaped conversion by climbing out of a window leaving behind her suckling son and her husband, and wanted to marry again without obtaining a get from her husband. Isaac b. Sheshet Perfet: Responsa, no. 14 treats the case of a betrothed girl whose bridegroom left for Muslim territory by ship, while the girl remained with her family in Majorca. Žemah b. Solomon Duran: Yakhin u-Voaz 1:107 discusses the case of a woman who was baptized and then left her husband without divorcing him. She married a forced convert and they lived together for 18 years. Finally they decided to return to Judaism together and to establish their marital union according to Jewish law, and they asked the first husband to write a get for the woman. (For the
decided to leave the land of persecution and to immigrate to another country while the other remained there, in which case, if they could not arrange the divorce before their separation, the *get* had to be sent with an agent.

The problems that emerge in the context of divorce documents are the following: the capacity of the *conversos* to bear witness; names used by *conversos*, which were frequently Gentile ones; the capacity of the *conversos* to write the divorce document.

The following discussion will present responsa concerning divorce written by Isaac b. Sheshet Perfet, Simeon b. Žemaḥ Duran (*Tashbez*), and Žemaḥ b. Solomon Duran (*Yakhin u-Voaz* 1). Responsa concerning this issue are quite scarce compared to the amount of responsa written regarding other issues of marital status, such as marriage and levirate marriage. The problems related to divorce appear in all but one of the responsa written by the discussed authors as questions concerning the validity of the divorce document. The one exception discusses whether a woman is entitled to receive the sum fixed in her marriage document for case of divorce, if she had spent too much money on escaping from forced baptism.

**II. Isaac b. Sheshet Perfet: Responsum no. 11: on converso witnesses**

The responsum was sent to Amram Efrati b. Marwan, possibly to Oran. It concerns the validity of a *get* the witnesses of which were *conversos*. The *get* was issued for a woman, herself a convert, who managed to leave the Iberia and to return to Judaism in North Africa. It is not stated in the responsum explicitly, but it seems to be most probable that her former, *converso* husband remained in Iberia. Isaac b. Sheshet Perfet discussed in this responsum extensively the *conversos’* capacity of bearing witness; the notion of compulsion; and the judgement on forced conversion in general. The question goes as follows:

---

9 Discussion of these responsa see the chapter about marriage. Furthermore, see below Simeon b. Žemaḥ Duran: *Tashbez* 2:176, which deals with the litigation between a husband who managed to escape forced conversion, and his wife who was forcibly baptized by the rioters who plundered their home.

10 For the discussion of this responsum see Netanyahu 1966: 29-31. Netanyahu however limits himself to presenting the passages referring to informers, and *conversos* staying or leaving Iberia, without even mentioning the subject of the responsum, let alone the actual question, or any part of the halakhic discussion. See also some brief references by Orfali Levi 1982:26.

11 Responsum no. 8 written by Isaac b. Sheshet Perfet was sent to the same person. The inscription of that responsum contains the indication of the place.

12 The expression *ereẓ ha-shemad* (land of forced conversion) and the whole context of the responsum indicate that the couple lived in Iberia.

13 Otherwise the husband could have easily issued a new *get* in North Africa, thus solving the problem.
You have asked about a forced convert woman who was divorced by her forced convert husband, and the witnesses of writing, signing and delivering the get were forced converts. That woman by the grace of God and by her own efforts managed to escape from the land of forced conversion (ereẓ ha-shemad), and came to the land of Ishmael [Muslim territory] so that she may serve God without fear. And you said that the legal presumption concerning the witnesses was that they were fit when among the people of the Name [i.e. the Jews], and unfit, when among Gentiles. Some of them were unable to leave [Iberia] for a number of reasons. You cannot decide whether the forced converts pertain to the category of “the wicked ones of Israel,” who are disqualified from bearing witness by Torah law, if it becomes clear that they are remaining there because of financial reasons […] And if you said that the forced converts pertained to the category of wicked for the sake of gain, [I would ask] whether all of them pertain to this category or whether we could except some of them who keep themselves away from transgression as far as they can…

II.1. Whether those who commit transgressions under compulsion pertain to the category of “the wicked ones of Israel”

The inquirer quoted a passage from the Iggeret ha-Shemad (Letter about the forced conversion) written by Maimonides on the occasion of the Almohad persecution that affected al-Andalus and North Africa. In the Iggeret ha-Shemad Maimonides exposed his views on the tactics to be followed by forced converts during the persecution, and he attacked harshly the opinion of a contemporary authority who held that those who under coercion admitted that Muhammad was the prophet of God denied the whole Torah, and they were consequently unfit for witnessing. This letter (iggeret), which is classified as such because it differs in several respects from the genre of responsa, can be divided in two main parts. One that contains practical, moral, even political or rhetorical arguments; and another which follows the method of the halakhic discussion more closely, i.e. operates with halakhic arguments. The first part, however, makes abundant references to aggadic material or historical precedents known from the Bible or the Talmud. The passage referred to in the question is from the first part:

14 Isaac b. Sheshet Perfet: Responsa, no. 11
15 It seems certain that this refers to the Muslim form of declaring one’s belief, i.e. the šahāda, by the pronouncement of which one accepts the Muslim religion.
16 About the criteria for the distinction between the so-called letters and the responsa, see the introduction of Shilat 1995: vol.1 8-9 to the letters of Maimonides.
It is well-known what happened to Israel in the days of Nebuchadnezzar, the wicked, that everyone in Babylon bowed to the idol except for Hananiah, Mishael and Azariah [...] and maybe the craftsmen and the smiths were among those who bowed to it if they were in Babylon, but we have never seen anyone who called them wicked or Gentiles or held them disqualified for bearing witness, and God – may He be exalted – did not blame them for committing idolatry, since they were compelled.

The inquirer to whom responsum no. 11 of Isaac b. Sheshet Perfat was sent observed that the words of Maimonides called for interpretation and he certainly meant that the craftsmen and the smiths were not called wicked since they repented and did penance, but until their repentance they were undoubtedly deemed unfit for testifying and pertained to the category of “the wicked ones of Israel.” He based this observation on the apparent contradiction between the above quoted passage of the *Iggeret ha-Shemad* and a ruling that Maimonides himself emitted in the *Mishneh Torah*:

The masters did not need to enumerate the informers, the epicureans and the converts (mumaram) among those who are unfit for bearing witness, because they enumerated only the wicked ones of Israel, but these persons who are to be cast [into the pit], these renegades (kofrin) are less than Gentiles, because the Gentiles are not to be cast into [the pit] and not to be pulled out [from it], and the righteous among them will have part in the world to come. However, these who are to be cast [into the pit] and who are not to be pulled out [from it] won’t have part in the world to come.

The fact that the inquirer raised this argument and interpreted the words of Maimonides in this manner suggests that he did not fully understand the purpose and massage of the *Iggeret ha-Shemad*, since he committed exactly the same error as the authority against whom the letter was directed. Namely, he did not differentiate properly between forced converts and voluntary apostates.

---

17 The craftsmen (harash) and the smiths (masger) mentioned in the Bible (II Kings 17:2) are identified in bGit 88a with the scholars.

18 Shilat 1995:41. The responsum does not contain the full text of the passage mentioned above, therefore I decided to quote it from the edition of the *Iggeret ha-Shemad* for the sake of better comprehension.

19 Concerning the expression those who “may be cast into [the pit] and need not be brought up” cf. bAZ 26b. See the more extensive discussion of the issue in the chapter about levirate marriage, *Tashbez* 3:47. The expression refers to those whose ruin is desirable and may be promoted actively. The lot of those who “need not be brought up though they must not be cast in” (bAZ 26b) is indifferent, however; a Jew should neither pressure, nor prevent their death.

20 MT Hilkhot Edut 11:10

21 As Maimonides sarcastically put it: “This astute man cannot differentiate at all between a man who is not observing the Sabbath because [he is threatened by] the sword, and another, who is disregarding it by his own will.” (Shilat 1995:32)
The answer presents the legal considerations concerning transgressions committed under coercion in general, and discusses lengthily the practical consequences of such transgressions with regard to attestation. The notion of coercion is treated in detail and some general observations are made regarding the conversos’ morals and attitude.

Isaac b. Sheshet Perfet analyzed systematically the problem of transgressions committed under coercion. According to his explication a person forced to violate any law of the Torah, even if he commits idolatry, does not become disqualified from witnessing, since “he was forced [by an accident, or by the circumstances, and has not acted willfully] and [he who acts under] compulsion is exempted by God”\(^\text{22}\) and “if out in the country a man happens to meet a young woman […] and rapes her […] do nothing to the woman.”\(^\text{23}\) If he violates a precept that should be observed even at the expense of his life,\(^\text{24}\) then he transgresses the positive commandment of “Love the Lord your God with all your heart and with all your soul and with all your strength.” (Deut 6:5). If he commits a transgression of this kind publicly (that is, in the presence of ten adult Jewish males), he violates a further positive commandment: “…I must be acknowledged as holy by the Israelites” (Lev 22:32) and also a negative one: “Do not profane my holy name…” (ibid.). In spite of this, he is still fit for testifying, since he does not transgress the law by his own free will, but under compulsion. Isaac b. Sheshet Perfet proved this statement by making reference to the ruling of Maimonides and Solomon b. Abraham Adret. Maimonides expounded the regulations concerning testimony in Hilkhot Edut:

...wicked ones are unfit for bearing witness in accordance with the law of the Torah, because it is said: “You shall not put your hand with the wicked to be a false witness”\(^\text{25}\) […] What does “wicked” mean? Everybody who commits a transgression the penalty of which is lashes is wicked and unfit [for witnessing], since the Torah called wicked those who are liable to punishment of lashes, as it is said: “if the wicked is to be beaten”\(^\text{26}\) – and it is needless to say that he who is liable to capital punishment by the rabbinical court of law is disqualified...\(^\text{27}\)

\(^\text{22}\) bBK 28b, my translation.
\(^\text{23}\) Deut 22:25-27: “But if out in the country a man happens to meet a young woman pledged to be married and rapes her, only the man who has done this shall die. Do nothing to the woman; she has committed no sin deserving death. This case is like that of someone who attacks and murders a neighbor, for the man found the young woman out in the country, and though the betrothed woman screamed, there was no one to rescue her.”
\(^\text{24}\) There are three such commandments that should not be violated even in case of danger of life: the prohibitions concerning idolatry, murder and illicit sexual relations. Cf. bSanh 74a-b
\(^\text{25}\) Ex 23:1, my translation.
\(^\text{26}\) Deut 25:2, my translation.
\(^\text{27}\) MT Hilkhot Edut 10:1-2
Isaac b. Sheshet Perfet contrasted this ruling with the following regulation of Maimonides that appears in Hilkhot Sanhedrin:

The person who under coercion committed a transgression for which he would be liable of capital punishment by the rabbinical court of law is not executed, even if he violated a precept that should be observed even at the expense of his life, even if he profaned the Name. In case he was compelled to do so, he is not to be killed, as it is said: “do nothing to the woman” (Deut 22:26) – this is a warning for the court of law, that they shall not punish the forced ones.28

The conclusion of Isaac b. Sheshet Perfet is that there is no contradiction between the two regulations, but the second ruling restricts the applicability of the first one. It goes without saying that if a person liable to capital punishment is exempted, then he who is liable to punishment of lashes only is all the more so exempted. Maimonides did not say it expressly, but Isaac b. Sheshet Perfet deduced that if the person in question is exempt, than he is obviously fit for testifying also.

The other authority quoted by Isaac b. Sheshet Perfet in order to prove his position is Solomon b. Abraham Adret29 according to whom he who violated the law under coercion, in order not to be killed, was “a Jew, even if he sinned”30 and was not liable to punishment, since it is written: “You shall keep my laws and statutes, which a man shall do and he shall live by them”31 – but shall not die by them, as this precept is explained in the Talmud.32

Isaac b. Sheshet Perfet supported this view further with a passage taken from the Torat Kohanim according to which it is written regarding him who sacrifices his son to Molech (a Gentile deity): “I myself will set my face against him” (Lev 20:5) – but only in case he did it deliberately and consciously, not if he did it unintentionally, or under coercion, or by mistake.33

Isaac b. Sheshet Perfet emphasized that these rulings applied to those who committed transgressions exclusively in case of emergency, when their life was in danger. Those however, who violated a precept of the Torah when they were not exposed to

28 MT Hilkhot Sanhedrin 20:2
30 bSanh 44a, my translation.
31 Lev 18:5, my translation.
32 Cf. bYoma 85b
33 Cf. Sifra, Kedoshim 10:13 (Torat Kohanim, the title used by Isaac b. Sheshet Perfet is an alternative name of Sifra, a halakhic Midrash to Leviticus.)
imminent danger, in the privacy of their homes for example, where Gentiles could not see them, were not to be included in this category. If a person, who had been forced to abandon Jewish law, but was obviously capable of observing certain precepts in private violated one of the precepts making liable to punishment of lashes, then he became disqualified for witnessing.

II.2. *Conversos remaining in Iberia got used to transgress Jewish law*

After the general observations presented above, Isaac b. Sheshet Perfet discusses the specific case of the *conversos*. Due to their peculiar historical circumstances, the *conversos* formed a special subgroup of apostates who differed in several aspects from the renegades or transgressors mentioned in the quoted sources. As Isaac b. Sheshet Perfet remarked, the most important difference was that the forced conversion caused a permanent compulsion, under which the *conversos* were forced to renounce their religious obligations definitively. Therefore it could be supposed that they became used to violate Jewish law, and in spite of the fact that in the beginning they committed transgressions only under real pressure and in order to save their lives, in the course of time they got accustomed to Christian ways of life. Consequently, it could be assumed that they did not adhere strictly to Jewish faith even if it was possible, and they willingly renounced the observance of certain precepts:

Therefore these forced converts (*anusim*), above whom has passed the sword of the forced conversion (*herev ha-shemad*), and who remained for a long time among the Gentiles who decreed the forced conversion (*gozrei ha-shemad*), and did not flee to another country where they could serve God without fear – it is preferable to inquire about them exhaustively. Because some among them had the possibility to leave that country and to escape from the forced conversion, but since they converted, although the beginning of the conversion took place under compulsion, afterwards they cast off the heavenly yoke and tore off the reins of the Torah, and now they are following the laws of the Gentiles willingly.\(^{34}\)

This means that it could not be automatically supposed that the *conversos* were adhering to Jewish law in secret; consequently there was no established legal presumption (*ḥazakah*) regarding their *halakhic* status. Each case had to be decided according to the attitude of the specific persons involved. The investigation concerning the behaviour of the

\(^{34}\) Isaac b. Sheshet Perfet: *Responsa*, no. 11
**conversos** was still feasible in this age, when Jewish communities existed in Iberia. It was possible to ask representatives of the nearest Jewish community to give a testimony concerning the person in question, and to send it to the interested parties. Of course this procedure took time and was not always realizable. An example of how such an inquiry proceeded can be found in two responsa of Simeon b. Zemah Duran (nos. 3:40; 3:43) that will be discussed later.

**II.3. Converso informers**

Responsum no. 11 by Isaac b. Sheshet Perfet contains a rather heated onslaught on those *conversos* who after abandoning the Jewish faith became the enemies of their former coreligionists. They threatened both Jews and *conversos* secretly observing Jewish law, and informed against them the Christian authorities. It is important to note that Isaac b. Sheshet Perfet mentioned particularly that informers from among the *conversos* themselves used to denounce those converts who intended to leave the Christian territories where they were subject to persecution. This is not a negligible detail, since most halakhic authorities discussed the issue of remaining in Iberia or leaving it; and they agreed that this was the criteria that determined whether a *converso* was to be held for a voluntary or a forced convert.\(^{35}\) The Christian authorities prohibited the converts from leaving their dominium for theological reasons (not to mention other, financial and political reasons), as it was supposed that they would return to their former faith if they left the Christian kingdoms. Therefore leaving the land where they were under persecution and returning to Judaism meant more difficulties than the hardships of emigration in general. However, the responsa do not contain much information about the practical aspects of the emigration. As to the dangers involved, it is remarkable the observation by Isaac b. Sheshet Perfet concerning the *conversos* who were forced in the beginning, but later got used to their new conditions and followed the laws of the Gentiles by their own will:

They pursue the poor Jews among them and they produce false charges against them in order to eliminate them completely, so that the name of Israel would not be remembered more. Moreover, these wicked ones denounce to the government the forced converts who adhere to Judaism and who make every effort to leave the land of forced conversion, as we have heard from some of them who are in Valencia and Barcelona.\(^{36}\)


\(^{36}\) Isaac b. Sheshet Perfet: *Responsa*, no. 11. Netanyahu 1966:30 draws far-reaching conclusions from this passage dealing with *converso* informers: “These statements implicitly offer us a new view of a social
II.4. Reasons for remaining in Iberia

Isaac b. Sheshet Perfet offered another explanation to the converts’ tardiness in leaving, namely that the costs of the emigration were so elevated that many of them were unable to afford it. Others might have managed to leave alone but they did not want to leave their family behind. As Isaac b. Sheshet Perfet explained, these people were concerned about the possibility that their descendants might become assimilated completely to the Christian majority, therefore they decided to remain near them in order to help them preserve their Jewish identity. He added that this reason for delaying emigration was unacceptable, but did not disqualify the conversos from being witnesses, since they renounced emigration out of ignorance. For they were not aware of their fault in remaining with their families, and thought that they acted in accordance with the requirements of the Torah. However, according to halakhah they should have left behind their families if they could not manage to flee together, since each person is obliged to love God and the Torah more than his family:

There are others, who would leave the land of persecution readily and willingly, but they are unable to do so because they do not have the means to cover the expenses of moving for themselves, their wives, sons and children. Maybe they could manage to leave alone, but they are afraid that if they left their families behind among the Gentiles they would mix with them and they would adopt their customs, and they would never emigrate from there. So they choose to stay there in order to keep the members of their families in the bridle of the Torah and its precepts until Heaven would have mercy upon them and the gates of salvation would be opened for them. In the meantime, they beware of defiling themselves with the impurity of transgressions except in dangerous situations. Although in fact they are obliged to leave [even] alone if there is a chance, even if they have to abandon their sons and their families, since the love of God and his Torah comes before all, and “No one can redeem the life of another” [Ps.49:8]. […] In spite of that, these persons are not unfit for bearing panorama which was now split wide open into two conflicting factions. One faction comprised those who earnestly desired to retain their Jewishness, or who still had Jewish interests at heart; the other consisted of renegades from Judaism who not only practiced Christianity willingly, but also worked relentlessly to bring the rest of Jewry into the Christian folk.” The novelty of the “new view of social panorama” consists in that in the other responsum of Isaac b. Sheshet Perfet discussed by Netanyahu just before this one (Isaac b. Sheshet Perfet: Responsa, no. 4) informers were not mentioned. The conclusion of Netanyahu is that since in responsum no. 4, (which was written before no. 11), converso informers are absent, while in no. 11 they are mentioned, they evidently appeared in the meanwhile, moreover, they formed such a considerable group that their appearance led to a changed “social panorama which was now split wide open into two conflicting factions;” although nothing proves that beforehand there were no informers amidst the conversos, or that there hadn’t been any “split” among different groups of the converso society. It has to be noted furthermore, that nowhere in the responsum it is stated that informers were trying “to bring the rest of Jewry into the Christian folk” – as opposed to the statement of Netanyahu.
witness, since they do not know that they are committing a transgression through staying there…

It is of prime importance that the conversos, according to Isaac b. Sheshet Perfet ignored that they transgressed the law by staying in a land where they were forced to abandon the observance of the precepts. Isaac b. Sheshet Perfet quoted a relevant passage of the Mishneh Torah in order to demonstrate that he who out of ignorance violates a precept not well known among the people is not disqualified from witnessing until he is not warned and he is not informed about the precept in question. Since the conversos in general did not know that halakhah ordered them to emigrate at whatever cost, even abandoning their families if there was no other option, the fact that they stayed in the land where they were persecuted could not be considered as disregard for the law.

The conclusion of Isaac b. Sheshet Perfet is that the adherence of the conversos to Judaism became questionable. Some of them remained under Christian dominion for too much time to stay loyal, whereas a lot of others were able to flee from there to other countries where they could return to Judaism and practice their religion freely. Among those who left were both wealthy and poor people, which proved that emigration was not impossible even for the needy: “Since they have remained there for such a long time and they did not escape from there as a lot of them did, among them rich and poor, their legal status became controversial.” Therefore the status of each person had to be determined according to the information that could be obtained concerning him, by inquiring about him at the local Jewish community. If it could be certified that a converso witness adhered to Jewish law and did not transgress it except in case of imminent danger, he could qualify as a witness for the get. If such information was not obtainable, however, a get attested by conversos was not to be accepted, the legal presumption concerning the conversos being that they became accustomed to neglecting the Jewish law and violated its precepts even if they were not literally forced to do so.

37 Isaac b. Sheshet Perfet: Responsa, no. 11
38 Cf. MT Hilkhot Edut, 12:1
39 Isaac b. Sheshet Perfet: Responsa, no. 11
III. Isaac b. Sheshet Perfet: Responsum no. 43: on converso husband called by his Christian name

The responsum was sent to Moshe b. Ammar of Majorca. The question concerns a divorce document sent to Majorca for a convert woman. The wording of the question seems to have been inaccurate from the outset, as it follows from the introductory remark of Isaac b. Sheshet Perfet: “You haven’t explained what your problem with this get is.”

Isaac b. Sheshet Perfet therefore presented various explanations to the possible underlying question, among them the use of the husband’s Gentile name in the document. The short and indistinct question goes as follows:

What shall be the rule concerning a divorce document which was sent here for a converso woman, and it is written in it: ‘I, Dalmab, called [also] Josef b. so-and-so, and whatever designation and surname [by which I am known] etc.’ And the woman is dependent on her levir, since the husband died after she received the divorce document. Explain us, our master, what should she do, because the levir is not in the city, and the situation is pressing.

Isaac b. Sheshet Perfet exposed two possible reasons that could invalidate the get:
1) the Gentile name of the husband was written as his main name, and the Jewish name as secondary; 2) the Gentile name was mentioned in the get at all. According to Isaac b. Sheshet Perfet, as both names appeared in the get, it was undoubtedly valid, and it made no effective difference which one of the names was written before the other; in any case, the get was valid ex post facto. Nevertheless, the course to be followed was to specify the

---

40 Isaac b. Sheshet Perfet: Responsa, no. 43
41 The name in the printed edition is dilmab and in Ms Oxford, Bodleian Library MS Mich. 557, fol. 85b appears as dalmab. These forms are too corrupted to reconstruct the original name. In MS St. Petersburg, Russian National Library Evr. II A 116, fol. 84a the last letter of the name is erased.
42 This is the formula that should be included in the get in order to avoid confusion concerning the identity of the divorcée. See mGit 4:2: “the man so-and-so, and by whatever names he is known.”
43 That is, in accordance with the laws of levirate marriage expounded in Deut 25:1-9, if a couple does not have any child, and the husband dies, the woman is required to marry the husband’s brother (levir), and she is prohibited to marry anyone else. She can be released from this obligation by performing the act of ḥalizah. This obligation could be burdensome, and therefore the inquirer felt necessary to mention this circumstance. Practical considerations, like the probable consequences of the decision upon the life of the person involved of course influenced the Rabbis’ ruling.
44 Isaac b. Sheshet Perfet: Responsa, no. 43
45 Isaac b. Sheshet Perfet refers to bGit 34b, where the divorce document of a woman known by two names is discussed. It is stated there that she has to divorce under the name by which she was known to most people, and her other name should only be implied in the expression “whatever designation and surname.” Isaac b. Sheshet Perfet added that according to the consensus of the scholars’ majority, the get was invalid if it specified only her lesser known name, but it was valid if it mentioned both.
Jewish name solely and include the Gentile one in the expression “and whatever designation.”

The most important point of the responsum is a suggestion that even *ab initio* permitted to write in the *get* the Gentile name only, without even mentioning the Jewish name. Isaac b. Sheshet Perfet stated that Christian authorities strictly prohibited the *conversos* to use Jewish names, and that defiance of this law involved serious danger. This remark requires some consideration, as it is evident that *conversos* continued to use their Jewish names even when dealing with Christian authorities, and this fact was well known for Isaac b. Sheshet Perfet as well. The proof is that in his responsum no. 52 he quoted in Hebrew translation a letter written in 1401 by the Christian treasurer of Majorca, in which the Christian official designated all *converso* subjects mentioned in the letter both by their Christian and Jewish names. It is reasonable to suppose that the attitude of the Christian authorities to the use of Jewish names varied according to time and place, and presumably even according to the persons involved. In any case, it was not without precedent that the laws of the kingdom or even its expectations were taken into consideration when writing the divorce document; it is established in the Mishnah that the *get* should be dated according to the era of the state where it was drawn up (but not according to the calendar of any other Gentile state), although this ruling was surpassed by the custom of dating from the time of creation.

