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## THE DEVELOPMENT OF THE THREE-DAY LIMIT FOR SALTING

Zev Farber

**T**he Geonim wrote: Meat that sat for three days—the full 72 hours—without having been salted, its blood dries out within it, and will not again leave it through salting, and one must not eat it cooked.”<sup>1</sup>

It was probably this statement more than any other that clinched the place of this *halakhah* in the canon, as one that would be taken seriously by Jewish scholars across cultures. As we will see, until the time of the Tur (early fourteenth century), the requirement to salt kosher meat within three days of its slaughter was observed only in Germany. It was not until the time of the Tur that the rest of the Jewish world took on the observance.

In the above passage, the Tur is ostensibly quoting the Geonim. From the quotation itself, it would appear that he is quoting them directly. However, that is not the case. After thorough research, it appears that no Gaon ever set a time limit within which salting must be completed.<sup>1a</sup> If this *halakhah* is not of Geonic origin, where did it come from, and how did it come about? This article aims to answer this question through detailed examination of halakhic sources.

Before we begin, a caveat: The goal of this article is not to offer practical *halakhah*. *Halakhah* is a matter that develops from generation to generation, and the contribution of all generations must be considered when formulating a decision. Nevertheless, in different generations, scholars had different ways of thinking and learning, and it would be incorrect to analyze all halakhic scholars as if they were doing the same thing. Therefore, this article will concentrate specifically on the period known as the Rishonim (early scholars), which, for our

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<sup>1</sup> *Tur Yoreh Deah*, 69.

<sup>1a</sup> I claim this because no such Geonic source has come down to us, and no such claim was made by any *Rishon* until the late thirteenth century, almost three hundred years after the period of the Geonim ended.

purposes, is broadly defined as between the eleventh and fourteenth centuries.<sup>2</sup> Further, the organization of this article reflects the development of this *halakhah*: The first part focuses on Germany, where the *halakhah* developed, and the second part on the positions of Rishonim in other countries.

## I. GERMANY

### A. MA'ASEH HA'GEONIM

The earliest source to mention a time limit for blood removal is in *Ma'aseh ha'Geonim*<sup>3</sup> (no. 3). “Blood removal” is not salting, and this source does not refer to salting, but rather to *nikkur*. *Nikkur* is the process of de-veining and removal of forbidden fats as well as the sciatic nerve. It is a process separate from salting. The issue in *Ma'aseh ha'Geonim* is whether there is a time limit within which one must perform *nikkur*. The speaker is R. Isaac b' Judah<sup>4</sup> (c.1010-c.1090):<sup>5</sup>

About the custom in our place—to perform *nikkur* on the meat within three days—I asked our great Rabbi.<sup>6</sup> He answered and told me: “Even my father was careful about this, but I never heard a reason

<sup>2</sup> Obviously, even within this period there were sub-groups, and, of course, each scholar is unique in his own right. However, there were general intellectual trends shared amongst most rabbis of this time period (for example, the creative interpretation of Talmudic sources to derive *halakhot*), and it is to these trends I am referring.

<sup>3</sup> *Ma'aseh ha'Geonim* is part of a larger work (parts of which are lost) called *Ma'aseh ha'Mekhibiri*. This work was written in the late eleventh century, by a group of brothers from Germany, referred to as “the sons of Makhir,” who studied under some of the great early German scholars such as R. Isaac b' Judah, and R. Solomon b' Samson (c.1030-1096).

<sup>4</sup> He was one of the teachers of the great R. Solomon b' Isaac, known as Rashi (1041-1105).

<sup>5</sup> The dates for the early Germans are rather speculative; I base myself on Avraham Grossman's calculations.

<sup>6</sup> Even though in his notes on the responsa he published in *Sinai* 14 I. Z. Kahana assumes that this is a reference to R. Isaac b' Judah, it is a difficult position to maintain. First of all, he is quoted as the author of this response. Second of all, R. Eliezer b' Isaac is usually referred to this way by his students, (see Avraham Grossman, *Hakhmei Ashkenaz ha'Rishonim*, for a thorough discussion of these rabbis). Therefore, my working assumption, though by no means definite, is that R. Eliezer is the responder here. (For a further example of the ambiguity of the term “Our Great Rabbi” in this work, see Israel Meir Ta-Shma's *Minhag Ashkenaz ha'Kadmon*, pages 237-238.) R. Eliezer was a student of the great R. Gershom b' Judah, known as Rabbeinu Gershom *Me'or ha'Golah* (c.960-c.1040).

why, and I have not found [one]<sup>7</sup> written. But it appears to me that the blood [from the veins] gets absorbed into the meat in three days, and will not exit afterwards, either with washing or salting. Or, perhaps the reason is [based on this Talmudic passage (*Hullin* 8b)]: ‘A person should not place loins<sup>8</sup> upon meat, for the fat melts and the meat absorbs [it].’ Within three [days], it may [also] absorb, but here<sup>9</sup> [people] are not worried.”

According to this source, in the time of R. Isaac b’ Judah, there was already a custom in his city (Mainz) to perform *nikkur* within three days of the animal’s slaughtering. Not being sure why, he consulted his teacher, R. Eliezer b’ Isaac haGadol (c.990-c.1060). R. Eliezer confirms the authoritativeness of the custom by mentioning that his own father abided by it. Nevertheless, he himself is unsure of why the custom exists. He posits two possible reasons, each one based on one of the objectives of *nikkur*: either de-veining, or removal of forbidden fats. If the de-veining is the relevant objective, then the reasoning behind the custom would be that after three days of sitting with the veins attached, the meat has now absorbed too much blood, and one will no longer be able to remove this excess blood, even through salting.<sup>10</sup> If removal of the fat is the relevant objective, R. Eliezer is able to draw on precedent by quoting the Talmud: One should not leave fat on meat, for the fat melts and is absorbed into the meat. R. Eliezer reasons, therefore, that leaving the forbidden fat attached to the meat would bring about the same problem. This, however, leads to a question: If the analogy is true, then the meat should absorb the fat before the three day time limit is up! He answers, therefore, that before three days, there is only a chance that the meat will absorb the excess fat or blood, as opposed to after three days where it will definitely absorb. Since it is only a chance, people do not concern themselves with it. Ostensibly, this is because the custom is considered a stringency, and not a halakhic requirement.

From this source, what clearly emerges is that according to either interpretation offered by R. Eliezer haGadol, there is no need to salt the meat within three days, there is only a need for *nikkur*. If his second interpretation is correct, the custom of doing *nikkur* within three days has nothing to do with blood, only with forbidden fat. If his first interpretation is correct, the only problem would be with the blood of the veins, which gets absorbed into the meat. It is

<sup>7</sup> The Hebrew does not actually specify what he did not find written. I inserted the word “one”, which would mean that he did not find a reason written. Another possible insertion would be “it,” which would mean that he did not find the custom itself written anywhere.

<sup>8</sup> Loins are covered with *belev*, forbidden fat.

<sup>9</sup> “Here” could either refer to within three days, or the city of Mainz.

<sup>10</sup> Notice that removal through roasting is not mentioned. This will be important for later discussions.

this excess blood which, once fully absorbed, cannot then be removed. However, once *nikkur* has been performed, there would be no need to salt the meat within three days, since the excess blood is no longer there to be absorbed. This fits into the general halakhic principle<sup>11</sup> that “limb blood in the meat (i.e. not in the veins or arteries) which has not been displaced is permitted [to be eaten, along with the meat].”

Let us assume that this early German custom of performing *nikkur* within three days of slaughtering is the original source of the three day minimum for salting mentioned in the Tur (or, at least, related to it in time and place of origin). We should now attempt to trace the development of this tradition. In doing this we must pay close attention to how the concept develops in Germany itself. In addition, we must discern when it is introduced into other communities.<sup>12</sup> Specifically, we will look at the Italian, French, Spanish, Provençal and Arabic communities.

The first point of import to note is that this source from *Ma’aseh haMekbiri* is found only in *Ma’aseh haGeonim*, and not in any of the books from the Rashi school. This is noteworthy. The Rashi school, which does not follow the Tosafist methodology, gleans many of its halakhic discussions from the *Ma’aseh haMekbiri*. R. Isaac b’ Judah himself was one of Rashi’s teachers. This particular responsum of R. Isaac b’ Judah is a large, multi-sectioned response about the blood-removal treatment for hearts and livers. Every other part of this responsum is quoted or paraphrased in at least one of the books of the Rashi school. Only the part in question is not. Thus, we may speculate that Rashi and/or his students were aware of the custom, but considered it a peculiarly German one, and were not sufficiently impressed by the worry to warrant introducing the custom into France.

## B. RAVYAH

In Germany itself, the next time we see this custom mentioned is by R. Eliezer b’ Joel haLevi, known as Ravyah (c.1140-c.1225). In his *Avi haEzri*, also known as *Sefer haRavyah* (*Hullin* no. 1119), he writes:

<sup>11</sup> This principle is assumed by many Rishonim. See, for example, Rashi *Hullin* 111a, s.v. *umishum shamunit*, or Tosafot *Shabbat* 128a s.v. *dehazei le’umtza*.

<sup>12</sup> I am aware that much of this can be construed as an argument from silence. It is always possible that someone was aware of this custom, but never spoke about it. I have tried to keep this in mind when looking through different sources. Although in researching this custom I considered all sources, I have given more weight to organized halakhic works which attempt to be all-encompassing than to responsa or commentaries, which tend to be more hit and miss. Sometimes, but not always, it was possible to infer from other discussions in these works what they would think about a time limit for salting or *nikkur*. In general, a pattern emerges that can explain most of the respective sources’ mention of the custom or lack thereof.

And I have also heard from our Rabbi, my father, my master, who received [this tradition] from the Rishonim, that any meat which sits for three days—the full 72 hours—which did not undergo *nikkur* and was not salted, will not again “spit out” its blood, for the forbidden fat and blood harden within it.

Before we begin to look at the development the tradition has undergone, we should note the chronological gap between these two sources. Ravyah lived a bit more than a century later than the editors of *Ma’aseh haGeonim*. In the time between these two books, there were two extremely important halakhic works written in Germany; the *Even haEzer* by R. Eliezer b’ Nathan, known as Ravan (c.1090-c.1170), Ravyah’s maternal grandfather; and *Sefer haYereim* by R. Eliezer b’ Samuel of Metz (c.1175), Ravyah’s teacher.<sup>13</sup> Neither of these works mentions the three-day time limit for either *nikkur* or salting, despite the fact that both works talk about blood removal, (Ravan’s work discusses it rather extensively). Also, Ravyah’s younger contemporary, R. Elazar b’ Judah of Worms (c.1160-c.1238), in his own halakhic work known as the *Rokeah*, does not mention the three-day time limit either. In light of this, one may conclude that up until the time of Ravyah, there were differing traditions in Germany on this matter, some having one version or another of the custom, some none at all. Luckily, we can trace a possible line of transmission, teacher to student, from R. Eleazer *haGadol* to Ravyah, using Ravyah’s own information, that he received this tradition from his father:

R. Eliezer haGadol—R. Isaac b’ Judah—R. Eliakim b’ Meshulam—R. Isaac b’ Asher haLevi (known as Rivah the Elder, c.1130)—R. Isaac b’ Mordecai of Regensburg (known as Rivam, c.1170)—R. Joel *ha-Levi* (Ravyah’s father)—Ravyah.