We could say also that the kingdom censures the use of Jewish names for the convert’s (*mumar*) designation, and permits the use of Gentile [Christian] name solely, and they impose penalty for this. And due to our sins the converts (*mumarim*) became numerous there, and among them are informers and “tellers in the dark” to denounce the Jews. So the scribe and the witnesses, and the convert (*mumar*) himself are afraid to write in the divorce document the Jewish name as the main one. Therefore we could say that the Gentile [Christian] name is the main one, and it is enough to imply the Jewish name by the expression “and whatever designation.” We have already found cases where the scholars took into consideration the laws of the kingdoms, and for the sake of peace with the government they ordained to date the *get* according to the era of the kingdom that ruled in the city in which the *get* was drawn up. […] Therefore it can be said that the Gentile name should be written as the

---

46 For the discussion of this responsum see the chapter about inheritance.
47 Cf. bGit 80a
48 Cf. MT Hilkhot Gerushin 1:27
49 “Tellers in the dark” (*maggidei be-alata*): This is a Talmudic expression that appears in bErub 53b as an example of enigmatic speech, and its meaning there is “roosters” (cf. Rashi ad loc.). Here, however, the expression is used in another sense, namely, as a synonym of the word informer.
main one even *ab initio*, due to the fear from the kingdom, and the Jewish name should be implied in the expression “and whatever designation,” except where [the use of Jewish name] does not involve danger.50

Similarly to the preceding responsum, the conclusion reached is that concerning the use of Christian names there is no general ruling applicable under all circumstances but the course to be followed is dependant on the measure of the danger involved: “In things like that, you have to decide according to the specific place and time.”51

**IV. Simeon b. Žemaḥ Duran: Tashbeẓ 2:176: on the husband’s obligation towards contributing to the expenses of his wife’s emigration from Majorca**

The question concerns the obligations of a husband to pay the ketubah of his wife who was forcibly converted in Majorca (in 1391 or in 1435). The husband escaped riots and forced baptism by leaving behind his wife and his properties. The Christians plundered their home and baptized his wife by force. The husband had some of his goods stored up in a warehouse that remained untouched by the looters. The woman rented a boat for 150 doblones (gold coin which circulated in Iberia) and emigrated to North Africa “…although the Gentiles said to her that if she stayed there they would pay her ketubah from what had remained in the warehouses.”52 Of course the inquirer formulated the events in this manner, for it is hardly believable that the Christians were concerned with the ketubah of the woman. It seems to be probable that the Christians offered the woman to compensate the loss caused by the plunderers by selling the stored up goods (that was the property of the husband anyway) and handing over its value to the woman. But she decided to depart immediately leaving behind everything. Apparently husband and wife rejoined in North Africa but the husband decided to divorce her. Moreover, he stated that he had no obligation towards her, as she was overhasty in departing from Majorca, and due to her precipitated departure he incurred a loss, for which the responsibility rested upon his wife. The husband claimed also that the price of chartering the ship had to be deducted from the ketubah, as he was not liable to finance the escape of his wife.

Simeon b. Žemaḥ Duran justified the claims of the husband. He pointed out that one of the required conditions of a marriage contract is that the husband is obliged to

50 Isaac b. Sheshet Perfet: *Responsa*, no. 43
51 Isaac b. Sheshet Perfet: *Responsa*, no. 43
52 Simeon b. Žemaḥ Duran: *Tashbeẓ* 2:176

107
redeem his wife if she is taken captive.\textsuperscript{53} It is striking however, that Simeon b. Žemaḥ Duran draw analogy between captivity and embarking the ship; not between captivity and being defenseless at the mercy of the Christians who plundered the house and forcibly baptized the woman: “…and [this case] pertain to the category of redeeming, despite she delivered herself into the hands of the sailors of her own accord.”\textsuperscript{54} The possibility that maybe the riots, the plundering, the Christians threatening with death in case of refusing baptism would meant a kind of coercion that forced the woman to seek the service of the sailors is not mentioned. Neither is it suggested that staying in Majorca (even temporarily) would be a kind of captivity. In any case, according to Simeon b. Žemaḥ Duran, redemption of the wife is obligatory, but not at whatever costs: the husband is obliged to pay the “value” of his wife,\textsuperscript{55} that is, the price one would receive if they sold her as a slave. If the woman promised more to the capturers, that is, the sailors, she has to meet the rest of the expenses.

As for the financial damage caused by the wife by her “premature departing” according to Simeon b. Žemaḥ Duran she is to be held liable for it. For it is not from among the conditions of a woman’s ketubah that her husband should bear the expenses of her “sanctifying the Name of God” (kiddush ha-Shem), as the act of leaving Majorca is considered by Simeon b. Žemaḥ Duran:

Regarding the fact that she had lost everything that he had in the warehouses, because she hurried to depart from there, apparently she is liable for that damage. It is not from among the conditions of a ketubah that she may sanctify the Name by departing from Majorca. […] Especially, if in accordance with the law of the government his property is confiscated because of her leaving [in order to return] to the faith of Yehudit [i.e., to Judaism], since in accordance with their laws her property is confiscated if she abjures their faith. Therefore it is evident that the husband is exempted from paying her ketubah, for the government has confiscated it, and it has been established that the law of the government is binding (kayyama lan dina de-malkhuta dina).\textsuperscript{56}

The last statement means that the law of the government supersedes halakhah in civil affairs. This argumentation of Simeon b. Žemaḥ Duran ought to be contrasted with his position taken up in his responsum no. 1:61 (about litigation concerning inheritance under

\textsuperscript{53} Cf. bKet 46b; MT, Hilkhot Ishut 12:2
\textsuperscript{54} Simeon b. Žemaḥ Duran: Tashbeẓ 2:176
\textsuperscript{55} Cf. MT Hilkhot Ishut 14:19
\textsuperscript{56} Simeon b. Žemaḥ Duran: Tashbeẓ 2:176
Christian law), where he differentiated between fair and unfair jurisdiction, although he accepted that governmental law (if it is administered justly) is binding.\(^{57}\) On the other hand, Isaac b. Sheshet Perfet expressed his view that oppressive laws, including the confiscation of the property of Jews and \textit{conversos} leaving Christian territory, do not pertain to the category of \textit{dina de-malkhuta dina} (Aramaic, the law of the government is binding), and could be evaded, if there was a possibility.\(^{58}\)

From the reasoning of Simeon b. Żemaḥ Duran it follows that in his view the wife should have remained in Majorca and arrange her departure with more circumspection. She is made responsible for the financial loss her husband incurred, and it is not even suggested that she was forced by the circumstances, and therefore exempt from liability. Apparently her financial liability does not exceed the sum fixed in her \textit{ketubah} as it is not stated in the responsum that she should compensate the husband from her own property (if she had any).

\textbf{V. Simeon b. Żemaḥ Duran: Tashbez 3:40, 3:43: on a \textit{converso} scribe}

The following two responsa written by Simeon b. Żemaḥ Duran are related to the same case: the validity of a divorce document written by a \textit{converso} scribe (\textit{sofer}). The fact that a \textit{converso} could continue to pursue this profession to any extent is interesting in itself. In accordance with the Jewish tradition a scribe must be an irreproachable person as he is supposed to write down the name of God, an act that should be carried out with a proper intention and in a state of ritual purity. Of course, the divorce document does not contain the name of God and the conditions of its writing differ completely from that of a \textit{mezuzah}\(^{59}\) for instance, but people in general were not fully aware of distinctions of this kind.\(^{60}\) In any case it is noteworthy that a \textit{converso} scribe was entrusted with a task which pertains to the religious sphere.

\(^{57}\) For the discussion of this responsum see the chapter about inheritance.
\(^{58}\) Isaac b. Sheshet Perfet: \textit{Responsa}, no. 2. For the discussion of this responsum see the chapter about returning to Judaism.
\(^{59}\) The \textit{mezuzah} is a parchment containing Deut 6:4-9 and 11:13-21 fixed to the door-post in a small box.
\(^{60}\) That is the reason why every kind of documents can be found in the \textit{genizot} where in principle only sacred texts, or texts that contain the name of God should be stored. As people could not differentiate between the various types of texts, they tended to store every kind of texts, sacred and profane alike, in order not to destroy something that might contain the name of God. About the above mentioned conditions of writing a \textit{get} on the one hand, and sacred texts on the other, see especially MT Hilkhot Tefillin, Mezuzah we-Sefer Torah 1:13, 15; Hilkhot Gerushin 3:15.
The question of the responsum is missing. As can be concluded from the answer, a convert scribe in Majorca wrote a divorce document for a woman in Tenes, who then divorced by means of this get, and married another man. Simeon b. Žemaḥ Duran stated that the get was invalid, since a person who committed idolatry or desecrated the Sabbath publicly had to be considered as one who disregarded the entire Torah. Therefore he was similar to a Gentile, and as such was unfit for writing the divorce document. Consequently, the get was invalid, and so was the divorce. If she had children from the second man, they should be considered as mamzerim (offspring from an adulterous union), and if the woman wanted to remarry, she had to divorce her first husband again. However, she was forbidden to marry her second husband, as she had had an adulterous relation with him. Simeon b. Žemaḥ Duran suggested that the leaders of the Majorcan Jewish community specify why they held the converso scribe suitable for writing the divorce document. Until the answer of the Majorcan community arrived, the discussion should be suspended.

This responsum contains further details concerning the previous issue. In fact it comprises the substantial information supplied by the Majorcan community about the converso scribe who wrote the get. Unfortunately, the full text of the evidence given by

---

61 The expression that appears in the text is meshummad (voluntary convert). However, from the other responsum dealing with this case it is obvious that the person in question was forced convert.

62 Tenes is a port city between Mostaganem and Algiers.

63 bHul 5a: “Grave is idolatry in that he who denies it is as if he accepts the whole Torah.” It is inferred from this that he who accepts idolatry is as if he denied the whole Torah.

64 bGit 23a and MT Hilkhot Gerushin 3:15

65 The responsum was briefly mentioned by Netanyahu 1966:44: “In summarizing the contents of a question addressed to him from Majorca, Duran speaks about “one of those who are called anusim and who doubtlessly kneel to a foreign deity and violate the Sabbath publicly.” The name “anusim” is thus for him clearly a misnomer for the members of this group who, in all propriety, should be called apostates .” It has to be noted, that Simeon b. Žemaḥ Duran never stated in this responsum that the term anusim was improper, neither does it follow from the wording of his summarizing; since in order to be classified as a voluntary convert (meshummad) it is necessary to state that the person committing idolatry and violating the Sabbath publicly does so by his own choice. In my opinion the wording of the question indicates merely that the person involved pertains to the group commonly called anusim, that is, conversos, who were forcibly converted either in 1391 or 1435, and that these conversos do commit the above mentioned transgressions (not necessarily by their own free will). The fact that a converso remains in Christian territory possibly renders him disqualified as a witness (cf. Isaac b. Sheshet Perfet: Responsa, no. 4; Simeon b. Žemaḥ Duran: Tashbeẓ 1:63, 1:66, 3:47), but does not inevitably makes him a meshummad. Cf. also the remark of Žemaḥ b. Solomon Duran: “I say concerning these forced converts [remaining in Majorca] that it is evident that they do not commit idolatry voluntarily, and they have no faith in it at all.” (Yakhin u-Voaẓ 1:125)
them is not included in the responsum, but the main points are disclosed: the scribe was forcibly converted but he always made every effort to observe the Jewish laws when it was possible. On the other hand, he undoubtedly participated in Christian worship and desecrated the Sabbath publicly when his life was in danger. As it can be inferred from the responsum he refused to partake of the sacraments before his death: “…even when he died he did not follow the custom of the Gentiles, so they did not want to bury him, as [it is their] custom [with] those who abjure their religion, until his wife spent a lot of money [in order to bribe them to bury him].”

Simeon b. Žemaḥ Duran’s answer discusses the passage of the Mishneh Torah according to which it might seem that converts are unfit to write divorce document: “Everyone is suitable for writing a get, with the exception of five: a Gentile, a servant, a deaf-mute, a mentally retarded person and a minor. […] A Jew who becomes a voluntary convert (nishtamed le-avodah zarah), or violates the laws of Sabbath in public, is like a Gentile in every respect.” In the opinion of Simeon b. Žemaḥ Duran, this ascertainment might imply a contradiction: if the convert is unfit to write the get, he would presumably be unfit to conclude a marriage, since there is no legal basis for a distinction between one and the other. However, Maimonides himself declares the marriage of a convert to be valid, for this is clearly established in the Talmud, even in case of a voluntary convert or a proselyte who returns to his former faith. Now, if the marriage of a voluntary convert was valid, it could be supposed that a get given or written by him was valid as well. Simeon b. Žemaḥ Duran added that this argumentation was already proposed by Isaac b. Abba Mari, the author of Sefer ha-Ittur. Furthermore, according to Simeon b. Žemaḥ Duran, it was a widespread custom among converts to marry and divorce according to Jewish ritual, and the validity of such marriages or divorces was not questioned by anyone. The latter remark was repeated with the same phraseology by Simeon b. Solomon Duran (the author of Yakhin u-Voaz 2, the grandson of Simeon b. Žemaḥ Duran) in two of his responsa dealing with marriage. In the first instance (Yakhin u-Voaz 2:19) he does not specify the origin of the phrase, but in the second responsum (Yakhin u-Voaz 2:31) he attributed it to Isaac b. Abba Mari, the author of Sefer ha-Ittur. Apparently he had copied it from the responsum of his grandfather, Simeon b. Žemaḥ Duran, as it can be seen from the

66 Simeon b. Žemaḥ Duran: Tashbeẓ 3:43
67 MT Hilkhot Gerushin 3:15
68 MT Hilkhot Ishut 4:15: “If a voluntary convert (meshummad) betroths a woman his marriage is absolutely valid, even if he commits idolatry by his own free will; and she needs get [in order to be divorced].”
69 Cf. bYeb 16b, 47b; bBek 30b.
correspondence of the wording of the two responsa in these passages, and he attributed the remark to Isaac b. Abba Mari because the latter was mentioned in his source immediately before the quoted phrase.

Simeon b. Žemaḥ Duran offered two explanations why a Gentile was unfit for writing a divorce document. According to the first reason issuing the get was an act of agency. A Gentile was unfit for writing the get because he had no marital status (ishut) and therefore he could not act as an agent in tasks related to it. According to the second reason writing the get required proper intention. But a Gentile is not subject to Jewish law, consequently he follows his own intention and does whatever he wishes, therefore proper intention for writing the get cannot be assumed in his case. A converted Jew, however, if he agrees to write a divorce document would presumably follow the intention demanded by the halakhic authorities.

These observations concerning the quoted passage of the Mishneh Torah were only of theoretical interest, since Simeon b. Žemaḥ Duran closed his discussion remarking that these considerations are redundant in the case under question, since it was testified by witnesses that the converso who wrote the get observed the Jewish laws as far as it was possible and committed transgressions only under severe pressure. Therefore, the get written by him was valid even according to Maimonides’ ruling.

VI. Žemaḥ b. Solomon Duran: Yakhin u-Voaz 1:125: on a converso occasionally writing a get

The responsum, sent to Solomon Zalmati of Játiva, was written by Žemaḥ b. Solomon Duran when he was suffering from an illness in Majorca, which makes possible its approximate dating. Žemaḥ b. Solomon Duran returned from Majorca to Algiers in 1468, therefore the responsum was written before that date.

Similarly to the preceding responsum, this one also treats the issue of a get written by a converso, but it is not explicitly stated in this case that the converso was a professional scribe. The responsum shows further similarity to the former one in certain respects; especially because the deliverer of the question gave testimony about the personality and

---

71 MT Hilkhot Ishut 3:17
the attitude of the *converso* in question: “…he is a God-fearing person and he does not eat meat of an animal which was not slaughtered in compliance with the laws of ritual slaughter, and he does not eat leavened food during the Passover, and he refrains from every transgression as far as he can, and he never desecrates the Sabbath.”

In the opinion of Žemah b. Solomon Duran, there is no general rule that would allow to determine whether a convert is fit for the writing of the divorce document. He referred to the passage of the *Mishnah* and the *Mishneh Torah* discussed by the authors before him. He repeated that the two criteria for determining the status of a *converso* were the participation in idolatry and the public desecration of the Sabbath. He added however, that the forced converts were evidently not willful idolaters, and that they had no faith in the religion which they were forced to adopt: “I say concerning these forced converts that it is evident that they do not commit idolatry voluntarily, and they have no faith in it at all.” He remarked also that many of them observed the Sabbath as well. As to the case in question it was obvious for Žemah b. Solomon Duran that the *get* written by the forced convert who adhered to Judaism in secret was valid.

**VII. Conclusion**

All legal opinions presented in the foregoing agreed upon the fact that *conversos* differed from willful apostates and therefore they were not necessarily disqualified from writing or attesting a divorce document. On the other hand, they were not to be held unconditionally fit for writing or attesting a *get* either. They thought to be exposed to the effects of religious persecution continuously, and it was assumed that the permanent influence of the Christian religion and way of life made impressions on the *conversos* so that they got accustomed to neglecting Jewish law. Therefore in each controversial case an investigation had to be carried out; if the local Jewish community could certify that the *converso* in question adhered to Judaism as far as he could, then he was considered fit for writing and attesting divorce documents. In the cases under discussion such an

---

74 Žemah b. Solomon Duran: *Yakhin u-Voaz* 1:125
75 Cf. bGit 2:5
76 Cf. MT Hilkhot Gerushin 3:15
77 Žemah b. Solomon Duran: *Yakhin u-Voaz* 1:125
78 Cf. the contrary opinion expressed by his father, Solomon b. Simeon Duran (Rashbash): *Responsa* no. 553 about testimony concerning wine, in which the author states that all of the forced converts violate the Sabbath publicly, even if they are not literally forced to do so. For the discussion of this responsum see the chapter about wine.
investigation was feasible, or had already been carried out with the result that the *converso* was declared observant of the Jewish law to the possible extent. Consequently, these rabbinical decisions did not put the women in extremely difficult situations. It has to be noted that Isaac b. Sheshet Perfet was willing to accept *ab initio* divorce documents containing the husband’s Gentile name only, considering the fact that the Christian authorities prohibited the *conversos* to use their former Jewish names. The rabbinical authorities emphasized the conclusion that in these questions one should not follow an established routine without careful consideration of the specific case, circumstances and persons involved.
Chapter 5 – Dietary laws

In the edict of expulsion, the Catholic Monarchs expounded the reasons that—according to their statement—necessitated the expulsion of the Jews from their kingdoms. These all can be reduced to a single cause: the influence Jews had on their former coreligionists. The edict enumerated the means by which Jews tried to persuade the conversos to observe Jewish law:

…notifying them of Passover before it comes, advising them what they should observe and do for it, giving them and taking unto them the unleavened bread and the [ritually] slaughtered meats with their ceremonies, instructing them on the things that they should stay away from, thus in the foods as in other matters…

The observance of dietary laws appear in this list in the context of Passover, but it is reasonable to suppose that if Jews used to give advices and instructions to the conversos concerning dietary laws, this activity was not limited exclusively to this period of the year.

With regard to Passover, Levine Melammed (1999:20-21) claims that the information available in the Inquisitorial trials slightly modifies the image of Jews doing their outmost to make sure for the conversos to have unleavened bread for the days of the Passover. Although if conversos were unable to bake unleavened bread for themselves, they in fact turned to their Jewish neighbours for supply, but the transaction was generally a commercial act. That is, the Jews did not necessarily rush to provide the conversos with unleavened bread, but obviously were ready to sell it to them. It does not mean, of course, that unleavened bread was not given as a gift to conversos if so needed.

According to Levine Melammed (1999:21-22), the Inquisitorial trials confirm that conversos used to eat meat ritually slaughtered by Jews. Some purchased meat from Jewish butcher-shops, while others called the ritual slaughterer in order to slaughter their own animal and to carry out the examination which established if the meat was permitted for consumption. Apparently some conversos bought meat from Muslim butcher-shops as well, although the consumption of meat slaughtered by Muslims is not permitted by Jewish law. In any case, the Muslim method of slaughtering shows great similarity to the Jewish

---

prescriptions, and these conversos possibly preferred ُhalāl (Arabic, ritually permitted) meat to that slaughtered by a Christian butcher.

I find important to remark that the fact that conversos continued to buy meat in the shops where they had bought it previously, is not necessarily a sign of adherence to the Jewish faith, but could be a mere custom as well, all the more so, since conversos in general continued to live in their former houses after their conversion, that is, in the Jewish quarter. The easiest and most natural way of acquiring meat was to go to the nearest shop in their vicinity, which in all probability was a Jewish butcher-shop. Moreover, it could be a question of taste also, since a person accustomed to observe the dietary laws could find non-kosher meat disgusting, especially if it happened to be pork. It does not mean that buying kosher meat could have never been a conscious decision as a way of preserving Jewish identity.

References to ritual slaughtering and dietary laws in the responsa are sporadic only. The only related issue discussed extensively is the wine prepared and handled by conversos, but it has to be noted that the problem of wine is unique, since it is directly connected with idolatry and therefore the prescriptions concerned are very severe. Other issues mentioned are cheese made by conversos (Simeon b. Ḥeimar Duran: Tashbeẓ 2:201; 3:83); converso refraining from eating non-kosher meat (Ẓemaḥ b. Solomon Duran: Yakhin u-Voaz 1:125); converso refraining from eating leaven during Passover (Solomon b. Simeon Duran: Responsa, no. 90; Ẓemaḥ b. Solomon Duran: Yakhin u-Voaz 1:125); conversos inviting Jews to eat together meat prepared by conversos in their own dishes (Isaac b. Sheshet Perfet: Responsa, no. 4); converso eating together with Gentiles food prepared by the latter (Isaac b. Sheshet Perfet: Responsa, no. 14); a minority of conversos is supposed to eat non-kosher food regularly, even if kosher food is available (Simeon b. Ḥeimar Duran: Tashbeẓ 2:60).

When massive forced conversion was a new phenomenon, the position of the Jewish community towards conversos was far from being well-defined. Certain indecisiveness can be observed regarding questions whether they could be relied on in such everyday matters as kashrut, or in more formal and official issues, such as bearing witness in front of a rabbinical court of law, writing a divorce document, etc. The problem of kashrut is quite unique because it is the only topic that completely disappeared from the subjects discussed in the responsa in a relatively short time. In the decades after the great persecutions in 1391, there are some responsa that deal with cheese, meat and wine of the conversos, but this issue disappeared completely later on.
I. Refraining from eating leaven on Passover

According to Jewish law, leaven must be avoided during the days of the Passover. The prescriptions concerning the disposal of leaven are very elaborate. The responsa do not supply much information about the customs followed by conversos during the Passover. Apart from a responsum written by Solomon b. Simeon Duran (no. 90) and a remark in a text dealing with unrelated issues (Zemaḥ b. Solomon Duran: Yakhin u-Voaz 1:125), the halakhic decisions written by the authors presented here do not treat problems connected with the observance of the laws of Passover. Both references deal with the issue of refraining from eating leaven during the days of Passover. This prohibition limits the number of foodstuff permitted for consumption considerably. In this respect, the most striking difference between the days of the Passover and the rest of the year is that during Passover the consumption of ordinary bread is prohibited. In the Middle Ages, when bread was the most basic aliment, abstaining from it was even more difficult, not to mention the fact that it conveyed an uncommon and conspicuous alteration of ordinary alimentation, that could easily be caught by observers. Notwithstanding the dangers involved, some conversos evidently tried to observe the dietary laws prohibiting leaven.

The first responsum presented here, (Solomon b. Simeon Duran: Responsum no. 90) gives very detailed advices to the conversos how to prepare food without arousing the suspicion of the Christians who might realize that the conversos change their diet during the Jewish feast. The other text (Yakhin u-Voaz 1:125) contains a short remark about the behaviour of a certain converso who tried to adhere to Judaism in secret, and therefore he observed dietary laws connected with Passover.