Apparently, this line of transmission represented a Rabbinic tradition that accepted this custom as normative, whereas the other German tradition(s) were either unaware of it, or rejected it as unimportant.<sup>14</sup>

<sup>13</sup> It should be noted that R. Eliezer of Metz was a disciple of R. Jacob b’ Meir, (known as Rabbeinu Tam, 1100-1171), the founder of the French Tosafist school and the grandson of Rashi. As we noted earlier, Rashi rejected this custom, and, as will be seen, the French school never adopted it (at least until the very end). Therefore, as a student of Rabbeinu Tam, it is possible that R. Eliezer may have had French leanings, (he did serve a French community, though, in essence, he remained a German scholar) and considered the custom not worth mentioning. We will see variations on this theme when we get to Maharam of Rothenburg and Rosh. However, this definitely cannot be said of Ravan, whose work had as one of its main purposes to defend the German school against the up-and-coming French school.

<sup>14</sup> This, of course, is all speculation. It should be noted that there are no early German scholars (or French for that matter) that I have checked who **actively** polemicized against the tradition.

When one closely inspects the tradition as recorded by Ravyah, one notices significant changes occurred over the century. First, the three-day time limit is now applied to salting as well as *nikkur*. Second, the explanation for the time limit has changed: It is no longer about absorbing excess blood or fat, but is rather about said blood or fat hardening, and thereby becoming impossible to remove. These points merit further examination, as many of the subsequent halakhic discussions rely heavily on these distinctions.

The introduction of a time limit for salting completely changes the conceptualization of this stringency. According to R. Eliezer haGadol's custom, the only problem occurs when the meat absorbs blood from somewhere else. There is good reason behind this: as we mentioned earlier, the general assumption in *halakhah* is that blood found naturally in the meat, which has not been displaced, is permitted to be eaten.<sup>15</sup> Presumably, R. Eliezer haGadol's response to Ravyah's worry would be that dried blood which can no longer be removed is akin to blood that has not been displaced, and is therefore permitted to be eaten. As long as *nikkur* has been performed, and there is no excess blood from the veins being absorbed into the meat, why should there be a time requirement for salting the meat? One can hear echoes of R. Eliezer haGadol's absorption theory in the fact that Ravyah still requires that *nikkur* be performed within three days, and he specifically mentions forbidden fat becoming impossible to remove. Clearly, Ravyah envisions the absorption of fat into the meat, since the removal of visible fat even after three days would pose no problem for any butcher.

Essentially, Ravyah has two issues: absorbed fat (and presumably absorbed blood from the veins); and "local" non-displaced blood which hardens in the meat itself. The question we placed in R. Eliezer haGadol's mouth, (i.e. if the blood cannot be displaced, why should the meat be forbidden?), will be the opening for later scholars to add modifications onto this new stringency of salting.

Ravyah was one of the greatest of the German Tosafists, and his work had significant influence on all subsequent generations, even in other schools. Thus we find mention of the custom in *Asufot* (no. 166), a work by a student of R. Elazar of Worms,<sup>16</sup> in the next generation of German scholars (mid-thirteenth century):

<sup>15</sup> That is why raw meat is permitted to be eaten unsalted, though some (like Maimonides) require *halita*, (dipping in vinegar or hot water) first. It should be noted that there are many who saw *halita*, which, in the time of the Geonim and earlier, was considered to be a substitute for salting, as designed to accomplish just that; that is, as opposed to salting, which would remove the blood, *halita* would keep it where it was, guaranteeing that the blood would remain non-displaced, and, therefore, permitted. We will see *halita* become a factor in R. Nathan's argument later on.

<sup>16</sup> The strong influence of Ravyah on R. Elazar of Worms's school can also be seen in *Ma'aseh haRokeah*, attributed (questionably) to R. Elazar himself. However, this work does not contain a section on blood removal.

Any meat that sits for three days—the full 72 hours—which has not undergone *nikkur* or salting, will not again spit out its blood, for the forbidden fat and blood has hardened within it, and [the meat] is forbidden.

This is a word for word quote of Ravyah. The only difference is that whereas Ravyah quotes it as a tradition he received from his father, the *Asufot* writes it as an authoritative statement, without appeal to tradition or other scholars to back it up. Clearly, Ravyah's endorsement of the custom (specifically, his version of it, i.e. *nikkur* and salting) had its impact.<sup>17</sup>

To summarize: by the time of Ravyah, the custom has shifted both in its reason and its practice. The reasoning now has to do with the hardening of the fat and blood, as opposed to their absorption. Accordingly, the custom is extended to salting as well as to the original *nikkur*, since "local" blood is also subject to hardening.

### C. THE GENERATION AFTER RAVYAH

In the next generation of German scholars, some new issues are raised. The first we will look at is reported by a student of R. Yakkar b' Samuel haLevi (late thirteenth century, *Teshuvot uPesakim me'et Hakhmei Ashkenaz uTzarfat*, ed. Kupfer, no. 17):

About that to which we are accustomed—salting meat within three days—this is because of what we say in *Hullin* (8b): "A person should not place loins upon meat, perhaps the meat will absorb from the loins, for [their] fat is upon it." So too here, since he has delayed salting it from its blood, it will not again exit correctly. And my teacher, Rabbi Yakkar, said to me: "There is a proof in *Genesis Rabbah* (34:21), also brought in Chapter *Hellek* (*Sanhedrin* 91a), it says: "Antoninus asked Rabbi: 'When is the soul placed in man?' He

<sup>17</sup> Here I would like to note a troubling fact: The most dominant scholar in this same generation as the *Asufot*, and a disciple of Ravyah himself, was R. Isaac b' Moshe of Vienna (late twelfth-mid thirteenth centuries). However, in his encyclopedic work, *Or Zarua*, there is no mention of this practice at all. Nevertheless, in the next generation, it is taken for granted by every German scholar, including R. Isaac of Vienna's own son, Haim. It is known that R. Isaac studied under the French scholar R. Judah of Paris, which may be a factor here. However, the next generation's leader, R. Meir b' Barukh of Rothenburg also studied under a French scholar, R. Yehiel of Paris, (R. Judah's son) and he certainly observed this custom, though his own practice does reflect French influence. I have no good explanation for why R. Isaac of Vienna ignores the custom, and the point remains a troublesome one. However, it should be noted that R. Israel of Krems seems to quote the *Or Zarua* as his source for the custom, but since his quote is so obviously of R. Mordekhai b' Hillel's work, I tend to think the citation is a mistake (or a reference to something else).

(Rabbi) said to him: “From when he leaves his mother’s womb.”[Antoninus] said to him: “[Here’s] an example: If you leave meat for three days, will it not become rancid? Rather, [the answer is] when he is conceived.”<sup>18</sup> And our rabbi conceded to him, for also a verse aided him (Antoninus): “For as long as my soul is within me, and the spirit of the Lord in my nostrils” (Job 27:3), “And my soul guarded your *pekudot*” (Job 10:12).<sup>19</sup> When did you place the soul within me? When you formed (*pakad*) me.”

The author of this responsum begins with the same proof-text offered by R. Eliezer haGadol. However, whereas R. Eliezer only applied it to *nikkur*, this author applies it to salting, and does not mention *nikkur* at all, an indication that the custom changed yet again.<sup>20</sup> Furthermore, the use of this proof-text is a rather large jump for this author, in that the Talmud only discusses the melting of forbidden fat and its subsequent absorption into the meat,<sup>21</sup> not blood. The author focuses not on the absorption per se, but rather on the time delay implied by the case. Apparently, he imagines the case to involve not simply placing the loins on the meat, but leaving them there for a significant amount of time.<sup>22</sup> Therefore, he argues, if time delay causes the meat to be unable to “spit out” the absorbed fat, so too, time delay would make the meat unable to spit out its already present blood.<sup>23</sup>

The author’s next, and even more fascinating, move is to quote his teacher, R. Yakkor, who has a new proof-text for the custom. He quotes a story in Genesis Rabbah, where R. Judah the Prince and Antoninus<sup>24</sup> are discussing when a person receives his soul. When R. Judah suggests that this occurs only at birth, Antoninus attempts to disprove this hypothesis by analogy. He points out that meat, if left without salt for three days, will go bad. Therefore, by analogy, a fetus, if left without a soul too long, will also “go bad.” The nature of this anal-

<sup>18</sup> The word here is not the usual word for conception, but rather a euphemism for sexual intercourse. Ostensibly, the term was chosen so as to fit in with the upcoming *drashah*.

<sup>19</sup> Literally, either “your commands” or “your visitings,” but here it is taken exegetically to refer to “formings.”

<sup>20</sup> Or, this version could have existed concomitantly with the other(s).

<sup>21</sup> Of course, R. Eliezer haGadol does not have this problem, since he is referring to forbidden fat.

<sup>22</sup> Although this is certainly not mentioned in the Talmud, the author’s assumption is not counter-intuitive. Would Rav Papa really forbid the meat if the loins were only left there for a few minutes?

<sup>23</sup> It should be noted that this author shares Ravyah’s basic difficulty, i.e. that blood which has not moved is permitted to be eaten.

<sup>24</sup> Scholars disagree about the precise identity of Antoninus. Suffice it to say he was an important Roman figure. Popular legend has these two characters as friends, and many midrashic tales depict conversations between the two.

ogy is hard to understand. Apparently, Antoninus understood life force to be a sort of preservative for the body, like salt on meat. How does this apply to the *halakhab* of salting? Kupfer<sup>25</sup> suggests that if the nature of the meat changes after three days, then it is possible that salting would no longer work. Salting is a process which causes **regular** meat to spit out its blood, but once the meat changes its essential nature from regular to rancid, how does one know the process would still work?

In summary, R. Yakkar and his student have a different reason for the three day minimum, which they only mention with regard to salting, (*nikkur* does not figure at all in this piece). Though they agree that salting will not work after three days, they do not mention the drying of the meat as the cause, but, rather, its decomposition. This will be important when we begin to look at some of the leniencies offered in the “drying” model.

#### D. R. MEIR OF ROTHENBURG’S SCHOOL AND RAMAM—ROASTING THE MEAT

The other new issues raised in this generation of scholars are by R. Meir b. Baruch of Rothenburg, called Maharam (c.1215-1293), one in his own name, and one in the name of a contemporary scholar. The first is one reported in his name by many of his students. We will start by looking at the issue as discussed by R. Haim b’ Isaac *Or Zarua*<sup>26</sup> (late 13th century). He mentions the custom in two places in his *Derashot* (interestingly, not in the name of his teacher, R. Meir). The first is found in no. 6, in the context of the larger discussion of whether one needs to salt meat if one is going to roast it:<sup>27</sup>

<sup>25</sup> Note 4. A different explanation is offered by S. Bognac Nasi in a polemical defense of R. Jacob of Bagnols, whose position, similar to R. Yakkar’s and mentioned in his *Issur veHeter*, we will see later. This defense is brought down by the copyist of R. Jacob of Bagnols’ work, a student of S. Bognac. It is actually included as part of the main text, due to a misunderstanding of a later copyist, and, unfortunately, the modern day publisher. (See in Blau’s introduction, the discussion of the identity of S. Bognac Nasi.)