I.1. Solomon b. Simeon Duran: Responsum no. 90: on preparing food during Passover

The responsum gives advices to forced converts who intend to observe the laws of Passover as far as possible. It is remarkable that the targeted audience of the responsum is the converso community and not the Jewish community, or any individual pertaining to it. The responsum lacks the original question, although it is evident that the answer does not deal with a hypothetical case but responds an actual question (asked in all probability orally):
I have been asked concerning these forced converts who are devout to God, and wish to observe the commandments as far as they can: what shall they do during Passover with regard to eating [...] leaven, since they cannot abstain from it [completely]. Even if they were eating only rice\(^2\) and similar things, surely the Christians would denounce them, saying: “You are still following the laws of your fathers by eating rice during Passover, for in every house [only] rice is being cooked.” And they [the converts] are worried about that [...].\(^3\)

According to the reasoning of Solomon b. Simeon Duran, the case of the conversos is analogous to the Talmudic precedent of a sick person or a pregnant woman in need of food on the day of Atonement (when eating and drinking is prohibited).\(^4\) Such as the sick person or the pregnant woman may be fed with a minimal amount of food needed to safeguard their life, the conversos are permitted to consume a minimal amount of leaven\(^5\) mixed into their food in order to mislead the Christians who might informant the authorities against them. However, transgression of the law is to be avoided to the possible extent. Therefore Solomon b. Simeon Duran suggested to prepare mazzah ashirah (enriched mazzah), that is, unleavened bread baked from dough containing milk, oil, honey or wine. The obligation of eating unleavened bread (baked under special prescriptions from dough containing solely water and flour) is fulfilled by eating a minimal quantity of it in the first night of the Passover;\(^6\) during the subsequent days of the festival one may eat enriched mazzah, which is thicker and therefore is more similar to the ordinary bread consumed by Christians. According to Solomon b. Simeon Duran, it is also permitted to scald grain in boiling water, since scalded grain does not come to fermentation.\(^7\) He enumerated a couple of ways making special kinds of grain or flour, and advised to prepare these well before Passover.\(^8\) However, he suggested that if it was impossible to abstain from leaven completely, they

\(^2\) As opposed to the custom of French and Ashkenazic Jews, Sephardic Jews eat rice (and other kinds of pulses) during Passover.

\(^3\) Solomon b. Simeon Duran: Responsa, no. 90. See an alternative English translation of the question and some parts of the responsum in Zimmels 1971:392-393

\(^4\) Cf. bYoma 82a

\(^5\) Less than the size of an olive, as it will be discussed by Solomon b. Simeon Duran in the following. It has to be noted that during Passover, leaven cannot be nullified the way most prohibited foods are nullified (in general, forbidden food is considered as nullified if it is mixed in more than sixty times its volume of permitted food). Any amount of leaven, however, renders the food a mixture of leaven. For a short discussion about laws concerning fermented dough during Passover and related issues see Rabinovitz: “Hamez” EJ 7:1235-1237

\(^6\) Cf. bPes 120a

\(^7\) Cf. bPes 39b

\(^8\) According to the explication of Solomon b. Simeon Duran, preparing these kinds of grain and flour were originally permitted (in the time of the Talmud), but later it became prohibited, because if they are not prepared with the greatest caution, they might come to fermentation. However, in the opinion of Solomon b. Simeon Duran, since the conversos had the intention of observing the precepts, they surely prepared their food with the greatest possible care, therefore in their case the reason for the prohibition did not apply.
could mix some leaven to the dough so that it might rise a bit; in any case, the amount of
leaven mixed to the dough should not exceed the size of an olive.\(^9\) He emphasized that his
permissive ruling concerned only the *conversos*, but were not intended as general
permissions for the rest of the people. He explained that in the case of the *conversos*,
requiring strict adherence to the law would lead to abandoning it completely. He
mentioned as well that eating different kind of beans during Passover was evidently
permitted, and it was the custom followed by the Jews of Iberia – as opposed to the custom
of French (and other European) communities.

I.2. Żemaḥ b. Solomon Duran: *Yakhin u-Voaz* 1:125: remark about a *converso* observing
dietary laws\(^10\)

The responsum was written probably before 1468, and was sent to Játiva. It
discusses the validity of a divorce document written by a *converso*. The deliverer of the
question testified that this *converso* adhered to Judaism, since he refrained from eating
meat not properly slaughtered and abstained from leavened food during Passover. He
claimed also that the *converso* never desecrated the Sabbath, and avoided every
transgression as far as he could. In the opinion of Żemaḥ b. Solomon Duran, a person who
desecrated the Sabbath by his own will, or committed idolatry was unfit for writing a
divorce document. However, according to the testimony, this individual did not profane the
Sabbath; and the fact that he observed dietary laws made it evident that he intended to
follow the Jewish law (i.e. he was not to be treated as a willful idolater). This testimony
was sufficient for Żemaḥ b. Solomon Duran to accept the divorce document written by the
*converso*, since these statements proved for him that the *converso* was indeed a forced
convert who did not violate the law if he was not compelled to do so.

\(^9\) In this manner, explained Solomon b. Simeon Duran, even though they violate a precept of the Torah, they
do not transgress a law punishable by *karet* (extirpation, divine punishment). Eating leaven on Passover is
one of the sins punishable by *karet* enumerated in the Bible (cf. Ex 12:15). According to Solomon b. Simeon
Duran the food mixed with a minimal amount of leaven is a “mixture of leaven” but not “pure leaven,”
therefore the punishment of *karet* does not apply.

\(^10\) About the exhaustible discussion of the responsum see the chapter about divorce.
II. Cheese
(Simeon b. Żemaḥ Duran: Tashbeẓ 2:201, 3:83)

The consumption of cheese made by Gentiles is prohibited. The reason for the prohibition according to the Mishnah\(^\text{11}\) is the following: the milk might have been curdled with rennet from the stomach of an animal which is not permitted for consumption (either because it was non-kosher, or because it was sacrificed for idolatry).\(^\text{12}\) The two responsa dealing with the subject of cheese presuppose that conversos used to eat non-kosher cheese made by Gentiles, and, consequently, they were likely to give non-kosher cheese to Jews. Therefore it became questionable whether it was permitted to eat cheese proceeding from a converso.

The responsum related to cheese is included twice in the collection of responsa written by Simeon b. Żemaḥ Duran, in vol. 2 no. 201 and in vol. 3 no. 83. The two texts correspond word by word. On the other hand, the original questions are lacking; both texts begin with a short description of the case under discussion, and the formulation of the descriptions differs slightly. There are two main points to be considered with regard to the responsum: 1) the answer does not really fit the supposed question; 2) the Sitz im Leben of the responsum is not realistic.

According to the introductory remarks added to the texts, Isaac b. Sheshet Perfet received cheese from a forced convert as a gift and had the intention to eat it in accordance with the view that a person suspected of eating prohibited food is not to be held necessarily suspicious of feeding others with the same. However, Isaac b. Sheshet Perfet asked the opinion of Simeon b. Żemaḥ Duran regarding this matter, who overruled Isaac b. Sheshet Perfet’s view and “forbade” him to eat the cheese. According to the claim of Simeon b. Żemaḥ Duran, his master accepted this ruling. Albeit Isidore Epstein regarded this responsum as a proof of Simeon b. Żemaḥ Duran’s outstanding authority that might have overrode that of the elder rabbi, Isaac b. Sheshet Perfet,\(^\text{13}\) his supposition does not seem

\(^{11}\) mAZ 2:5

\(^{12}\) The prohibition of consuming milk bought from a Gentile does not apply here, since according to the halakhah the milk of unclean animals does not curdle, cf. bAZ 35b; MT, Maakhalot Asurot 3:12, 15, 16. It has to be noted however, that Bedouins do make a kind of cheese from the milk of camel (which is an unclean animal) after it is curdled: “The Rwala do not churn the camel’s milk. If they have too much, they boil it and from the curds make small cheeses which they eat either dry or stewed with bread.” (Musil 1928:89)

\(^{13}\) Epstein 1968:27. Yoel Katan in his introduction to the responsa of Simeon b. Żemaḥ Duran mentions the dissent of Simeon b. Żemaḥ Duran and Isaac b. Sheshet Perfet on this case of cheese sent by a converso, and accepts without any reservation that Isaac b. Sheshet Perfet indeed subjected himself to the authority of
plausible. Given the somewhat strained relations between Isaac b. Sheshet and the much younger Simeon b. Ẓemaḥ Duran, it is highly improbable that the elder rabbi would turn to his younger colleague with a question in an issue affecting his own person as well, and especially because he had already formulated his opinion on the question, and decided that the consumption of the cheese was permitted. The claim of Simeon b. Ẓemaḥ Duran, namely that he overruled the decision of Isaac b. Sheshet Perfet, forbidding him the consumption of the cheese, and that Isaac b. Sheshet Perfet acknowledged the younger rabbi’s decision, cannot be accepted without scruples.14

On the other hand, it has to be noted that the text of the answer does not seem to be a real answer to an actual question, and it is even less likely to be connected to the case described by Simeon b. Ẓemaḥ Duran in his introductory remarks. The responsum comments on the difference of views exposed in two halakhic compendia, Torat ha-Bayit by Solomon b. Adret15 and Bedek ha-Bayit by Aharon ha-Levi16 regarding the interpretation of a Talmudic passage.17 The responsum does not contain any reference to the case described in the introduction added later to the text, or to the food produced by actual conversos, or to conversos at all. For these reasons, it is reasonable to suppose that the “question” part of the responsum is fictitious, and the “answer” part does not deal with a problem connected to conversos at all.

The “questions” are formulated in the following versions:

**Simeon b. Ẓemaḥ Duran: Tashbez 2:201:**

I wrote this to R. Isaac b. Sheshet Perfet, who asked me whether it was permitted for him to eat cheese received from a forced convert who was suspected of eating [non-kosher food], but according to the rabbi [Isaac b. Sheshet] he was not suspected of feeding others [with non-kosher food]. And he [Isaac b. Sheshet] wanted to eat [the cheese], accepting the [view of] Rah [R. Aharon ha-Levi] who explained that even if one is suspected of eating [non-kosher food], he is not suspected of feeding others [with the same], and it is permitted to rely on him [i.e., that the food offered by him is kosher]. But I have forbidden him [to eat the cheese], and he [Isaac b. Sheshet] accepted by decision in this issue.

---

15 Solomon b. Abraham Adret: Torat ha-Bayit, 4:2 (29a)
16 Aharon ha-Levi of Barcelona (1235-ca. 1290): Bedek ha-Bayit ad loc.
17 bAZ 39b
I wrote this to R. Isaac b. Sheshet Perfet concerning the cheese sent to him by one of the forced converts who was suspected of eating cheese made by Gentiles, and the rabbi [Isaac b. Sheshet] relied on him [supposing that the cheese was kosher], because he [the convert] was not suspected of feeding others [with non-kosher] food. And he [Isaac b. Sheshet] followed [the opinion of] Rah [R. Aharon ha-Levi] who put this permission in writing in the Bedeq ha-Bayit. But I forbade him [to eat the cheese] and he [Isaac b. Sheshet] acknowledged my words.

As it has been previously noted, the answer does not relate directly to the alleged question of Isaac b. Sheshet Perfet. In the responsum, Simeon b. Żemaḥ Duran discusses the divergent opinions of Solomon b. Abraham Adret and Aharon ha-Levi concerning the interpretation of the Talmudic passage about the Jewish shopkeepers in Syria. In the view of Aharon ha-Levi, the underlying reason for the permission of eating from the food received as a present is the following: it has to be supposed that a person won’t eat prohibited food if permitted food is available. But, continues Aharon ha-Levi, if permitted food is not available, he might eat prohibited food. However, he would not send prohibited food as a present, even if he sometimes eats non-kosher food. On the other hand, according to Simeon b. Żemaḥ Duran’s interpretation, Solomon b. Adret holds that the Syrian shopkeepers in question would not eat prohibited food even if permitted food was not available, otherwise it would be prohibited to eat from their food as a guest. But since a guest is allowed to eat from their food, it is evidently permitted to eat the foodstuff sent by them as a present as well.

This discussion does not contain any information about the conversos’ attitude to dietary laws, or about the Jews’ attitude to food offered by conversos. On the basis of Simeon b. Żemaḥ Duran’s interpretation of the halakhic discussion in Torat ha-Bayit and Bedek ha-Bayit, it can be assumed however, that the consumption of cheese sent as a gift by a person suspected of eating non-kosher food was prohibited in his view.

III. Conversos and Jews eating together
(Remark in Isaac b. Sheshet Perfet: Responsum no. 4)

Although it is reasonable to suppose that conversos and Jews used to eat together, and the information supplied by the Inquisitorial processes corroborate this supposition, I
could find only one reference to this custom, and even this reference is far from being elaborated.

The responsum treats the problem of wine made or handled by *conversos*.\(^\text{18}\) The inquirer asked —among several questions relating to wine— whether it was permitted to accept the invitation of *conversos* and eat with them meat prepared by them in their own dishes, while they supposedly used to cook forbidden food in their dishes. The inquirer presented this question as referring to a well known reality of Jews accepting the invitation of *conversos* to eat together. Unfortunately, the answer does not elaborate the issue of eating together, and concentrates solely on the questions connected with wine. Nevertheless, the information disclosed by the question is in itself interesting.

**IV. Conversos and Gentiles eating together, *conversos* eating non-kosher food**  

This topic is again one of the less discussed ones in the responsa, although some references can be found concerning the *conversos*’ custom of eating non-kosher food, both with regard to individuals or to the *conversos* as a group.

A responsum written by Isaac b. Sheshet Perfet (no. 14) discusses the betrothal of an underage girl in Majorca. He nullified the betrothal on account of several reasons, the unfitness of the witnesses being among them. In this context, it is stated that the *converso* witness of the betrothal did not qualify since “…he used to eat with the Gentiles forbidden meat that was not slaughtered according to Jewish law, and he used to share their company all the time, and they used to invite him and he used to eat their meat.”\(^\text{19}\)

There is a short remark in a responsum dealing with wine\(^\text{20}\) written by Simeon b. Žemah Duran, according to which a minority of the *conversos* alienated from the Jewish way of life, and they were accustomed to eat forbidden food even if permitted food was available. As a consequence, they were unreliable in cases concerning food and wine in general, although if a certain *converso* did adhere to dietary laws, his testimony about food or wine was acceptable.

\(^{18}\) For the detailed discussion of this responsum see the chapter about wine.  
\(^{19}\) Isaac b. Sheshet Perfet: *Responsa*, no. 14  
\(^{20}\) Simeon b. Žemah Duran: *Tashbez* 2:60
V. Wine

The importance of the responsa dealing with wine produced and handled by *conversos* lays in the fact that this issue is directly related to idolatry and the observance of the Sabbath.\(^{21}\) The consumption of wine produced or even touched by a Gentile is prohibited to Jews, and it is also forbidden to draw benefit from such wine, for example, by selling it. The prohibition has two reasons: first, a Gentile might use the wine for idolatrous purposes, and thus convert it to *yein nesekh* (libation wine); secondly, consuming wine together with Gentiles might lead to intermarriage between Jews and Gentiles.\(^{22}\) The wine of a Jew that was touched by a Gentile is generally classified as *setam yeinam* (wine of Gentiles), the consumption of which is prohibited.\(^{23}\)

The *converso* obviously becomes similar to the Gentile to a certain extent. The rabbinic authorities had to define the position of the *converso* in comparison with the Gentile, depending on the conditions of the conversion (whether it was forced or voluntary) and the attitude of the *converso* to the Christian environment and the Jewish precepts. Since intermarriage with *conversos* and their descendants was not forbidden, only the first one of the two reasons for prohibition mentioned above seems to be relevant in this case. On the other hand, a convert who desecrated the Sabbath publicly may be regarded a complete Gentile,\(^{24}\) and thus if he touched the wine, it would become prohibited. Should the *conversos* be regarded as idolaters and desecrators of the Sabbath?

In order to discuss the problem of wine, the authorities had to take a stand on the question of these fundamental matters. The tendency of the responsa presented here is evident: they tend from uncertainty to definite prohibition, and the gradual transition from permissiveness to prohibition can be clearly observed in the discussion below.

The following instances shall be discussed: wine made in Valencia (Isaac b. Sheshet Perfet: *Responsa*, no. 4); wine made by Jews in Morvedre, transported by converts via Majorca (Isaac b. Sheshet Perfet: *Responsa*, no. 12); wine sent from Majorca by a convert to Algiers (*Tashbez* 1:63); wine made by Jews and guarded by a convert in Majorca (*Tashbez* 1:66); wine made by Jews in Morvedre, and transported by a convert via

\(^{21}\) For a detailed discussion of the *halakhic* problems related to wine produced or touched by Gentiles in *Ashkenaz* in the High Middle Ages see Soloveitchik 1978.

\(^{22}\) Cf. Deut 7:7; bSanh 106a; bAZ 36b

\(^{23}\) But according to Maimonides, for example, if the Gentile is not suspected of idolatry, it is permitted to draw benefit from the wine. See MT Hilkhot Maakhalot Asurot 11:7: “And similarly, the idolater [that is, the Gentile], who does not worship idols, like these Ishmaelites – it is prohibited to drink their wine, but it is permitted to draw benefit from it.”

\(^{24}\) Cf. MT Hilkhot Gerushin 3:15
Majorca to Tenes (Tashbez 2:60); wine made by converts and sent (possibly to North-Africa) by ship (Tashbez 3:312); Wine made by Jews in Tortosa, and sent by a convert in Christian ship to Majorca and from there to Bejaia (Solomon b. Simeon Duran: Responsa, no. 553).

The responsa concerning wine mention Valencia, Morvedre (Morbitere, Morviedo, Murviedo), Majorca, Tortosa, Algiers, Tenes, and Bejaia (Bougie). The Jews in the Kingdom of Valencia owned rural estates and were engaged in agriculture. In the municipal boundaries of the city of Valencia and Morvedre, these lands were mainly occupied by vineyards and olive groves (Hinojosa Montalvo 1993:235-238). Although the commercial activity of Valencian Jews was of primordial importance, the exact nature of their activity remains unknown, as the documentation concerning commerce contained in the Archive of the Kingdom of Valencia is limited to the trade with prohibited products (Hinojosa Montalvo 1993:193-194). For the same reason, commerce with wine is not mentioned in the records of the archives studied and published by Hinojosa Montalvo in his work of great importance about the Jews of the Kingdom of Valencia in the fifteenth century. Information concerning wine production and trade in the fourteenth century was gathered by Meyerson (2004:38-45) concerning Morvedre. According to Meyerson, export trade in wine produced in Morvedre in the fourteenth century was directed towards Valencia, Elx, Játiva, and perhaps Majorca and Barcelona. In the fifteenth century wine was imported to Tortosa, Teruel, North Africa and Sardinia (Meyerson 2004:43). The responsa of the three halakhic authorities under discussion here contain abundant references to commerce of wine made in the Kingdom of Valencia: the wine was either made by Jews or by the converts themselves, and it was generally transported by converts.

Algiers, Bejaia and Tenes were important port cities in North Africa and centers of maritime commerce. Contacts between the Jewish population of the North African port cities and the Jewish communities of the Iberian Peninsula had a long tradition (Hirschberg 1974:372-375). Majorca was a flourishing commercial center and a stopping place on the North Africa-Valencia maritime route (Hinojosa Montalvo 1993:207).

---

25 Port city in Eastern Spain, the capital of the kingdom of Valencia.
26 Now Sagunto, city in the kingdom of Valencia, near to the Mediterranean coast.
27 The largest of the Balearic Isles, part of the Corona of Aragon.
28 City in North-Eastern Spain, belonged to the Corona of Aragon.
29 Port city in North Africa.
30 Port city in North Africa, between Mostaganem and the city of Algiers.
31 Port city in North Africa, East from the city of Algiers.
V.1. Isaac b. Sheshet Perfet: Responsa nos. 4, 12

There are two responsa written by Isaac b. Sheshet Perfet dealing with the problem of wine produced or handled by *conversos*. Although the questions of the two responsa differ considerably, the answers show great similarity. The question of the first responsum (no. 4) touches on various related subjects connected with dietary laws. The question of the second responsum (no. 12) concerns a particular case of wine sent from Majorca. The answers operate with the same arguments, and they are actually interchangeable, as they are very general and do not contain direct references to the specific cases. This might indicate that Isaac b. Sheshet Perfet made use of the same answer twice; or maybe the answers were considerably shortened by later copyists or editors.

V.1.1 Isaac b. Sheshet Perfet: Responsum no. 4: on *conversos* making and offering wine

The question, which is anonymous in its present form, concerns four related problems: 1) if a *converso* can tread grapes in the vat of a Jew; 33) if a *converso* is reliable regarding the *kashrut* of the wine made by himself; 3) if a *converso* is reliable regarding the *kashrut* of the wine made by others; 4) if a *converso* is reliable regarding the observance of the dietary laws. The question itself is worth to be translated, as it is relevant to the connections between Jews and *conversos* in the years following the mass conversion of 1391 in the Kingdom of Valencia: 34

You asked also in your last letter, if a forced convert to idolatry from among the forced converts of our time can tread grapes in the vat of a Jew, and whether the wine will be *kosher* as if treaded by a Jew? Moreover, a lot of them make wine in their houses or in their own press-sheds, and they say that it was made according to the prescriptions of *kashrut*: whether we can trust them in order to drink the wine? And if they bring it from overseas [i.e. from a distant country], and they testify that it is *kosher*? Again, if one of them invites a Jew to eat with him, and offers him meat and wine, shall he believe him that it is *kosher* as he says, and shall he [the Jew] suppose that he [the convert] will not forsake that which is permitted and won’t feed him with that which is forbidden? And although he [the convert] has sinned, he is still a Jew, and he

---

32 For the discussion of this responsum see Netanyahu 1966:23-29 (without even mentioning the subject matter of the responsum); and some brief remarks by Orfali Levi 1982:25-26.
33 Unfortunately Isaac b. Sheshet Perfet in his answer did not relate to this question specifically. As Soloveitchik has already explained, the leading rabbis of *Ashkenaz* in the fourteenth century agreed on the possibility of Gentiles treading grapes, on the basis that crushed grapes interspersed with the pulp of the grape was still grape juice and did not acquire the status of “wine” to which the prohibitions concerning *yein nesekh* apply. See Soloveitchik 1978.
34 From the answer it becomes evident that the question came from Valencia. By Valencia not only the city bearing the same name was meant, but also the Kingdom of Valencia, which pertained at the time to the Corona of Aragon.
[the Jew] will not suspect his dishes, that he [the convert] might have cooked in them something forbidden. And if they can be deemed as Jews with respect to the handling of the wine and ritual slaughterig?35

The term used in the question for the *conversos* – “the forced converts of our time” (*anusei ha-zeman*) – indicates that the question was written after 1391, since this formula was not used before that. On the other hand, in his responsa no. 1:63, Simeon b. Żemaḥ Duran36 states that a certain Moses Amar asked Isaac b. Sheshet Perfet if the wine sent to him by his Majorcan *converso* father-in-law could be consumed or not, and there Simeon b. Żemaḥ Duran remarks that Isaac b. Sheshet Perfet refrained from deciding the problem since mass conversion was still a new phenomenon, and therefore he, Simeon b. Żemaḥ Duran, was permitted to answer the question. This indicates that the responsa no. 1:63 of the responsa of Simeon b. Żemaḥ Duran was written before the present responsum of the Isaac b. Sheshet Perfet.

In the city of Valencia, some 200 Jews remained after the mass conversion of July 9-11, 1391, and they continued to live together with the *conversos* in the former Jewish quarter until the end of August. At the end of August, the majority of these Jews were transferred to Morvedre, but some families continued to live in Valencia until 1424, when they probably left the city due to a burdensome tax imposed upon them (Hinojosa Montalvo 1993:67). The text of the responsum mentions Valencia as the place of the acts and events described in it, without specifying whether the toponym refers to the city or to the kingdom. Although the Jewish community of the city of Valencia eventually disappeared completely, and Morvedre became the new center of Valencian Jewry as a whole (Hinojosa Montalvo 1993:253), the denomination used in the responsum can equally refer to the city or to the kingdom, since Jews and *conversos* still lived together in the city of Valencia in the years subsequent to the riots of 1391.

V.1.1.1. Legal judgement of committing transgressions under compulsion

The answer begins with a summary of the legal judgment of carrying out an act under compulsion in general. Isaac b. Sheshet Perfet enumerates the prescriptions and prohibitions regarding the issue in the Torah, and the considerations in the Talmud:37 If

---

35 Isaac b. Sheshet Perfet: *Responsa*, no. 4
36 See below.
37 Deut 6:5: “Love the Lord your God with all your heart and with all your soul and with all your strength;” Lev 22:32: “Do not profane my holy name, for I must be acknowledged as holy by the Israelites;” bBK 28b:
one commits an offence against the law under compulsion, he cannot be punished by the rabbinical court of law. He cannot be disqualified from being a witness, and has to be considered a Jew in every respect. And this is so even if one committed idolatry, in the case of which Jewish law requires that one sacrifice his life rather than committing it. Isaac b. Sheshet Perfet quotes the ruling of Maimonides,\(^{38}\) which is in agreement with his exposition. He also makes reference to a responsa written by R. Solomon b. Abraham Adret (Barcelona, 1235-1310), which sums up the arguments mentioned above, and rules that “they are Jews and the meat of an animal slaughtered by them is permitted, and the wine touched by them is not forbidden.”\(^{39}\)

Isaac b. Sheshet Perfet emphasizes that these statements refer only to those who refrain from transgressions as far as they can. However, if a person violates a percept by his own will (and not under compulsion), the punishment for which is flogging in theory, he becomes unfit for testifying, even if his transgression was not public. Moreover, he has to be suspected of violating that particular percept regularly. If he violates the Sabbath publicly or worships an idol of his own will (even if in private), he has to be considered as a person who absolutely abandons the laws of the Torah. According to Isaac b. Sheshet Perfet, the fact that a person commits an offense privately and not under compulsion, demonstrates that although at first he might have violated percepts under real compulsion, he finally got used to the negligence of Jewish laws and became a voluntary convert.

\(\text{V.1.1.2. Conversos remaining in Iberia got used to transgress Jewish law}\)

The conclusion drawn by Isaac b. Sheshet Perfet is that converts who remained in a land in which they could not practice Jewish religion freely, are to be suspected of transgressing Jewish law as a rule. He mentions that a great number of Jews managed to escape from religious persecutions by leaving the country. Isaac b. Sheshet Perfet states explicitly that it was possible even for the poorest members of the Jewish community to leave the country. For this reason, regarding the legal status of those who remained, it is presumed that they do not behave according to Jewish law. But if it can be ascertained that a given person never violates the percepts by his own will, and that he remains in the country because he really cannot afford the costs of travel, he should be regarded as a

\(\text{\"[he who acts under] compulsion is exempted by God\" (my translation); Sifra, Kedoshim 10:13: [As it is written concerning the person who sacrifices his son to Molech:] \"I will set my face against him\" (Lev 20:5) \– [...] against him [who did it willfully], but not against who did it under compulsion.\}^{38}\)

\(\text{MT Hilkhot Sanhedrin 20:2.}\)

\(\text{\textsuperscript{39}\text{Isaac b. Sheshet Perfet: Responsa, no. 4. Cf. Solomon b. Abraham Adret: Responsa, no. 7:41.}}\)
proper Jew, who is fit for testifying. The wine handled by him and the meat of an animal slaughtered by him is to be permitted for consumption. Unfortunately, Isaac b. Sheshet Perfet did not expand how the existence of these circumstances should be verified and demonstrated in practice.

V.1.1.3. Testifying concerning wine

Isaac b. Sheshet Perfet distinguishes between two categories of those who commit offenses against Jewish law willfully. If the offense is idolatry or the violation of the Sabbath in public, the person should be regarded as a Gentile, and wine handled by him is thus prohibited. If the offense is something else, he should be regarded as suspicious of committing that specific transgression, but the wine handled by him is not prohibited. However, he is unfit to testify concerning the kashrut of the wine in his possession (not necessarily made by him). The reason, as Isaac b. Sheshet Perfet formulates it, is the following:

The forced converts who live in Valencia and in other countries do not refrain from the [consumption] of the wine of the Gentiles. Even if they refrain from it, they cannot prevent the Gentiles from handling their [kosher] wine. They are all suspicious, that if their wine was handled by a Gentile, they do not disqualify it [their kosher wine] from being consumed or sold. Since they are suspicious of this [specific] thing, they are unreliable concerning their own wine.40

Isaac b. Sheshet Perfet explains that it is controversial whether the conversos are suitable for testifying concerning the wine which is not their property. The basis for the debate is a discussion in the Talmud between Rabbi Meir and Rabban Gamaliel.41 According to Rabbi Meir, a person suspected of neglecting a percept is disqualified from testifying concerning it. However, according to Rabban Gamaliel he is reliable concerning that percept if the testimony involves another person but not himself. As Isaac b. Sheshet Perfet explains, most halakhic authorities and all later authorities ruled as Rabban Gamaliel, including Maimonides42 and Solomon b. Abraham Adret.43

The response of Isaac b. Sheshet Perfet does not follow systematically the four distinct questions asked by the inquirer. The answer concentrates on the testimony

40 Isaac b. Sheshet Perfet: Responsa, no. 4
41 Cf. bBekh 35a
42 Cf. MT Hilkhot Edut 11:8
43 Cf. Solomon b. Abraham Adret: Responsa, 1:64
concerning the kashrut of the wine, and touches upon the wine handled by conversos. It does not expound on other problems raised by the inquirer, like ritual slaughtering or the dishes used by converts.

V.1.2. Isaac b. Sheshet Perfet: Responsum no. 12: on conversos making and offering wine

The second responsum of Isaac b. Sheshet Perfet relating to wine contains a very similar argumentation to the first one. The original question did not survive, it is summed up very briefly in a couple of words: “And what you asked in another letter about the wine brought from Majorca; and the converts who brought it testified that it was kosher [wine] from Morvedre.”

The considerations mentioned in this responsum are identical with those of the previous one, and certain passages correspond word by word. For example, the passage dealing with wine possessed by conversos and their attitude towards the wine of Gentiles here is identical with the discussion of the topic in the previous answer, with the only significant difference in the toponym: in the former responsum Valencia, in this one Majorca is mentioned. There are two major differences between the two responsa. This latter responsum lacks the general introduction concerning the violation of percepts under compulsion. But it contains a short excursus with respect to the oath taken by converts, and states that they are unreliable regarding issues of kashrut even if they make an oath concerning the matter.

V.2. Simeon b. Żemaḥ Duran: Tashbeẓ 1:63: on wine sent by a convoresco relative from Majorca

There are five extant responsa written by Simeon b. Żemaḥ Duran that deal with wine and converts. The gradual change of his opinion can be observed clearly in these texts. From a relative permissiveness, he eventually moved to a more severe attitude towards conversos. This change can be explained by his personal experiences regarding converts. The motives of the alteration of his view were detailed by him explicitly in the reasoning of the decisions. The introduction of the responsum is the following:

44 Isaac b. Sheshet Perfet: Responsa, no. 12
45 For the discussion of the responsum see Netanyahu 1966:33-35; and a short reference by Orfali Levi 1982:27.
I have written this one about the wine that was sent by the father-in-law of Moshe Amar. He [the father-in-law] sent it to him being still under the compulsion of the persecution in Majorca. He [Moshe Amar] asked Isaac b. Sheshet – may the Almighty protect and bless him – and the other authorities that were here, but they did not determine [whether it was] prohibited or permitted, since it was at the beginning of the persecution. They gave him permission to ask me about this issue and to follow my instructions, and I wanted to commit the instructions to writing.\(^{46}\)

The abbreviation that appears next to the name of Isaac b. Sheshet Perfet (“may the Merciful guard him and redeem him”) shows that he was still alive at the time when the responsum was written, which suggests that it was written before 1408. It is also possible that this responsum is the earliest from among the texts discussed in this chapter, and that those of Isaac b. Sheshet Perfet were written after this one (as according to Simeon b. Žemaḥ Duran, Isaac b. Sheshet Perfet did not wish to answer the question at the time, though as seen above, he did answer similar questions later, and that is why Simeon b. Žemaḥ Duran himself undertook the task).

The two major subjects of the responsum are conversos handling the wine and conversos testifying concerning the kashrut of the wine. The basis for the discussion is the ruling of Maimonides: “But if he could flee and rid himself of the wicked ruler’s hand, and does not do that, he is like a dog that returns to his vomit, and he is called a willful idolater, and he will be banished from the world to come, and will descend to the lowest step of the Hell.”\(^{47}\)

V.2.1. Reasons for remaining in Christian territory

The basic statement of Simeon b. Žemaḥ Duran is that it should not be automatically supposed that the conversos could have left the land of persecution. It should be assumed that they stayed in Christian territory under the pressure of the circumstances. Simeon b. Žemaḥ Duran enumerates some possible reasons, like financial problems or fear: maybe they could not cover the expenses of the transfer; maybe they were afraid that they would be severely punished if it was discovered that they wanted to emigrate. Consequently, he claims that the statement of Maimonides does not apply to these converts. Simeon b. Žemaḥ Duran draws attention to the wording used by Maimonides, and especially that he

---

\(^{46}\) Simeon b. Žemaḥ Duran: *Tashbeẓ* 1:63

\(^{47}\) Quoted in Simeon b. Žemaḥ Duran: *Tashbeẓ* 1:63; cf. MT Hilkhot Yesodei ha-Torah 5:4.
mentioned divine punishment only, but did not specify worldly consequences. According to Simeon b. Žemaḥ Duran, the reason for this is that only divine omniscience can determine whether a particular person was a voluntary convert who stayed in the land of the persecution by his own free will, or whether he stayed because of a reason which was unknown to human observers.

Simeon b. Žemaḥ Duran took a further step explaining, that even if it was certain that the *conversos* could have left the country without having endangered themselves, they should not be treated as willful idolaters. The example given by him is theoretical, and it is based on a biblical precedent:

> And I say furthermore, that even if it is clear to us that there is no fear in escaping, like [a situation in which] the wicked king made a proclamation throughout all his kingdom, “Any of his people among you may go up, and may the Lord their God be with them.” (II. Chron 36:23); even in a situation like this the wine handled by a person who was withheld from leaving, and who stayed there, should not be suspected of being prohibited.48

The situation described here seems to be a hypothetical one. The Christian rulers in general did not permit converted Jews to leave the country, since it was evident that they would then return to the Jewish faith. According to the Catholic belief, baptism is a sacrament that has an irreversible effect in all cases, no matter if the conversion took place under compulsion or voluntarily. Thus, returning to the former faith was considered an utmost serious sin, and it had to be prevented by all means. The Christian authorities in Majorca issued subsequent decrees forbidding forced converts to leave the island. In spite of this, a great number of converts did leave Majorca and returned to Judaism in North-Africa.49 Simeon b. Žemaḥ Duran may have alluded to this emigration.

Simeon b. Žemaḥ Duran differentiates between the passive act of staying in a place where one would possibly commit transgressions, and the active act of going to a place of the same kind. As an analogy, he considers the *halakhah* regarding captured women. Women who were captured by criminals are permitted to their husbands, since they acted under compulsion. But if they followed the criminals on their own will, they are prohibited to their husbands, because in this case the state of compulsion does not apply.50 However, according to Simeon b. Žemaḥ Duran, converts are not comparable to such women.

48 Simeon b. Žemaḥ Duran: *Tashbez* 1:63
50 Cf. bKet 51b
because the act of following the criminals is an active deed, whereas staying in Iberia is a passive one. Simeon b. Žemaḥ Duran emphasized that this approach to *conversos* is not particularly permissive, but it is in accordance with the strict sense of law.

In the opinion of Simeon b. Žemaḥ Duran, coercion is a most decisive factor regarding the status of converts. As *conversos* began to violate religious law under compulsion, they should be deemed as forced converts, and their legal status as such should not be changed until evidence indicating the willful alteration of their status was produced. The mere fact of staying in Iberia, according to him, is not such evidence. Consequently, they ought not to be treated as voluntary converts on the basis of bare presumptions, because their “legal status is unambiguous as the legal status of a married or a single woman, that cannot be questioned unless an evidence is produced.”

In the continuation of the discussion, Simeon b. Žemaḥ Duran put forward that if the *conversos* themselves said that they had stayed in Iberia for financial reasons, they should not be treated as voluntary converts; and that a person who himself claimed that he had committed a transgression for financial reasons only, should not be trusted concerning his claim, but it has to be supposed that he had some other reasons for the transgression as well.

What follows from this discussion is that the wine handled by a *converso* is to be considered kosher unless it is known for sure that the person had violated Jewish law of his own will. Staying in Christian territory is not to be considered an evidence of willful transgression.

V.2.2. Testifying concerning wine

The second subject of the discussion in the responsum is testifying concerning wine made or possessed by *conversos*. Two arguments are cited by Simeon b. Žemaḥ Duran that could result in the prohibition of such wine, and both arguments are eventually refuted by him. The first one is the view of Rabbi Meir, according to whom a person suspicious of transgressing a percept is disqualified from testifying concerning it. Simeon b. Žemaḥ Duran claimed that this assertion did not apply in case of a general, not well-established suspicion. Then he moved on to the explication of another statement of Rabbi Meir.

---

51 Simeon b. Žemaḥ Duran: *Tashbez* 1:63
52 Cf. bSanh 61b and bShab 72b
53 Cf. bKet 18b
54 Cf. bBek 30a
according to which a person suspected of neglecting one religious law is suspected of disregarding the whole Law. Simeon b. Žemaḥ Duran made a distinction between a general suspicion and a well-established presumption, and drew a comparison between the case of the converts and the kohanim (priests). He claimed that if a convert could be disqualified based on a general suspicion only, so also the kohanim could be disqualified from passing judgments. One of the obligations of the kohanim is to pass judgments,55 but they can do so only if they themselves are impeccable. Yet, the general assumption regarding kohanim is that they may blemish the sacrificial animal, because then they can eat it themselves instead of having to sacrifice it. Nonetheless, the kohanim as a group cannot be regarded suspicious of committing a certain transgression, and therefore, they cannot be disqualified because of somebody who did actually commit that transgression. Similarly, the converts as a group cannot be suspected of neglecting religious laws on account of some individuals who did in fact neglect it. One should be deemed suspicious only in case of some specific, well-established suspicion.

The second argument cited and refuted Simeon b. Žemaḥ Duran is that conversos did not care if Gentiles handled the wine, and they were similar in this respect to Cutheans (Samaritans). In rabbinic tradition, it is an important aspect that Cutheans themselves did not offer libations, but at the same time they did not care if Gentiles handled their wine.56 However, Simeon b. Žemaḥ Duran explains that conversos differ from Cutheans in two respects. First, Cutheans are allowed to drink wine handled by Gentiles, so it is reasonable to suppose that it does not bother them if Gentiles have handled their wine. Conversos, on the other hand, know that wine handled by Gentiles becomes forbidden for them, and they would not drink such wine. Secondly, the precept of “do not put a stumbling block in front of the blind” (Lev 19:14) does not apply in case of Cutheans, but it is binding for converts, and consequently, converts would not give forbidden wine to a fellow Jew. As Simeon b. Žemah Duran explains, even if one rejects the first argument, and holds that conversos are suspected of drinking wine handled by Gentiles, it must be accepted that they would not give such a wine to a Jew:

[Concerning] the wine that they are sending to a Jew, and they say that they have made it in [i.e. observing the rules of] kashrut, they are reliable, since it is

55 Deut 21:5: “The Levitical priests shall step forward, for the Lord your God has chosen them […] to decide all cases of dispute and assault.”
56 Cf. bAZ 31b
established for us according to Rabban Gamaliel that he is reliable concerning his fellow’s but he is not reliable concerning his own.\textsuperscript{57}

In contrast to the responsum of Isaac b. Sheshet Perfet\textsuperscript{58} discussed above (no. 4), Simeon b. Żemaḥ Duran does not mention here that some authorities do not accept the view of Rabban Gamaliel, and follow that of his opponent, Rabbi Meir. The reason of the statement of Rabban Gamaliel, according to the interpretation of Simeon b. Żemaḥ Duran, is that testimony concerning the wine of another person does not imply profit and benefit for the witness. In consequence, a suspicious person is reliable even concerning his own property, if the testimony does not imply profit and benefit for him. And this is exactly the case here, regarding wine sent as a present: since the wine is a present, the sender does not obtain any profit. Simeon b. Żemaḥ Duran adds, that the kind of benefit that may result from a present, such as returning the kindness, etc., is not in the category of profit, because it is not an imminent and secure benefit (as the price of an article sold would be, for example).

Summing up the discussion, Simeon b. Żemaḥ Duran establishes as follows:

The presumption concerning the legal status of these converts is that they are reliable in general, unless it becomes clear that their legal status has changed, because they do not refrain from forbidden things. But their legal status should not be questioned without a very specific reason. Therefore, they are reliable concerning all prohibitions in the Torah, and all the more so concerning rabbinical prohibitions, such as [against] the wine of Gentiles, and they are like Jews in every respect.\textsuperscript{59}

V.2.3. Excursus 1: a person suspected of eating non-kosher food is not suspected of feeding others with it

At the end of the responsum, there are two further arguments, which were added later. The first one cites the opinion of Aharon ha-Levi, according to which a person suspected of consuming forbidden food is not suspected of feeding others with forbidden food.\textsuperscript{60} Simeon b. Żemaḥ Duran points out that the view of Aharon ha-Levi is based on an interpretation of a Talmudic passage (bAZ 39b), which is contrary to the interpretation of Rashi\textsuperscript{61} and Solomon b. Abraham Adret.\textsuperscript{62} Simeon b. Żemaḥ Duran adds that in his opinion

\textsuperscript{57} Simeon b. Żemaḥ Duran: Tashbez 1:63; cf. bBek 35a
\textsuperscript{58} Cf. above, Isaac b. Sheshet Perfet: Responsa, no. 4
\textsuperscript{59} Simeon b. Żemaḥ Duran: Tashbez 1:63
\textsuperscript{60} Cf. Aharon ha-Levi: Bedek ha-Bayit 4:2
\textsuperscript{61} Rashi ad loc.

135
the interpretation of Rashi and Solomon b. Abraham Adret is better than that of Aharon ha-Levi. Nevertheless, since the view of Aharon ha-Levi is also widely accepted, it supports his decision.

**V.2.4. Excursus 2: only God is entitled to judge the motives of conversos staying in Christian territory**

The second argument to be considered is a reaction to a passage of the *Iggeret ha-Shemad*, according to which those who could escape from the land of persecution, yet they stay there because they fear for their children, are to be regarded as staying almost voluntarily. Simeon b. Žemaḥ Duran does not challenge this statement, but he comments on it. In his opinion, even if a person remains there for this reason, it should be supposed that he is prevented from leaving the country by another reason, too. Simeon b. Žemaḥ Duran refers back to his former discussion of the subject, according to which only divine omniscience could determine why exactly a person does not escape, and claims that for this same reason has mentioned Maimonides only divine punishment, leaving aside more imminent consequences. Besides, Simeon b. Žemaḥ Duran adds that Maimonides ruled that a person who committed idolatry because of love or fear was exempt from punishment until he accepted the idol as a deity. According to Simeon b. Žemaḥ Duran it is evident, that a person, who stays because he fears for his children, does not accept the idol as a deity, and therefore, he is exempt from the charge of idolatry. He adds that his wine might still be forbidden, because the idolatrous act committed by him is indeed an effective act. Accordingly, as the offering of a person who does not accept the idol as a deity becomes forbidden, so should the wine of converts. Simeon b. Žemaḥ Duran does not elaborate this proposition, he confines himself to mentioning it. Finally, he remarks that the statement of Maimonides in *Iggeret ha-Shemad* might indicate that Maimonides supposed that those who stayed fearing for their children did in fact accept the idol as a deity, since it is evident that the love of God is prior to the love of the family. Or maybe Maimonides wrote that passage for didactical reasons, in order to give an impulse to the converts to make such a difficult decision as leaving behind their family.

---

64 Cf. above, and MT *Hilkhot Yesodei ha-Torah* 5:4
65 MT *Hilkhot Avoda Zara* 3:6; cf. bSanh 62b, bShab 72b
The main point of the responsum is that the wine handled by *conversos* does not become prohibited, and they ought to be regarded as reliable concerning the *kashrut* of wine until proven otherwise. According to the arguments of Simeon b. Žemah Duran the mere fact of staying in the land of forced conversion does not fall in the category of proof.


The question of this responsum was sent by Mordecai Naggar67 from Majorca. It concerns wine kept in a store-house in the courtyard of a Gentile woman.

The wine was guarded at first by a Jew who was staying in the store-house. Then, the majority of the wine was carried away, and the Jew left, too. The store-house was closed, and the keys were handed over to a second Jew, who was living in the village. The Gentile woman offered the rest of the wine for purchase to the father of the first Jew, and he bought it. At the same time, the second Jew, who was guarding the keys, returned the keys to the woman, saying that the wine was not *kosher*, and reported this to the buyer as well. The second Jew testified that although the doors of the store-house were closed, one of the doors that led to the courtyard of the woman was in such a poor condition that it was impossible to close the door in a proper way, so anyone could have entered. In his testimony he gave a detailed description of the doors and the locks. He also said that the woman kept her utensils in the store-house, and therefore she definitely entered it, and did so through the door that was in poor condition. He claimed that when he saw this, he cast the keys to the woman without anyone being present there.

Despite these obvious statements in the testimony of the Jew, the wine was still not prohibited unambiguously, as there were other circumstances that left the situation unclear.

The keys were at some point handed to a *converso*, who later testified that he was present when the Jew returned the keys, and that the keys were not returned to the woman – as the Jew stated –, but to him. This way, the wine was theoretically under continuous Jewish attention. The doors of the store-house were examined, and it turned out that the situation did not match the situation described by the Jew who had formerly guarded the keys: the locks were in a different position, and none of the doors was in bad condition.

66 For the discussion of this responsum see Netanyahu 1966:35-38, and a short reference by Zimmels 1932:94.
67 Mordecai Naggar lived in Majorca but paid several visits to North Africa. In 1435 he was baptized in Majorca, and subsequently he left for Algiers. (Epstein 1968:95-96)
Thereupon, some relied on the testimony of the Jew and declared the wine to be forbidden, and others trusted the *converso*. Those who trusted the *converso* claimed that the Jew was bribed by the person who bought the wine. They argued that the wine acetified, and the Jew did not want to pay for it. And if the wine was declared prohibited, the buyer could say that the purchase was invalid, since he purchased the wine on condition that it was kosher, and thus the Jew would not have to pay. In the meantime, he refused to pay the woman, who in turn denounced the buyer to the Gentile authorities. Those who trusted the convert backed their opinion with a hearsay, according to which the buyer tried to come to a compromise with the woman, and offered her to stop spreading rumors about the wine being prohibited, if the woman agreed to settle for a partial payment of his debt.

Those who trusted the Jew argued that the wine was prohibited. They argued that the *converso* might have been bribed by the Gentile woman to change the position of the locks so that the reality would contradict the words of the Jew. Moreover, they claimed that the wine was not acetified yet when the Jew returned the keys, so the buyer had no reason for bribing the Jew at the moment of his testimony. The wine acetified precisely during the long discussion about it. They stated furthermore that *conversos* were unfit for guarding wine, despite being reliable concerning wine made or offered by them:

As regards the reliability of the converts, they say that although they believe them when they say that “we bought this wine from a Jew called so-and-so,” or when converts make the wine in their houses; but the custom is not to rely upon converts in guarding the wine, as because of the pressure on them, converts cannot detain Gentiles from handling their wine, and they themselves do not care about Gentiles handling their wine. It is common that they are not held reliable for guarding the wine, although they tread [grapes] in the vat for wine pressing together with Jews. But the custom is to entrust the wine to Jews and not to converts.68

In his answer, Simeon b. Zemaḥ Duran first discusses the problem regardless of the fact that the wine was guarded by a convert, and then examines also the subject of converts. In the general discussion of the case (regardless to the matter of *conversos*), he puts forward several reasons for the prohibition of the wine. The most important point of the exposure is that in order to ensure the kashrut of the wine, the use of a seal is required. If they did not use a seal on the wine or the barrel, the wine is forbidden in any case.