<sup>26</sup> An older student of R. Meir of Rothenburg, and the son of Rabbi Isaac of Vienna, author of the *Or Zarua*.

<sup>27</sup> “Cooking,” in the laws of *kashrut*, refers to cooking in water. “Roasting” refers to the use of direct exposure to fire. The Rabbis considered cooking to be a process that causes all the internal juices to move and stir, mixing everything in the pot. Roasting, on the other hand, according to most authorities (not Rashi or Rambam), would only affect the surface, and a touch deeper. The question about whether one needs to salt before roasting is based on the argument that if one is only affecting the surface, then the internal juices are not flowing, and the blood isn’t moving. Since blood that has not been displaced is not forbidden, the blood in roasted meat would not be a problem at all, so there would be no need to remove it, and, therefore, no need for salting.

<sup>28</sup> R. Isaac b’ Samuel of Dampierre, Rashi’s great grandson, known as Ri the Elder (c.1120-c.1200).

Regarding roasting: Rashi requires salting, so, according to him, meat that sat for three days would be forbidden, even to roast. But Ri<sup>28</sup> questioned Rashi's explanation, and allowed roasting without salting. And the Geonim wrote that meat which sat for three days is permitted to roast. And Ri the Younger<sup>29</sup> answered the question (on Rashi's opinion, posed by Ri the Elder), therefore, it would seem that Rashi [is correct].

Again, in no. 26, in the context of the same discussion:

Rashi explained that roasting does not require as much salt as is needed [in order to permit] cooking in a pot. But the Tosafists<sup>30</sup> say that for roasting, one does not need any salt, just to roast the meat totally, well-done. Thus, according to Rashi's explanation, meat that sat for three days without being salted has no way of being prepared [in a kosher manner], even through roasting. However, according to the Tosafists, one can roast [the "damaged" meat], as long as he roasts it totally. Rizbah explains that roasting does require salting. . . .

There are a few interesting aspects to R. Haim *Or Zarua*'s presentation. First of all, R. Haim mentions the Geonim. This in itself is odd, since the Geonim were not mentioned in any of the earlier sources. It is possible that all R. Haim means here is "great ones," but it is difficult to know.<sup>31</sup> Second, and perhaps more telling, is the *halakhah* that he quotes in their name. He does not offer the usual formulation that meat which has sat for three days is forbidden. Rather he states that meat which has sat for three days must be roasted. Not only is this a completely new formulation of the custom, but R. Haim himself contradicts it by saying that this idea—that roasting is a way of permitting meat that sat for three days in its blood—only works according to Ri the Elder's understanding. Rashi, on the other hand, would not accept roasting as a solution, and he would forbid the meat entirely as an unfixable problem. And Rashi's opinion is the one which seems to R. Haim to be correct.<sup>32</sup>

R. Haim is aware that neither Rashi nor Ri the Elder has a problem with meat that sat in its blood for more than three days. His purpose is rather to apply the German stringency to an argument of a different nature. His logic is as follows: According to Ri the Elder, there is never any need to salt meat if one is to roast

<sup>29</sup> R. Isaac b' Abraham, also known as Rizbah (d. c.1210). He was the older brother of the famous R. Samson of Sens (c.1150-c.1214), upon whose comments most of our Tosafot are based.

<sup>30</sup> Representing Ri the Elder's opinion, as quoted in the earlier text.

<sup>31</sup> We will discuss this further when we look at the *Tashbetz*.

<sup>32</sup> This is in contradiction to his father, who states in Part One of the *Or Zarua*, Laws of Meat and Dairy, no. 477 that one need not salt meat for roasting; one need only ensure that it is roasted well (Ri the Elder's opinion).

it. Accordingly, what difference could it make if one waited three hours or three days; either way, the meat should be permitted. However, if one accepts Rashi's position—that all meat needs salting—then, once one also accepts the premise that a three day wait would end the effectiveness of salting on the meat, one would argue that there would be no way to *kasher* this meat, once the three day window passed. Thus, the issue of whether roasting would work or not would be based not on what one's particular custom was; rather it would be based on whether one followed Rashi or Ri the Elder on the matter of salting before roasting. The fact that R. Haim quotes the Geonim as having permitted roasting the meat after three days is an attestation to the fact that he is already including his own deductions into his quotes, and is a tribute to the "looseness" of his style.

This new point mentioned by R. Haim, that roasting may be a mitigating factor in the three day stringency, is quoted by all of the other students of R. Meir of Rothenburg in his (Maharam's) name. In *Sefer haParnes* (no. 90), R. Moses Parnes (late 13th century) writes:

Meat that has sat for three days, the full 72 hours, without salting—it is customary to treat it as forbidden, since all of the blood will not exit it now, even after salting. But Maharam permits it when roasted, even after three days.

What stands out in R. Parnes' presentation is the absence of *nikkur*, which we first observed in the responsum by R. Yakkar's student. Nowhere does R. Parnes indicate that *nikkur* must also be performed within three days. The question must be asked: Is this deliberate? Did Maharam (and the scholars of his generation) apply the three day time limit to *nikkur*, or only to salting? To decide this question, we will turn to other students of Maharam.<sup>33</sup> In *Hagahot Maimoni*, Forbidden Foods, (6:9), R. Meir b' Yekutiel haKohen (d. 1298) writes:<sup>34</sup>

A quote from Ravyah: "And I heard also from my father my master, who received [this tradition] from the Rishonim, that any meat which sat three days—the full 72 hours—{which did not undergo *nikkur*}<sup>35</sup> and was not salted, will not again spit out its blood, for the forbidden fat and blood harden within it." End quote. But behold, Maharam permits it, from that point on, to be eaten roasted. . . .

<sup>33</sup> Since Maharam was by far the most dominant German scholar of his day, almost every German scholar of the next generation studied with him at one time or another, even scholars that were previously educated, like R. Haim and R. Asher.

<sup>34</sup> The quote is from the Frankel edition of the regular text. The Constantine edition, which often differs significantly from the regular one, is here virtually identical, with one major difference which will be addressed in the analysis.

<sup>35</sup> These brackets are in the Hebrew edition itself.

The first thing one notices is the brackets. These words were added by the Frankel editors on the basis of manuscripts, and they are also included in the Constantine edition. However, they were not included in the regular printed editions, and their absence caused much debate among the Ahronim. As we have seen, the words are included in the text of Ravyah. Nevertheless, this is not an absolute proof that R. Meir b' Yekutiel had them in his version.

At first glance, one would say that the end of the quoted text should decide the question; “forbidden fat and blood harden within it.” However, the words “forbidden fat and” do not appear in the Constantine edition. Instead, it reads “the blood hardens within it.” How does this fit with the fact that *nikkur* is specifically mentioned at the beginning of the text? This is a difficult question. Avoiding the possibility of manuscript corruption, it is possible to argue that the author (or editor) of the Constantine printing distinguishes here between the different types of *nikkur*. Perhaps he understands the text to require de-veining within three days, as part of the general concern about blood hardening, but does not require removal of forbidden fats at any specific time.

Nevertheless, what seems most probable is that the Frankel edition is the correct one, but aspects of the *nikkur* discussion were deleted as time went on, due to the general shift in halakhic position of the later Germans. But what about Maharam? Can one determine from the above quotation whether he applied the custom to *nikkur* as well? It seems not. Just because the two quotes, Ravyah and Maharam, are juxtaposed in the *Hagahot Maimoni*, does not mean that the two original sources were discussing the exact same thing. It is possible that Maharam was only referring to unsalted meat after three days, but R. Meir b' Yekutiel decided to bring Maharam's position in as a gloss on Ravyah's more expansive custom.

This point can be better demonstrated by a look at R. Mordekhai b' Hillel's (c.1240-1298) halakhic work (*Hullin* ch.8, nos. 4322 and 4326):

And our Rabbi Joel haLevi received [this tradition] from the Rishonim: Any meat which sat for three days—the full 72 hours—without undergoing *nikkur* and without salting, will not again spit out its blood, for it becomes hardened by the forbidden fat and blood within it. But Maharam is accustomed to permit (it) when roasted, for unsalted meat is permitted (to be eaten) when roasted.<sup>36</sup>

<sup>36</sup> There is an extra line in 4322 which reads: “. . . and so too wrote *Or Zarua*. And it is worth considering whether Maharam would permit (roasted meat) even in a case of *nikkur* [not being performed within three days].” This extra line, however, is not part of R. Mordekhai's words, but is rather a note that was inserted, accidentally, into the text. This is clear from the text of the Glosses on the *Sha'arei Dura*, 4:4, where the author quotes R. Mordekhai, up to his citing of Maharam, then quotes what he calls “a gloss”, which is this very line, (minus the citation of the *Or Zarua*). Freilich, the editor of the *Sha'arei Dura* notes this as well (see his *Sha'arei Binah*, 4:5).

One interesting point about R. Mordekhai's presentation is that the reasoning is shifted slightly: It is not that the fat and blood become hardened, but that due to the meat's having sat in fat and blood, the meat itself becomes hardened. This is reminiscent of the explanation offered by R. Yakkar b' Samuel earlier. Nevertheless, it is clear that R. Mordekhai had *nikkur* in his text of Ravyah, and is concerned about it.

Another source, from an anonymous German Rishon,<sup>37</sup> also quotes the Maharam:

*Avi haEzri* wrote: "Meat which did not undergo *nikkur* and was not salted is forbidden, because the blood hardens within it,<sup>38</sup> and will not exit, even through salting." And the following is a quote from Rav Sa'adia:<sup>39</sup> "Regarding [the fact] that in our place we perform *nikkur* on meat before three days have passed—I asked [Our] Rabbi, and he said to me that even his father was careful about this, but he never heard a reason why this isn't found written down.<sup>40</sup> It would seem [that the reason is because] the blood gets absorbed into the limbs in three days, and will not exit. Or perhaps, the reason is from [the Talmudic statement]: 'One should not place loins upon [meat], for the fat melts and the meat absorbs'." However, within three days [the meat] may also absorb [melted fat]! But here we do not worry [about that], nor [do they] in Worms."<sup>41</sup> End quote. And I heard in the name of the R. Meir (Maharam), that meat which was not salted and did not undergo *nikkur* within three days, is permitted when roasted, for the fire draws out [the fat and blood].

Of all the presentations of Maharam's opinion, this one is the strongest in favor of the idea that Maharam included *nikkur* within his conception of the three day time limit. In fact, Kahana, in a footnote, uses this text to answer "R.

<sup>37</sup> It was published by Isaac Zev Kahana in *Sinai* 14, as Responsa of the Or Zarua and Maharam b' Baruch. This particular responsum is *siman* 84.

<sup>38</sup> Note the use of the same Ravyah text as in the Constantine version of the *Hagahot Maimoni*, with the inclusion of *nikkur*, but the absence of hardening fat.

<sup>39</sup> The Rav Sa'adia mentioned here is not the famous Gaon of that name, but a fourteenth-century German scholar, R. Sa'adia b' Shneur of Vienna. The responsum here is not his own, but is the response of R. Isaac b' Judah which we saw earlier. Apparently, R. Sa'adia had access to the *Ma'aseh haGeonim*, and copied this responsum down on the side of his *Sba'arei Dura*. I infer this from a statement in the Responsa of R. Jacob Moelin (c.1365-1427), no. 87:3.