---

68 Simeon b. Zemaḥ Duran: *Tashbeẓ* 1:66
In his discussion concerning *conversos*, Simeon b. Žemaha Duran repeats the principles exposed previously by Isaac b. Sheshet Perfet\(^{69}\) and by himself.\(^{70}\) If a convert commits idolatry or profanes the Sabbath in public, without being forced to do so, the wine handled by him becomes forbidden. If he drinks the wine of Gentiles, he is reliable concerning the wine of another person, but unreliable concerning his own. But if he receives payment for guarding the wine, it becomes similar to his own, and therefore he becomes unreliable concerning its kashrut. If he does not drink the wine of Gentiles, but does not care about Gentiles handling kosher wine, his wine is forbidden. Simeon b. Žemaha Duran quotes the passage written by Maimonides regarding those who could escape from compulsion and persecution but refrain from doing so, where these persons are compared to dogs returning to their vomit.\(^{71}\) He does not interpret the passage, but remarks that “there is something very difficult regarding the reliability of converts and the handling of wine by them, and I shall not put forward logical arguments concerning this, but I will quote Maimonides for you.”\(^{72}\)

V.3.1. *Conversos dissimulating their identity and assimilating to Christians*

Simeon b. Žemaha Duran discusses the subject of the relationship between *conversos* and Christians. He emphasizes that the *conversos* must prove to be attached to Christians and dissociated from their former religious and ethnical environment:

If the wine was in the hand of a Jew, it would be permitted; but now that it is in the hand of a convert, it is prohibited, in accordance with what you see from their behavior and custom with Gentiles. As the convert is deemed as Gentile by the woman, he must listen to her, for if he defied her, she would say to him: “You are still a Jew, and your heart is closer to the Jews than to the Gentiles!” For this reason, the convert is not reliable regarding guarding the wine. […] Obviously, if the woman wanted to enter her storehouse after the convert […], he would not prevent her from doing so, because he would be afraid that she would say that he still behaves according to the custom of the Jews, and he would cover for the woman who touched the wine [he would act as an accomplice].\(^{73}\)

---

\(^{69}\) See above, in Isaac b. Sheshet Perfet: *Responsa*, nos. 4, 12.

\(^{70}\) See above, in Simeon b. Žemaha Duran: *Tashbeţ* 1:63.

\(^{71}\) See above, in Simeon b. Žemaha Duran: *Tashbeţ* 1:63. Cf. MT Hilkhot Yesodei ha-Torah 5:4.

\(^{72}\) Simeon b. Žemaha Duran: *Tashbeţ* 1:66

\(^{73}\) Simeon b. Žemaha Duran: *Tashbeţ* 1:66
Simeon b. Żemah Duran discusses at length the custom of the community, namely that they rely on conversos with respect to wine made by them, but they consider them unfit for guarding the wine, claiming that they would not be able to prevent Gentiles from touching the wine. Simeon b. Żemah Duran criticizes this custom, stating that if the converts do not care about Gentiles handling their wine, then apparently wine made by them should also be prohibited.

V.3.2. Conversos remaining in Majorca or even returning to there

Simeon b. Żemah Duran remarks that although not all converts behave the same way, their majority got used to the desecration of the Sabbath, and became resigned to their new condition of living gradually assimilating themselves to the Christians. He adds that some of the conversos who did leave Majorca for North Africa, not only disregarded Jewish law although they could have observed it, but voluntarily returned to Majorca:

We see that some of those who come here are Gentiles completely, and who shall decide which is worthy and which is disqualified? Moreover, apparently you do not have reservations because of the profanation of the Sabbath in public, though according to the hearsays, their majority or even almost all of them [desecrate the Sabbath publicly], and even those who had refrained from this, changed for the worse, and they do not refrain from this at all. Apparently you do not have reservations if they stay there after they have received permission to leave [the country], or if they do not consider leaving [the country] at all, and have built houses for themselves, and have chosen women for their sons, and have given their daughters in marriage to men. Let alone those, who have been here and returned there of their own accord – should they be treated as forced converts or not?  

V.3.3. Christians in Majorca turn a blind eye to the conversos’ adherence to Judaism

Simeon b. Żemah Duran explains that the community of Majorca obviously believes that a person who stays in the place of persecution does not become a voluntary convert. He also offers an interpretation of the passage of Maimonides mentioned earlier, which makes this position possible. The statements of Maimonides refer to a situation in which the ruler keeps the converts under continuous and strict control. Accordingly, Simeon b. Żemah Duran adds the following argument:

---

74 Simeon b. Żemah Duran: Tashbez 1:66
75 Cf. MT Hilkhot Yesodei ha-Torah 5:4
But in case of these persecutions, and especially in that place [in Majorca], they let converts do whatever they want, and they are not forced to commit idolatry, and they are almost deemed to be Jews by them [by Christians], to such an extent that they give them permission to leave the country if they wish. But if a Gentile wanted to emigrate and to become a proselyte, they [Christians] would not let him do that. On the contrary, they would kill him, even if he gave them all the money in the world. It is obvious from this that they are indeed considered as Jews by Christians, even though according to the principle of the Christian religion, if one converted, even under duress, he cannot return to Judaism. And for this reason, the Christians pretend that they do not see [the behavior of the converts]. The only effect of the persecution is that they have to use Gentiles names […], and seeing this situation, the converts think that it is permitted to stay there.\footnote{Simeon b. Žemaḥ Duran: \textit{Tashbez} 1:66}

These remarks contradict the observation quoted just above, that the \textit{converso} guarding the wine would obviously not prevent the Christian owner from entering the storehouse or touching the wine, since he is afraid that in that case the Christian would blame him with following Jewish customs. In the light of the discussion as a whole it seems to be an exaggeration that the \textit{conversos} could do whatever they wanted, and that their acts were overlooked by the Christians, who required them only the use of Christian names.

Simeon b. Žemaḥ Duran clarifies, that according to the community of Majorca, a \textit{converso} who desecrates the Sabbath publicly in order to pretend to be a Christian, but observes it in his house as much as he can, is apparently not considered a person who disregards the entire Law, and wine handled by him is therefore permitted. He adds that it is evident that converts drink the wine of Christians willfully, and claims that for this reason it is surprising that the community of Majorca relies on them concerning wine made by them. Simeon b. Žemaḥ Duran resolves this contradiction by suggesting that according to the community of Majorca, \textit{conversos} are suspected to eat forbidden food, but they are not suspected to feed Jews with such forbidden food.

Compared to the former responsum, the reader has the feeling that the opinion of Simeon b. Žemaḥ Duran regarding \textit{conversos} has undergone some changes. He became more skeptical about them. His reservedness is based on personal experience (\textit{conversos} arriving to Algiers and neglecting Jewish Law, or even willfully returning to Christian territory), and on information about the circumstances of \textit{conversos} on the Iberian Peninsula or Majorca (they gave up observing the Sabbath, they drank prohibited wine, they did not want to leave Christian territory, etc.). Although the prevalent customs seem
controversial to him, Simeon b. Žemaḥ Duran still suggests ways to explain and legitimize them.

V.4. Simeon b. Žemaḥ Duran: Responsum no. 2:60: on wine sent by a Majorcan converso\textsuperscript{77}

This question also was sent by Mordecai Naggar, from Tenes. It concerns a wine made in Morvedre that was sent to a Jew by a convert from Majorca. The wine was stored in sealed barrels, and the convert promised that he would send a letter written by that Jew of Morvedre who had made the wine that would certify the provenance of the wine. The question was whether the seal and the statement of the convert were sufficient to regard the wine as kosher.

The answer of Simeon b. Žemaḥ Duran contains some general considerations regarding conversos. First, that it is evident that they are unreliable concerning the kashrut of their own wine. Secondly, that converts as a rule do not consume forbidden food if permitted food can be obtained easily. Likewise, they do not trade in forbidden wine.\textsuperscript{78}

According to Simeon b. Žemaḥ Duran, wine made by Jews does not become forbidden if touched by a converso. He maintains that the provenance of a wine can definitely be established on the basis of its smell and color: “It can be said concerning this wine that it is evident that it was not made by this convert, since it was not made in Majorca, as everybody can recognize by its appearance and smell that it is from the kingdom of Valencia.”\textsuperscript{79} Simeon b. Žemaḥ Duran explains that since the wine was certainly made by Jews, and held in sealed barrels, it could become forbidden only in case the converso opened the barrel, offered libation offering from it, and then sealed the barrel again. But as conversos are not likely to offer libations, he holds that this possibility can be rejected. Therefore, states Simeon b. Žemaḥ Duran, all wine transported by conversos from Morvedre to North Africa could, in theory, be permitted. But this is not the case, he continues, since a minority of conversos does eat forbidden food even if permitted food

\textsuperscript{77} A short reference to this responsum can be found in Zimmels 1932:97.

\textsuperscript{78} This proposition of Simeon b. Žemaḥ Duran is interesting. From the statement that “they do not trade in forbidden wine” it follows that they do trade in permitted wine. Now, as Simeon b. Žemaḥ Duran just declared that they are unreliable concerning their own wine, which implies every wine in which they have profit, it might be expected that he would ban wine-trade completely. Nevertheless, he does not add any further considerations to his statement cited above. It might be suggested as a solution to the apparent contradiction here, that the wine in which a person trades does not become the trader’s property in any sense, and his activity is restricted to the transport of the goods, but he does not obtain any share in the goods themselves (although he does gain profit from their transport).

\textsuperscript{79} Simeon b. Žemaḥ Duran: Tashbeţ 2:60
can be found easily. Consequently, one should not rely on general presumptions, but on the specific person who sends the wine: “I usually say to those who receive wine that if you trust the person who sent it, drink it in your house, but beware from selling it to a Jew who does not know the sender well.”

But in this specific case, Simeon b. Žemah Duran says that the wine is permitted in any case, since its origin can be cleared and attested. In this sense, wine is similar to eggs claimed by the Gentile seller to be eggs of a ritually clean bird. As the origin of the eggs could be cleared, so the origin of the wine can be determined too, consequently the wine is permitted. All the more so, since the **converso** would not allow himself to sell forbidden wine to the Jews, if the truth can be found out easily: “And also, the convert will be anxious that the community will prohibit his wine if ‘if the new wine will fail them’ [Hos 9:2].

V.5. Simeon b. Žemah Duran: Tashbeţ 3:227: excursus on Majorcan conversos drinking wine sold by an Arab woman

The text is not a proper responsum, but a letter of admonition written to the community of Majorca before their general conversion. The letter contains an addition at the end, which goes as follows: “After I had written this, they did not listen to me. Within a short time they were struck by Divine Justice, and all of them converted due to the dissensions. But I have saved my soul.”

The letter touches on various problems, such as quarrels in the community, negligence of the precept of wearing earlocks, etc., and it also discusses the issue of wine at length.

Simeon b. Žemah Duran severely criticizes the community on account of their custom of drinking wine sold by an Arab woman, who might have undergone ritual immersion, but, as Simeon b. Žemah Duran assumes, it was not in the presence of three Jews, and she never accepted the precepts of Jewish Law – all of which are requirements of conversion to Judaism. Simeon b. Žemah Duran appears to be sure about the invalidity of the immersion, and he justifies his view by reminding the community that the activity of

---

80 Simeon b. Žemah Duran: Tashbeţ 2:60
81 Cf. bḤul 63b
82 Simeon b. Žemah Duran: Tashbeţ 2:60
83 The responsum is treated by Zimmels 1932:95-96.
84 Simeon b. Žemah Duran: Tashbeţ 3:227
proselytizing was absolutely forbidden to them by Christian authorities, and that they really do refrain from it because they fear the consequences.

Moreover, the woman sells the wine to Jews and Gentiles alike, and she uses the same vessel for measuring it. Simeon b. Żemah Duran explains that the wine would be prohibited for this reason alone, even if it was measured out by a Jew. His reasoning is that as the wine in the vessel of the Gentile and in that of the seller forms a continuum, and thus the wine that remains in the vessel of the seller becomes forbidden. If the seller immerses his vessel to the barrel of the kosher wine again, that also becomes forbidden. Therefore, Simeon b. Żemah Duran suggests the rinsing of the vessel after each usage.

Another charge Simeon b. Żemah Duran brings up against the community is that according to the information he received, they let Gentiles put the cane of measurement into the barrel of their kosher wine. As Simeon b. Żemah Duran says, “there is nothing left, but that you go to the shops of the Gentiles in order to buy the wine there.”

This letter is most important from the point of view of the prevalent customs in the Jewish community of Majorca. It probably sheds even more light on the reality than the responsa discussed earlier. It might be suggested that those who disregard Jewish precepts to such an extent, would normally not send questions to an authority similar to Simeon b. Żemah Duran, or to any halakhic authority at all. Therefore, the chance that evidence of their customs and manners survives in responsa literature is relatively limited.

V.6. Simeon b. Żemah Duran: Tashbeẓ 3:312: on wine made and sent by Majorcan conversos

The last responsum of Simeon b. Żemah Duran to be discussed here concerns wine made and sent by conversos. The formulation of the question is interesting, since it contains the phrase “last converts who have not yet become notorious on account of desecrating the Sabbath publicly” which means that most conversos were evidently considered as profaners of the Sabbath by the time. The question is as follows:

Another question regarding these last converts who have not yet became notorious on account of desecrating the Sabbath publicly: whether they can be trusted when they send wine by ship, and they say: “drink this wine, because I have made it in my house” – if it is permitted to drink it.
The answer reveals the considerable change of opinion of Simeon b. Žemah Duran regarding conversos. In the first responsum discussed above, he ascertained that just because of a general suspicion the conversos as a group should not be treated as suspicious of committing certain transgressions. In this responsum, however, he holds that even in case of a general suspicion they are suspected of disregarding the Law. For this reason, even wine handled by them has to be prohibited. Simeon b. Žemah Duran adds that some might not accept the view of treating conversos as suspicious because of a general suspicion (as he himself did not hold this view earlier). In this case, although wine handled by conversos would be permitted, they could not be relied on concerning wine made and sent by them (but they could be trusted regarding the wine of another person). Simeon b. Žemah Duran explained his opinion by adding some ironic remarks:

Since even the first converts, who were evidently forced converts, compelled to conversion by naked sword, did not refrain from redeeming themselves by the wine of their [the Gentiles’] banquets. And even the great rabbis, they did not have other questions then whether they had to say the blessing for things enjoyed [birkat ha-nehenin] over it [the Gentiles' wine]; and if they could neutralize it in water, and what the required quantities were. All the more so these, who were not forced by real compulsion, and who undoubtedly drink the wine of the Gentiles. [...] And therefore, I prohibited wine coming from them, even wine that was made before the massive forced conversion, and all the more so wine that was made after the massive forced conversion. [...] And according to what we have seen from them, and what we have heard from them, and what they have written to us from there, they are to be hold as absolutely suspicious, and as they are suspicious, they should not be trusted.

V.7. Solomon b. Simeon Duran: Responsum no. 553: on wine made by Jews and guarded by a converso

This is the only responsum written by Solomon b. Simeon Duran that deals with wine sent by a convert. It discusses wine that was made by a Jew in Tortosa, sent by a converso on a Christian ship to Majorca, and from there to Bejaia. The barrels were sealed with two seals, and on the seals it was written that the wine was kosher. A converso was guarding the wine during the journey, who testified that the wine was and remained kosher.

88 Simeon b. Žemah Duran: Tashbez 1:63
89 Redeeming themselves by the wine of their banquets: pollution. Maybe it can be read as:
90 Simeon b. Žemah Duran: Tashbez 3:312
91 The responsum is briefly referred to by Zimmels 1932:97, and Orfali Levi 1982:31, and is discussed by Netanyahu 1966:48-50.
The wine was declared permitted on the basis of the principle that *conversos* were unreliable concerning their own wine, but they were reliable concerning the wine of another person.

The great novelty of the responsum is that according to Solomon b. Simeon Duran the *conversos* were unreliable even concerning the wine of someone else:

> Although it is written in the responsa of Rabbi Isaac b. Sheshet, and in that of my master, my father [Simeon b. Žemaḥ Duran] that they are to be trusted concerning the possession of someone else, but this referred to the first converts, who did not desecrate the Sabbath in public. But today, that all of them desecrate the Sabbath publicly, they are not to be trusted at all.92

Solomon b. Simeon Duran permitted the consumption of the wine because of the seals that guaranteed its *kashrut*. His reasoning was based on the principle of majority: since the majority of the barrels on which the phrase “*yayin kasher*” (*kosher* wine) is written in Hebrew script is indeed *kosher* and permitted, the wine in question is also permitted.93 He raised the possibility of the falsification of the seals by the *converso*, but rejected the suggestion. He argued that although the *converso* could write Hebrew letters, it was not worthwhile for him to falsify the seals. Since wine made in Tortosa could be distinguished from wine made in Majorca, it was certain that the wine was made in Tortosa (by a Jew), and not in Majorca (by a *converso*). Solomon b. Simeon Duran apparently supposed that wine made in Tortosa was obviously made by Jews, and not *conversos*, whereas wine proceeding from Majorca might have been made by *conversos*. This reasoning seems to be strange, since the wine could have been made by a *converso* even in Tortosa, and in this case the falsification of the seals remains possible. In any case, Solomon b. Simeon Duran did not raise this later possibility.

> This wine that arrived from Tortosa to Majorca, and it is evident that it is not from Majorca, he [the convert] won’t make pains to falsify the seals, therefore the wine is *kosher* because of the reasons I have exposed. And all the more so, since here we relied on the script that it is from Tortosa and we have drunk from this wine, because some of the barrels arrived here and some to your place, and the seal that you have and what we have is like what is in the script, and the thing become permitted, thanks God.94

---

92 Solomon b. Simeon Duran: *Responsa*, no. 553
93 The discussion is based on bBB 24a, where the barrel (without a seal of *kashrut*) is found in the river.
94 Solomon b. Simeon Duran: *Responsa*, no. 553
V.8. Conclusion

The responsa presented in the foregoing show an evident tendency towards the prohibition of the consumption of wine made or handled by conversos. The opinion of the halakhic authorities concerning conversos underwent a gradual change; the initial hesitation and perplexity in view of the new phenomenon of mass conversion was followed by a slow consolidation of their position regarding the converts. The decisive factor in this respect was the fact that vast masses of conversos remained in Christian territory where they inevitably went through a gradual assimilation to the norms and customs of the surrounding Christian society. They could not avoid profaning the Sabbath and letting the Christians exert control and influence upon their private life. Therefore, as long as they remained in Christian kingdoms, they became disqualified concerning the halakhic issues related to wine: its production, handling, and testimony concerning it.
Chapter 6 – Death

The files of inquisitorial processes and the edicts of faith contain references to the customs of conversos connected with death, funeral and mourning. These include first and foremost washing the deceased persons’ body; shrouding it (Levine Melammed 1999:57, 89); eating eggs together, sitting at low tables after the funeral at the traditional meal called cohuerzo (Levine Melammed 1999:34-35, 39, 46-49, 89); mourning the dead behind closed doors, sitting, singing, crying, and clapping the hands “in the Jewish way” (Levine Melammed 1999:43-44, 90); sitting shivah without engaging in any activity (Levine Melammed 1999:91).

The responsa related to this topic is very limited. Only one text (Simeon b. Zemaḥ Duran: Tashbeẓ 2:139) deals explicitly with obligations concerning mourning for converts, and even this text does not contain much data about the case it discusses; it might be supposed also that it is a general treatment of a problem not related to a specific event. In any case, it sets forth rulings with regard to both voluntary and forced converts. Two more responsa mention briefly the death of converts. One of them treats the issue of ritual uncleanness. The other mentions a form of behavior the conversos were accused of by the Church, namely, that they tried to evade the administration of the last consecration.

I. Simeon b. Zemaḥ Duran: Tashbeẓ 2:139: on the obligation of mourning for a convert

Unfortunately, the responsum does not seem to relate to a specific case and it contains very general statements only. The question, if there was originally at all, did not survive. The answer is introduced merely by a brief inscription outlining the subject matter of the responsum; whether the Jewish brothers of a voluntary convert (meshummad) are obliged to mourn for him or not. The text does not contain sufficient data to determine the circumstances of the conversion, or the new religion adopted by the convert. The

---

1 Edict of faith (edicto de fe): list of heresies that was read out publicly in order to facilitate the identification of Judaizing (and other heretical) activities.
2 Cf. Levine Melammed 1999:43-44, 46, 57, 88-89. These and the following examples are taken from confessions given before the Inquisition in a period between the end of the fifteenth century and the middle of the sixteenth century by Castilian conversos.
3 Shivah: a week-long (hence the name, meaning “seven”) period of mourning for the first-degree relatives.
4 Simeon b. Zemaḥ Duran: Tashbeẓ 3:323
5 Simeon b. Zemaḥ Duran: Tashbeẓ 3:43
responsum mentions however the possibility of observing Jewish law in secret, which is of course quite relevant in the context of forced converts to Christianity, therefore a short discussion of the text seems to be appropriate.

I.1. In case of a minor

If the son was a minor, he had to be mourned by his brothers, since his father was the one that committed a sin by converting, not the son. According to Simeon b. Zemah Duran a minor was not to be held responsible for his deeds, since “if a minor eats nebelah, it is not the duty of the Beth din to take away from him.” (bYeb 114a) Furthermore, a minor raised as a Gentile by his convert parents was similar to a minor captured and raised by Gentiles. He had to be considered as a brother and therefore one should defile himself for him (by handling his corpse, attending his funeral etc.).

I.2. In case of an adult

If the son was an adult, it had to be decided whether he persisted in neglecting Jewish law by his own will, in which case he was a voluntary convert; or due to coercion, in which case he was a forced convert. In the view of Simeon b. Zemah Duran a voluntary convert was not considered as a brother because those who “may be cast in and need not brought up” (bAZ 26b) from a pit did not count as brothers, and obligations concerning brothers did not apply to them, therefore it was not obligatory to mourn for them either. What is more, “his relatives should put on white clothes [rejoicing] that they have lost one of those who hate God.”

I.3. In case of a person adhering to Judaism in secret

However, if he observed Jewish law in secret, he was a forced convert and every regulation relating to those considered as brothers applied also to him.

---

6 Meat of an animal which died without being slaughtered.
7 This does not mean however, that a minor is encouraged to transgress Jewish law; on the contrary, he has to be accustomed to observe it by his family. Cf. MT Hilkhot Maakhalot Asurot 17:27-28
8 Such a child is to be considered as one who transgresses the law because he is compelled to do so. Cf. MT Hilkhot Mamrim 3:3
9 This word is not to be taken in a biological sense here. “Brother” is a well-defined halakhic category meaning a fellow Jew. Cf.: ETal 1:434-436
10 Relations requiring mourning correspond to those for whom a priest should defile himself. Cf. Lev 21:1-3, bMQ 20b.
11 Simeon b. Zemah Duran: Tashbez 2:139
B. Netanyahu referred to this responsum as an indication of Simeon b. Žemaḥ Duran’s negative opinion of the conversos:

Since the phenomenon of Marranism touched practically every Jewish family in Spain and went deep into family relationships, Rashba’s position on the attitude to be assumed by the Jewish relatives of a convert in the case of the latter’s death, is also indicative of the stand he took on the issues of Marranism and the rift within the Jewish camp. Thus, according to him, the death of a convert should not be mourned by his Jewish brother or other close relations, but should rather be regarded as a joyful event and celebrated in accordance with the prescribed custom (Tashbeẓ, II, 139, p. 31d).\textsuperscript{12}

Unfortunately, Netanyahu fails to mention that according to the same responsum if the deceased convert adhered to Judaism in secret, he had to be mourned by his relatives as any other Jew. This is a good example of Netanyahu’s tendentious use of the sources; he chooses from them the parts that support his thesis, while ignores others contradicting to it, even if these passages are found in the very same short text, separated by some lines only.

\textbf{II. Simeon b. Žemaḥ Duran: Tashbeẓ 3:43: remark on a converso refusing to die as a Christian}\textsuperscript{13}

The responsum discusses the validity of a divorce document written by a converso scribe in Majorca. The Majorcan community testified that the scribe was a forced convert who made every effort to observe Jewish law. He was notorious of his adherence to Judaism to such an extent that after his death the Christians did not permit to bury him in the Christian cemetery. Finally, his wife managed to arrange him a Christian funeral by bribery. It seems highly probable that the converso refused to receive the sacraments before his death, as it can be deduced from the testimony concerning his behavior that was sent to Simeon b. Žemaḥ Duran by the representatives of the Majorcan Jewish community: “…even when he died, he did not follow the custom of the Gentiles so they did not want to bury him, as [it is their] custom [with] those who abjures their religion, until his wife spent a lot of money [in order to bribe them to bury him].”\textsuperscript{14}

\textsuperscript{12} Netanyahu 1966:42, n. 113
\textsuperscript{13} For the detailed discussion of this responsum see the chapter about divorce.
\textsuperscript{14} Simeon b. Žemaḥ Duran: Tashbeẓ 3:43
III. Simeon b. Žemaḥ Duran: Tashbeẓ 3:323: remark on entering Christian cemeteries where converts were buried

The responsum discusses the topic whether the corpse of a Gentile is ritually impure similarly to that of a Jew. At the end of the responsum, Simeon b. Žemaḥ Duran mentioned that kohanim used to enter Gentile cemeteries following the ruling of Maimonides, according to which the corpse of a Gentile did not defile with the impurity of the tent.15 Simeon b. Žemaḥ Duran however remarked that “R. Perez ha-Kohen16 who died in Barcelona bewared of [entering Gentile cemeteries because of] the meshummadim [that might have been buried there], since it is an accepted principle that “a Jew, even if he sinned, is still a Jew.”17 Due to the brevity of the remark, it cannot be decided whether the word meshummad means actually voluntary convert. If it does, the conclusion is that according to the view of R. Perez ha-Kohen, a meshummad is not regarded as a Gentile with respect to ritual impurity caused by his corpse, thus the regulations connected to death and mourning may apply to him as well. But as the use of the word meshummad is not entirely consequent in the responsa, another explanation may be that the rabbi refrained from entering Gentile cemeteries because of the forced converts buried there, which would suggest that he considered forced converts only as ‘brothers’ with regard to corpse-uncleanness, and regarded voluntary converts to be similar to Gentiles in that respect.

15 Cf. MT Hilkhot Evel 3:3
16 R. Perez ha-Kohen of Barcelona was the teacher of Simeon b. Žemaḥ Duran’s father-in-law, R. Jonah de Maistre of Teruel. The responsa of R. Perez ha-Kohen is frequently quoted by Simeon b. Žemah Duran, cf. Epstein 1968:5, n. 15.
17 bSanh. 44a, my translation.
Chapter 7 – Inheritance

According to Biblical law the property of a deceased person is inherited by his relatives in the paternal line, either ascendants or descendants. The priority of the heirs is determined by the degree of kinship. The wife does not inherit her husband’s property, but has right to the sum fixed in her ketubah, her dowry, and her own property brought into the marriage. If a person wishes to bequeath his property to another who is not his legal heir, he can dispose of his property by will in favor of him. Even wills written before Gentile notaries were accepted as valid. The question that arose with regard to conversos was whether they were entitled to inherit their Jewish relatives, or they were disqualified as heirs.

The number of responsa available in this subject is limited, in fact, they relate solely to two cases. The first case (Isaac b. Sheshet Perfet: Responsa, nos. 46-52 and Simeon b. Žemaḥ Duran: Tashbez 1:58-62) comprises the litigation between a convert wife and the alleged Jewish relatives of his husband. The husband disposed of his property before his death, but the will was drafted by a Christian notary. Both Isaac b. Sheshet Perfet and Simeon b. Žemaḥ Duran were asked to give their opinion about the case, and their rulings were conflicting. For several reasons Isaac b. Sheshet Perfet held that the converso woman should inherit the husband in accordance with the will of the latter, and the custom of the Majorcan community to which they belonged before their conversion. In a later responsum, he suggested that the litigation should be brought before Christian jurisdiction (again in accordance with the custom of Majorcan Jews). Simeon b. Žemaḥ Duran however argued that the property should be given to the Jewish heirs of the husband, although their degree of kinship was impossible to determine (what is more, the kinship itself was under question). His main argument was that the property was transferred in the meantime to North Africa, where the Jewish heirs resided, so it would have been illogical to send it back to Majorca, so that a Christian judge may decide its fate. The convert woman should come to North Africa, return to Judaism and claim her part of the husband’s property.

---

1 The ketubah is the marriage contract containing the obligations of the husband toward his wife in case he divorces her, or in case he dies. The part of the husband’s property that the wife receives is also called ketubah (since it is fixed and specified in that document).

2 Cf. MT Hilkhot Avadim 6:5
The other case, which was discussed by Solomon b. Simeon Duran in two responsa (nos. 287, and 418) concerns the disinheritance of converso heirs (again from Majorca). Solomon b. Simeon Duran explained that although the converts were entitled to be heirs of their relatives, the rabbinical court of law had the right to confiscate their inheritance as means of penalty for their conversion. He added that this was the practice of his father, Simeon b. Žemaḥ Duran as well.

A short responsum written by Simeon b. Žemaḥ Duran concerns a litigation about inheritance where the parties involved were Jews, but one party happened to appoint a converso as an agent to represent their interests before the Muslim authorities. This last case is not related to the converts’ right to inheritance, nevertheless it will be presented briefly as it is relevant to the conversos’ involvement in the life of the Jewish community.

I. Isaac b. Sheshet Perfet: Responsa, nos. 46-52 and Simeon b. Žemaḥ Duran: Tashbez nos. 1:58-62: on the inheritance of a converso claimed by his converso wife and by his alleged Jewish relatives

These responsa discuss a case of inheritance where the opinions of Isaac b. Sheshet Perfet and Simeon b. Žemaḥ Duran differed. A letter written by the Christian treasurer of Majorca is included in one of the responsa (Isaac b. Sheshet Perfet: Responsa, no. 52) in Hebrew translation, containing the names of the parties involved and the date (1401).

I.1. Isaac b. Sheshet Perfet: Responsum no. 46

The responsum was sent to Moses Gabbay of Honein. According to it, a person who was a Majorcan convert deposited his property at another Jew (referred to as Reuben), giving one part of it directly to him, and entrusting the other part to his wife in order to give it to Reuben. After that, the convert died, and a person (Simeon) by claiming

---

3 The litigation discussed in these responsa is shortly mentioned by Epstein (1968:25, n.24) who dated the responsa written by Simeon b. Žemaḥ Duran concerning this case to the year 1404 due to the reverential reference that appears next to the name of the Tashbez’ father, which implies that his father died in the same year. This expression is used only during the first year after death, see bKid 31b. About these responsa see also Zimmels 1932:92-94.

4 Moses Gabbay was a rabbinical scholar who after 1391 settled in Honein, but maintained relations with the Aragonese ruler. In 1394 he went on a diplomatic mission on behalf of Juan I. See Hisrchberg 1974:387 and the references there.

that he was a relative, requested the property (both parts) from Reuben as the legal heir. His claim was supported by two arguments: 1) his family name was identical with that of the convert’s; 2) he could testify that they were relatives.

Isaac b. Sheshet Perfet refused Simeon’s claim with the following: 1) identical family names do not prove kinship; 2) the testimonies were insufficient, since the witnesses could not specify the exact relationship between the convert and Simeon, neither was it clear whether there was another relative having priority over Simeon as to inheritance.

I.2. Isaac b. Sheshet Perfet: Responsa nos. 47-52

The following responsa elaborate the same problem. Apparently the inquirer, Moses Gabbay was not completely satisfied with the answer of Isaac b. Sheshet Perfet, and sent him another letter in which he formulated his objections. Nos. 47-52 reject these objections one by one, without quoting them in their entirety, however. Nos. 47-52 form in fact one responsum, which was divided to chapters under different numbers according to subject matter. No. 47 discusses further whether the mere testimony about the kinship between the convert and Simeon is sufficient or not; the conclusion is that although the witnesses heard that the convert had called Simeon ‘a relative’ it is not evident whether he meant it precisely as ‘relative with regard to inheritance’ or vaguely, in a general sense. Neither was it clear whether Simeon was a relative in the paternal line or not. No. 48 treats the formula used by the convert when appointing the depositee. No. 49 discusses whether the signatures in the depositary document were written too far from one to the other, making a later addition of some lines to the text possible. No. 50 argues that the part of the property given to the depositee through the wife must be returned to her, since: “Pledges should not be taken […] form women […] if one has taken a pledge from a women, he should return it to her.” (bBB 51b) No. 51 states that although the deed was registered in the office of a Christian notary, it was still acceptable in accordance with the ruling of Maimonides.

The most relevant responsum concerning the way conversos conducted their legal cases of inheritance is no. 52, which contains a letter written by the Christian treasurer

---

6 The system of succession is based on the paternal line of descendancy, cf. mBB 8:2, bBB 115a-b.

7 Cf. MT Hilkhot Avadim 6:5, according to which all deeds made in the offices of Gentile notaries are acceptable, except for divorce documents and bills of release given to servants.
(gazbar) of Majorca. The letter was written on the 30th of December, 1401. The responsum contains the Hebrew translation of the original text. The letter is addressed to “the [Christian] consuls (cónsules), the Muslim cadis (qāḍī-s), the Jewish rabbis (rabbanim) in Christian or Muslim lands, in the name of the king of Aragon. It explains that a Majorcan convert called Juan Prum by his Christian name, and Abraham Yaḥyun by his Jewish name disposed of his property by will before a Majorcan notary called Antonio Aslón. He appointed two deposites over his property: his wife, called Bonita by her Christian name, and Estēr by her Jewish name, and a notary called Niklob Prum. In the letter the relation between Niklob Prum and Juan Prum is not clarified. Juan Prum appointed his two underage daughters, Clara and Nikolba as his heirs, with the stipulation that in case they died without having male children, the property should return to his wife, Bonita. Shortly after that the converso Juan Prum died, and also his daughters died within two years, without issue. Therefore, according to the Christian official, the inheritance was due to the wife.

Isaac b. Sheshet Perfet argued that since the parties involved were all conversos, their litigations had to be prosecuted under Christian law. He added that even the Jews of Majorca conducted their lawsuits under Christian law; that was the custom of the Majorcan Jewish community, which they followed by their own will, not because of any compulsion. Therefore it was only logical, according to Isaac b. Sheshet Perfet, that the conversos should turn to the Christian jurisdiction.

The conclusion is that in Isaac b. Sheshet Perfet’s opinion the heir was the wife for several reasons. First of all, there was no other heir who could prove satisfactorily either his priority or his kinship; secondly, that was the will of the husband, and the deed registered by him in the office of the Christian notary was valid; thirdly, Majorcan conversos should conduct their lawsuits under Christian jurisdiction in civil affairs relating to property, since that was the accepted custom of the Jewish community as well.

These decisions of Isaac b. Sheshet Perfet were contradicted and refuted by Simeon b. Žemaḥ Duran almost point by point. Tashbeẓ nos. 1:58-62 comprise the critique of the decision made by Isaac b. Sheshet Perfet. Supposedly these responsa by Simeon b. Žemaḥ Duran are awaited.

---

8 For the German translation of the text see Zimmels 1932:93.
9 Isaac b. Sheshet Perfet: Responsa, no. 52
10 In the 14th century the Majorcan Jewish communities were granted the right of trying even criminal law (although this right was restricted between1337-1383, when they were prohibited to administer corporal punishment). Cf. Beinart: “Majorca” EJ 11:795-803. In any case, the fact that the autonomy of the community was strong does not mean that its members did not turn to Christian jurisdiction if they wished.
Žemaḥ Duran formed one text originally that was divided to shorter parts and included as such in his edition of responsa.

1.3. Simeon b. Žemaḥ Duran: Tashbeẓ 1:58: on alleged kinship

The responsum modifies slightly the information obtained from the letter of the Majorcan treasurer quoted in the responsum of Isaac b. Sheshet Perfet no. 52. From Tashbeẓ 1:58 it appears that the Majorcan converso, Juan Prum (or, by his Jewish name, Abraham Yahyun) appointed two depositees (not identical with the depositees mentioned in the letter of the Christian official): Abraham Sasportas and Abraham Mandil, in order to take the property with them to North-Africa, for the converso had the intention to emigrate there with his wife. These depositees were merchants who in fact transferred the property to Honein (or to Tilimsan, as both places are mentioned as the final destination of the deposit11). Juan Prum/Abraham Yahyun died in Majorca and his daughter died after him (in this responsum only one daughter is mentioned). The property of the converso was claimed by two parties: his wife, whose claim was supported by the testament of her husband written before the Christian notary in Majorca; and a person called Astruc Yahyun who presented a letter of attorney written by his father and uncle, both conversos in Majorca, stating that they are the closest relatives of Juan Prum/Abraham Yahyun. Simeon b. Žemaḥ Duran related that Moses Gabbay from Honein turned to Isaac b. Sheshet Perfet with two questions in this issue, and Isaac b. Sheshet Perfet decided in favor of the wife. Astruc Yahyun, on the other hand, saw Simeon b. Žemaḥ Duran about the case, who took his side against Isaac b. Sheshet Perfet.

Simeon b. Žemaḥ Duran refused the objections of Isaac b. Sheshet Perfet concerning the sufficiency of the testimonies about the kinship of Juan Prum/Abraham Yahyun and Astruc Yahyun. According to Simeon b. Žemaḥ Duran’s argumentation the testimonies of the witnesses were sufficient even if they could not specify the degree of kinship between Astruc and Abraham Yahyun, notwithstanding the fact that their family relationship was not well known among the people of Majorca. He supported the view by referring to an analogous case in bKet 23a, where two witnesses testified that they had seen a certain woman betrothed, while two others said they had not seen the betrothal. Although all of them lived in a common courtyard, the woman was regarded as betrothed, since a woman might be betrothed without making the event public. As the statement of the

---

11 Cf. Simeon b. Žemaḥ Duran: Tashbeẓ 1:62
witnesses regarding the status of the woman was accepted, even though the betrothal was not well-known among the inhabitants of the courtyard, so the statement of the witnesses regarding the kinship of Abraham Yahyun and Astruc Yahyun should be accepted, even though their kinship was not well-known among the people of Majorca. Secondly, Isaac b. Sheshet Perfet suggested that the mere fact of designating someone as a relative did not prove that the designation was meant literally; it could be meant figuratively, or it could be an informal way of speaking. The fact that some witnesses hear a person calling another his son, is not sufficient to assume that the other was in fact his son. Simeon b. Žemaḥ Duran refuted this objection referring to bBB 126b:

A certain [Person once] came before R. Hanina [and] said to him, ‘I am certain that this [man] is firstborn’. He said to him, ‘Whence do you know [this]?’ — [The other] replied to him,: ‘Because when [people] came to his father,38 he used to say to then,: Go to my son Shikhath, Who is firstborn and his spittle heals’. — Might he not have been the firstborn of his mother [only]? — There is a tradition that the spittle of the firstborn of a father is healing, but that of the firstborn of a mother is not healing.

This passage supports the argument that a person can be assumed a firstborn on the basis of a vague dialogue overheard by the witness. That the kinship was accepted is deduced from the fact that there is no discussion in the Gemarah whether the son was a firstborn or not; the question is only whether he was the firstborn of the father or the mother (but his being a firstborn is not doubted).

Furthermore, Simeon b. Žemaḥ Duran made reference to the ruling of Maimonides, according to which any person calling another his son, or brother, or any other possible heir, that person inherits him, even if he is not recognized as his relative.12

In the view of Isaac b. Sheshet Perfet this ruling of Maimonides is valid only if there is no other potential heir, because in that case calling a person someone’s son conveys the meaning that he is his heir as well. That would mean that a person by calling another his son would declare him his heir as well. But according to the explication of Simeon b. Žemaḥ Duran the two matters should be differentiated: 1) calling someone a relative; 2) declaring someone a heir. In the opinion of Simeon b. Žemaḥ Duran, the evidence of the witnesses according to which the converso called the other his relative is accepted (but without the intention of appointing him as his heir). But now, as there is no

12 Cf. MT Hilkhot Nahalot 4:1
other possible heir, he can be held as a legal heir, since “...he does not receive this property [i.e., the inheritance] because of the utterance of the testator, but because of [the decision] of God, and the utterance of the testator is need only to recognize him as a relative.”\(^{13}\) That is to say, it is not necessary for the *converso* to appoint him as a heir. By being called a relative he is accepted as such, and since no other potential heir remained, he is appointed by God as the *converso*’s heir. This argument is weakened by the fact (not mentioned by Simeon b. Žemaḥ Duran here) that the *converso* did appoint his heir, namely his wife, who is a potential heir in any case.\(^{14}\)

Isaac b. Sheshet Perfet held that it was necessary for the relatives demanding the inheritance to prove that they were the closest relatives of the *converso*, and no other relative could claim priority over them. According to Simeon b. Žemaḥ Duran, however, a heir is not obliged to prove that he is the closest relative,\(^{15}\) if there is no other relative making the same claim.

Isaac b. Sheshet Perfet mentioned that even if the alleged relatives were in fact kin, it was not clear whether they were relatives in the paternal line or not. According to Simeon b. Žemaḥ Duran, however, it was well-known that in Majorca there was only one Yahyun family, moreover, a witness testified that Abraham Yahyun’s father had no brothers; therefore it was evident that all members of the family were descendants of one forefather.\(^{16}\)

I.4. Simeon b. Žemaḥ Duran: Tashbeẓ 1:59: on deposit taken from a woman

The text is the continuation of the previous discussion. Simeon b. Žemaḥ Duran refuted the argument of Isaac b. Sheshet Perfet according to which a deposit taken from a woman should be returned to her, and not any other person.\(^{17}\) In the opinion of Simeon b. Žemaḥ Duran, that may be true only in a case where it is obvious that the deposit was originally the property of the woman. Otherwise, a woman is not reliable concerning the property in her possession, but it has to be assumed that it belongs to her husband.\(^{18}\) Therefore the deposit taken from Bonita, the *converso*’s wife, should not be returned to

\(^{13}\) Simeon b. Žemaḥ Duran: Tashbeẓ 1:58  
\(^{14}\) If she had not been a potential heir, there would not have been a discussion as long as 13 responsa about her.  
\(^{15}\) Cf. bBB 33a  
\(^{16}\) If the kinship is accepted, their being related on the father’s side is even more plausible as family name passed from father to son, and not from mother to son.  
\(^{17}\) Cf. Isaac b. Sheshet Perfet: Responsa, no. 50, which based its argumentation on bBB 51b.  
\(^{18}\) Cf. MT Hilkhot Malve 2:8
her, but to Astruc Yaḥyun, all the more so, since it was evident to all, that the deposit was given to Bonita so that she may hand it over to the depositee.

I.5. Simeon b. Žemah Duran: Tashbez 1:60: on oath administered to a convert

The responsum argues that a woman is obliged to support her claim to her share of the husband’s property by presenting her ketubah in which the obligations of her husband towards her are specified. Moreover, she ought to take an oath at the rabbinical court of law when after the husband’s death she claims her ketubah that she had not received part of the ketubah before. However, argued Simeon b. Žemah Duran, as the woman was a convert, it was impossible for her to administer an oath, since she was suspected of transgressing the laws of the Torah.


According to the statement of Isaac b. Sheshet Perfet both the conversos and the Jews of Majorca conducted their litigations under Christian law by their own choice, and that was the custom of the Jewish community there. Therefore also in the case of the inheritance claimed by the wife and by the alleged relatives of the husband, they should turn to the Christian authorities.

Simeon b. Žemah Duran refuted this ruling with the following arguments: 1) The property under discussion was not in Majorca any longer, but in North-Africa, and it was illogical to send it back to a Christian land, so that a Christian court of law may decide about it. Moreover, Juan Prum/Abraham Yahyun deposited his property to be taken to North-Africa, therefore it cannot be returned to Majorca. 2) It is possible that the Majorcan custom of turning to the Christian jurisdiction was originated on the demand of the Christian government, and not on the free choice of the Jewish community. 3) The custom of turning to Christian jurisdiction was reproachable (except when it was done under coercion), therefore it should not be followed. 4) Conversos were to be considered as

---

19 Cf. MT Hilkhot Ishut 18:23
20 Cf. bGit 34b; bKet 105a; MT Hilkhot Ishut 18:19
21 Cf. MT Hilkhot Toen we-Nitan 2:1-2
22 mBK 10:6: "If a person […] received a deposit in a settlement, he should not return it [to the depositor] in the desert. [If he received the deposit] on condition of going to the desert – he should return it in the desert." Similarly, if they had agreed to take the deposit to North-Africa, it must be returned to the depositor or to his heir there, and not in Majorca, where the stipulation was made.
Jews with regard to inheritance, consequently their litigations should be under Jewish law, not under Christian law. 5) The Christian notary who wrote the testament used to take bribes (as it was attested in the rabbinical court of law in Algiers), therefore his legal actions were unreliable and the documents written by him were invalid.

The decision of Simeon b. Żemah Duran was that Astruc Yahyun was the heir of Abraham Yahyun, and as long as the widow continued to live as a Christian in Majorca, she should not be regarded as a potential heir. However, if she returned to Judaism and left Majorca, the parties could resume their litigation under Jewish law, before a rabbinical court.

I.7. Simeon b. Żemah Duran: Tashbeẓ 1:62: on the depositee seizing part of the inheritance by bribing the Muslim authorities

This responsum, which was sent to Astruc Yahyun to Tilimsan, evidences that the above presented decision of Simeon b. Żemah Duran was not entirely carried out; although Astruc Yahyun received the part of the inheritance which was entrusted to Abraham Mandil (apparently in Mostaganem). However, the other depositee, Abraham Sasportas managed to take the property by bribing the Muslim authorities in Tilimsan. The alleged heir, Astruc Yahyun also turned to the Muslims, who – according Simeon b. Żemah Duran – almost confiscated the property thus putting an end to the discussion, but finally, the two parties (Abraham Sasportas and Astruc Yahyun) made a compromise and divided the inheritance among themselves (offering a part to the Muslim authorities as well), and Astruc Yahyun waived his rights to the rest of the inheritance. It does not mean he completely renounced his claims for the property of Abraham Yahyun, for he stated that his waiving the inheritance was due to compulsion, because he could not litigate fairly with Abraham Sasportas who was an influential person enjoying the support of the officials of the Muslim ruler. Moreover, Astruc Yahyun was unable to produce a shetar modaah

---

23 Simeon b. Żemah Duran proved this statement with the same arguments he made discussing the marital status of the conversos: namely, that a Jew, even if he sinned, is still a Jew (cf. bSanh 44a); the betrothal of a meshummad is valid (cf. bYeb 47b, bBek 30b). He also referred to bKid 18a, where it is stated that a convert Jew inherits his father by Biblical law, and this view was codified by Maimonides (cf. MT Hilkhot Naḥalot 6:12).

24 As opposed to the opinion of Epstein 1968:25: “The party against whom Barfat’s decision went thereupon urged some of the judges to refer to Duran, who, though knowing that Barfat had already laid down the law, nevertheless did not refrain from giving his decision, which happened to run counter to that of Barfat, and which was acted upon.”

25 Cf. the practice in mediaeval Egypt, where the inheritance of non-Muslims who had no heirs was expropriated by the treasury (bayt al-māl). About the chancellery of inheritances (dīwān al-mawāŷ) confiscating Jewish property in mediaeval Egypt see Gil 1976:6-7, 10.
(declaration of protest against forced action, written before the forced transaction in the presence of witnesses, annulling the subsequent action), saying that he could not find witnesses ready to sign such a document, since they were afraid of Abraham Sasportas. From the question it seems probable that Astruc Yahyun made such declaration in the presence of Muslims, before a Muslim notary. However, Simeon b. Żemaḥ Duran held that such a declaration made before a Gentile notary was null and void, and since the lack of a written declaration of protest, Astruc Yahyun’s waiving his claims was valid and in force. There is no further information about the outcome of the litigation.

I.8. Conclusion

Notwithstanding the considerable amount of data contained in the responsa of Isaac b. Sheshet Perfet and Simeon b. Żemaḥ Duran, some details of the litigation remain unclear. In any case it is evident that the widow of Abraham Yahyun did not receive any part of the inheritance in spite of the will of her husband drafted by a Christian notary in Majorca. Isaac b. Sheshet Perfet argued that the property should be returned to Majorca and should be given to the widow; or that the litigants should conduct their case under Christian jurisdiction, as this was the practice of the Majorcan Jews. In the opinion of Simeon b. Żemaḥ Duran the property should remain in North-Africa and given to the alleged heir, Astruc Yahyun, who was possibly a relative of Abraham Yahyun. If the widow returned to Judaism and went to North-Africa, she could claim her part of the inheritance before a rabbinical court of law. However, neither of these decisions was completely executed, since the depositee, an influential merchant called Abraham Sasportas seized a part of the property. The alleged heir, Astruc Yahyun turned to Muslim jurisdiction, and the parties negotiated a compromise which implied bribing the Muslim authorities who wished to confiscate the property under discussion. The long correspondence involving various rabbis is remarkable considering the limitations of the rabbinical decisions’ applicability to everyday reality. Neither the instructions of Isaac b. Sheshet Perfet, nor those of Simeon b. Żemaḥ Duran were fully carried out; reality overruled their decisions.