<sup>40</sup> This is probably a misprint and should read "nor could he find one written down". In the Hebrew it is just the difference of one letter.

<sup>41</sup> In this version of the *Ma'aseh haGeonim* text, there is no ambiguity as to what "here" refers; it refers to Mainz.

Mordekhai's<sup>42</sup> question about whether Maharam would allow meat that sat for three days without *nikkur* to be roasted. However, nothing can be proven from this source. The author of the response clearly never discussed the issue with Maharam, as he only heard second hand about Maharam's opinion. Further, it is clear from the way he phrases the beginning of Maharam's statement that he modeled it after Ravyah, whom he quoted earlier in the response. It therefore seems that our author was influenced by Ravyah and R. Isaac b' Judah, and formulated his notion of Maharam's position around their premises. It is thus impossible to deduce Maharam's real position on *nikkur*, with sources already "tainted" by the premises of the earlier Germans.

We will turn next to R. Samson b' Tzaddok (c. 1285), in his work *Tashbetz*,<sup>43</sup> (nos. 342-343), a work which, like *Sefer haParnes*, is built specifically upon Maharam's thinking:

"Meat which sat for three days—the full 72 hours—without being salted; its blood will not then exit through salting, but only when cooked." Thus was found in *Geonic* responsa. But when roasted, I say that it is permitted, for blood found locally in the meat, which has not been displaced, is permitted. And if it departs due to the fire, the flame draws it [and it doesn't remain in the meat]. And I have seen the Ram (Maharam) ז"ל permit meat, which was not salted until after three days, to be roasted [and eaten].

The first thing to note is that, just like in *Sefer haParnes* and the student of R. Yakkar, there is no mention of *nikkur* in the entire discussion, nor is there any mention of forbidden fats.

Beyond this, a few features stand out: First, not only does R. Samson quote the *Geonim*, but he actually refers to Geonic responsa. His contemporary, and a fellow student of Maharam, R. Haim *Or Zarua*, whom we saw earlier, also mentioned Geonic writings, as does the *Sha'arei Dura*, which we will see next. From this it would seem possible that Maharam actually had in his possession responsa of the Geonim which discussed the requirement to salt meat within three days, but said nothing about *nikkur*. The difficulty with this possibility is the following: No such responsum exists in any Geonic work in our possession today, nor was any such responsum quoted by earlier German scholars, or any other earlier or contemporary scholar from any other country. How is it that Maharam would have in his possession, in the thirteenth century, such a responsum, unknown to any other scholar for three hundred years? Of course, it is possible

<sup>42</sup> Apparently, Kahana was unaware of the source in the Glosses on the *Sha'arei Dura*, which demonstrates that the question was not R. Mordekhai's.

<sup>43</sup> This work is sometimes referred to as the *Smaller Tashbetz*, so as not to confuse it with the larger work of the same name, by the late fourteenth century North African scholar, R. Simon b' Tzemah.

that it was known, just not quoted, but this seems unlikely. Another possibility is that Maharam and his students just mean “an old responsum”, and they are referring to some early Ashkenazic source, probably a reworking of Ravyah’s piece. A third possibility is that Maharam had a late, anonymous responsum, which was written as an edited version of Ravyah’s words,<sup>44</sup> so as not to include *nikkur*. This piece, instead of referring to Rishonim, may have said Geonim, or maybe nothing at all. Either way, it is possible that Maharam (or his students) considered this to be an authentic Geonic responsum, and treated it as such. This final possibility seems most likely, but further research remains to reach a definitive conclusion.<sup>45</sup>

Another interesting point is that R. Samson’s quotation from the Geonim includes the added information that blood which is not removed by salting will be removed by cooking. The point here is that the cooking process is a stronger method of moving the internal juices than salting is. This is due to the liquid used in cooking. The problem then becomes, if the blood is trapped in the meat until the meat is cooked, but the cooking releases the blood, then, effectively, cooking this meat will be tantamount to cooking it in its own blood. This point is essential to R. Samson, who is dealing explicitly with the problem we mentioned earlier: if blood is really trapped and cannot move, even through cooking, it would not be forbidden. Therefore, it is essential that cooking be powerful enough to get the blood moving; otherwise, the whole stringency would be senseless.

This leads to his final point, which is the explanation for why roasting is a mitigating factor. He offers a two-pronged argument: If roasting does not get the blood to move, now that it is dried out, then it is not a problem (since non-displaced blood found locally in meat is not forbidden.) If roasting does get the blood to move, then the fire will draw the blood to it, and it will not be reabsorbed into the meat. This, of course, is the critical difference between salting and roasting on one hand, and cooking on the other. In cooking, the very mechanism which gets the blood to move also causes it to be reabsorbed into the meat.

A good summary of the state of this custom in Maharam’s thinking can be found in the *Sha’arei Dura* (no. 4), the most important of all the Ashkenazic *kashrut* manuals, written by R. Isaac b’ Meir of Duren (late 13th century):<sup>46</sup>

The Geonim wrote that any meat which sat three whole days—72 hours—which was not salted; the blood hardens within it, and will

<sup>44</sup> The phraseology and style of this “Geonic” responsum is extremely similar to Ravyah’s style.

<sup>45</sup> See Israel Meir Ta-Shma’s *Minhag Ashkenaz haKadmon*, pgs. 202,238,&260, and *Sefer haRavyah*, published by Aptowitz, vol. 2 page 72 note 25, for a discussion of the use of the term Gaon to refer to early Ashkenazic sources.

<sup>46</sup> Halperin has him as the son-in-law of R. Yakkar b’ Samuel, mentioned earlier.

not, then, exit through salting, and is forbidden. Indeed, in the Talmud we do not find this stringency, for so what if [the meat] will not spit forth [its blood]? Would this not be [a case of] limb blood which was not displaced, and is permitted! Indeed, Maharam ruled: Any meat which sat three entire days without salting, whether in summer or winter, it is a *mitzva* to eat it roasted, for then (when roasted) the blood will depart, for the fire draws it, but one should not cook it, since, after all, this [custom] comes from the mouth of the Geonim. For the reasoning is, that after three days, the blood will not depart through salting, but, rather, only through cooking. But, it is permitted to roast it, because even if the blood does not exit, so what? It is limb blood which was not displaced, and is permitted. And that which does depart due to the fire, the flame draws. For they said that the blood, which pooled inside it, will exit through roasting, and he (Maharam) would not forbid it (the meat) to be roasted, even if it sat longer than three full days, 72 hours.

R. Isaac of Duren expresses here, in strong terms, the basic problem with the custom, namely that non-displaced blood is permitted. This issue was never addressed by Ravyah, and we can see from the force of R. Isaac of Duren's argument, that this was the impetus for the cooking versus roasting distinction offered by Maharam, on the basis of the "Geonic" responsum.

However, we can detect something even more from R. Isaac of Duren's language: It seems that, deep down, there is a skepticism regarding this stringency altogether. It almost appears as if R. Isaac of Duren and Maharam accepted this stringency only grudgingly, since "it comes from the mouth of the Geonim". If true, this may point to the strong French influence on Maharam and R. Isaac, both of whom studied in France.<sup>47</sup>

Finally, we should note yet again that no mention is made of *nikkur*. None of the Maharam-influenced sources mentioned *nikkur*,<sup>48</sup> unless quoting R. Isaac b' Judah or Ravyah. This demonstrates that Maharam and his school were either unaware or dismissive of the three day stringency applying to *nikkur*. Why would this be? R. Asher b' Yehiel, called Rosh (c.1250-1327), the most famous of Maharam's students, points us toward an answer in a responsum (no. 20:25):

Regarding what you asked: That it is a widespread custom in this country not to eat meat which sat for three days without undergoing *nikkur*—if it is a Mishnah, or a Gemara, or a Midrash, or a Gaon? I have never heard of this custom, for why would it depend on *nikkur*? The fat will not be absorbed into the meat, since it is cold! Rather, in

<sup>47</sup> Maharam with R. Yehiel of Paris (c.1190-c.1268), and R. Isaac of Duren with R. Tuvia b' Elijah.

<sup>48</sup> *Sefer ha-Parnes*, R. Haim Or Zarua, *Tashbetz*, and *Sha'arei Dura*.

Germany and France<sup>49</sup> they practice like the Geonim, who wrote that meat which sat three days without salting, the blood accumulates<sup>50</sup> within it, and will not depart through salting, and is forbidden. And, R. Meir of Rothenburg permitted it through roasting, for even if the blood does not go out, it is limb blood which was not displaced, and is permitted. But cooking it in a pot is forbidden, for even though [the meat] will not spit out [the blood] when salted, it will spit out its blood when [cooked] in a pot.

In this source, Rosh states explicitly that he knows of no requirement to perform *nikkur* within three days. More than that, he states that he has never heard of such a custom. He even adds a proof why this would not be necessary. His proof is that fat will not melt and the meat will not absorb it, so long as it is cold.<sup>51</sup>

What about the Talmudic passage quoted as a proof by R. Eliezer haGadol, which seems to state just the opposite? Tosafot answers this question (*Hullin* 8b):<sup>52</sup>

“A person should not place loins upon meat:” this means immediately after slicing, before the meat cools. However, after it cools, one need not worry, as it is written (Lev. 9:20): “and they placed the fats upon the chests.”

This particular comment was included also in Rosh’s own glosses on the Talmud, (known as *Tosafot haRosh*) word for word. Rosh, and presumably Maharam, accepted this premise as fact. Therefore, as Rosh himself says explicitly, it would be impossible for the leftover fat on a piece of meat to melt into the meat over a three day period, since the meat would not remain hot for that long.

To summarize our findings thus far: The earliest German custom, that of R. Eliezer haGadol, was to perform *nikkur* within three days. This custom apparently was not universal, and was rarely quoted. About a century later Ravyah reported a custom of the Rishonim to perform both *nikkur* and salting within

<sup>49</sup> Rosh here mentions that this custom existed in France. This is interesting since none of the contemporary French sources mention it.

<sup>50</sup> Rosh, here, deviates slightly from the usual explanation, saying that the blood “accumulates” instead of “hardens”. He may be referring to a passage in the Talmud, *Shabbat* 107b, also found in *Hullin* 46b, which says that usually, one violates the prohibition of hitting somebody only when blood is shed, but a bruise, where “the blood accumulates”, also counts as a violation, even if the blood doesn’t leave the skin.

<sup>51</sup> Rosh here conspicuously leaves out the issue of de-veining in his description of *nikkur*.

<sup>52</sup> Compiled by R. Eliezer of Touques, a student of R. Isaac of Vienna, and based mostly on the work of the French schools.

three days. This custom received wide acceptance. Less than a century later, the students of Maharam reported a custom of the Geonim to salt the meat within three days, if one wants to cook it; otherwise, it must be eaten roasted. There is no need, according to this custom, to perform *nikkur* at any particular time. This custom received broad acceptance, in many cases, displacing the custom of Ravyah.

A final interesting development on the issue of roasting is quoted by R. Mendel Klausner<sup>53</sup> in the name of R. Menahem b' Pinhas "*Me'il Tzedek*" of Merseburg,<sup>54</sup> called Ramam, (early 14th century):<sup>55</sup>

Meat which sat for three days, the full 72 hours, which was not salted—it is forbidden to cook it, but it is permitted to roast it. And after one roasts it, Ramam permits one to cook it afterwards.

Apparently, R. Menahem sees roasting as a foolproof way of removing blood. In his conception, salting is simply a less powerful method of removing blood; good enough for a regular case, but not enough for more difficult ones, where one must use the most powerful methods. Of course, this is not the only way to understand Maharam's point, nor is it even the simple reading of the text. For example, Rosh, R. Isaac of Duren and R. Samson b' Tzadok all mention the point that even if the blood does not leave when roasted, then it is nondisplaced limb blood, which is permitted. This "even if" strongly implies that their understanding of Maharam's position was not that roasting was a foolproof way of removing blood<sup>56</sup>, but that it was a way of preparing meat to be eaten without cooking. According to these *poskim* it appears that cooking is the most powerful way to move blood, but it also causes that same blood to be reabsorbed into the meat, something that roasting does not do, because "the fire draws it out".

From this analysis, it would appear that R. Menahem was basing himself only loosely on Maharam's point, but was really introducing an entirely new premise of his own. For this reason, many later scholars were wary to rely on his position, and the matter was hotly debated in the following centuries.<sup>57</sup>

<sup>53</sup> Rulings of our Rabbi Mendel Klausner, *Hullin*, ch. 8. Though his work is part of the "compilers" generation, I quote it here, since his is the earliest quoting of R. Menahem of Merseburg's position.

<sup>54</sup> A student of R. Isaac, son of R. Haim Or Zarua.

<sup>55</sup> Although there is a work called "Reasonings of R. Menahem of Merseburg" published in the back of the standard edition of R. Jacob Weil's responsa, this is, probably, only a small work in comparison to the lost halakhic work of R. Menahem. Many scholars feel that his nickname, *Me'il Tzedek*, was probably the name of his lost work.

<sup>56</sup> This point is argued vociferously by R. Israel Isserlin (c.1390-1460). See his *Terumat haDeshen*, responsa section, no. 160, and Glosses on the *Sha'arei Dura*, 4:3.

<sup>57</sup> See, for example, Responsa of R. Jacob Moelin (Maharil), no. 87:3; also see Responsa of R. David ibn Zimra (Radbaz) 1:138.

### E. RI HOZEH AND RI TRESSON—WASHING THE MEAT

A second, and separate issue was introduced by a contemporary of Maharam, R. Isaac Hozeh, called Mahari Hozeh (mid-thirteenth century). He was originally a French scholar who later moved to Germany<sup>58</sup> and became one of Rosh's teachers. The first mention of his opinion is found in a responsum of Maharam, (Berlin/Bloch printing of Amsterdam manuscript, no. 90):

Regarding meat which was not salted until [after] three days, but was soaked in water within [the] three days; your city has received [the tradition], in accordance with the rabbi, our rabbi Isaac, that it is permitted [to cook]. If this is a tradition, we will accept it, and it makes some sense. But if it is reasoning, there is a response, and this is easy to understand.

The other mention of this ruling is by a student of Rosh, in a gloss on the *Sha'arei Dura* (ch. 4).<sup>59</sup>

The Rosh told us in the name of R. Isaac *Hozeh*, that if the meat was rinsed within three days, even if it wasn't salted,<sup>60</sup> it is permitted, even [to be cooked] in a pot. And the reason is that when one waits three days without rinsing and salting [the meat], then, the blood hardens within it, and doesn't exit through salting. However, when it is rinsed within three days, the meat softens,<sup>61</sup> and [the blood] will exit through salting, even after three days.

The basic point of R. Isaac Hozeh is clear: this stringency is not to be treated as an enactment, either by the Geonim or Rishonim, but rather as a real halakhic concern, based on the reality of what happens to blood when it sits. Dry blood will simply not be affected by salt. However, if one could keep the blood moist, then salting would still function adequately. Apparently, Rosh accepted this point, and Maharam was willing to consider it.

This conception of the custom would seem to fit only with the "Geonic" version, offered by the Maharam school. R. Eliezer haGadol's custom does not even address the issue of salting. But even more than that, his concern is absorption of fat and blood, not the drying of fat and blood. Keeping meat moist would, therefore, not be a relevant factor.

<sup>58</sup> His identity is the subject of much scholarly conjecture. See J. N. Epstein, *haKedem* vol. 1 pgs. 129-130.

<sup>59</sup> This gloss was accidentally placed into the main text, but is obviously not part of the *Sha'arei Dura*. It is one of a number of glosses, apparently all by the same person, which begin with: "The Rosh told us."

<sup>60</sup> Obviously, he assumes it will be salted before it is cooked, just not within three days of slaughtering.

<sup>61</sup> Oddly enough, R. Israel Isserlin, in the Glosses on the *Sha'arei Dura* 4:6, claims the exact opposite in the name of R. Mordekhai b' Hillel, i.e., that water hardens the meat.

Ravyah, on the other hand, does mention meat drying. But this brings us to a larger question: is Ravyah's custom identical to Maharam's, except that he retains *nikkur*? Or, are the two conceptions, even with regard to salting, fundamentally different? This issue is discussed by the later Rishonim, insofar as it relates to the issue of roasting. If Ravyah and Maharam have identical positions on salting, then they should agree on roasting. But if they have differing conceptions on salting, then Ravyah may differ with Maharam, and forbid even roasted meat.<sup>62</sup>

While it is impossible to know the answer to this question for certain, it seems that Ravyah considered this stringency to be an inviolable German custom,<sup>63</sup> i.e., even roasted meat left unsalted for three days would be forbidden. Obviously, Maharam disagreed. The influence of the French school provides a simple explanation for the disagreement: The French school paid no attention to this German custom, and it is unclear how much, if at all, the custom even existed in France. R. Isaac Hozeh, a French immigrant to Germany, and Maharam, a German trained in the French school, thus had some difficulty seeing the custom as inviolate while only loosely connected to the reason behind its existence. Therefore, understanding the reasoning behind the custom, they each found loopholes: Maharam permitted roasting, and R. Isaac permitted rinsing.

One more point about R. Isaac Hozeh's statement is the difference in presentation offered by Rosh and Maharam. Rosh says that the meat should be "rinsed", whereas Maharam says "soaked." While these processes are not exactly the same,<sup>64</sup> R. Isaac's whole point is that if the blood is still moist after three days, salting would still be effective. Therefore, it does not seem to matter whether it was soaked or rinsed, as long as whatever was done to it would be enough to keep the blood moist beyond the three day mark.

A possible proof of this point can be found in a source quoted in the Glosses on the *Sha'arei Dura* (4:1):<sup>65</sup>

<sup>62</sup> See *Issur veHeter*, 2:2, and Glosses on the *Sha'arei Dura*, 4:5, which argue that Ravyah would not accept roasting as a mitigating factor.

<sup>63</sup> I cannot go into an explication of what "custom" meant to the early Germans. For further information, see the introduction to Israel Meir Ta-Shma's *Minbag Ashkenaz haKadmon*.

<sup>64</sup> Later Rishonim discuss for how long one has to wet the meat. See *Issur veHeter* 2:1, and *Sefer ha'Agur* no. 1200.

<sup>65</sup> A quick note on this work: Officially, there is no such work. What happened was that many scholars put notes on the side of their copies of the *Sha'arei Dura*, since this work was the most influential of all Ashkenazi *kashrut* manuals. There were different collections of these, put out by different publishers, depending upon whose notes they had. The most dominant set of notes was put together by R. Israel Isserlin (or his students), which is why he is mistakenly referred to as the author of this work. Some of the notes are extremely early, from only a generation after R. Isaac of Duren. The version that we have in the standard edition is a hodgepodge collection of all the different versions, put

I found written in the name of our teacher, the rabbi Jacob Katz: “That which Maharam did not permit—to cook meat which sat without salting more than three days; this is specifically when it was not **rinsed** in water at all within three days, and was not salted until after three days. However, if it was **rinsed**, or placed in water within [those] three days, one is permitted to cook it. And the reason that when it sits for three days without salting that it is forbidden is because then the blood within it hardens, and will not again exit through salting. But if it is **rinsed** in the meantime, then, the meat softens, and the blood will depart through salting, even after three days.” And he<sup>66</sup> was a student of Maharam.

There are two key points here. The first is that we have a student of Maharam who states explicitly that his teacher allowed rinsing the meat within three days to permit one to cook the meat later on, even if salted after three days. This is important information, since the other students of Maharam do not mention this leniency. Also, from Maharam’s own responsum, it is difficult to tell whether he accepted the leniency or not, since he evinces a certain amount of skepticism. From this source, we see that, in the end, he accepted the leniency. The second key detail is that R. Jacob Katz uses the word “rinse” as opposed to “soak.” We see from this that the two are interchangeable, and R. Isaac Hozeh’s position is as was assumed earlier: all that matters is that the blood remain moist until the salting occurs.

A similar position is cited in the *Agudah* (*Hullin* 141), a work written by R. Alexander Zuslein haKohen (d. 1348), a student of R. Isaac of Duren:

And meat which sat three days, the full 72 hours, without being salted; the Geonim wrote: “The blood is fixed within it, and will not then exit through salting.” And the Ram z”l permitted [one] to roast it, since for roasting, salting is unnecessary. And if [the meat] was rinsed within three days, the water softens it, and they permitted [one] to salt and cook it, even after three days (meaning: from the day of slaughtering).

We see from this source just how standard R. Isaac Hozeh’s position became among the students of Maharam and their schools. Nevertheless, R. Isaac Hozeh’s opinion, though accepted by many as authoritative, did not enjoy the same near-universal status as did Maharam’s opinion about roasting.<sup>67</sup>

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together by Isaiah Nathan Freilich, in the mid-twentieth century, (including some notes of his own). The work is a treasure trove of sources and information, but it is extremely difficult to navigate. See Freilich’s introduction for how he put the work together.

<sup>66</sup> Presumably R. Jacob Katz.

<sup>67</sup> See Customs of R. Jacob Moelin (Maharil) section *Issur veHeter*, Glosses on the *Sha’arei Dura* 4:6, *Issur veHeter* 2:4,5 (notes in back), *Sefer ha’Agur* no. 1200, *Responsa Benyamin Zev* no. 328.

The final conceptual development of this point, in the time of the Rishonim, was offered by R. Isaac of Tresson (late 13th-early 14th centuries), another French emigrant to Germany,<sup>68</sup> in his gloss on the *Sha'arei Dura*, 4:1:

I heard that in the land of the Geonim, when meat would sit without having been salted for three days or more, that they were accustomed to soak it in tepid water, to “awaken” the blood, [so that the meat could] spit [it] out when salted.—Here ends the quote of Mahari Tresson.

Although R. Isaac of Tresson’s understanding is similar to that of R. Isaac Hozeḥ’s, it is significantly more radical. Mahari Hozeḥ still requires one to wash the meat during the three days if one wishes to cook the meat afterwards. However, if one follows Mahari Tresson, there is no need to do anything at all during the three days in order to cook the meat later:<sup>69</sup> If the blood dries, just make sure to soak the meat until the blood “awakens” and becomes moist again. Mahari Tresson thus effectively does away with the custom to apply salt within three days. What is left is a simple requirement to salt meat only when the blood is moist. Needless to say, his opinion was not universally accepted,<sup>70</sup> and is rarely quoted.

The *Amarkol* (early 14th century),<sup>71</sup> a German halakhic work of unknown authorship, provides a good summary of the state of German practice at this time:

The Geonim wrote that any meat which sat for three whole days, 72 hours, and wasn’t salted, the blood hardens within it, and will not again depart. We have not found this stringency in the Talmud. And Maharam said that [the meat] is forbidden when cooked, but permitted when roasted. And Mahari Tresson [said] that they were accustomed to soak it in tepid water. Mahari Hozeḥ [said] that if it was rinsed within three days, it is permitted [to be cooked] even in a pot.

From this source it clearly emerges that Ravyah’s version of the custom, and any mention of *nikkur* at all, is forgotten. All the possibilities offered by the *Amarkol* are within the logic of Maharam’s “Geonic” version.<sup>72</sup> It is also interesting to note that from the *Amarkol*’s quote of Mahari Tresson, one would not realize the radicality of his position. I do not know if this was a deliberate “censoring” on the author’s part.

<sup>68</sup> This is my own theory, the reasoning behind which is beyond the scope of this paper.

<sup>69</sup> In this sense, it is similar in scope to the point of R. Menahem of Merseburg, about cooking after roasting. However, since roasting meat seriously affects the taste of it, R. Isaac of Tresson’s point is really more radical.

<sup>70</sup> See the comment of R. Israel Isserlin in the Glosses, *ad loc.*

<sup>71</sup> Collections from the *Hilkhot Amarkol*, section *Issur veHeter*.

<sup>72</sup> The only possibility missing is that of Ramam, and this is probably because they

## F. SUMMARY—THE “COMPILERS”

Additionally, it is worthwhile to glance at the work of the “Compilers.”<sup>73</sup> Rabbi Mendel Klausner of Neustadt (mid-14th century), called Ramak, in his notes on Rosh (*Hullin* 8), begins with the position of Maharam, and adds that of R. Menahem of Merseburg:

Meat which sat for three days, the full 72 hours, which was not salted—it is forbidden to cook it, but it is permitted to roast it. And after one roasts it, Ramam permits one to cook it afterwards.

Next, R. Israel of Krems (c. 1375), in his notes on Rosh (*Hullin* 8:48),<sup>74</sup> quotes directly from R. Mordekhai’s work, beginning with the position of Ravyah, and adding that of Maharam:

Our Rabbi Joel received from the earlier generations that any meat which sat for three days, 72 hours, without undergoing *nikkur* and salting, will not again spit out [its blood], for the forbidden fat and blood become hardened within it. But Maharam is accustomed to permit [it] when roasted, for unsalted meat is permitted [to be eaten] when roasted. (From the *Or Zarua*).<sup>75</sup>

Finally we see R. Moses of Zurich (mid-14th century), in his commentary on the *Semak*<sup>76</sup> (203:89):

“And meat which sat for three days, 72 hours, without being salted—its blood will not then depart through salting, but only when cooked.” Thus was found in Geonic responsa. But when roasted, I say that it is permitted, for blood of the limbs which has not been displaced, is permitted. And then, it departs due to the fire, for the flame draws it.—*Tashbetz*.

As he states explicitly, R. Moses of Zurich is quoting R. Samson b’ Tzadok’s work. He starts with the “Geonic” quote, and brings in Maharam’s opinion (though not by name).

What stands out at this stage is the total lack of mention of either R. Isaac

<sup>73</sup> By the mid-fourteenth century, the outlying German communities found themselves without German rabbinic leadership, as a result of the Rheinleish Massacres of 1298 and the 1348 Black Death. This is what I refer to as the generation of the Compilers, all of whom were not in Germany proper. They saw their function as collecting classical German texts of their predecessors (much like the works of R. Mordekhai b’ Hillel and R. Meir b’ Yekutiel haKohen half a century before).

<sup>74</sup> There are those who doubt his authorship of this work.

<sup>75</sup> I think that this is what the letters stand for. However, I didn’t find it in the *Or Zarua*, or in his son’s condensed version.

<sup>76</sup> *Sefer Mitzvot Katan*, The Small Book of Mitzvot, by the French scholar R. Isaac of Corbeil (d. 1280).

Hozeh's or R. Isaac of Tresson's opinions. As we discussed above, both of these positions about washing the meat very much circumvent the German custom. The feeling one gets from the Compilers is a "back to basics," purist sort of gesture, as if trying to recapture what was lost. This is felt especially with R. Israel of Krems' reintroduction of Ravyah's custom into the discourse.<sup>77</sup> The unconventional opinions of the two French (immigrant) scholars simply did not fit into that mold.

In summary, we see that this custom in Germany went through hundreds of years of conceptual development. There are at least three major versions of the custom; R. Eliezer haGadol's, Ravyah's and Maharam's, there are multiple variations, such as Ramam's, Mahari Hozeh's, and Mahari Tresson's, and more than one Talmudic proof offered. Clearly this custom has a rich history in Germany, both ritually and conceptually. As we are about to see, the same cannot be said of this practice in other countries.

## II. BEYOND GERMANY

### A. ITALY

Three Italian Rishonim discuss this custom, none of whom seem to be literarily or conceptually dependent upon each other. All are from the thirteenth century and later. One might have expected more Italian acceptance of a German custom, considering the extremely close ties between the two communities. Nevertheless, one must keep in mind two things: First, Italian halakhic sources are not numerous, so one only gets a vague idea of what halakhic discourse was taking place there. Second, two of the most dominant Italian scholars, R. Isaiah of Trani, called Rid (c.1180-c.1260), and his grandson of the same name, called Riaz (c.1235-c.1300), though officially part of the German school,<sup>78</sup> were high-

<sup>77</sup> I should point out that one gets the same feeling from the two compilers of the previous century. It would be an interesting study to compare the two generations of compilers, and see what conclusions could be drawn. Specifically, what I find so intriguing is the German compilers' drive to take a book from another school of thought, and make it German. R. Mordekhai wrote on R. Isaac of Fez's work, known as Rif (1013-1103). R. Meir b' Yekutiel wrote on Maimonides (1135-1204). Both R. Israel of Krems and R. Mendel Klausner wrote on Rosh, (who, though originally from Germany, largely ignores the German scholars in his work), and R. Moses of Zurich wrote on the *Semak*, a French work. These works are not commentaries, they simply list the German rulings on the subjects mentioned. Why not write on a German work, like Ravyah or *Rokeah*? Also consider that the most influential Ashkenazi halakhic work, written by R. Moses Isserles (called Ramah) in the sixteenth century, is nothing less than a Germanizing of the *Shulhan Arukh*, a work written by Ramah's contemporary, the great Spanish/Israeli scholar R. Joseph Karo.

<sup>78</sup> Rid studied under R. Simkhah of Speyer (c. 1200).

ly influenced by the French.

R. Zedekiah b' Benjamin the Physician (c.1230-c.1300) provides the first discussion of the custom, in his *Shibolei haLeket*, (*Issur veHeter*, no.16, short and long versions):

About the custom to perform *nikkur* on the meat within three days, I asked our Great Rabbi, may he rest in Eden, and he answered and told me: “Even my father was careful about this, but I never heard a reason why, for one was not written. But it appears to me that the blood [from the veins] gets absorbed into the meat in three days, and will not leave afterwards with salting.<sup>79</sup> Or, perhaps the reason is [based on this Talmudic passage]: ‘A person should not place loins upon meat, for then there would be fat upon meat; fat melts and the meat absorbs [it].’ And within three [days], it may absorb? But here [and here<sup>80</sup>], people do not worry.”

Other than the nameless student of R. Yakkar whom we saw earlier, R. Zedekiah is the only source to quote R. Eliezer haGadol’s practice. Clearly, this quote comes straight out of *Ma’aseh haGeonim*. Does this mean that in Italy, R. Eliezer’s custom was practiced as he articulated it, a full two centuries later, and that there was no custom of salting within three days, only *nikkur*? Presumably not. Anyone studying the *Shibbolei haLeket*’s section on *kashrut* will find that it is based primarily on the early Germans, i.e. the *Ma’aseh haGeonim* and the books of Rashi’s school. It appears more likely that this represents the author’s preference than it does Italian practice.

The next mention of the custom is in the halakhic work *Sefer Recanati* (no. 192), by R. Menahem b’ Benjamin of Recanati (c.1260-c.1345):

Meat which sat three days, 72 hours, and was not salted, will not again spit out its blood through salting, because its moistness is gone, but it will spit out [its blood] through cooking. Therefore, it is forbidden to cook it, but roasting it is permitted, for limb blood which has not been displaced is permitted. And it is even forbidden to cook [the meat] after salting [it], since roasting is the same as salting. And the law is the same<sup>81</sup> if one soaks the meat in water within three days—its status is as if it were salted.

Recanati clearly bases himself on Maharam’s school, which is notable. He

<sup>79</sup> Notice that the reference to washing is missing.

<sup>80</sup> Found in the short version.

<sup>81</sup> This is a very odd phrase to use here, since in the previous sentence he forbade cooking, and here he is going to permit it.

does not include *nikkur*, and he takes roasting as a given.<sup>82</sup> However, there are significant additions.

First, Recanati rephrases the reasoning for the stringency; instead of saying the standard “because the blood dries,” he says that the moistness is gone. This is probably just a stylistic adjustment, to make one more conscious of why cooking is a problem. Next, Recanati proceeds to discount the possibility offered by R. Menahem of Merseburg, (though not mentioning him by name). His reasoning is, that since roasting is only as effective as salting, one must assume that even after roasting some blood will remain. Therefore, though it is permitted to eat the meat after the roasting, if one would then go ahead and cook the meat, more blood would be displaced, and the meat would become forbidden. Third, Recanati seems to accept R. Isaac Hozeh’s opinion, (though also not in his name). His reasoning seems to be that soaking meat (and salting it later), counts as salting on time.<sup>83</sup> Finally, it is worth noting that R. Isaac of Tresson’s position is not discussed.

The final (possibly) Italian scholar who discusses the stringency is a R. Nathan,<sup>84</sup> whose comment is found in the Glosses on the *Sha’arei Dura* (4:2).

Indeed in the Talmud etc.—From the library (Casanatense) in the city of Rome: My teacher, our teacher the Rabbi Nathan, says that

<sup>82</sup> This backs up the assertion that was made earlier, that R. Zedekiah’s position does not reflect Italian practice, but rather, the author’s reliance on sources. Whereas one can see a gradual conceptual development, through 250 years of variation of practice, between R. Eliezer haGadol and Maharam, no such argument can be made of the barely half a century between R. Zedekiah and Recanati. There are a few possible explanations for the huge discrepancy: Perhaps each source represents the practice in the author’s own city, (Rome and Recanat respectively); maybe both sources are choosing sides that appeal to them, without regard for Italian practice (if there even was one at the time); or perhaps one of them represents Italian practice, the other just theory. I prefer this last explanation, and I assume the R. Zedekiah’s work is just theory, whereas Recanati’s reflects contemporary Italian practice, which would then be the same as the German practice of the time.

<sup>83</sup> Admittedly, this reasoning is difficult to follow, as is the phraseology of the sentence as a whole. Unfortunately, I think we must leave this last point as something deserving of future study, but for now, it remains unclear.

<sup>84</sup> Calling R. Nathan an Italian scholar is nothing more than guesswork. My reasoning is based primarily on the following three factors: One, Freilich states that he found this gloss in the Casanatense library in Rome; two, this gloss is quoted by nobody that I have seen, which leads me to assume he was from a less known Jewish community; three, Nathan as a name is attested in (but not exclusively in) medieval Italy. R. Nathan’s origin still remains speculation, and his identity unknown. It is also unclear when he lived. He may not even be a Rishon (if the page number quoted in the text is him and not a copyist, then he was definitely later, since the period of the Rishonim ended before the advent of the printing press). I have treated him like a Rishon for stylistic reasons.

this reasoning<sup>85</sup> is not relevant except to permit [one] to eat the meat roasted, for there is no worry about blood that was spit out, and what is left would be [local] blood which was not displaced, and [that] is permitted. But [cooking it] in a pot is forbidden, unless one performs *halita* on the meat with hot water,<sup>86</sup> for [then] the blood will become fixed in the meat, and will not become displaced at all (even when cooked). And I have found a bit of a basis [for the idea] that salting is not effective on meat which sat for three days, from that [passage] in [ch.] *Helek*, in [tractate] *Sanhedrin*, 91b: Antoninus said to Rabbi: “When is the soul placed in man? When he is formed or when he is conceived?”<sup>87</sup> [Rabbi] said to him: “From the time he is formed.” [Antoninus] said to him: “Is it possible for a piece of meat to remain three days without salting and not become putrid?! Rather [the answer is] from the time of conception.” Rabbi said: “This thing was taught to me by Antoninus, and the scripture supports him, for it says:<sup>88</sup> “and my soul guarded your *pekudot*”<sup>89</sup>—Here ends [the quote].

R. Nathan begins with the reasoning of Maharam. However, he introduces a new factor, that of *halita*. Though it is well known that *halita* is considered to be an effective way of fixing the blood into place, it is not quoted in any of the previous discussions as a way to permit cooking. The reason is that since the time of the *Geonim*, *halita* was not practiced, because it was argued that people did not really know how to do it. This leads one to wonder whether R. Nathan really meant this point as a practical suggestion, or just as a theoretical point. R.

<sup>85</sup> Referring to R. Isaac of Duren’s question: “so what if the meat won’t spit out its blood from salting; non-displaced blood is fine!” R. Nathan is pointing out that this argument does not work if one premises that cooking will revitalize the blood and cause it to be displaced.

<sup>86</sup> As discussed previously, the process of dipping meat quickly into hot water (or vinegar) was considered to be a way of permanently fixing the blood in its place, so that it would not be displaced either when cooked or eaten raw.

<sup>87</sup> The Genesis Rabbah version of the story has a clearer distinction; birth or conception. Forming is a bit of a vague description. Probably, what is being referred to is the formation of the embryo into a human-looking entity. The Talmudic idea was that until 40 days, the embryo is “just water”.

<sup>88</sup> See earlier text for note.

<sup>89</sup> There is a note in the Glosses: “First of all, one does not learn *halakhah* from *aggadah*. Second, this [passage] is only discussing rotting, not the issue of *kasbering* [meat] from [its] blood! And he himself (Rabbi Nathan) felt this weakness, therefore, he wrote ‘I found a bit of a support’.” This is an interesting argument, but not as obvious as the author of the note makes it seem. *Halakhah* is learned from *aggadah* all the time; cf. the note on R. Jacob of Bagnols work by S. Bognac Nasi (not quoted in this article) for a thorough defense.

Nathan ends with a version of the proof-text offered by R. Yakkar b' Samuel; R. Yakkar preferring the Genesis Rabbah text, R. Nathan preferring the Talmudic text. Note that he mentions nothing about washing the meat.

## B. FRANCE

There is no mention of this custom in any French halakhic work.<sup>90</sup>

## C. SPAIN

The Spanish awareness of the stringency of salting within three days comes from the emigration of Rosh from Germany to Spain. The first source<sup>91</sup> to mention it is Rosh's son, R. Jacob b' Asher (1269-1343), in Tur *Yoreh Deah* 69:

The Geonim wrote: "Meat that sat for three days, the full 72 hours, without having been salted, its blood dries out within it, and will not again exit through salting, and one must not eat it cooked."

R. Jacob here is quoting the "Geonic" custom, and ends by implying Maharam's idea that roasting is sufficient, but does not say so explicitly. He does not mention washing the meat.

Another student of Rosh, R. Yeruham b' Meshulam (c.1280-c.1350), was originally from Provence, but came to Spain to study with Rosh. In his work, *Toldot Adam veHavah* (15:5), he writes:

"Meat which was not salted until three days [after slaughter], but it was soaked within three days; the people of your city have accepted [the decision] from R. Isaac Hozer [sic] that it is permitted. If this is a tradition—we will accept it. But if it is a logical assertion—there is a response, and this is simple to understand." Thus wrote our Rabbi Meir in a responsum. And he wrote further that "the Geonim wrote in a responsum that if [meat] sits without salting for three days, 72 hours, it is forbidden, for the blood will never then exit. And I say that it is permissible to roast it, for limb blood which has not been displaced is permitted. And if the blood does exit due to the fire, the flame draws it."

<sup>90</sup> An interesting case in point is the *Semak*. The first glosses on the *Semak* were written by R. Isaac of Corbeil's student, R. Peretz b' Elijah of Corbeil, who also does not mention the custom. R. Peretz's student was R. Isaac of Tresson, who we have seen earlier. Tresson probably came in contact with the custom when he moved to Germany. In the next generation, R. Moses of Zurich, in his glosses on the *Semak*, does include the custom. This just illustrates again how entrenched this stringency was in Germany, and how ignored it was by the French scholars.

<sup>91</sup> It is interesting to note that Rosh himself does not mention the custom in his halakhic work, which is why R. Mendel Klausner and R. Israel of Krems felt the need to add it into their glosses. Clearly, this is another example of Rosh's French leanings.

R. Yeruham clearly draws on two sources: the responsum of Maharam and a paraphrase of R. Samson b' Tzadok, in the *Tashbetz*. The one thing that R. Yeruham adds is in his explanation for the custom. He says that the blood will “never” exit. He cannot mean this literally, for, if so, why would cooking be a problem? Obviously, he means that the blood will not leave through salting, and the “never” was probably added to drive the point home.

The final Spanish source to address the custom is the work of R. Menahem b' Zerah (c.1310-1385), a student of R. Jacob b' Asher's younger brother, Judah (1270-1349). In his work *Tzeidah laDerekh* (2:4) he writes:

It is written in the *Geonic* responsa: “Meat which sits three days, 72 hours, without being salted—one should not eat it cooked.”

This language is almost exactly like the Tur, but without the explanation.

In general, we may summarize the Spanish sources by saying that they evince that they were only familiar with Maharam's version of the custom, as brought by Rosh.<sup>92</sup> There is no mention of *nikkur* anywhere.

#### D. PROVENCE

The Provençal tradition is unique in that we actually have a source which deals with the question of time limits for salting from the early twelfth century, over one hundred years before Rosh. R. Abraham b' Isaac the Head of the Court (c.1110-1179), called Ra'abi, writes in his responsa (no. 25):

Salting immediately after butchering—I have no proof for this (either way). However, from the fact that the wise ones did not specify a [time] limit, rather, they said (*Hullin* 113a): “Meat does not become free from its blood unless one washes it, salts it, then washes it [again],”<sup>93</sup> it appears to me that [meat which sat for any length of time] is permitted through soaking in water and salting, and there is no [need to] worry about [salting it] near [the time of] butchering. And with regard to sinews they said (*Hullin* 93a): “When they are heated,<sup>94</sup> they will loosen, and if not, one must cut [into the meat] after them [to remove them]”—you find here that they would allow the meat to sit before they cut it, and all the more so [with regard to] salting it.

It is clear from his presentation that R. Abraham had never heard of a three day time limit. This is not surprising, since the custom was still only a local

<sup>92</sup> All three authors were associated with Rosh's school.

<sup>93</sup> This is actually a composite of two sources.

<sup>94</sup> In our text we have *ad d'hamime*, meaning, “before they are heated”.

German one at the time.<sup>95</sup> Arguing from Talmudic sources alone, R. Abraham comes to the conclusion that there should be no time limit. His logic is that all the Talmud specifies is that one wash the meat before salting it. This, of course, is the very position of R. Isaac Tresson. The only difference is that Tresson was responding to the custom as articulated by the Germans, whereas R. Abraham was speaking about the question in theory.

Another telling point about R. Abraham's presentation is his final proof. R. Abraham quotes a Talmudic passage about removing fat sinews, a part of *nikkur*. He then argues that if one can wait for a while before one does *nikkur*, then certainly one can wait for salting. Ostensibly, this point is based upon the fact that, usually, *nikkur* would be performed first. R. Abraham's presentation is extremely important: it acts as a sort of test case for how this issue might have been addressed, without consideration of pre-existing custom.

The other Provençal sources all come from the fourteenth century, after Rosh's move to Spain. The first is by R. Aaron haKohen of Lunel (c. 1325), in his *Orhot Haim* (Forbidden Foods no. 95):<sup>96</sup>

And meat which sat for three days, 72 hours, which was not salted—the Ram<sup>97</sup>, may he rest in Eden, wrote that its blood will not exit through salting, but [only] through cooking. Thus you will find in the responsa of the Geonim. But roasting—I say that it is permitted, for limb blood which was not displaced is permitted. And if it exits due to fire, the flame draws it.

R. Aaron is quoting the *Tashbetz* word for word, and naming Maharam as author. He does not mention washing the meat.

The final source from Provence is by the last important rabbi of the period there, R. Jacob b' Moses of Bagnols (mid-14th century). In his book on *Issur veHeter* (laws of salting) he writes:

It is not permitted for a person to leave meat for three days after an animal or bird has been slaughtered, without salting it. For if he leaves it longer, the meat will not “accept” the salt, due to its excessive dryness. Even if it sits in a damp place all three days, and after-

<sup>95</sup> Kapih, the editor of Ra'abi's responsa, seems unaware of this, oddly enough. In his comment on this responsum, he mentions that perhaps Ra'abi did not have the stringency, and seems surprised that neither did Maimonides. Perhaps Kapih was confused by the use of the term Geonim in the Tur, and thought that the custom must have been universal.

<sup>96</sup> The *Kol Bo*, which is mostly a shortened version of the *Orhot Haim* by an unnamed author (possibly R. Aaron himself), has, word for word, what the *Orhot Haim* has here (Forbidden Foods no. 103). Therefore, we will not deal with this work separately.

<sup>97</sup> In a Provençal work, Ram would usually refer to Maimonides (as we will see in Bagnols), but, since he is quoting *Tashbetz* here, it is obviously a reference to Maharam.

wards he soaks it in water, even so, it will never accept the salt, and will remain forbidden. However, the Ram[bam] did not speak of this, and explained nothing about it. And there are those who say: “Since the Rav *z”l* did not explicate this, we do not forbid that meat, if it sat for three days or more without salting, as long as it did not become extremely dry. For nothing is hidden from Maharam<sup>98</sup> of that which is forbidden, which he did not include explicitly in his worthy composition.” And I heard that this teaching came from French Scholars.<sup>99</sup> And I also heard that they deduced this teaching from a certain statement from the order of *Kod’shim*, but I do not know which tractate it is in. Furthermore, I think that the Geonim<sup>100</sup> supported this prohibition from the [story] in *Sanhedrin*, that Antoninus said to Rabbi: “From when is the soul placed in man, from the time of formation or the time of conception?” [Rabbi] said to him: “The time of formation.” [Antoninus] said to him: “Is it possible for a piece of meat [to sit] for three days without salt?!”<sup>101</sup> He said to him: “From the time of conception,” etc.<sup>102</sup> And I say that it is fitting to be strict like the French Scholars, even though the Ram[bam] explained nothing about this, since they offered a reason.<sup>103</sup> For we find many things that the Ram[bam] left out, things which are forbidden, and they are [really] included in something else the Ram[bam] *z”l* brought. And it is possible to say that this prohibition is also included in something else.

Bagnols’ attachment to Maimonides is striking. Even in his conclusion, where he decides to accept the “French” custom, he does so only by assuming that Maimonides was really aware of the custom, and, without mentioning it explicit-

<sup>98</sup> “Our Teacher Rabbi Moses,” again, Maimonides, as opposed to “Our Teacher Rabbi Meir” (of Rothenburg). “Maharam” is unusual as a reference to Maimonides.

<sup>99</sup> Probably Franco-German in this context.

<sup>100</sup> Here is an interesting use of the term Geonim. He said before explicitly that he heard that this was from French scholars, and now he calls them *Geonim*. Clearly the term has a more general use here as “Great Ones.”

<sup>101</sup> Notice that he skips the words “without going rancid.”

<sup>102</sup> Here, in the printed edition of Bagnols book, there is a huge copyist’s note inserted into the text. The copyist was a student of a certain S. Bognac Nasi (literally: “prince” or “president”), who wrote a defense of Bagnols’s use of an aggadic text to learn a *halakbah*. The editor, R. Moshe Blau, mistakenly believed that this note was a part of Bagnols’s text, and actually has S. Bognac as Bagnols’s teacher in his introduction. With all due respect to Rabbi Blau, I cannot see this text as anything other than a copyist’s note. Since this note, though extremely interesting, is clearly later than Bagnols, it will not be included in our discussion.

<sup>103</sup> Or, perhaps, “they said reasonable things.”

ly, included it implicitly in a different *halakhah*. Interestingly enough, Bagnols does not accept soaking as a mitigating factor.

In summary, we see that, just as in Spain, the Provençal sources demonstrate the clear influence of Maharam's tradition, and the total lack of discussion of Ravyah, *nikkur*, or even washing the meat.

### E. NORTHERN AFRICA (ALGIERS)

The first North African Rishon we will examine is R. Isaac b' Sheshet (1326-1407), known as Rivash, who was originally from Spain and studied with the great R. Nissim b' Reuben (c.1290-c.1375), known as Ran. In his responsum to R. Samuel Halio (no. 86), he writes:

You asked further: that which is practiced—not to eat meat which stood three whole days without salting, and they do not allow it [to be eaten] except roasted—where did they get this, since it is not found in Rambam *z"l*? Answer: It is true that this is not found in the works of the Rishonim *z"l*, nor [is it found] in the works of Rashba *z"l*. But the Ram *n"e z"l*<sup>104</sup> wrote that it was found thus in the responsa of the Geonim *z"l*, that its blood will not exit through salting. And he wrote:<sup>105</sup> “But roasting—I say that it is permitted, for limb blood which was not displaced is permitted. And if it exits due to fire, the flame draws it.” So too this is written in the book *Orhot Haim*. Also, in the work *Yoreh Deah* (part of the *Tur*) it is written . . .<sup>106</sup> And in Barcelona they are accustomed to forbid it, even when roasted. And this is an excessive stringency,<sup>107</sup> even forbidding it [to be cooked] in a pot when salted, for it cannot be worse than bloody raw meat, which is very red, and the blood fixed inside it is clearly seen, regarding which we decided in chapter *Gid haNashah* (*Hullin* 93b) that “if one cuts it up and salts it, it can even be [cooked] in a pot. If one roasts it on a spit, [the blood] drips, and [the meat] is permitted.” And this implies even without cutting and salting.<sup>108</sup> And [regarding] placing it on coals, which Rav Aha and Ravina argue

<sup>104</sup> Referring to Maharam.

<sup>105</sup> Quoting R. Samson b' Tzadok's *Tashbetz* as Maharam.

<sup>106</sup> Here follows a word for word quote of the *Tur*.

<sup>107</sup> Possibly, Rivash is referring to the entire custom of a three day time limit.

<sup>108</sup> This is to say that if roasting is permissible without cutting and salting, how could the Barcelonians forbid roasting? Also, his general point is that if very bloody meat is permitted to be cooked when cut and salted, how could meat which sat around be any worse? Rivash seems to ignore the other side's main point, that after three days the blood is dry, and unable to be removed by salt. Though it is true that R. Eliezer haGadol was concerned with excess blood absorbed from the veins, Rivash does not quote this source.

about, the law was decided that [the coals] draw it (the blood), and it is permitted. So too, by (the case of) breaking an animal's neck before it dies,<sup>109</sup> where they say in chapter *Kol haBasar* (*Hullin* 113b): “Behold, this makes the meat heavier, robs others, and causes blood to be absorbed in [other] limbs.” According to Rif *z”l*'s text, which reads: “Can one eat it raw?” and it is left as unsolved, and [with an implication to practice according to] the stricter possibility, it would seem that [the question is] specifically about raw [meat], which means fresh, without salting. But roasted, or [cooked] in a pot after salting, obviously it is permitted, for the flame draws it (the blood) and the salt removes it. Since, even though salt does not have the power to remove blood absorbed [in meat] from another place, it will remove this [blood]. . .<sup>110</sup> So too, they said in ch. *haZeroah* (*Hullin* 133a), regarding veins in the cheek, that they are permitted, whether roasted or [cooked] in a pot, when sliced and salted. And this meat, which sat for three days, is no worse than any of these [examples]. Nevertheless, it is fitting to make a conscious effort to roast [the meat] in accordance with the words of the Geonim *z”l*. And one should not break this practice, and certainly in a place where they are accustomed [to keep it].

Rivash's presentation contains several parts. He begins by demonstrating to the questioner that this custom does have a basis in earlier sources, among them *Tashbetz*, Tur, and *Orhot Haim*, though not in the important Sephardic halakhists like Rambam or Rashba (1235-1310). Then he adds the interesting fact that in Barcelona the custom was not even to permit roasting. This is fascinating since it recreates a part of the older German practice of Ravyah, two centuries earlier. This in a city that, less than one hundred years prior, was dominated by Rashba, regarding whom Rivash explicitly states that he did not even have this custom!

In the next part of Rivash's presentation he goes on to argue, from numerous Talmudic sources, that the three day limit on salting has no basis in *halakhah*. However, he ends by saying that one should keep the Geonic custom, ostensibly because it is Geonic, and therefore one should not ignore the tradition. This, interestingly enough, is the opposite of Bagnols' logic, who says that one should keep the custom because it is reasonable.<sup>111</sup> One cannot help but wonder what Rivash would have thought had he realized that the custom was not Geonic, but

<sup>109</sup> The Rabbis comment that this would cause the neck blood to be reabsorbed into other limbs.

<sup>110</sup> Here Rivash goes into a long proof that Rif's text is the correct one, and Rashi's text, which has a variant read, is mistaken.

<sup>111</sup> Also, though Bagnols also referred to it as Geonic, he also thought of it as Franco-German.

German.<sup>112</sup>

The second and final North African source we will examine is the only fifteenth century source we will be quoting.<sup>113</sup> R. Solomon b' Simon Duran (c.1400-1467), called Rashbash, in a responsum to R. David b' Samuel haKohen (no. 423) writes:

Regarding the issue of meat which sat for three days without salting—the Geonim ז"ל wrote that they forbade eating it cooked, for its blood will not exit through salting. And it is like a liver, which is only eaten roasted.

Rashbash quotes the “Geonic” custom, in the Tur’s style, but adds a halakhic paradigm in which to fit the custom. The liver, according to the Rabbis, is all blood, so salting it, by definition, will not be sufficient to permit one to cook it. However, one is allowed to roast it, since the remaining blood (and there will inevitably be remaining blood) will be permitted anyway. Rashbash argues that our case is analogous: since one knows that there will be remaining blood, one should not be allowed to cook it, but roasting it should be allowed. In this, Rashbash follows Bagnols in trying to base his country’s practice on reason, not just precedent.

Notice that neither Rashbash nor Rivash mention anything about washing, or about *nikkur*.

### III. CONCLUSION

It is a general rule in both genetics<sup>114</sup> and linguistics<sup>115</sup> that the place where one finds the most diversity is the place where the species or language originated. By analogy, the same may be said about customs. We have seen how various conceptions of the custom to salt meat within three days prevailed in Germany. The explanations began with *nikkur*, moved to include salting, and eventually only dealt with salting. There were various Talmudic proofs for the custom, with more than one explanation. In almost every generation, the custom was discussed, and by the middle of the thirteenth century, it virtually became standard practice.

<sup>112</sup> I thank my colleague Nissan Antine for making this observation.

<sup>113</sup> While by the fifteenth century Jewish intellectuals in other parts of the world had ceased writing major works of Talmudic commentary or *halakhab* of the kind that typify the work of the Rishonim in Northern Africa and Italy, there were still great halakhists at this time using classical methodologies.

<sup>114</sup> See: Spencer Wells, *The Journey of Man*. New York: Random House, 2002.

<sup>115</sup> See: Merrit Ruhlen, *The Origins of Language*. New York: John Wiley & Sons Inc, 1994.

However, outside of Germany the situation was very different. With the exception of R. Zedekiah the Physician, we find no mention of *nikkur* in non-German sources. It is clear that the only version of the custom that became known was Maharam's, the most influential sources being the *Tashbetz* and the *Tur*.

So too, the nuances and novellae from the later Germans are rarely discussed outside of Germany. R. Menahem of Merseburg's idea of cooking after roasting is mentioned only in Recanati (not by name and possibly independently), and rejected. R. Isaac Hozeh is mentioned once by R. Yeruham, and the issue is brought up by Recanati and Bagnols (without naming a source), accepted by the former and rejected by the later. No one else outside of Germany even discusses it. Finally, R. Isaac of Tresson is never mentioned outside of Germany, though the common sense of his opinion is the same as Ra'abi's, who was speaking without knowledge of the German custom.

The only conceptual novelty offered outside of Germany is by R. Nathan—that *halita* would serve as a mitigating factor. And even this notion is probably just theoretical, and not meant to reflect or suggest a practice.

What seems to follow from all this is that even in the time of the Rishonim, conceptual development can sometimes be influenced by location, and, more probably, by the relevance of a particular custom to the constituency of the Rabbi. I hope that the methodology employed in this paper can help demonstrate the importance of tracing a halakhic concept's history, geography and development. It is my contention that without this understanding, our perspective on the conceptual framework of the *halakhah*, not to mention our weighing of the different positions in the discourse, will be inevitably skewed. Whether this perspective can be of use in clarifying practical *halakhah* is a matter beyond the scope of this paper.