26 Cf. MT Hilkhot Malveh u-Loveh 27:1
II. Simeon b. Žemaḥ Duran: Tashbeẓ 2:214: on a converso appointed as an agent by Jewish heirs

The question concerns a *converso* who was appointed as an agent by the heirs, in order to act on their behalf. The heirs were the widow and the son of a person who had left Christian land and emigrated to North-Africa, and appointed his brother as a guardian for his children after his death. The widow claimed that the guardian owed money to her deceased husband, and authorized a *converso* to take steps on their behalf. The *converso* forced the guardian to appear before the Muslim *bet ha-ḥeshbon*, that is, the office of the *muhtasib*. Neither the place from where the question was sent, nor the person of the inquirer is specified in the responsum. Simeon b. Žemaḥ Duran argued that although Gentiles cannot be appointed as agents, *conversos* were not counted as Gentiles, since a Jew, even if he sinned, is still a Jew. However, the person who appoints a convert as an agent to proceed against a Jew ought to be excommunicated until he retracts and annuls the agency. What is noteworthy, Simeon b. Žemaḥ Duran proved this statement by making reference to passages or rulings where a Jew transferred property in the hands of a *Gentile* (not a convert Jew), thus producing a situation which was unfavourable for his fellow Jews (as the Gentile supposedly has power over them). That means that according to Simeon b. Žemaḥ Duran a convert was on one hand similar to a Jew with respect of agency *per se* (intrinsically he was a potential agent); but, on the other hand, he was similar to a Gentile with respect of his extrinsic circumstances that made him capable of overruling Jews (being a convert he was supposed to have more influence before Gentile authorities than being a Jew). But, since in the case under discussion the convert agent was in all probability a convert to Christianity (since he is identified as “one of the *anusim*” he had no more influence in a Muslim environment than a Jew. Nevertheless, Simeon b. Žemaḥ Duran opposed his appointment as an agent.

Similarly to the above mentioned responsa, the decision concerning property was left to the Muslim court to make.

---

27 The *muhtasib* (controller of the market) was a Muslim official whose task was similar to that of the *qāḍī* (judge) and the *šāḥib al-ṣūrta* (head of the police) in maintaining ordered social life in the towns. The *muhtasib* had limited right to impose penalties and corporal punishments to infringers of the law. Cf. Cahen and Talbi: “Hisba” EI 3:485-489
28 Cf. bBM 71b
29 Cf. bSanh. 44a
30 Cf. bBK 117a, bBM 108b; MT Hilkhot Shekhenim 12:7. Hilkhot Ḥovel u-Mazzik 8:5
31 Simeon b. Žemaḥ Duran: Tashbeẓ 2:214
32 Jews and Christians pertain to the same category of “protected people” (*ahl al-ḥimmah*) who are entitled to the right guaranteed to them by the Muslim community as long as they accept the dominion of Islam.
III. Solomon b. Simeon Duran (Solomon b. Simeon Duran): nos. 287, 418 on disinheriting converts

Responsum no. 418 is a short answer to the objection made by a student of Solomon b. Simeon Duran from Bejaia. The inquirer, David b. Samuel ha-Kohen Bakri, disputed a former decision written by Solomon b. Simeon Duran, in which he stated that the Majorcan convert (*meshummad*) relatives of a person had to be denied their inheritance. The inquirer held that since the converts were Jews, even if they sinned (cf. bSanh 44a), they could inherit their relatives.

The formerly written responsum to which reference is made is possibly no. 287, which discusses the case of the inheritance of a person called Moses Sevili (that is, from Sevilla), whose property was transferred to the *hekdesh* since he had no heirs. Solomon b. Simeon Duran objected that every Jew must have an heir, and the only reason justifying the transfer of the inheritance to the *hekdesh* was if the heirs were *meshummadim*, since in that case the rabbinical court of law was entitled to appropriate their inheritance as a means of penalty, in accordance with the ruling of Maimonides:

A Jew who converted is still entitled to inherit his Jewish relatives. But if the rabbinical court of law wishes to expropriate his property and to penalize him, so that he may not inherit, so that not to strengthen their [the converts’] hands, they have the authority to do so. And if the convert has Jewish children, the inheritance of their father should be given to them. This is the custom followed in the West [that is, the Maghreb].

Responsum no. 418 offers a short explanation on the converts’ right to inheritance. Solomon b. Simeon Duran made reference to the passage of the Talmud (bKid 18a) which enumerated different proof-texts for the Gentiles’ right to inherit their fathers by Torah

---

33 This suggestion was made by Moshe Sobel, the editor of Solomon b. Simeon Duran’ responsa, see Sobel 1998:418, n.1.
34 *Hekdesh* or *kodesh* was the designation of Jewish pious foundations corresponding to Muslim *waqf*, by which property could be donated to the synagogue. About Jewish pious foundations in mediaeval Egypt see: Gil:1976. For the use of the term *hekdesh* in mediaeval Europe see Baron 1945:328-329
35 Cf. bBB 115b where it is stated that if a person seems to have no heirs, the investigation should be carried on until a relative is found whether in the descending or in the ascending line, whatever distant the relationship may be.
36 MT Hilkhot Nahalot 6:12
law, among them the following: “I have given Esau the hill country of Seir as his own.” (Deut 2:5) An objection is raised in the Talmud against the applicability of this passage for proving the Gentiles’ right to inheritance, namely, that Esau was a non-observant (mumar) Jew, and not a Gentile. It thus means that a non-observant Jew (as Esau) is entitled to inheritance by Torah law. Solomon b. Simeon Duran quoted briefly a responsum of Asher b. Jehiel in which he refused the ruling of R. Meshullam b. Kalonymos quoted by R. Judah ha-Kohen according to which a non-observant Jew was not entitled to inherit. Finally Solomon b. Simeon Duran cited the ruling of Maimonides quoted above, and added that this ruling was followed by his father, Simeon b. Žemaḥ Duran, and also by the rest of the former rabbis.

**IV. Conclusion**

On the evidence of the few responsa regarding inheritance presented above, it seems to be reasonable to state that the outcomes of litigations concerning bequeathed property were heavily influenced by the Gentile authorities the involved parties turned to (beside consulting the rabbinic authorities). The opinions of Isaac b. Sheshet Perfet and Simeon b. Žemaḥ Duran with respect to the involvement of Gentile authorities to the litigations conflicted; Isaac b. Sheshet Perfet was willing to accept the practice of Majorcan Jews and *conversos* to conduct civil laws under Christian jurisdiction, while Simeon b. Žemaḥ Duran opposed this custom. Apparently, the three authorities (Isaac b. Sheshet Perfet, Simeon b. Žemaḥ Duran and Solomon b. Simeon Duran) shared the view that in theory a convert is entitled to inherit his relatives, in practice, however, Simeon b. Žemaḥ Duran and his son, Solomon b. Simeon preferred to deprive the *conversos* of their inheritance and to transfer the property to the possession of other Jewish heirs, or to the Jewish community, until the *converso* returned to Judaism.

37 Cf. Asher b. Jehiel: *Responsa*, 17:10. R. Meshullam b. Kalonymos quoted Biblical passages (Gen. 17:7-8, 15:18) where the words covenant, inheritance and descendents occur as interrelated (suggesting that only those descendants are entitled to their inheritances who keep the covenant of God). Asher b. Jehiel held that these passages were “*asmakhta be-alma,*” that is, Scriptural texts supporting a specific view, but not proofs bearing with demonstrative force, and definitely not convincing enough to contradict an established ruling.

Chapter 8 – Returning to Judaism

I. Leaving the land of forced conversion

Emigrating from Christian territory where Jews were subject to religious persecution, and forcibly baptized conversos were not allowed to observe Jewish laws any more is a recurring theme that appears in a great number of responsa. Although most of the decisions focus on one main subject like divorce, marriage, inheritance, etc. almost all of them mentions other, related matters as well. One of the topics frequently addressed by the rabbis is the converts’ tardiness in leaving the places where they were subjected to religious persecution. It was evident to all rabbinical authorities that forced converts were obliged to leave those territories for a place where they could practice Judaism openly. This matter was never subject of debate; although the judgment of conversos remaining in Christian territory did vary to a certain extent. The remarks of the rabbis concerning the probability and possibility of the emigration are really noteworthy.

The conversos who decided to emigrate faced various difficulties. On the one hand, they had to liquidate their estates and goods, and rearrange their family and other social relationships. Although some conversos did return to Iberia after a longer or shorter stay in North Africa, or elsewhere,¹ most of those who left Iberia had the intention of leaving it for good. The emigration of the converts was generally prohibited by the Christian authorities as they supposed that the emigrants would return to their former religion.² The re-conversion presented a serious theological problem since —though forced baptism was undesirable— the effect of the sacrament according to the Christian belief was irrevocable. Therefore a person once baptized in any way remained Christian for the rest of his life, and the supervision of his moral conduct was the responsibility of the Christian Church. For this theological reason, and for other more practical, financial, and economic reasons the emigration of the conversos was impeded. From the point of view of the rabbinic

² See for example the edict of faith referred to in Zeldes 2004:78, in which the Inquisition of Sicily (pertaining at that time to the Crown of Aragon) prohibited the converts to leave the island without obtaining permission from the authorities. Concerning the migration of the conversos before the expulsion see for example Beinart 1983:72-74.
authorities, staying in the land of persecution or leaving it was a crucial issue. In fact, that became the criterion which differentiated between those considered voluntary converts and those held to be forced ones. These two categories of converts frequently overlapped as the actual degree of the compulsion was difficult to determine.

The categorization of the converts had also practical consequences since the status of a forced and a voluntary convert was different, and the regulations concerning them varied or even contrasted with one another. In the case of some essential matters like marital status, the reasons and circumstances of the conversion were practically irrelevant. The descendants of a convert mother, whether forced or voluntary, were evidently regarded as Jews, at least as it concerned their marital capacity. But in most halakhic matters the circumstances of the conversion were relevant to the status of the convert, as forced converts were suitable for performing most of the religious precepts while voluntary converts were disqualified and excluded in many instances. It must be noted, that from a practical point of view the disqualification did not only have negative effects on the lives of the converts. For example, if a marriage contracted by a converso couple was declared invalid for any reason, the woman could more easily contract a new marriage with another person, if she decided to return to Judaism leaving her husband behind.3

The issue of the return was the criterion that determined the rabbis’ attitude towards the conversos. The mere fact of the conversion, if it happened under coercion, was not regarded as a major transgression, but the convert was expected to emigrate to a place where he could return to Judaism and live as a Jew openly. If, for any reason, he refused to leave, he became suspected of voluntarily neglecting the religious regulations. The assessment of the possibility and probability of the converts’ emigration varied widely over time and place; depending on historical circumstances, the personality and experiences of the specific halakhic authority, the nature of the question and the particular case at hand. But when the question of returning to Judaism was discussed in a responsa, it was usually supposed that leaving Christian territory was possible and feasible, and thus it was generally assumed, that those who stayed nevertheless, remained voluntarily.4 Still, there is only a certain amount of hesitation about their judgment, and only in the responsa written in the period when massive forced conversion was a new phenomenon, that is, in the decades subsequent to the year 1391. Isaac b. Sheshet Perfet in his responsa no. 11

---

3 This was not infrequent; see the chapter about marriage.
offered a number of reasons that, to a certain extent, could excuse those lingering in Christian territory.\textsuperscript{5} He expounded that although the *conversos* were baptized by force, if they stayed in Christian land afterwards, they would gradually get used to transgress Jewish law, and therefore, it could not be assumed about them that they made every effort to observe the law. Some of them, however, remained there because of financial reasons, since they were incapable to cover the expenses of the emigration for the whole family. Such persons were afraid that their relatives might assimilate to the Christians (by mixed marriages, or by adopting their customs), and therefore choose to remain in Iberia so that they could take care of their families. According to the explication of Isaac b. Sheshet Perfet, that was not a legitimate reason for staying in Iberia, since one is obliged to leave the land of forced conversion at any cost. He emphasized however, that those who remained for the aforementioned reason, were not aware that they transgressed the law, and consequently, they were not responsible for their mistake. A similar, or even more lenient argumentation can be found in a responsum written by Simeon b. Zemaḥ Duran (*Tashbeţ* 1:63). In this responsum dealing with wine sent by a Majorcan *converso* before 1408,\textsuperscript{6} he took a fairly positive stance towards the converts, and elaborated the issue of leaving Christian territory or staying in it, and offered several reasons to explain, and even justify the reluctance of the *conversos*. In his opinion, it was an error to suppose that the *conversos* could have emigrated freely; on the contrary, presumably, they remained because of the pressure of the circumstances, of financial reasons, or because they were terrified.

In his view, even if it was evident that the *conversos* could have left without endangering themselves, they should not be treated as voluntary converts. He held that even a person who himself admitted that he had stayed in Christian territory only for financial reasons should be regarded as a forced convert. In his opinion, as he formulated it in this responsum, judging one’s motives for staying was beyond the capacity of any fellow creature. Only divine omniscience could determine whether a particular person was voluntary convert who stayed there on his own free will; or whether he stayed for a reason unknown to human observers.

\textsuperscript{5} For this responsum, see the chapter about divorce.

\textsuperscript{6} The text mentions Isaac b. Sheshet Perfet, and the abbreviation that appears next to his name shows that he was still alive at the time of writing the responsum. This suggests that the responsum was written before 1408. For the detailed discussion of this responsum see the chapter about wine.
Later however, in another responsum sent to Mallorca again concerning wine (Tashbez 1:66), he mentioned the same problem in a very different tone, and stated sarcastically that it was impossible to decide if a converso was forced or voluntary convert:

We see that some of those who come here [to Algiers] are complete Gentiles, and who can decide which is worthy and which is disqualified? [...] Apparently, you do not have reservations if they stay there after they have received permission to leave; or if they do not consider leaving at all […] Let alone those, who have been here and returned there of their own accord – should they be treated as forced converts or not? [...] [in Majorca] they let converts do whatever they want, and they are not forced to commit idolatry, and they are almost considered as Jews by them [by Christians] to such an extent that they are given permission to leave the country if they wish. [...] They are indeed considered as Jews by Christians, even though according to the principle of Christian religion, if one converted, even under duress, he cannot return to Judaism. And for this reason, the Christians pretend that they do not see [the behavior of the converts]. The only effect of the persecution is that they have to use Gentiles names […], and seeing this situation, the converts think that it is permitted to stay there.7

It must be observed again that even though a great number of conversos did leave Mallorca and returned to Judaism in North-Africa, the emigration of the converts was not authorized by the Christians rulers. On the contrary, in Majorca, the Christian authorities issued subsequent decrees forbidding the conversos to leave the island.8 The necessity to renew the decrees indicates the fact that many converts disregarded it. Moreover, the remarks about Christians ignoring the conversos’ attempts of observing Jewish laws contradict the argumentation of Simeon b. Ẓemaḥ Duran expounded in the same responsum, according to which a converso guarding wine would not prevent a Christian from touching it, since he is obviously afraid that the latter would charge him with adhering to Judaism in secret. In the light of this, the remarks of Simeon b. Ẓemaḥ Duran (quoted above) about Christians letting the conversos do whatever they wanted seem to be exaggerating.

7 Simeon b. Ẓemaḥ Duran: Tashbez 1:66. For the extensive discussion of this responsum see the chapter about wine.
8 The governor of Majorca prohibited the emigration of the converts after the persecutions of the year 1391. In 1413 Ferdinand I issued a decree that forbade the emigration of the converts to North Africa. Cf. Beinart: “Majorca” EJ 11:801-802
II. Formalities of reintegration into the Jewish community

If the convert was born a Jew, his reintegration to the Jewish community had no formal requirements. In the period under discussion, I could not find any opinion requiring some kind of self-mortification, or exhibition of repentance.⁹

If the convert was born a Christian and his parents were of Jewish origin, baptized before having children, then various questions arose: whether the parents of the child could really be considered as Jews; whether he could prove it; if not, how the presumed legal status of the parents should be determined; how the parents got married (according to Jewish rite, according to Christian rite or both); whether the witnesses of the marriage were valid (whether the witnesses were Jews or conversos; in the latter case, whether they were considered voluntary or forced converts); and if the child was born from the second marriage of his parents, whether the first marriage and the divorce were valid (because in case the first marriage was valid but the divorce was not, then the second marriage was considered adultery, and the child born of it was considered illegitimate).

Once the conversos’ descent was clarified, he could be integrated into the Jewish community. The formalities of that included the arrangement of the convert’s personal relations (for example, if he returned together with his wife, they were supplied with a Jewish marriage document, etc.), and the remedy of several unfulfilled acts, such as circumcision. Questions arose concerning some details of the formalities: it was not evident whether the converso had to undergo circumcision only, or ritual immersion as well; whether he had to declare in the presence of three that he had the intention to observe the precepts (as a proselyte had to do); what blessings should be said at the circumcision, etc.

⁹ There is only a very short remark of Isaac b. Sheshet Perfet mentioning the forced baptism his community underwent: “After the things happened to us, we are not supposed to behave with such superiority, but it is more fitting to us ‘to give our backs to the smiters’ [cf. Isa 50:6] maybe we will attain atonement.” (Isaac b. Sheshet Perfet: Responsa, no. 61) Rabbis in the 16th century seldom mention the need of self-mortification in connection with returning conversos, and even when they did, they refuse its use as it is obvious from the remarks of David ibn Avi Zimra (Responsa, 3:434) and Binjamin Zeev, both of whom opposed this practice: “I think one does not need to chastise himself, since there is no greater mortification of the flesh than that he suffers each and every day anyway; namely, that he has to abstain from all those pleasures which are permitted to the Gentiles, and were permitted to him also formerly [before his return to Judaism].” (Binjamin Zeev: Responsa, no. 72.)
II.1. Solomon b. Simeon Duran: Responsa no. 89 “Maamar ha-anusim” (Treatise about the forced converts)\(^\text{10}\)

The responsa is not an answer given to an actual question but a kind of essay; for the same reason it is called “Maamar ha-anusim” (Treatise about the forced converts) in the texts that mention it.\(^\text{11}\) The wording of the introductory phrase of the responsa is highly interesting: “The sons of these *meshummadim* [voluntary converts], called *anusim* [forced converts], who are uncircumcised, and when they come to return to Judaism, it is necessary to clarify the laws regarding their reintegration, circumcision and ritual immersion.”\(^\text{12}\)

This sentence is of course too brief to draw far-reaching conclusions on its basis, but it can be suggested nevertheless that in the opinion of Solomon b. Simeon Duran those *conversos* who did not leave Iberia in order to immigrate to a land where they could practice Judaism freely were indeed *meshummadim* (voluntary converts), even if they had been baptized forcibly. On the other hand, their descendants were to be regarded as *anusim* (forced converts), all the more so if they fled from Iberia and wished to return to Judaism.

But there is another possible interpretation of the sentence, namely, that the phrase “called *anusim*” does not relate to the sons of the *meshummadim*, but to the *meshummadim* themselves. Hebrew grammar makes this interpretation of the sentence as possible as the first one. In this case, the wording of the sentence gives evidence of the confused use of the terms *meshummadim* and *anusim*, that, for some speakers, seemed to be interchangeable.\(^\text{13}\)

The first issue Solomon b. Simeon Duran clarified in the responsa is that returning *conversos* are not to be confused with proselytes, since if their mother was Jewish, they were Jews, even if their father was a Gentile.\(^\text{14}\) After discussing the marital

---

\(^{10}\) For the discussion of this responsa see Netanyahu 1966:45-48.

\(^{11}\) Cf. Solomon b. Simeon Duran: *Responsa*, no. 393, dealing with marriage contracted by a voluntary convert. The context of the responsa suggests that the convert in question adopted Islam, not Christianity. In any case, in the answer, Solomon b. Simeon Duran referred his readers to his responsa no. 89, which he called “*Maamar ha-anusim*.” Cf. also Zemah b. Solomon Duran: *Yakhin u-Voaz* 1:75, 1:107

\(^{12}\) Solomon b. Simeon Duran: *Responsa*, no. 89

\(^{13}\) Cf. Zemah b. Solomon Duran: *Yakhin u-Voaz* 1:75: “After having that clarified it must be discussed if these *meshummadim* called *anusim* are to be considered as Jews or proselytes.”

\(^{14}\) About the same issue, see the end part of his responsa no. 223. The question of that responsa did not survive; the text elucidates different and apparently unconnected problems. Among them, it relates to the subject of parenthood in the case of converts, and ascertains that voluntary or forced converts do not differ from Jews with regard to their parental relationship (that is, even if one of the parents or the children converted, the kinship was not suspended among them). Solomon b. Simeon Duran mentioned furthermore, that a forced or voluntary convert returning to Judaism is not to be called proselyte (*ger*), but a repentant Jew (*yisrael baal teshuvah*).
status of the *conversos*, Solomon b. Simeon Duran elaborated the practical aspects and the formal requirement about the reintegration of *conversos* into the Jewish community.

**II.1.1. Conversos returning to Judaism are not required to accept the precepts**

Proselytes wishing to embrace Jewish religion are to be taught some precepts and they have to declare their intention of observing these and the rest of the Jewish law. However, as Solomon b. Simeon Duran explained, this did not apply to returning *conversos*, since they did not have the possibility of choosing whether they wanted to observe Jewish law or not, since, as members of the Jewish people, they were obliged to observe it from the outset.

**II.1.2. Conversos returning to Judaism do not need ritual immersion**

As a ritual immersion is prescribed for proselytes only, returning *conversos* were not obliged to undergo it.

**II.1.3. Blessings of the circumcision**

According to Solomon b. Simeon Duran, *conversos* were obliged to say the blessing over circumcision just as the father of a baby is obliged to pronounce the blessing before his son’s circumcision. It was controversial, however, which blessing formula should be used; the one with the “*al*” preposition and a noun, or else the other with the “*l*” preposition and an infinitive. Solomon b. Simeon Duran explained that a commandment executed by means of an agent has to be blessed upon with the formula of “*al*” preposition and the noun. Circumcision is apparently a commandment performed by means of an agent (the person who actually circumcises the other). On the other hand, since the *converso* is an adult, he himself chooses to be circumcised and takes actions in order to comply with this precept, which means that in essence he himself executes it, therefore the formula of “*l*” and infinitive should be used. Solomon b. Simeon Duran concluded that this question was not decided unanimously, therefore the prevalent practice should be followed, that is, using the blessing formula with the “*al*” preposition and the noun.

---

15 See the chapter about marriage.
16 These are two basic types of blessings. The difference lies in the prepositional phrase or infinitive used in the second part of the sentence, indicating the specific precept to be carried out: “Blessed are You, O Lord, our God, ruler of the universe, who sanctified us with his precepts and commanded us about the circumcision / commanded us to circumcise [our sons].”
II.1.4. Healing the wound

Solomon b. Simeon Duran, who—like his father and other members of the family—had vast medical knowledge, gave several practical advices for curing the wound caused by the circumcision, explaining along the line the details of the healing mechanism. The ointments and poultices proposed contained mixtures of yolk, olive oil, cumin, white of egg, etc.

II.1.5. Supplication for the conversos

The responsum quotes a short supplication that was probably recited at the event of the formal acceptance of the conversos into the Jewish community. The text is as follows:

Our God, the God of our fathers, benefit the servant called so-and-so and bestow upon him your favor, since you aroused his heart to repent with pure repentance, now plant your love and your fear into his heart, and open his heart to your Law, and lead him in the path of your commandments, so that he may find grace before you, let it be your will, amen!17

II.2. Uncircumcised conversos


In the case of the third (and further) generations of conversos, whose parents were born Christians, it is not clear whether one having an uncircumcised father could be considered a Jew. Although no halakhic authority gave a negative answer to the last question, there were people who held an opposite opinion, as evidenced by questions and passages cited in the responsa reflecting the views of the inquirers. These passages advance arguments as the following:

…you have also written – I quote it – but their father was uncircumcised and was a voluntary idolater, and their mother had neither legal marriage ceremony, nor marriage document and they [the parents] did not observe the precepts concerning the purity of marital life – they were born from niddah18 women and uncircumcised men!19

17 Solomon b. Simeon Duran: Responsa, no. 89
18 Niddah: period unfit for marital life; woman who is in a period which is unfit for marital life (like the menstruation and the following days).
19 Simeon b. Solomon Duran: Yakhin u-Voaz 2:3
This inquirer thought that the lack of circumcision affected basically the marital status of the conversos thus disqualifying them from marriage. As a consequence, in the inquirer’s view, the descendants of the uncircumcised conversos who decided to return to Judaism were not to be accepted as kohanim, as the fact that their fathers were uncircumcised was a blemish that affected the status of their sons. Simeon b. Solomon Duran mentioned the same erroneous opinion in his responsum concerning levirate marriage: “The descendant [of a convert] should not be disqualified as a potential Jew only because his father was uncircumcised.” In the opinion of others, although the conversos might be considered potential Jews, and thus fit for marriage; nonetheless, if they were uncircumcised, their marriages were invalid even if they were of Jewish descent: “…in the view of some learned men, the woman may get married again since the marriages of the forced converts are not valid, because they are not circumcised.” No legal decision was found according to which the circumstances mentioned above did affect the status of the conversos.

II.3. Proselytes or returning Jews? Ritual immersion

The difference between a ger (proselyte) and a baal-teshuva (a person of Jewish descent who returns to Judaism) was unclear for a relatively great number of the inquirers. For this reason, the authors of the responsa generally tried to clarify these concepts, and emphasized the difference between the two notions by pointing out the various differences between them.

Since the returning converso is not a proselyte, ritual immersion is not prescribed for him. The proselyte has to meet three formal requirements in order to be accepted as a Jew: 1) circumcision; 2) ritual immersion; 3) acceptance of the precepts in the presence of three persons. The conversos, however, had to accomplish the first condition only. They did not have to be admitted to the Jewish people (as they remained members of it due to their descent), only to remedy the lack of circumcision. As Žemah b. Solomon Duran put

---

20 Simeon b. Solomon Duran: Yakhin u-Voaz 2:31. For the detailed discussion of this responsum see the chapters about marriage and levirate marriage.
21 Simeon b. Solomon Duran: Yakhin u-Voaz 2:19. For the detailed discussion of this responsum see the chapter about marriage.
it: “Ritual immersion was not prescribed for these \textit{meshumnadim} called \textit{anusim}, and they are not called \textit{gerim}\textsuperscript{22} but \textit{baalei-teshuva}.”\textsuperscript{23}

The question of the necessity of ritual immersion arose in the cases when the \textit{converso} could not prove his mother’s Jewish descent. According to the view formulated by Simeon b. Solomon Duran, since the general presumption was that \textit{conversos} did not marry Gentiles, it should be assumed that the mother of a returning \textit{converso} was of Jewish descent as well: “This presumption is proven by the common practice of reputed authorities everywhere who obliged returning forced converts to undergo circumcision only and not ritual immersion, since they are not suspected of having Gentile mothers. It is a common presumption that converts do not marry Gentiles.”\textsuperscript{24} (The same considerations can be found also in \textit{Yakhin u-Voaz} 2:3)

\section*{II.4. Examining personal motives of conversos returning to Judaism}
\textit{(Remark in Solomon b. Simeon Duran: Responsum no. 368)}

The responsum deals with proselytes, but \textit{passim} mentions \textit{conversos} returning to Judaism. A Gentile who wishes to adopt Jewish faith so that he or she could marry a Jewish man or woman is refused by the rabbinical court of law.\textsuperscript{25} \textit{Conversos} willing to return to Judaism, however, should not be held back on account of their attraction to a Jewish woman or man. Both the question and the answer use the term \textit{anusim} (“\textit{anussei ha-zeman}, \textit{anusim ellu}”: forced converts of our days, these forced converts). The answer mentions that also descendants of \textit{conversos} should be accepted even if the motives of their return were not void of personal interest related to marriage. Solomon b. Simeon Duran made reference to an \textit{aggadah} related in the Talmud according to which R. Johanan persuaded Resh Lakish to repent his misdeeds by offering him his daughter to marry her.\textsuperscript{26} Solomon b. Simeon Duran did not elaborate the issue of returning \textit{conversos}, but the short reference to the question shows that the intention of \textit{conversos} wishing to rejoin the Jewish community might have been examined to a certain extent by the rabbinical authorities. However, as opposed to prospective \textit{gerim}, they were encouraged to join the Jewish people

\textsuperscript{22} \textit{Ger} (singular), \textit{gerim} (plural): proselyte.
\textsuperscript{24} Simeon b. Solomon Duran: \textit{Yakhin u-Voaz} 2:31
\textsuperscript{25} Cf. bYeb 24b, bBM 72a; MT Hilkhot Issurei Biah 13:14
\textsuperscript{26} Rash Lakish was a robber but after repenting his sins, he became a student of R. Johanan. Cf. bBM 84a
regardless of their intention. 27 Unfortunately, the responsum does not deal with the issue of conversos descending from mixed marriages, although it would be interesting to know whether the descendant of a Gentile mother and a converso father was treated absolutely in the same way as a Gentile (of pure Gentile origin) in this respect, or if he – being ‘from the seed of Israel’ – enjoyed any kind of positive discrimination if they wished to adopt Jewish religion.

III. Kohanim
Simeon b. Solomon Duran: Yakhin u-Voaz 2:3

The kohanim (priests, sing.: kohen), that is, the descendants of the family of Aaron were in charge originally of the Temple service. By the Middle Ages, their functions became more limited, and their descent obscure. They could not prove with certainty their descent from ancient priestly families, still, they were held as presumed priests by the members of the Jewish communities. 28 There are special regulations applied to the kohanim; e.g. avoiding the impurity caused by the dead, or prohibitions relating marriage with certain women, like divorcees or “prostitutes” (the term “prostitute” (zonah) is not used in the general sense, but refers to a special group of women defined by Jewish law). 29 A privilege of the kohen is that he is called first to read the Torah during the synagogue service.

From among the returning conversos, some claimed to be descendants of priestly families and as such, they wished to enjoy their privilege of reading the first portion. This is an honor that distinguishes the kohen from the ordinary members of the community. Unfortunately, there is only one responsum that treats this problem, and the original question of the responsum survived only in brief quotations inserted in the text of the answer. Therefore, it cannot be clearly decided whether the inquirer (or his community) thought that the conversos —due to the act of conversion— became unworthy of such

27 Of course in case of conversos that means rejoining the Jewish people, as they never became wholly separated from it from a halakhic point of view (at least, if their mother was Jewish or of Jewish descent), therefore conversos are not similar to Gentile proselytes.
28 Cf. MT Hilkhot Issurei Biah 20:1-2
29 About the relations forbidden to the kohanim, and the so-called “prostitutes” see: MT Hilkhot Issurei Biah, 17:1, 18:1
honor or not (despite their return to Judaism), but the wording of the passages quoted from the question indicates some kind of refusal towards them.  

The responsum discusses whether the returning *conversos* who claimed that they were *kohanim* could be relied upon or not. The passages cited from the question make obvious that in the opinion of the inquirer, the converts in general were not to be accepted as *kohanim*. The main reasons of their disqualification were: 1) their fathers were uncircumcised and willful idolaters; 2) their parents were not married according to the Jewish law; 3) their mothers were ritually impure since *conversos* did not observe the laws concerning the purity of marital life. Simeon b. Solomon Duran refused these arguments by demonstrating that they were irrelevant either to the requirements of being a *kohen*, or to the marital status of the converts. He established furthermore that it has to be presumed that *conversos* do not marry Gentile women.

The question cited by Simeon b. Solomon Duran shows that the inquirer did not distinguish between proselytes and repentant convert Jews, as it is evidenced by his formulation of the question: “…these proselytes (*gerim*) that come from the kingdoms of Catalonia, Castile and Portugal in order to accept the Jewish faith (*lehitgayyer*) […] and each one of them says: ‘I am a *kohen*’…”

Simeon b Solomon Duran clarified the difference between a *converso* returning to Judaism and a Gentile accepting Jewish religion, remarking the obvious error of the inquirer, whose question would be senseless if it concerned real proselytes (since proselytes cannot be of priestly origin).

According to the explanation of Simeon b. Solomon Duran, no sin could disqualify a *kohen* from acting as such, in case he repents his sin(s). A *kohen* is disqualified only if his descent does not fit the requirements; *e.g.* if his mother was either a divorced woman, or a “prostitute.” But, as Simeon b. Solomon Duran explained, convert couples, although they could not marry according to Jewish law, did not establish licentious relationships, but lived together with the intent of marriage. What is more, convert families knew each other very well, and they were aware of the descent of their fellows: “…all the forced converts know each other well, and they know the family and the descent of each one of them, so

---

30 See e.g. the following: “…you have also written – I quote it – but their fathers were uncircumcised and were voluntary idolaters […], they were born from *niddah* women and uncircumcised men!” (Simeon b. Solomon Duran: *Yakhin u-Voaz* 2:3)

31 For the detailed discussion of these questions see the chapter about marriage.

32 Simeon b. Solomon Duran: *Yakhin u-Voaz* 2:3
they say: ‘he is from this family, and the other is from that family’, and they know also those who are held to be kohanim.”

Consequently, according to Simeon b Solomon Duran, conversos did not differ from Jews in this respect. As a Jew could be held a kohen if one witness testified that he was accepted as such in a certain community, the converso had to be regarded as a kohen if there was a witness to prove that he was held as such among the families of the converts.

**IV. Christian authorities confiscating the property of conversos who emigrate**

**IV.1. Remark in Isaac b. Sheshet Perfet: Responsum no. 2**

The responsum discusses whether it is permitted to evade certain oppressive laws or duties as tax-paying. The circumstances of the case under discussion are not given in detail, but the scene is Valencia. The responsum passim mentions that the king confiscated the property of the conversos and Jews who left his kingdom. In Isaac b. Sheshet Perfet’s opinion in such cases it was permitted to evade the oppressive laws decreed by the king even by means of trickery, as they did not pertain to the category of “dina de-malkhuta dina” (Aramaic: “the law of the government is binding”).

It is permitted to evade the [Gentile] law by means of [a false] vow or oath, if it is done because of the oppressors’ deeds, namely, that the oppressor or the king acts insidiously and illicitly in order to confiscate property, as he is doing now with the property of the forced converts who have escaped in order to return to Judaism, or with the property of the Jews who left his land [...] the procedure of the king] is not lawful, but he enacts bad laws against them in order to confiscate their property.

**IV.2. Remark in Simeon b. Zemaḥ Duran: Tashbez 2:176**

The responsum deals with the obligation of the husband to pay his wife’s ketubah (sum fixed in the marriage contract in case of divorce). The text refers to the Christian law operating in Majorca according to which the property of the conversos who emigrate from there is confiscated by the Christian authorities. Simeon b. Zemaḥ Duran —as opposed to Isaac b. Sheshet Perfet—claims with regard to this that “dina de-malkhuta dina,” that is,

---

33 Simeon b. Solomon Duran: Yakhin u-Voaz 2:3
34 Isaac b. Sheshet Perfet: Responsa, no. 2.
the law of the government is binding. For the detailed presentation of this responsum see the chapter about divorce.

V. The Jewish community in Algiers tries to impede the immigration of conversos
(Remark in Isaac b. Sheshet Perfet: Responsum no. 61)

The responsum discusses the possibility of limiting the scholars’ right to excommunicate members of the Jewish community. With reference to this question, the responsum mentions and describes in detail a case occurred in Algiers, when members of the Jewish community led by a newcomer from Majorca tried to impede the entrance of a group of conversos who fled from Iberia and wished to join the Jewish community of Algiers.

Isaac b. Sheshet Perfet did not mention the person leading the protest against the entrance of the conversos by name; neither did he specify his position in the Jewish community. According to the scarce information contained in the responsum, this person came from Majorca, where he already had a long history of opposing and defying local rabbinic authorities. After his arrival to Algiers, he endeavoured to become “head and leader of the community,” and he strove to remove Isaac b. Sheshet Perfet from the city. The leaders of the community wished to excommunicate this person due to his constant intrigues, but Isaac b. Sheshet Perfet prevented them from doing so saying that “after the things happened to us, we are not supposed to behave with such superiority, but it is more fitting to us to offer our backs to those who beat us and our cheeks to those who pull out our beard” - maybe we will attain atonement.” Notwithstanding this humble attitude, Isaac b. Sheshet Perfet admitted that upon hearing that some members of the community tried to impede the immigration of the conversos and wished to return them to Majorca he lost his temper and pronounced words of excommunication against those hindering the immigration of the conversos. This led to the enactment of a communal agreement, according to which no person should excommunicate another without the consent of the trustees of the community (ne’emanim).

35 This is a reference to Isa 50:6: “I offered my back to those who beat me, my cheeks to those who pulled out my beard; I did not hide my face from mocking and spitting.”
36 This seems to be a reference to baptism that many Iberian Jews underwent in 1391, including possibly Isaac b. Sheshet Perfet. About the question if Isaac b. Sheshet Perfet was among those forcibly baptized see Riera i Sans 1983.
The responsum mentions that each immigrant had to pay an entry tax of one doublon, although previously they could enter and settle in Algiers for free.

It happened that one day a boat has arrived from Majorca with 45 forced converts from Mallorca, Valencia, and Barcelona. The ruler of the city wanted to let them enter the city for the sake of financial gain, as he made pay them one doublon each [as an entry tax]. This decree was enacted because of this individual, although originally they could enter free of charge. [...] And this individual made every effort in order for the community to persuade the ruler against their disembarking, so that they would return to Majorca.  

Finally, the request of the newcomers was granted, and they could settle in Algiers. This responsum sheds light on the difficult situations the immigrants had to face even from the part of their own brethren. I cannot maintain the view according to which this conflict was the result of the tension among the native Jewish population of Algiers and the Iberian newcomers, since the leader of the opposition here was himself a Majorcan Jew, and the members of the community which supported him were from the community whose rabbinic authority was Isaac b. Sheshet Perfet himself.

VI. Conclusion

The responsa presented above indicate that the reintegration of the conversos and their descendants into the Jewish communities did not lack certain tensions. Problems emerged mostly in the cases of second and further generations of converts, who —due to their circumstances— inevitably became alienated from Judaism, and were not raised in families observant of the regulations of the Torah. As the questions and the remarks of the respondents allude, for many inquirers the difference between proselytes and returning conversos was far from being obvious; and it is also probable that for some the lack of circumcision meant more than a mere deficiency to be repaired – it was regarded as a factor that basically questioned the Jewish identity of the conversos. Rabbinic authorities

38 This position is held by Epstein 1968:14-16.
39 Iberian Jews formed their own congregations and did not join the existing congregations of native North-African Jews, see Epstein 1968:14, cf. also Hirschberg 1974:386. Isaac b. Sheshet Perfet and his opponent were members of the same congregation as it is evidenced by the responsum. There is absolutely no indication that the conflict would have included Jews native to Algier.
however strongly emphasized the fact that the Jewish identity of the *conversos* was unrelated to such conditions, and depended solely on the Jewish descent of their mother. They repeatedly ascertained that the *conversos* pertained to the Jewish people in the sense that in theory, they were equally obliged to observe the commandments of the Torah, even if in practice their circumstances forced them to neglect its regulations.
Summary and Conclusions

The thesis presented the responsa concerning *conversos* written by five of the most important halakhic authorities from the period between 1391 and 1492. Although the number of legal decisions dealing with Jewish converts to Christianity is limited, it is possible to draw some reasoned conclusions on their evidence nevertheless. I analyzed forty-nine responsa systematically, seventeen of which were written by Isaac b. Sheshet Perfet; nineteen by Simeon b. Žemaḥ Duran; seven by Solomon b. Simeon Duran, three by Žemaḥ b. Solomon Duran, and three by Simeon b. Solomon Duran. These numbers indicate a clear tendency of decrease, as in the course of the fifteenth century, the legal status of the *conversos* became apparently less and less controversial. In the years and decades after the massive forced conversion that befell on the Jewish communities of Iberia, the newly emerging social group of forced converts implied a challenge for both their former and new religious communities. As a matter of fact, they did not wholly detach from Judaism; neither did they embrace Christianity entirely. They remained attached to the Jewish community by ties of mutual dependence; by bonds of kinship, custom, and necessity. The halakhic authorities had to define their opinion about the legal status of the populous group of *conversos* who lived in the neighborhood, and in several cases, in an actual coexistence with the Jews.

The two rabbinic authorities who laid the foundations for the halakhic debate concerning the position of the *conversos* were Isaac b. Sheshet Perfet and Simeon b. Žemaḥ Duran. Most of their decisions dealt with problems related to marriage, divorce, and dietary laws. Their responsa give evidence of the *conversos*’ quite deep involvement in the daily life of the Jews. Jews and *conversos* used to eat together, prepare food and wine together, they participated together in family events. Apparently the reality of shared everyday life gradually faded away. The responsa written by the later authorities, that is, the descendants of Simeon b. Žemaḥ Duran, answer questions that arouse mostly in connection with the return of the *conversos* to Judaism. They treat fundamental issues as the marital status of the converts, while discussions concerning other issues, like dietary laws, wine prepared or handled by *conversos*, virtually disappeared.
In fact, the matter discussed most extensively by the five authorities was the marital status of the *conversos*. In this respect, none of them regarded the *conversos* as being in an inherently inferior position to non-convert Jews; but the formulation of the questions, and the necessity of expounding the problem lengthily again and again signifies that for the inquirers it was not clear whether *conversos* were similar to Jews, or to Christians in this regard. The fact that the terms and denominations applied to the *conversos* by the inquirers were far from being consequent and precise implies that the legal state of the *conversos* were often confounded with that of the Gentiles. *Conversos* emigrating from Iberia, settling in North Africa, and rejoining the Jewish communities there, were frequently called proselytes, as if they were of non-Jewish origin (notwithstanding the widely accepted view often repeated in the responsa that *conversos* tended to marry within the *converso* community). That still does not mean that Jews regarded the *conversos* as Gentiles, but can simply be an imprecise and vague parlance from the part of the inquirers, who were not necessarily experts in the terminology and nuances of the Jewish law. This suggestion is further supported by the fact that sometimes even the rabbinic authorities themselves were not void of certain inconsistencies when referring to *conversos* alternatively as voluntary converts (*meshummadim*) or forced converts (*anusim*), apparently irrespective of the circumstances of the conversion. Examples of the inconsequent use of these terms have been pointed out several times in the course of the analysis of the texts.

In any case, the principle that the marital status of the *conversos* is equal to that of the Jews was never challenged by the authorities. Their marriages were not always accepted as valid, but the invalidation had reasons unrelated to the converts’ marital status. Marriages were declared null and void because of basic formal deficiencies, like unfit witnesses and the involvement of the Christian Church. Likewise, it was not a matter of real dispute whether the *conversos* were bound by the obligation of levirate marriage (which meant, in practice performing the *halizah* – unless they returned to Judaism, of course). It was discussed to a limited extent whether the conversion put an end to the fraternal relationship between the brothers, but in practice none of the authorities disqualified *conversos* from fulfilling the obligation of levirate.

*Conversos*, just as they were fit for marriage and levirate marriage, were fit for giving a divorce document as well. However, they were not unconditionally fit for writing or attesting the divorce document. In the cases mentioned in the responsa discussed, an
investigation concerning the individual conversos was suggested in order to decide whether they were fit for writing and attesting a divorce document, or not.

As for the question whether conversos qualified as witnesses of either a marriage, a divorce document, or the kashrut of wine, it can be stated that as a group, they lost their status of being valid witnesses in a relatively short time. Only Simeon b. Zemah Duran showed a greater degree of confidence in the conversos’ strict adherence to Judaism, and even he abandoned his view later. Therefore it was generally supposed that the conversos, since they remained in Christian lands, under the vigilance of the Christian authorities, adopted Christian manners and way of life. Consequently, the conversos were assumed to disregard Jewish law even in the cases they could observe it without endangering themselves. It has to be noted, however, that these statements were frequently made in close connection with difficulties that conversos returning to Judaism had to face. In their case, the disqualification of conversos remaining in Iberia from performing various acts had in practice many positive consequences for the reintegration of the returning conversos into the Jewish communities. For example, a woman whose marriage contracted with a converso was annulled, or who was declared to be unrelated to her convert levir, could easily marry again. On the other hand, if a divorce document attested by conversos was pronounced null and void, the same woman could become an agunah. However, this problem affected only the first generation of conversos, who got married under Jewish law, before their conversion. In the case of the later generations, owing to the involvement of the Christian Church, or the disqualification of the witnesses, the marriage could be annulled from the outset, therefore no divorce was necessary. The latest authority discussed in the thesis, Simeon b. Solomon Duran, was the first in formulating the view that it has to be presumed that the mothers of the returning conversos were of Jewish descent; that is, that the returning conversos as a rule were of pure Jewish origin. This statement was frequently repeated by a number of halakhic authorities of the sixteenth century.

In theory, a converso was entitled to inherit his relatives, in practice, however, some authorities preferred to deprive them of their inheritance and to transfer the property to the possession of other, possibly Jewish heirs, or to the Jewish community, until the converso returned to Judaism.

---

1 It does not mean that it had no negative consequences at all; see below.
The number of the responsa treating questions related to the *conversos’* return to Judaism increased in the second half of the fifteenth century. They discussed problems that arose with regard to the second and further generations of converts who left Iberia and settled in North Africa. As it was already stated, the responsa give evidence of a certain perplexity on the part of the inquirers regarding the *halakhic* status of the converts. The rabbinic authorities discussed extensively the practical aspects of the *conversos’* reintegration into the Jewish community and declared unanimously that they never became inherently detached from the Jewish people, for in theory, they were as obliged to observe the commandments of the Law just as non-convert Jews.
Bibliography

The Hebrew names of modern authors are transcribed in the way they write it themselves (e.g. E. Lipiner, when writing in Hebrew, used the name “Eliyahu,” otherwise he used the name “Elias”). In cases I did not dispose of such information, I simply transliterated the names. The names of mediaeval authors are given according to the Encyclopaedia Judaica.

A. Primary sources

Aharon ha-Levi: Bedek ha-Bayit =

Binjamin Zeev: Responsa =

David b. Hayim ha-Kohen (Radakh): Responsa =

David ibn Avi Zimra (Radbaz): Responsa =

Isaac b. Abba Mari: Sefer Ittur Sofrim =

Isaac b. Sheshet Perfet: Responsa =

Jacob b. Asher: Tur =

Josef ibn Lev: Responsa =

Kafih, Yosef 1994 =

Katan, Yoel 1998 =

Mezger, David 1993 =
Moses b. Josef Trani (Mabit): *Responsa*

MT = Moses Maimonides: *Mishneh Torah*

Nahmanides: *Hiddushim* =

Samuel de Medina (Rashdam): *Responsa* =

*Sefer Halakhot Gedolot* =

Shilat, Yizḥak 1995 =

*Sifra (Torat Kohanim)* =

Simeon b. Solomon Duran: *Yakhin u-Voaz* 2 =

Simeon b. Žemaḥ Duran: *Tashbeẓ* =

Sobel, Moshe 1998 =

Solomon b. Abraham Adret: *Ḥiddushei ha-Rashba* =

Solomon b. Abraham Adret: *Responsa* =

Solomon b. Abraham Adret: *Torat ha-Bayit* =

Solomon b. Simeon Duran: *Responsa* =


Žemaḥ b. Solomon Duran: *Yakhin u-Voaz* 1 =
Zera Anashim =

B. Secondary sources


Assaf, Simcha. 1983.

Assis, Yom Tov. 1981.


Baer, Yitzhak. 1959.


----- “Majorca” EJ 11:795-803

----- “Malaga” EJ 11:817-818


Cahen, Cl. – Talbi, M. “Ḫisba.” EI 3:485-489

Corcos, David. “Honein” EJ 8:962


EJ = *Encyclopaedia Judaica*. Jerusalem: Keter, 1971
ETal =

Freimann, Avraham Hayyim. 1965 =

1965
Glick, Shmuel. 2006 =

Havlin 1975 =

------
Kahana, Yiţḥak Zeev. 1973 =

188

Katz, Jacob. 1958 =

Kindler, Arie: “Coins and currency” EJ 5:695-721


Le Tourenne, R. “al-Djazair” EI 2:519-521


Lipiner, Elias. 2009 =

Marçais, G. “Bidjâya.” EI 1:1204-1206


Riera i Sans, Jaume. 1983 =


Sebag, P. “Tūnis.” EI 10:629-639
Shilo, Shmuel. “Succession.” EJ 15:475-481
------. “Wills.” EJ 16:519-530
------. 1990 =

Ta-Shma, Israel Moses. “Karet.” EJ 10:788-789
------. “Isaac ben Sheshet Perfet.” EJ 9:32-33
Appendix: Texts

In the Thesis I used the first printed editions of the responsa. Due to the technical difficulties of reproducing these texts here I attached the responsa in the editions that can be found on the Responsa Project Version 15 CD ROM, Bar-Ilan University, 1972-2007, which are the following: