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THE RESPONSA OF RABBI SOLOMON IBN ADRET
OF BARCELONA

DONALD A. WEBER

Thesis Submitted in Partial Fulfillment of
Requirements for Ordination

Hebrew Union College-Jewish Institute of Religion
New York, N.Y.

March 1, 1981

Referee: Professor Martin A. Cohen

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Foreword

My interest in the study of Sephardic History began two years ago, during my studies at the Hebrew Union College - Jewish Institute of Religion. I was then enrolled in two courses concerned with the Medieval period in Spain from differing perspectives: Sephardic History, taught by Dr. Martin A. Cohen, an historical approach including analysis of politics, communal life and intellectual currents; and Medieval Philosophy, taught by Dr. Leonard S. Kravitz, a concentration on the various philosophic and theologic trends which characterized the period.

I found myself particularly attracted to the so-called "Silver Age of Spain," that period roughly extending from the beginning of the Christian Reconquest of the Iberian Peninsula until 1492, the date of the final expulsion of the Jews from Spain. My interest in this period ultimately focused on the apparent dynamic nature of communal life and its reflection in the intellectual concerns and causes of the day. I must also admit to a curiosity about the Jewish communities' reaction to the forces which changed Jewish life from relative prosperity and freedom to the persecutions of the fifteenth century and, finally, the expulsion and Inquisition.

When I discussed these interests with Dr. Cohen, he recommended a book dealing specifically with this period, The "Responsa" of Rabbi Solomon Ben Adreth (1235-1310) as a Source of the History of Spain, written by Rabbi Dr. Isidore Epstein. The basis of this book was Epstein's contention that the responsa literature contained unique information reflecting the internal life of the corresponding communities, with its greatest attribute being a reflection of the actual concerns prompting an appeal to an authority. However, when I read the book I found numerous discrepancies between the information I had learned in the course of my earlier studies and that presented by Epstein. I had assumed from the courses mentioned above and through additional reading,¹ that the structure of Spanish Jewish society was relatively cosmopolitan in nature, having substantial interaction with the gentile world both commercially and culturally. I also expected evidence of some degree of internal conflict in the areas of politics, religion or social regulation, as virtually every other source had indicated the existence of such disputes. However, Epstein presented little of this picture. He described the Jewish communities as basically closed to the outside world politically and economically, and almost entirely so in the area of cultural exchange. Further, he portrayed an internal societal structure over-

whelmingly harmonious in its functioning, with little dispute among citizens on anything more complex than one-to-one basis.

Having worked previously only with secondary sources, I was not qualified to determine the degree of accuracy of anyone's claims. Therefore, at the recommendation of Dr. Cohen, I undertook a study of the primary source material, the responsa of Rabbi Solomon ibn Adret (RaShBA). Since the quantity of these responsa (several thousand in all; see Introduction) preclude a complete investigation at this time, I decided to rely upon the basic work done by Epstein to direct and limit the scope of my study. To this end, I used two criteria to determine the responsa I would examine: first, all the responsa were drawn from the citations which Epstein provided; second, I assumed the accuracy of his basic descriptions of communal institutions and their operations, and concentrated only upon those responsa which were cited to support a point which, in my estimation, conflicted with other sources' descriptions of the structure and forms of Jewish communal life. This resulted in a list of approximately 145 responsa, ranging in length from seven lines to four or more pages; a complete list of these responsa is found in the Appendix.

In the Appendix is also found a list of errors which Epstein made in his citations. In some cases he referred to responsa bearing no relevance whatsoever to the subject

at hand, while in others the responsa deal with the same general subject but do not justify the point for which Epstein cites them. In several cases the gaps these errors create proved to be very frustrating; whether they were actually errors of scholarship or merely of typography cannot be determined, and so they are noted without comment.

At this time I would like to thank the many people whose help and support have carried me through this thesis and through the emotional and spiritual highs and lows of the last six years: most especially, Dr. Martin A. Cohen, whose teaching and guidance have been a source of inspiration to me in my research and my preparation for the Rabbinate; Dr. Dorothy G. Axelroth, who so graciously agreed to edit this paper and who, over the course of many years, has graciously shared her knowledge on a myriad of subjects; and Rabbi Norman Kahan, rabi u-mori, whose support and love have inestimably altered the course of my life for the better.

To list all those who have helped me reach this point in my life would be impossible, but to neglect them is even more impossible. Therefore I thank - individually and personally - my professors, my dear friends and colleagues, my congregants and my students.

Finally, to my family - my familiesies - go my endless gratitude for many blessings bestowed upon me and my hope that we shall all continue to be blessed by the love we share. To Hilary, my wife, go my prayers for many more years filled with the same - and added - rewards and challenges, and with the enduring love which we have discovered within each other. And to Obadiah, my thanks for comfort and perseverance far beyond the call of duty.

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Introduction

Rabbi Solomon ibn Adret was born c. 1233¹ and died in 1310; his permanent residence was Barcelona. His family was wealthy, and although information is lacking to uncover the exact sources of its wealth, evidence indicates that they were involved at least peripherally in financial dealings. Adret himself began his career as a financier, extending loans on interest to gentiles and even to the royal treasury. During his lifetime he served in several positions of communal leadership in Barcelona; in addition to his role as rabbi, he was a ne-eman (communal supervisor) for many years.²

We must assume that Adret's elementary education was provided by a private tutor, since this was the accepted practice in all families wealthy enough to afford one.³ Later, his teachers included R. Jonah b. Abraham Gerondi and Nachmanides. His writings indicate his familiarity with kabbalah, philosophy, natural sciences, Latin, and Roman and Spanish law.⁴

The exact date of Adret's entry into the rabbinate cannot be ascertained. The earliest record of his functioning in this capacity is a responsum from about 1255.⁵ Also the date of his elevation to the position of Chief Rabbi of Barcelona is unknown, but it was certainly prior to 1272.⁶ The total span of his career was approximately fifty years.

In addition to his thousands of responsa, which will be referred to shortly, Adret wrote two legal manuals: Torat Ha-bayit, dealing with ritual observances, and Sha-ar Ha-mayim, explaining the laws of mikveh. He also wrote several responses to the anti-Jewish polemics promulgated by the church and others, and which indicated the increasing anti-Jewish and conversionist activities of his day.

Little is known about the yeshiva which Adret established in Barcelona. There is evidence that it was sufficiently important to attract students from foreign lands as well as from Aragon and Castile, and its reputation served to attract the questions which form the basis of Adret's responsa. These questions came from virtually every country on the Mediterranean and in western Europe, but the majority of the responsa was from the various communities of Aragon.⁷

The responsa deal with a wide range of subjects: halacha, theology and communal affairs. They were used extensively by Joseph Karo in his compilation of the Shulchan Arukh, but possibly their greatest value is in gaining insight into the lives and concerns of the Jewish communities of Spain in Adret's day. Also, the very personal nature of the responsa provides an opportunity to probe the thoughts and feelings of their author: his personality, his accomplishments and his failures, not only those he admits but also those which can be extrapolated from the content and tenor of his responses.

There is debate as to the tabulation and authorship of Adret's responsa. Baer states he wrote thousands, citing as sources both Epstein and the published editions of the responsa.⁸ There are seven volumes in the complete published edition totaling 3,561 responsa, although the sixth and seventh volumes duplicate many from other volumes. An additional 285 responsa which were earlier attributed to Nachmanides are now agreed to have been the work of Adret, thus bringing the total to 3,846. However, Simha Assaf, in his article on Adret in the Encyclopedia Judaica claims that Adret authored only about one thousand, the balance having been written by other scholars and later combined by copyists without proper attribution.⁹ For the purpose of this study I have followed the guidelines of Epstein and Baer on this matter, both to simplify comparison and reference to the responsa, and because a determination of actual authorship would itself be a major undertaking not germane to this study. Assaf notes the lack of a critical edition of these works; such a resource is highly desirable, but would require many years to complete. Therefore, for the present we will assume the entirety of the responsa collected under Adret's name to be the work of his own hand.

Rabbi Dr. Isidore Epstein, whose book provided the starting and reference points for this paper, was born in Hungary in 1894. He died in 1962, after a career which included positions as Rabbi in Middleborough, England, from 1921 to 1928, and as Lecturer, Director of Studies and

Principal of Jews College from 1928 to 1948. He was a protege of Rabbi Dr. J. H. Hertz, Chief Rabbi of England.¹⁰ In addition to the book, The "Responsa" of Rabbi Solomon Ben Adreth of Barcelona (1235-1310) as a Source of the History of Spain, published in 1925, he also wrote The Responsa of Rabbi Simon B. Zemah Duran as a Source of the History of the Jews in North Africa, published in 1930 and now bound together with his book on Spain in the current edition from Ktav Publishing Co. In 1954 he published two volumes on Orthodox Judaism: Faith and Judaism, a defense of the modern Orthodox position, intended mainly for an Orthodox audience; and Judaism covering the same subject, but directed toward gentile and non-Orthodox readers. By far his most extensive undertaking was his editorship of the English translation of the Talmud, published by Soncino between 1935 and 1961. Throughout his career he also wrote papers for various educational studies.

The "Responsa" of Rabbi Solomon Ben Adreth of Barcelona..., which forms the focus of this paper, was Epstein's first book. In the Introduction he described his goal as follows:

It will be my endeavour to present in the following pages a comprehensive picture of the Jewish communal life in Spain, and the details of this picture are mainly drawn from references, notes and information deposited undesignedly, cursorily and somewhat obscurely in the practical decisions contained in the responsa of Adreth.¹¹

He also observed that he was the first to attempt such a project.

The chapter headings of his book serve as an introduction to Epstein's work and as an indication of my own starting point for this paper. In order, Epstein discussed "Political and Social Position of the Jews in Spain," "Regular and Irregular Taxes on Jews," "Fiscal Administration," "Tax Exemptions," "Communal Organization," "Communal Institutions," "Excommunications," "Matrimony," and "Some Communal Ordinances."

I will discuss first the responsa and their contents and then present my conclusions as to their relationship to Epstein's work.

I. Communal Authority

The responsa clearly indicate that the basic organization of communal government throughout the Jewish communities of Spain was relatively democratic in nature. A majority vote of the adult male citizens of a community was necessary for all enactments and governmental decisions except those made by elected communal officials, rabbis and scholars (talmidei hakhamim). Adret defended the community's right to establish its own practices in virtually all circumstances. Subject only to the veto of a rabbi or scholar, majority vote decided all matters of both Torah-based and non-Torah based laws. In the former category we find specific mention of the community's right to expend whatever money it felt necessary for the welfare of its members and to collect taxes for this purpose,¹ and to define acceptable standards for claiming possession of property.² We need not rely on specific examples to determine the general principle, however, since Adret stated the general principle of final communal authority in all such matters.³ Concerning non-Torah-based laws such as communal tax assessments, exemptions and appeal procedures, Adret not only permitted but required each community to establish uniform practices for its citizens.⁴

Majority consent was also acceptable as grounds for abolishing laws and enactments which the community found unacceptable for any of several reasons. Adret stated that

even if a well-meaning group within the community attempted to enact legislation "to protect a Commandment, if the majority did not accept it it is not binding, and the majority may abolish it."⁵ In some cases it was not even necessary for the majority to meet and abolish such an enactment formally; this was the case when the community found itself unable to abide by the requirements of a ruling, or when the majority felt that a ruling would harm the community, or at least be more harmful than beneficial. Here, the very fact that the community disregarded the ordinance constituted its invalidation. This automatic method of dealing with harmful or misdirected legislation was also used to deal with groups of citizens who, from time to time, would attempt to form minority coalitions and impose legislation on the whole community without its approval and occasionally even without its knowledge. Such secret legislation would be passed and all present would swear an oath and a penalty for anyone transgressing the enactments, and they would attempt then to extract the penalty from those who violated the ruling without ever knowing it existed. As will be discussed later, Adret denied these groups and their oaths any validity; the simple fact that the majority had no knowledge of them invalidated any force they might have had.⁶

Adret also mentions that the right to abolish any enactment was held by any future group which would meet which

was "greater in wisdom and fitness."⁷ While this was an issue in earlier periods as described in the Talmud, it could not have been an actual consideration in Adret's day, particularly in regard to legislation passed by a communal majority. If the Rabbis had difficulty determining which court was "greater in number and fitness" in the days of the Sanhedrin, such a task would be impossible in this time of majority rule by an entire community. Since Adret gave no details of how such a determination would be made and described this exception only vaguely, I believe it was little more than a symbolic gesture of respect to the long defunct Sanhedrin. Pragmatically, the community controlled its own internal practices.

Parallel with his affirmation of the rights and authority of the communal majority Adret maintained the equal authority of a communally-elected body of representatives charged with the task of governing and maintaining the community. These representatives derived their authority from two sources: first, they were empowered by the electors to act on their behalf and to reflect their wishes; and second, they served as guardians for the uninformed, the women and children, who could not be expected to understand the details of issues affecting their welfare.⁸ These representatives apparently enjoyed much leeway in fulfilling the requirements of their various positions, since Adret recorded only three possible limitations on their authority:

the community as a whole could override any action; the community could set a limit on the amount which representatives were authorized to spend; and, as in the case of majority vote itself, a rabbi or scholar could veto any enactment or decision.⁹ Other than these restrictions, duly elected representatives were empowered to enact laws and regulations as they saw fit. It is clear from several responsa that a major function of the representatives was to provide immediate answers to unforeseen problems and situations which arose and which required a more rapid response than could be provided if the entire community had to be assembled for a decision. Adret repeatedly emphasized the importance of restricting the representatives' authority minimally, as unnecessary restrictions might ultimately work to the community's harm in time of crisis.¹⁰ Additionally, the representatives functioned as overseers for the execution of communally-ordered projects and programs; in this capacity, they were free to exceed their own authority and act with all the authority of the communal majority itself. There is a case, for example, of one community's representatives (here called berurim; elsewhere also ne'emanim) spending a sum well in excess of their authorized limit in order to carry out the majority's wishes on a specific program of improvements and repairs to the synagogue.¹¹

Several cases are mentioned in Adret of minority groups meeting and acting as if holding the power of the majority. The results of these illegal actions appear to have been mixed; on the one hand, Adret repeatedly disallowed their actions in virtually every instance and circumstance. On the other hand, the number of responsa dealing with this subject as well as the tone of near-desperation which characterizes the questions themselves seems to indicate that this matter was more than merely academic. Adret recorded - and declared invalid - cases of minority groups electing community officials, establishing ad hoc committees to deal with social and financial matters within the community, enacting laws, and pronouncing bans for specific actions as well as for violating the decrees of the minority group.¹² In Adret's words:

I declare that a minority does not have the right to decide for the community on any matter without the approval of the entire community, for the members of the community are like partners in all matters which confront the community, including the election of all officials...All matters must be decided in this way...¹³

Adret held the rule of majority consent to be binding in every case. No minority, regardless of its size, its composition, or the ultimate purpose of its enactments could overrule it.¹⁴ The only exception he made - in reality no exception at all - was in the case of an election conducted by a minority group which received the approval of both the communal majority and any rabbis or scholars re-

siding in that community. Clearly this was added as an afterthought, to cover such cases as immediate problems requiring communal action at a time when a quorum could not be assembled.¹⁵

As mentioned, the only authority which carried more weight within the communal structure than a majority vote was the rabbi or scholar (talmid hakham). Without exception, Adret maintained this absolute final authority for himself and for all other rabbis in their respective communities. The rabbi held a position comparable in the American governmental system to the combined positions of President and Supreme Court, possessing the power to veto communal enactments and to arbitrate disputes both on grounds of personal judgment and halachah. Every communal decision had to be rabbinically approved, regardless of the percentage of the community which passed it;¹⁶ otherwise, any decision reached without the rabbi's approval was subject to later invalidation by the rabbi at any time that it was brought to his attention. The burden of consulting the rabbi therefore was directly incumbent upon the community and its leaders.¹⁷

In response to a question from another city's rabbi asking who has the right to interpret ambiguities found in communal ordinances, Adret answered that the community itself must provide methods for overcoming such obstacles. He noted that the community of Barcelona voted to give him this power for all their enactments, and suggested that the

petitioner's community do the same. He cautioned his colleague on the limitations of this authorization: in such cases the rabbi must decide based solely on the wording of the ordinance itself; he is not to allow his own feelings to influence him in any direction.¹⁸

Rabbis and scholars also possessed unique powers to impose a ban or excommunication (herem). In all cases where the community could impose a ban, the rabbi or scholar could, without further community approval, do likewise. This was the case with verifiable offenses, such as physical harm done in the presence of witnesses or transgression of a communally or rabbinically imposed ordinance.¹⁹ However, the rabbi's power in this area exceeded that of the community in that he could even impose a ban for several unverifiable or otherwise unpunishable offenses, including physical harm done without any witnesses present or slander, for which only a rabbi or scholar could impose punishment.²⁰ Adret noted that communal approval of such bans is neither required nor necessary; the rabbi possessed this power even without communal support. In response to a specific question he noted that judges do not possess this power unless they are scholars as well.²¹

In addition to these powers and privileges which closely follow from the halacha, Adret acknowledged and defended the broader power which accrued to the rabbi in his position as the equivalent of the Sanhedrin for his day and his community. Later in this paper I will discuss various aspects

of this power as Adret understood them and as he applied them to the situations he confronted.

The basic vehicle which both the community and the rabbi used to enforce their rulings was the ban or oath (variously referred to as herem, niddui, shevuah). In one form or another such a ban was added to virtually every enactment made by any community authority. Responsa indicate its use in cases of community obligations including taxes and performance of communal responsibilities,²² and, as previously mentioned, in cases of witnessed physical harm done to any Jew and of unwitnessed physical harm or slander committed against a rabbi. As in the case of any communal enactment, people were exempt from the ban when abiding by it would cause harm to the community, when the majority rejected the ban, or when it was passed in secret and never announced to the community at large.²³ However, a person could not exempt himself from any ban merely by declaring at the time the ban was pronounced that he was exempt from it, as several citizens apparently attempted to do when a ban was pronounced requiring a tax payment. Just as the community had the right to enact laws by majority decision affecting all members of the community, so it could impose bans even upon dissenters.²⁴ Such bans would remain in effect until the rulings they were attached to were fulfilled; if the community desired, it could hold the ban in effect even after this date to penalize further those who resisted.

It is important to note here that Epstein commented extensively on the ban and its uses. He claimed that it "possessed moral force only,"²⁵ and quoted Adret as commenting that a person upon whom a ban had been placed "was, as a rule, employed and employed others; he was taught and taught others," citing Adret's responsum number IV, 66 as his source. Unfortunately, this is an incorrect citation; the responsum contains no such statement, nor could I find such a statement in any of the other responsa dealing with the ban. As we shall see later, Epstein made quite a point of the conclusions which he draw from this, namely that the Jewish community possessed such a high level of morality and religiosity that a ban possessing "moral force only" was an effective restraint against illegal actions. I find this comment to be irrelevant, if not somewhat absurd, due to the fact that virtually every ban recorded in the responsa included a specific statement of the penalties which were to be imposed in cases of transgression of the ban. Instances of both monetary and corporal punishment are clearly recorded, and reference is made as well to capital punishment for severe breaches of the law.²⁶ If anything, the addition of specific statements of penalties indicates a lack of respect for the ban standing by itself, a conclusion which I find much more realistic and consistent with human nature than Epstein's analysis.

Before leaving the subject of communal authority, it is most important and enlightening to examine several cases in which Adret deviated, or advised other rabbis to deviate, from the standard legal criteria of his day. In one responsum which could well serve as a standard of conduct for every rabbi and communal leader of any age, Adret responded to a rabbi who sought advice about dealing with certain unruly elements within his community.²⁷ Adret's first advice was for the rabbi to take initially a gentle approach:

Know that a soft tongue can break any bone...
This is my advice to you: Begin with a gentle tongue once and even twice; attempt to make them your friends. Even while your left hand is repelling them let your right hand draw them closer, that perhaps they will become more righteous and return from their evil ways, and they will no longer be evil.²⁸

Adret suggested that the rabbi impose restrictions gradually, both upon individual lawbreakers and upon the community as a whole. He acknowledged the rabbi's - and his own - desires to restore the community to a higher level of observance and behavior, but he encouraged him to suppress his own desires, at least temporarily. He emphasized the importance of judging each case individually, based not only on the credentials of the transgressor but also upon "the need of the hour:" cases which might, at other times in history, have required severe punishment may in the present situation require more tact and restraint in their prosecution.

Adret further advised his colleague to consider his decisions carefully, and he warned him against allowing emotional reactions to color his reasoning. He suggested that on important matters the rabbi should never rush into a decision, and should temper his response with detached impartiality and with advice from other members of the community who had proved their trustworthiness and dedication to the community's welfare. He summarized his response beautifully and succinctly when he advised the other rabbi, "Doubt yourself."²⁹

The responsa record several cases which illustrate Adret's desire for reconciliation rather than retribution. In one case he responded:

Concerning the thieves in your community, I have already told you that each case must be decided according to the need of the hour. If you see that they are repenting from their deeds, you are permitted to free them from the punishment imposed by the ban.³⁰

In another case the solution was more complicated. It appears that an unidentified minority in a community selected a cantor (shaliach tzibbur) without the consent of the majority, which had already elected someone else to fill that position. The minority placed a ban upon all who would listen to the majority-elected cantor, and the majority placed a similar ban against the minority-elected cantor. Adret's initial response was strictly according to the halachah: The minority's enactments and bans are invalid.

However, this does not conclude his response. He indicated that his major concern in this issue was communal harmony, and he noted that a strictly legalistic decision would cause strife:

The question is not really one of law; it is a matter of what is correct and most beneficial to all. Such oaths can be very harmful; regardless of the outcome, this is not the peaceful and correct way.³¹

He then suggested that the community compromise by having the two cantors serve on alternate weeks, so both parties might be appeased. He added that it would be fitting for the majority-selected cantor to be given the honor of officiating first, so that he might not be shamed by having his position usurped by a newcomer. We may also see in this suggestion a token gesture toward halachah, the majority-selected cantor clearly having the greater right to hold the position. We cannot discern all the details of this case from the responsum - particularly, who the members of this minority were which justified the respect which Adret accorded them. It is clear that Adret's desire for communal harmony overrode not only the traditional halachah but also the guidelines which he himself affirmed as the basis for communal life: namely, the authority of majority rule.

Adret's concern for the community's welfare affected many of his decisions, and frequently this concern outweighed the force of traditional halachah. This was the case con-

cerning a question about acceptable witnesses for communal documents. Since halachah forbids an interested party from witnessing a document, several people tried to use this as an escape clause for communal enactments which they disapproved. They cited the fact that community members - all of whom were interested parties in any communal matter - had witnessed the documents, and therefore rendering the documents invalid. The community asked Adret how they could avoid this problem: whether outsiders could be brought in to witness the documents, or whether several of the community's citizens could leave the city for a specified time period thus rendering themselves "disinterested" and acceptable as witnesses (Halachic term: Silluk - "leaving").³² Adret began his reply by eliminating all possible loopholes which the community might utilize. He rejected witnesses from other cities, claiming that the process was too impractical for a community to use on a regular basis and the witnesses themselves might be unreliable.³³ He rejected silluk, claiming that if it were acceptable the Gemara would have mentioned it; the fact that it is never mentioned in the Gemara implies tacit disapproval.³⁴ Having eliminated these loopholes, he proceeded to confess that allowing witnesses from within the community cannot be justified by the halachah. Nonetheless, such a practice was necessary for the efficient operation of the communal government. Therefore, since every community must do this in order to survive, he advocated that we follow the Palestinian Talmud's

statement, "For any law which is in doubt, go see how the community acts. The law is found in their practice."³⁵

He considered this a case of all sides in a dispute agreeing to accept a legally unacceptable procedure; as long as there is agreement the formalities may be eliminated.³⁶

In another instance, a community faced a problem concerning its emissaries to the royal court. These emissaries were Jews who had enough influence with the king or one of the king's officers to gain entry to the royal courts and even, perhaps, to alter or encourage a decree for the benefit of the Jewish community. The community would enlist these men's services toward one of two ends: either to deliver a specific bribe to a specific official, or to obtain, for whatever cost might be required, a desired privilege or removal of a burdensome restriction.³⁷ The problem arose when members of the community requested documentation of the expenses incurred while on this mission, for which the community reimbursed the emissaries. Several people insisted that the emissaries swear to the accuracy of their expense claims under penalty of a ban, but the emissaries disliked the oath and indicated that they would refuse future assignments if the community insisted upon it. They claimed that they objected to the oath because it left them liable for excommunication in the event they made a mistake in their declarations, even if the mistake were inadvertent. They felt they should be excused from the com-

munity's demand for an oath, since they were on a mission for the community's benefit.

Adret noted in his response that the community was fully within its rights in demanding a sworn declaration from the emissaries. However, he saw as the more pressing issue the continued influence which the community could have with these emissaries' assistance. For this reason he compared these men to people who voluntarily assume guardianship for orphans. The community does not hold them responsible for detailing all their expenses under oath, since this would make it impossible to find people willing to undertake the responsibility. Admitting that this was a weak parallel, Adret stated that there was simply no other way to justify the practice, and he therefore permitted it. He suggested that the community ignore their right to demand an oath, and allow the matter to drop. He added that if the emissary was willing to swear an oath it should be accepted without dispute, complaint or examination. Should the community believe the emissary to be lying and if he refused to take an oath, he was still not to be compelled to do so; rather, a knowledgeable assessor should be consulted to determine the accuracy of the claims.³⁸

The responsa also record cases in which Adret felt compelled to deviate from strictly halachic prescriptions in the direction of greater strictness. Specifically, such cases fall into two categories, the first regarding unpentant criminals and the second, cases in which the larger

social and religious climate required a clear and definite display of authority; as Adret put it, "when the need of the hour requires it." Concerning the former, Adret stated that although every transgressor should first be approached with the goal of befriending him and bringing him to see the error of his ways, there comes a point at which leniency's possible advantages are outweighed by its immediate disadvantages, such as in the case of persistent offenders. After trying one's best to reason with such an individual, it is the rabbi's obligation to decree and to enforce harsh punishment - if necessary, even more harsh than halachah requires.³⁹

Several cases are recorded which illustrate Adret's concept of the authority which rabbi and community hold to respond to "the need of the hour." In one case the gentile workers hired by a Jew to build a house were discovered working on Shabbat and Jewish holidays. The employer immediately admitted his guilt to the city elders, claiming that he had only recently discovered the transgression himself and that at the time of the discovery by community officials he had been on his way to order the laborers to stop work. He stated in advance that he would accept whatever penalty the elders felt compelled to impose. However, when the elders announced that their verdict was a permanent ban upon the defendant, he protested that the punishment was far too severe and did not fit the crime. Citing the laxity of the period, Adret upheld both the elder's

right to impose harsh punishment and the specific punishment in question.⁴⁰

In another case, a Jew claimed that he had legally married a Jewish woman, and produced a witnessed ketubah as proof. The woman denied the marriage, and claimed that the ketubah and all the signatures were either forgeries or lies. The actual question to which the community sought a response was a jurisdictional one. Should such a case be tried under the rules which governed contracts and financial dealings (dinei mammonot), since the ketubah was a contract? Or should it be tried under the laws which governed capital offenses (dinei nefashot), since for all intents and purposes the woman's life was at stake? Adret's response dealt with far more than the question asked. He stated that such a case required a most thorough investigation under both categories:

...I see that today the number of rebellious men has increased, and there is no one in the land who can stand up to them and say to the corrupters of their land, 'Why did you act this way?' The daughters of Israel are modest, but the generation disgraces them. Thus it is fitting for the wise and honorable to examine closely, to search and seek out this matter for its truth both as a matter of contract law and capital law, but you may be lenient only in matters of contract law. Even if there is a question as to whether this is a matter of capital law or not, it is better to lock the door in the face of licentious and foolish men...⁴¹

In another case Adret allowed close relatives to testify that a person had committed various transgressions, which the responsum does not detail. Although halachah expressly forbids this, Adret noted that such testimony was necessary for the public welfare, regardless of its source.⁴²

Adret cited two bases for the right to inflict punishments which exceed the halachically-required level of severity. First he described the rabbi's right to act as a limited Sanhedrin, with all the rights and options which the Sanhedrin possessed, but with the limitation that he could only exercise this authority within his own community, and that later generations did not have to abide by his rulings.⁴³ Within these rights Adret claimed that the rabbi should do everything in his power to uphold the law and to make a fence around the Torah, weighing his actions against the need of the hour.⁴⁴ Twice he cited the same example as an illustration of the traditional, if not halachic, basis for this position. He described an event which occurred in Greece during the period of the great Hellenistic movement within the Jewish community. A Jew was caught riding on Shabbat and the court decreed and carried out the death penalty even though the halachah did not require it. Then, as Adret intended to do in his day, the justification was provided by "the need of the hour."⁴⁵ Additionally, Adret claimed that rabbi and community possessed another source of authority which allowed them both to exceed

halachic prescriptions and to alter Toraitic law when necessary. This was the power of the community itself, which had the right to grant authority to whomever it saw fit, to accomplish whatever it saw fit. This authority had a much larger jurisdictional base than halachic authority, and it allowed the lawmakers and judges greater leeway in making and enforcing laws. Adret recorded the punishments which were available to communal authorities, and he was not the least bit hesitant about their use. In addition to fines and similar financial penalties, Adret mentioned the ban, flogging, dismemberment and even death. Along with this list he provided two bits of advice to the rabbis contemplating their use: first, act only with the advice and support of the leaders of your community, and second, when you have considered carefully, obtained advice and decided upon the best course of action, "the Lord will support you."⁴⁶

II. Gentile Authority

Parallel with the community's internal structure of authority were the demands and requirements of the gentile nobility and royalty under whose control the Jews lived. The responsa leave no doubt that these external forces played a significant role in shaping the lives and destinies of the Jewish community and its members both through the demands made upon them and through the irresistible influence which these forces could exert. It is clear that Adret recognized the conflict between his desire for communal autonomy and the realities of life under outside rule. His comments reflect a strong attempt to delineate a boundary between those rights which kings and nobility could rightfully exercise and those rights which could not be alienated from the community. It is important to note in this discussion that, while the responsa present a fairly complete picture of Adret's feelings and concerns on this issue, they present no objective way of determining the ultimate success or failure of the actions which he recommended.

The basic principle under which Adret acknowledged the right of the king and his officers to enact legislation affecting the Jewish community was that of "dina de-malchuta dina" ("the law of the land is the law"). The king was recognized as the owner of the land, entitled to do with it and its inhabitants as he saw fit. Several cases are recorded in which the king's orders contradicted halachah;

and Adret, while giving detailed descriptions of the true halachic response, concluded that the king's wishes must be followed. One such case concerned a plan by members of a Jewish community to construct a wall to obstruct a passageway into the community. The plan was drawn up and presented for the king's approval, which it received. However, when the plan was announced to the community, the people living outside of the wall protested. They depended upon the passageway for access and claimed the wall would both restrict their access and reduce the property values of their holdings. Adret agreed with this complaint on the halachic basis that an enactment which benefits a minority (in this case, those living within the wall whose homes and businesses would be more secure) at the expense of the majority is invalid. He noted that the loss to those outside the wall would include not only access rights and property values, but also actual property itself, since the space which would be occupied by the wall technically belonged to the nearby property owners. Therefore he concluded that halachah prohibited the wall's construction. He then proceeded to explain that this just-completed response applied only in cases where all parties involved had equal claims of ownership. This was not the case in the diaspora, since the king held absolute title to the land and might do with it as he desired. (In Israel to the contrary, he explained, the king possessed no greater rights of ownership than any

other citizen.) Since the king had already approved the construction of the wall, this construction was now mandated.¹

The king's ownership of the land also gave him the right to dispose of its produce as he desired. Adret extended that right to include not only the physical but also the economic produce, thereby justifying the various privileges which the king would grant to individuals.² These privileges included tax exemptions granted to repay favors, general tax exemptions for resettlement in developing areas, and material gifts which could be given as a one-time repayment or as a continuing subsidy.³ The last of these is illustrated in a case in which Adret upheld the king's right to grant a daily supply of two liters of meat from the Jewish slaughterhouses to a Jew who had performed an unspecified favor for the king. Adret acknowledged not only the king's right to make such a gift, but also the legality of including the privilege in one's estate to be inherited by a relative and even the relative's right to sell it to a non-relative for a profit.⁴

One responsum gives us some idea of the problems which Adret and others faced in attempting to maintain a clear distinction between the respective rights of king and community.⁵ In this case the king confiscated land belonging to a Jew. While the land was held by the king, the original owner sold the rights to the land to another Jew providing

a deed which stated that he was selling him "that property which is now in the possession of the king." Some time subsequently, the king sold the confiscated land to yet another Jew. When the original owner went to reclaim possession of the land for transferral to the man to whom he had sold it, the new owner refused to relinquish possession. The new owner stated that the original owner had admitted that the king owned the land when he wrote in his deed, "that property which is now in the possession of the king." Adret sorted out the various aspects of the case and concluded that the original owner had relinquished nothing with the wording of the deed. In fact, he noted that if the wording of the deed had been any more accurate, indicating that in fact the king had stolen the property, it could have endangered the owner! This is considered a case of "one who cannot deliberate an issue because he is afraid of a more powerful opponent." As for the issue of the legality of the confiscation itself which occurred when the king executed the owner's father, Adret explained his refusal to issue a decision by stating, "I do not wish to enter into a debate over those killed by gentile monarchies - whether their possessions belong to the king or not." From this we may understand that Adret, too, understood the wisdom of "fear of a more powerful opponent."

For all the royal rights which Adret acknowledged - whether out of halachic precedent or practical expedience -

there remained several areas which he clearly considered to be outside the jurisdiction of anyone not a member of the Jewish community. He responded to such infringements on communal authority by stating, "gezela de-malchuta lo dina" ("royal theft is not law"), and he included within his definition of "theft" not only loss of property or money, but also loss of recognized authority by the community.

As mentioned above, royal confiscation of property was a problem which the community was forced to accept. In addition to the considerations already discussed, a practical matter faced the community: what was to be the disposition of confiscated property when the king returned it to the community's jurisdiction, either through sale or as a gift? While cautious avoidance of the problem was possible while the king retained possession of the property, it was no longer possible when a dispute arose between the new purchaser and the original owner or his heirs. Adret issued the following responses: while the property was in the king's possession, the issue of its legal ownership would remain undecided, for the safety of all involved. When the matter of ownership of the property reenters the Jewish legal sphere, whether through a purchase or as a gift, a determination of its legal ownership would be made. If the property was returned to the person(s) from whom it was taken, the matter was dropped, since no injured party was involved. If, however, another Jew gained possession and the original owner disputed his claim, then it was ne-

cessary to investigate the circumstance of the confiscation to determine if the king had acted legally or not. Whether by accident or intent, Adret omitted any description of what constituted "legal" confiscation, but he did state that both unjustifiable confiscation and forced sale constitute "illegal" confiscation. While this determination had no effect whatsoever upon the king himself, it formed the basis for action within the Jewish community. If it were found that the king confiscated the property legally, then his sale or gift of that property to another Jew was legal and binding; if, however, the confiscation were illegal, then the property reverted to the original owner. In this case the Jew who purchased or received the property from the king lost his holding and investment and had no recourse for regaining them, since he was regarded as one who had purchased stolen property.⁶

Appended to this responsum is Adret's recommendation for avoiding the entire problem. He suggested that no Jew complete any transaction without obtaining a communally-accepted bill of sale from the property's previous owner. This would insure the indisputable legality of the transaction regardless of outside factors. It is important to note that this recommendation would serve several functions, since it not only discouraged the purchasing of illegally confiscated property, but also reinforced the authority of the Jewish legal system. The king could do as he wished, but members of the community did not have such a privilege.

Adret's definition of royal theft included actions which effectively deprived the community of legal or legitimate revenue. While the king could levy any tax burden he wished upon a community since the produce of his land was his to allocate as he wished, he could not exempt an individual from contributing his assessed share toward the community's total tax burden. This was a most important consideration, since common practice was for the king to demand a set amount from the community and leave all the details of assessment to the community and its leaders. As a result, a royal exemption for an individual would come at the expense of all the other members of the community, whose assessment would have to be increased to make up the exempted individual's share. Adret described one such case in which a Jew approached one of the king's officers and arranged, probably with the help of a bribe, to pay his taxes directly to the king's treasury. It appears that this would benefit the Jew through a reduction in the amount he would be required to pay; it would also benefit the king, since the Jew's community would still be required to remit his total tax demand and the king would receive the individual's payment in addition. Only the community would suffer, losing as it would the contribution of an obviously heavy taxpayer. Adret prefaced his response with the note that if the community had given its approval before the Jew sought the exemption, then the agreement was acceptable and

legal: all sides agreed, and theft would not be an issue. However, if the community had not given its approval then the action was unacceptable. The Jew making the deal had committed theft, the king had committed theft, and the king had also disrupted internal communal processes in which he had no rightful say. Adret's concern about the seriousness of this matter is reflected in his instructions to the rabbi who presented the question: "It is proper to be very strict about this, even without Talmudic justification, since the consequences of everyone being able to do this are very grave."⁷

As mentioned earlier, Adret considered alienation of communal rights to be included under the category of "gezela de-malchuta lo dina." Specifically, he responded forcefully to any attempts to eliminate or nullify the community's right to pronounce a herem against any of its members. In one case, the king granted a tax exemption to one of his lords, Don Lief, for the purpose of encouraging settlement in a certain territory. The exemption stated that anyone settling in this territory would be free from all taxes for a specified period of time. A problem arose when one of the new settlers, a Jew who had moved from Barcelona, claimed that the exemption released him from all obligations which he had undertaken before leaving Barcelona, about which he had previously sworn an oath to pay whenever they might come due. The Jew further claimed that the king's exemp-

tion nullified the oath he had sworn and removed the penalty of herem for non-compliance.⁸ In another case, one of the king's officers granted a Jew power to veto any communal ban, with the added stipulation that any ban which lacked this Jew's approval was automatically invalid.⁹

Adret's response to both these cases emphasized his decision that nobody could invalidate another's ban - the only exceptions being a parent who might invalidate his child's ban, a husband who might invalidate his wife's ban, and a rabbi or scholar who might invalidate the ban of anyone other than a greater rabbi. In addition to this blanket denial of the right to invalidate another's ban, he also made special mention of the right of the Jewish community to control its internal affairs and he denied the king any right to interfere in these matters.¹⁰

In response to the first case cited above, Adret drew a clear distinction between royal and communal authority, and delineated the relative rights of each. He declared that the oath which the Jew swore before leaving Barcelona remained in effect and was, in fact, inviolable. However, the king's exemption removed the tax liability which the Jew swore to fulfill; therefore, having no further responsibility to pay any taxes, the Jew had fulfilled the letter of the oath without any payment. Thus Adret simultaneously upheld both the king's exemption and the community's authority.

It is also clear from several responsa that Jews on occasion attempted to use their influence with the gentile authorities to their own ends. The legality of such actions was denied categorically, as in the case where a Jewish borrower persuaded the king to grant an extension on a loan which the Jew had obtained from another Jew, and which carried with it a penalty for late repayment. Adret invalidated the extension, adding that a cancellation of the debt by the king would also be invalid, and declared the loan to be overdue, requiring repayment of both the loan and the penalty.¹¹

In a somewhat similar case a Jewish borrower used his influence to arrange the arrest and imprisonment of his creditor. The creditor remained in prison until he signed a renunciation of the debt. The creditor then consulted a Jewish court, claiming repayment of the debt which he had renounced under force. Adret's response invalidated the renunciation on the grounds that any document signed under force is unacceptable. He declared the loan due, together with any penalties which the loan prescribed for late payment.¹²

At least two responsa indicate that Jews would, on occasion, take their legal claims to a secular court in hope of obtaining a more favorable judgment than they had received - or might expect to receive - in a Jewish court. A Jew claimed that another Jew had not repaid a loan and obtained a judgment against the alleged borrower from a

secular court. The borrower denied any obligation, and complained to a Jewish court. The court decided, and Adret agreed, that the Jew who had gone to the secular court had invalidated his case by his action, regardless of the merits of the case itself. He was instructed to drop his claim and to repay any money he had collected from the defendant as the result of the secular court's decision. Further, Adret remarked that the plaintiff might himself be liable if his actions caused any harm, whether physical or monetary, to the defendant. If the defendant were imprisoned or forced to pay bribes to prevent his incarceration, he might sue the plaintiff for damages. However, Adret noted that the defendant could not recover any money he expended in an attempt to avoid a secular trial, since those courts had no authority over Jews in any case. Whether this last statement was fact or only Adret's opinion cannot be determined from the responsum.¹³

In a similar case, the mere threat of an appeal to a secular court was sufficient, in the judges' and Adret's eyes, to nullify whatever case the plaintiff might have had. Before the hearing, which involved a disputed loan, the plaintiff stated publicly that a decision by the Jewish court favoring the defendant would result in his taking the case to a secular court. The judges then refused to hear the case, claiming that by his threat he had effectively removed himself from the Jewish legal system and had forfeited all his rights therein. Adret not only agreed, but added his

suggestion that the case be considered permanently closed, never to be reopened even in the event that the plaintiff were able to produce indisputable proof that he was correct.¹⁴

III. Financial Dealings

Not surprisingly, one of the most common subjects in the responsa is financial law and practice. The responsa reflect a wide variety of concerns in this area, with the most prevalent in the material studied being questions about taxation. As explained earlier, the major tax burden came from the king, who established a total figure for each community's tax liability and relegated the task of assessing and collecting the required amount to communal officials.

The responsa describe two general methods which the communities used to distribute the tax burden within their own community. The first was a poll-tax at a fixed rate for every adult member of the community; the second was one of two forms of valuation which distributed the liability in proportion to each individual's earnings and possessions. The responsa seem to indicate - which logic would support - that the upper-class groups within the community favored the use of a poll-tax whenever possible, while the lower-class desired a valuation-based system.¹ Several examples will illustrate the issues which the community and its leaders confronted and the solutions which they developed and attempted to institute.

The valuation method of taxation was carried out either through a declaration under oath by each taxpayer or an assessment of worth by an independent communal committee of tax assessors. The declaration required each

citizen to appear before a committee and state his total worth, upon which his tax share would be based. The oath was taken under penalty of herem for any error or misrepresentation on the declaration.² Any time the officials felt a declaration might be inaccurate they could order an investigation, which could result in an order to remit an additional sum, or invocation of the ban, or both. This was the procedure favored by the lower class, as it placed the responsibility for a complete and accurate accounting of an individual's worth squarely upon the individual. In this way any inaccuracy reflected directly upon the person making the declaration, and subjected him to the threat of a ban for any omission.³

If the community preferred, it could appoint a committee of assessors to evaluate the worth of every citizen, thereby removing the threat of herem from the individual. As with the declaration, the total value of the person's possessions determined his share of the communal tax burden. One responsum describes the preference of the upper class for this method, saying that they feared they could err unwittingly and thereby bring upon themselves the ban.⁴ However, we must also consider the inherent limitations of the assessment. Using this method, it would be possible for an individual to hide or somehow conceal items of great value from the assessors, whose report would then reflect a substantially lower worth for that individual. Further,

since no statement was required from the assessed person, such subterfuge did not bring with it the threat of a herem, which was obviously most undesirable. Assessment by appointed officials also raised the possibility of individuals influencing the officials to submit inaccurate assessments. As will be discussed later, several cases were reported of Jews who were most desirous to obtain for themselves or for family members such tax-commission positions.

Adret discussed several different methods and communal practices for dealing with these matters, but his final word on the entire subject was that the community and its elected leaders had the final authority to determine methods and practices. He called upon each community to establish clear regulations by which all must abide. Especially in regard to a decision between the declaration and assessment methods of valuation, which he considered to be equally valid, he notes that the community's practice would constitute law once the practice was established, and opposition by any individual to the community's practice was forbidden under penalty of herem.⁵

Adret presented specific recommendations for communities to consider in deciding whether to use the poll-tax or valuation methods. He cited the case of taxes for communal services, but his suggestions in two responsa appear to contradict each other. In one responsum he said that the legally correct method of paying for such services would be a poll-tax, since these services were not related to the

individual's wealth, but were used by all citizens equally.⁶ In another responsum he favored an assessment to support the same type of services, saying that the ability of the rich to pay was greater than that of the poor.⁷ This apparent contradiction may be understood in several ways. In the latter case above, Adret made exceptions for payments made to improve, rather than merely provide communal services; in this instance, paying more to hire a better cantor for the synagogue. He considered this a matter of "rigorously fulfilling a mitzvah," (B.T. Baba Kamma, 9), the responsibility for which fell to the rich. In the case of raising money for the gabbai's salary, Adret noted that while the gabbai's basic function was not related to money, he was often employed by the community to arrange community meetings on matters of taxation and expenditures, and therefore should be paid through a valuation tax. While no details are provided as to the frequency of such an arrangement, it is quite possible that it was very common, since in most communities the synagogue was the central meeting place. This exception, therefore, may have in fact constituted more the rule than the exception. In either case, it must be recognized that Adret repeatedly labeled his comments as suggestions only, to be considered by the individual community before it made its own decision. Thus the contradiction turns out to be one of practical approach more than one of legal ruling.

Concerning taxes which the community levied to provide funds for defense and protection, Adret suggested that the community determine its use of a poll-tax or valuation tax on the basis of the threat which each specific danger posed. In cases where the danger posed a threat to citizens' lives but not their property, a poll-tax was called for, since each citizen stood to lose the same thing. Such was the case with the bribes the community was forced to pay to avoid prohibitions on the food which they bought and sold. The gentile authorities controlled the licensing of all slaughterhouses, bakeries and vineyards, and on occasion they suspended one or another of the licenses, prohibiting the sale of these products to either gentiles or Jews or both. One responsum mentioned the fact that at times it was Jewish apostates who encouraged the gentile authorities to issue such suspensions. Only bribes, varying in size and number, could remove or prevent these prohibitions.⁸

The majority of the examples which Adret provides describe situations which posed a threat to both life and property, and for which Adret prescribed, logically enough, a combination of poll-tax and valuation. Such circumstances were brought about either by external causes including war, plunderers and priests who incited their communities to violence against Jews, or by internal causes, most notably the fixing of usurious interest levels by Jewish lenders in their dealings with gentile borrowers. Apparently the danger of reprisals by the gentile community was very

real, and Adret spoke harshly against those who would endanger the community in this manner.⁹

Within the distinction of taxing either lives or lives and property Adret proposed yet another distinction. Again basing his recommendation on the principle of imposing a tax upon that which will benefit from the necessary expense, he suggested that in the cases of pillage or clergy-incited violence the community should tax only moveable property, since these pose no threat to the land or to fixed structures themselves. Only in the case of war should the assessment be made on the basis of all property, fixed as well as moveable, since this was the only instance in which people stood to lose both their wealth and dwellings.¹⁰

Another factor in determining the distribution of the burden of communal defense was the proximity of an individual's holdings to the city wall. Since those closest to the wall were most vulnerable, Adret felt that they should bear a larger proportion of the cost of defense or protection. However, he quickly added that in every case, the rich should pay more than the poor, even if the rich were located in the city's interior and the poor were nearer the wall. His justification was the simple reasoning that regardless of location the poor have few possessions and therefore can never be subject to an equivalent loss as the rich.¹¹

Several types of tax exemptions were operative within the communities. As previously discussed, Adret recognized

and permitted various kinds of royal exemptions for individuals and groups within the community. The one exception was in the case of taxes collected for communal defense. Adret justified this exception both on the grounds that the protection the tax money provided served every individual, making every individual responsible for his share, and also on the grounds that the king might void or suspend only his own demands, not those of the community. If the king wished to exempt an individual from his taxes and thereby collect less from the community overall, he was free to do so; but in doing so he could not require the community itself to subsidize these whims.¹²

The Jewish community could also grant exemptions from various taxes. These exemptions could cover either the value of a specific piece of property, eliminating that property from consideration when the owner's worth was evaluated for tax purposes, or the worth of a specific service or the produce of a specific piece of land. Adret expressed reservations about these practices, citing the lack of any halachic basis and indicating that such an exemption would place the entire community in debt to this individual, since the exemption would require the community to make up any shortage of revenue caused by the exclusion of a particular property or produce from valuation. Nonetheless, Adret acknowledged the community's right to make such decisions and to grant such rights and stated that if the community agreed

to allow such exemptions then they carried the force of law.¹³

The communities had three "weapons" available to them for use in compelling full and prompt payment of taxes. The first of these was the herem, which was discussed previously. The second was the ability to prohibit the repayment of loans due to any person with an outstanding tax obligation. In ruling on the legality of such a penalty Adret noted that the delinquent taxpayer had no case for demanding restitution from the community for income lost through such a prohibition of repayment, since his own actions caused the community to respond as it did.¹⁴ The third weapon in the community's arsenal, described in only one responsum, although Adret himself indicated it was a common practice, was charging interest to the delinquent taxpayer for the duration of the delinquency. The procedure was for the community to borrow from a gentile an amount equal to the tax owed, and to compel the taxpayer to repay both the principal and the interest. In Adret's response he stated that there are no halachic grounds whatsoever for permitting such a practice, as it was a violation of the prohibition on Jews collecting interest from other Jews. However, he then proceeded to state that such an action is permissible. He quoted as his justification the fact that such a practice is an unfortunate necessity for the community, and that current circumstances required a response as powerful as this for the community to use against delinquents.¹⁵

Before leaving the subject of taxes and tax assessment it should be noted that Adret himself was cognizant of the difficulties which remained unsettled in this area. He ended his response to two queries on the subject with the admission that even in the face of his - and others' - decisions, "the matter of taxes is still greatly debated."¹⁶

Although it may be assumed from various hints in the responsa that the community also received at least some income from fines imposed for various restrictions and prohibitions, little definitive information is available to determine the extent of this source of funds. In one case just mentioned, the fine charged to an individual for delinquency on taxes did not result in a profit for the community, but rather merely offset the expense which the community incurred in borrowing an equal amount from a gentile. One responsum did state that a fine could be imposed upon an individual who libeled a rabbi or scholar in the presence of two witnesses, but there was no mention of the size of the fine or its disposition.¹⁷ The only other mention of a fine which I encountered was in a case where communally-appointed berurei aveirot (morals officers) possessed the power to fine those found guilty of transgressions which fell under their jurisdiction. From the text of the question, however, it appears that this office may not have been very common: the petitioner describes the appointment, functioning and powers of these officers in great detail, as if he were explaining them to someone completely unfamiliar with them.

Also, it appears that the fines which were collected became the property of the officials themselves, which makes it unlikely that such fines provided a source of income for the community.¹⁸

Another common subject in the responsa is the halachic prohibition against Jews charging interest to other Jews. While loans in both directions between Jews and gentiles were the most common form of financing, several cases indicate the Jews' desire to ignore or circumvent the intra-communal prohibition. In virtually every case presented in the responsa, Adret maintained the absolute applicability of the halachah and denied the possibility of circumventing it. This was the case even when loans were for the benefit of the community itself. Several times it happened that that community needed funds for one purpose or another and appealed to its richer members for a loan. These wealthy Jews were often unwilling to grant such loans, due both to the unprofitable nature of the transaction and also to the unappealing feature that every loan carried with it the possibility of default. Without the incentive of profit for their risk, Adret noted that several communities had difficulty convincing their members to agree to such transactions. Thus, when a community asked if interest-bearing loans could be permitted in order to provide the community with necessary working capital, Adret denied the request and allowed no room for compromise.¹⁹

Finding this direct avenue closed to them several communities resorted to legal fictions to evade the prohibition. According to Adret's description, arrangements were made by which a community would borrow needed funds from a gentile, who would in turn borrow an equal amount from a member of the Jewish community. The gentile was therefore a symbolic middleman for what was actually an interest-bearing loan from Jew to Jew. Adret acknowledged in his response that this practice was widespread, but nonetheless he strictly prohibited it, calling it theft from the community and its members, and advising the communal authorities to be extremely strict in forbidding such actions.²⁰

The depth of Adret's conviction in this matter may be seen from his response in a case where a Jew unwittingly lent money to another Jew on interest. The lender was, at the time of the transaction, unaware of the borrower's identity, and thought him a gentile. Later the lender discovered the borrower's true identity, but only after he had already paid the tax on the loan, which amounted to fifty percent of the interest. The lender then approached the court with a request for repayment only of the sum he had paid to the king, acknowledging the illegality of making a profit for himself from the loan. Adret forbid the lender to require repayment of the amount he expended, and he also forbid the lender even to request repayment from the borrower. He did, however, allow the borrower to repay the

expenditure of his own volition, but added that if the borrower was unwilling to repay the amount voluntarily, the lender had no recourse and must accept the loss of the full amount.²¹

The only exceptions on this issue which Adret allowed to stand concerned loans taken by the community against overdue taxes, as discussed earlier, and loans whose interest accrued to the benefit of scholars, which will be discussed shortly.

The responsa contain a frustrating paucity of information in the area of communal charitable institutions.²² Epstein cited only a few such references, but those cited seem to indicate that such institutions existed and functioned in most Jewish communities of the peninsula. It is very difficult to determine from the extant material whether the lack of additional information in the responsa is due to a problem-free operation of these institutions or results from their relative obscurity.

Adret did indicate that there were three common methods of obtaining funds for the community's various charitable institutions. First, money, property or produce willed to charitable causes was exempt from all income and estate taxes, and several types of donations were possible which would provide for either a one-time contribution or a continuing endowment. In one case an individual provided that the communal charity box would be his final heir, the re-

recipient of whatever remained of his estate after the deaths of his immediate heirs.²³ Executors designated in the Will would oversee the distribution of funds and property and would act as administrators in cases where endowments were established.

Only one responsum deals with the other two methods of fundraising, but its content and tone give a strong indication that both were fairly common. One was the communal charity box (kupah) which was supported both by individual contributions and by tax revenues, and the other was the less formal practice of door-to-door begging by needy persons. The responsum which contains this information deals with a dispute which arose in one community as to which was preferable of the two methods. The upper class (this was one of the only responsa I found which actually spoke of upper, middle and lower classes in these terms) favored requiring the poor to beg door-to-door to fulfill their needs, while the middle class favored the use of a communal charity box supported by an additional assessment on the community. The middle class argued that halachah prohibited begging, and added that a court-administered charity box would result in more equitable distribution of funds. They further reasoned that this was the only proper way to act, "for they are our own flesh and blood."²⁴

Adret responded to the community's question with a lecture on the merits of giving to charity, and of giving a sufficient amount. He quoted several proverbs supporting

this stand: "The proper seasoning for money is mercy"; "According to the camel, so shall be the weight you place upon it"; then he told a story of a wealthy man who gave to charity but did not give enough, and consequently lost his entire fortune. With this preface Adret then dealt with the problem itself. He stated that the needy must receive support, and it is the community's obligation to provide a secure and satisfactory method to achieve this end. The only acceptable institution for this purpose was the communal charity box, and therefore it was a requirement for the community to institute its use. He added that the poor were always free to beg if they desired more than the charity box provided, but it was forbidden for the community to rely upon their begging as a source of income. He then appended several special considerations which he said the community should recognize. First, he instructed those administering the fund to recognize the possibility that receiving charity might be painful, and to respond by removing as much shame as possible - even if they must lie to do so. Thus, a person who refused charity even though he needed it was to be told that the money was a loan, and at some later time the administrators should quietly dismiss the loan. Adret also suggested that the givers of charity should recognize and account for the background of the person when allocating funds; those who had been raised in a noble or wealthy family and had lately fallen on bad

times should receive more, since "every person receives according to his honor."

One responsum described a problem which arose concerning an endowment established with funds from a particular estate which had for several years been administered by the executors designated by the deceased. The executors were charged with the tasks of administering the fund, distributing the proceeds to various charities, and apportioning the donations according to their best judgments of the most pressing needs. When one executor died, the officials of the community demanded that the surviving executors produce a report detailing the fund's assets and that they also accept one of the communal officials as a replacement for the deceased executor. The surviving executors appealed to Adret, inquiring as to whether the officials had the right to insist upon such demands. Adret responded that the community had no right to demand a report of the fund's assets, and that the demand was both illegal and purposeless. He based this on a judgment involving the ma'aserot in which it was decided that neither the Levites nor the poor had the right to demand an accounting of the contributions made by the Israelites. On the question of the community's requirement for a communal official to be accepted as an executor, Adret was equally adamant. He not only stated that such an action would serve no acceptable purpose, but added that communal interference in this or any similar case was for-

bidden without the express written request from the deceased that his estate be administered by the community.²⁵

Little information is available concerning the operation of the various charities within the communities. The responsa cited above did indicate that the charity box served the poor, widows and orphans, providing them with the basic necessities of life. Another responsum described a community's desire to use these funds to provide tax exemptions for those unable to meet their obligations. Such a situation would occur when a community required its citizens to swear an oath indebteding them to the community for a specified sum, to be paid when the community expended the money. Since a period of several years might elapse between the oath and the time the obligation came due, it was possible for a person whose fortunes had changed in the interim to be unable to meet his obligation, and to become subject to a herem for default. The community's question to Adret was whether they could invalidate the oath which these people had sworn, and raise the money from other sources to cover the shortfall. Adret disallowed this option, reiterating that no one might invalidate another's oath, but he added that several communities dealt with similar situations either by reimbursing the people for the expenditure out of community funds, or by having a communal official pay the tax with community funds and sign the indebteded person's name to the payment. Neither, said Adret,

had any real halachic basis, but once again this was a case of communal practice constituting law.²⁶

The only other charitable institution mentioned in the responsa - and it is not at all certain how formal an institution it actually was - was a communal provision for the burial of the poor. Adret set the criteria for determining the community's obligation to provide this service on the ability of the deceased's estate to fulfill the stipulations of his wife's ketubah. If the total value of the estate was insufficient to meet this requirement then the funeral was provided at no charge to the family, except that a shroud was not provided. Adret saw this matter as a case of a prior contractual obligation. The wife's ketubah constituted the first claim upon the estate, and only if this obligation was met completely could any more recent claims, including funeral expenses, be considered.²⁷

A related matter, which also did not receive much attention in the responsa, was the communities' educational organization. Only one responsum described the education provided to all the children by one community, and even this said only that the community hired teachers for the children of those unable to hire their own private tutors, and that their salary in this case was ten dineros per month.²⁸ It is impossible to determine from these responsa whether this salary was typical or not; all that can be said is that one other responsum noted that in one case a wealthy family paid a private tutor twenty dineros per month.²⁹ I was unable

to locate any information which could provide an accurate appraisal of the value of a dinero at that time, so these figures can only be evaluated in relative terms.

Concerning advanced study, even fewer details are available. Epstein made no mention of the subject at all, and Assaf, in his article in the Encyclopedia Judaica, noted only that Adret established a yeshiva in Barcelona which attracted many students and which evidently possessed several important editions of texts. One responsum made a brief reference to "those who cling to the Lord's Torah"³⁰ and another referred to a fund established for Torah study,³¹ but this is the full extent of the information available. It is noteworthy that the case of the fund established for support of scholars is one of the very few in which Adret permitted interest-bearing loans within the community, the fund replenishing itself through the reinvestment of interest revenues from loans to Jews. Adret acknowledged the weakness of his own argument that the loan was not technically from Jew to Jew, since the money in the fund had no individual "owner," and he added that such a practice was undesirable since it encouraged transgressions in other areas. Nonetheless he noted the prevalence of the practice in several communities and agreed that it was a necessity which the community could not ignore.³²

IV. Aristocracy's Role in the Community

In using responsa as a source of information about the social and political history of a community, one of the most difficult tasks is determining the relative positions of the individuals and groups involved in the disputes. While it is clear - both from other information available to us¹ and from the details included in the responsa themselves - that there were several well-defined social strata within the Jewish communities of the Iberian Peninsula during the period not under consideration, few responsa give clear indication of the exact status of the parties or the power they wielded to promote their concerns. The task is further complicated by the fact that Adret removed all identifying information about individuals which did not pertain directly to the case at hand. Thus, all men are referred to as "Reuben" or "Shimon," and all women are labelled "Leah" or "Rivkah."

The purpose of determining the social and political status of the involved parties is twofold. First, it may serve to explain some of the questions posed to Adret by various communities which, on the surface, do not appear to be in the least problematic. Only if these questions can be seen as appeals by the community for Adret's support rather than merely for his decision do these responsa make sense. For example, Adret responded to numerous questions dealing with the ability of a minority group to pass legis-

lation and impose herems to support that legislation.² All these responsa asked virtually the same question, and Adret noted in his responses that he had dealt with the same subject many times before, yet the questions continued. Clearly, if this had been only a matter of communities seeking information about an halachic ruling, one or two such questions would certainly have sufficed to establish a precedent. Second, an understanding of the forces acting upon the community and its members may allow us to extrapolate with greater accuracy the actual concerns of a broader spectrum of classes within that community.

In this section I will present several cases which illustrate both the aristocracy's abuse and its constructive use of the power and influence which it was able to command. I have based my determination of an individual's or group's status on three things: statements in the responsa which directly indicate position, descriptions of actions or events which indicate a greater than normal amount of respect or deference from the community and its leaders, and information which indicates a greater than normal amount of influence with the gentile world and its leaders.

Nor surprisingly, it is the area of tax collection and management which provides the greatest wealth of information relevant to this subject. Since taxation was almost entirely an internal matter, several possible avenues presented themselves to individuals wishing to avoid - or at least influence to their benefit - the community's various assess-

ments. Adret spoke of the desire of many citizens to obtain for themselves or for relatives a seat on the community's tax commission. In one case he ruled that it was proper for the community to hold the tax commissioners liable for loss to communal funds caused by their negligence, and he reassured the community's leaders that they need not fear that this would result in citizens' unwillingness to volunteer; "...on the contrary, people speak out /and express/ their desire to be appointed."³ Another responsum further attested to the appeal of tax commission membership, stating that although each community would set the size of its commission, the actual number of members would often be greater, "all families being desirous that one of their members should be appointed for the honor of the family."

While it may in fact have been the case that tax commission membership carried with it a degree of communal honor, it should be noted that several less desirable aspects of the position would certainly have to moderate an individual's yearning for this honor. The position was unpaid, and if the responsa are any indication, a substantial amount of work was required of the commissioners at least during actual times of assessments and collections. It has already been noted that they were held liable for any loss due to their negligence, and by virtue of accepting the position they also indebted themselves personally to the king for the complete and prompt delivery of all required

taxes. The king had the right to confiscate the property and assets of the individuals serving on the commission in an amount equal to the total outstanding tax debt of the entire community. Considering the number and extent of these disadvantages, one must either wonder at the public-spiritedness of the volunteers or else consider the possibility that the position held other advantages besides "honor." One such possible advantage may have been the ability to influence either the assessments or investigations of the accuracy of declarations, an asset which most certainly would have been of great advantage to anyone facing the prospect of a large tax bill in the coming months or years. Of course, the responsa contain no statement which would give concrete support to this hypothesis, but nonetheless it must be noted as a possible counterpoint to Adret's assessment of the situation.

Responding to a community in which several citizens proposed establishing a literacy requirement for membership on the tax commission, Adret denied that the literacy of an individual per se should be a criterion for eligibility. He stated that it was necessary for at least two (of a total, in this case, of three) of the commissioners to be literate, in order to understand the written material presented for their consideration. The third member of the commission need not be literate, but all must be knowledgeable in the areas of tax collection and payment and any other matters upon which they may be required to act. As

for the qualification of literacy itself, Adret remarked that often the least literate individuals were the best assessors.⁵ It is worth noting here that while a few responsa previously discussed indicated the presence of some form of universal elementary education for all children, it is quite possible that functional literacy was determined by the ability of one's family to hire a private tutor. Thus the responsum just discussed may have involved more than a question of procedure, namely, an attempt to exclude the lower class from participation in the tax assessment process.

In one case it appears that several members of a community did not bother with attempting to influence the actions of the communally-elected commission, and instead they gathered a minyan, elected their own tax commissioners, and pronounced a herem on anyone dissenting from their appointments or the resultant decisions. Adret dismissed their actions entirely, on the grounds that minority enactments were non-binding and minority-imposed bans were automatically invalid.⁶

Another route taken by citizens wishing to avoid taxes was an appeal to gentile authorities. It appears that the king or one of his officials could, on occasion, be prevailed upon to grant an exemption from various communal taxes and, as mentioned earlier, such exemptions could also be granted as gifts or repayment of favors. In general, Adret upheld the legality of such royal privileges, the two

exceptions to this rule being taxes levied by the community for its protection and taxes to raise funds for communal repairs and improvements. In the former category he made special reference to money needed to placate the gentile communities when Jews were discovered to be lending money at excessive rates of interest, a practice expressly forbidden by the king. Adret noted that there was simply no justification for allowing royal exemptions to stand in this case, since it was often the exempted individuals who were guilty of usury, and who themselves were the cause of threat to the entire community.⁷ While he clearly recognized the futility and danger of disallowing royal exemptions, Adret did support a community in its attempt to pass a ruling forbidding any Jew from actively seeking such an exemption, and further allowed the community to prohibit the introduction at some future date of an exemption bearing a date prior to the enactment of this law.⁸

Adret also took a strong stand, mentioned earlier, against those people who would attempt to circumvent the community's tax structure by dealing directly with royal officers. This harmed the community greatly, in that it reduced the total tax base without reducing the tax requirement, thereby requiring all those remaining within the system to pay a larger percentage of the total. Indicating that there was no real halachic basis for what he suggested, Adret nonetheless directed the Jewish authorities to punish such attempts harshly, both to prevent a repetition by the

same individual and to indicate to others that such a breach of communal practice would not be tolerated.⁹

In one of the responsa's clearest statement as to the communal status of an involved party, a community complained to Adret that one of its "heavy taxpayers" refused to remit his portion of a tax assessment to cover the cost of repairs to the synagogue. The taxpayer refused on the grounds that the community's berurim exceeded their communally-imposed spending limit of two dineros on any one project. Adret not only invalidated the individual's refusal on the grounds that the berurim were not acting on their own, but merely carrying out the wishes of the entire community, but he also took the recalcitrant taxpayer to task for his uncooperative attitude:

...what surprises me is the attitude of the one who wishes to prevent the performance of a commandment and separate himself from the community. It will be proper for him to agree to the work for the honor of God and to bring blessing upon His house.¹⁰

It is worth remembering at this point that Adret himself recognized the fact that many elements were involved in the communities' continuing struggle over matters of tax assessment and collection, and understood that even his most definitive statements did not result in a complete solution to the problems. As noted earlier, he added the same postscript to two separate responsa dealing with these issues: "But the matter of taxes is still greatly debated."¹¹

It is clear that the aristocracy's abuse of their power extended beyond the field of taxation. The responsa describe several cases in which individuals flaunted their ability to ignore accepted communal practices and even the halachah. For example, several cases of polygamy are reported by communities: some involve taking a second wife; others, the keeping of mistresses. One deals with a man who evicted his first wife from their home, had his mistress convert to Judaism, and brought her into his house as his new wife. The responsa which describe these situations give the distinct impression that the communal authorities were hesitant, if not unable, to enforce compliance with R. Gershom's takkanah prohibiting polygamy under any circumstance except the incurable infertility of the wife. Yet the authorities were clearly aware of the takkanah's existence. Further indication that the parties involved were from among the wealthier and more powerful elements in the community comes from the fact that supporting two wives, or a wife and a mistress, required a substantial amount of money, which would eliminate most members of the community.

Adret responded to each case in turn. He opposed the practice of keeping mistresses, saying that it encouraged sin, was immodest and improper, and bred "stubborn and rebellious children." In regard to polygamy he cited R. Gershom's takkanah, and added that the case of a woman converting for the sake of marrying her lover led to doubt as

to the sincerity of the conversion. He noted that even in cases where the second marriage was agreed upon by both husband and wife for the sake of producing children, his experience had been that the arrangement would ultimately fail in virtually every instance. As for the individual who evicted his wife in order to marry his mistress, he declared:

...thank God no man has made such a breach as this among /Our community's citizens/. Especially, that no one has acted so wickedly and high-handedly as to convert a maid and marry her and to remove, because of her, his beloved wife. This whole issue brings tears to the eyes.¹²

Adret advised the communities to stop these practices immediately, and instructed them to use force to insure compliance when gentler methods proved inadequate.¹³

The attempts of individuals and groups within the community to enact legislation and impose bans without the approval of the majority has already been discussed, but the connection of these actions to the question of abuse of power remains to be clarified. The fact that many - if not most - of these minority actions originated in the upper strata of the various communities is attested to by the communities' repeated unwillingness or inability to act against them, even in cases where the illegality of the actions is readily apparent even to the untrained eye. Thus, one community posed the following question:

Concerning people who attempt to control the community without its approval and without being appointed by the community: Sometimes they place

bans on their own authority - bans which are not legal - and the community does not stop them for fear of them. Do these people have the power to enforce their bans upon the community?...What if the elected leaders of the community agree with them because they are forced to do so?¹⁴

This and similar questions indicate without doubt that the parties involved in these actions possessed power well in excess of that held by a community's average citizens. Such people were able to command respect, fear and even compliance with illegal enactments, and Adret's denials of any legality for these actions cannot be taken as proof that the improprieties disappeared immediately upon publication of his decisions. It is difficult to consider the material at hand and arrive at any conclusion other than acknowledgment that these internal power plays were a reality of life which communal leaders and rabbis were forced to consider.

It is also clear that at least some Jews possessed, for unknown reasons, a degree of influence in the extra-communal sources of power, notably the king and the officers of his court. Whether the community accepted all the royal decrees favoring specific individuals or not - and whether they accepted such decrees willingly or unwillingly - the fact that such external interference in the workings of the Jewish communities is recorded in the responsa indicates the reality of their existence. Adret dealt with cases in which the king granted an extension to a Jew who

was indebted to another Jew,¹⁵ or gave an individual the right to approve or veto any ban pronounced by his community,¹⁶ or granted to an individual the power to enact legislation on his own authority for the good of the community, regardless of any objections from the community or its leaders.¹⁷ Several instances also illustrate the ability of certain individuals to marshal the support of gentile authorities to supersede or circumvent Jewish communal authority. One such case, in which a Jew conspired to have a creditor arrested and held until he agreed to renounce the debt, has already been discussed.¹⁸ In another case, a Jew who had won a property dispute in a Jewish court was impatient to gain actual possession of the property. The decision was appealed to a higher court by the loser, but in the meantime the man in whose favor the lower court had decided enlisted the help of the king's army to evict the original owner from the property. Baer noted that the Jew who instigated this premature eviction was David Mascaran, a "notorious courtier,"¹⁹ but this remark was based on material from a source other than the responsa, as these contain no information which could support such a conclusion. Regardless of the actual identity of the person, what is clear is that he wielded enough power to command the assistance of the king's forces and to insure that the community would not oppose his actions. (Ultimately the case was decided in his favor by Adret, on what appears to be purely halachic grounds.)²⁰

In another case we have only the unsubstantiated claim of a plaintiff to indicate the degree of cooperation between certain Jews and the gentile authorities. As Adret noted, these claims could have had no basis whatsoever; however, if they could be proved by the plaintiff then they would determine the outcome of the case. The plaintiff stated that both his property and that of another Jew bordered on a garden, and that four years earlier the neighbor had purchased the garden with no opposition from the plaintiff. In his presentation to the court the plaintiff stated that he did not protest the purchase because at the time his neighbor's father was the royally-appointed treasurer of the community, and the neighbor himself would occasionally perform the job when his father was away. Now the father had died, and accordingly the plaintiff could reveal his reason for agreeing to the purchase: he was afraid of the consequences of opposing the wishes of his neighbor and his neighbor's father,

...lest they cause him harm from the king, as they already did to two people whom they libeled so much that they consented and sold property to them for a low price.²¹

Now with the father dead, and the family no longer commanding the influence previously held, the plaintiff petitioned the court to allow him his legal right to purchase a portion of the garden based on the proportion of its border which he owned.

Adret neither acknowledged nor denied the plaintiff's right to this reconciliation on the basis of his claim. His decision stated only that, as the case then stood, the law was with the defendant; the plaintiff had no right to demand anything. However, he added that if the plaintiff could produce proof of the veracity of his claim then the decision would be reversed. The required proof included two witnesses who had heard the neighbor threaten the plaintiff with harm if he protested, plus some indication that the neighbor indeed possessed power to harm him as he threatened. Adret carried the case no further, and so we have no way of determining either its final outcome or the truth of the plaintiff's claim.

There is one final matter which falls more under the heading of the misuse - rather than abuse - of position and power by the community's aristocracy. This is the matter of cooperation on financial transactions, notably the extending of loans to the community without interest. It is clear that situations arose in virtually every community at one time or another which required the immediate expenditure of funds, whether to cover an unforeseen shortfall in communal income or to meet the needs of an emergency, such as a demand for bribes or repairs to the community's defenses. As has already been noted, halachah forbids the collection of interest on any loan between two Jews, and Adret maintained the validity of this prohibition in vir-

tually every case. The responsa indicate that wealthy Jews did not lack for ways of attempting to avoid or to circumvent this prohibition, but Adret denied their acceptability, calling them theft from the community.²² These arrangements were disallowed even where the community had established them as common practices, which Adret generally acknowledges as a source of practical law. His comments show that he understood the plight of the communities, desperately in need of immediate capital but unable to avail themselves of the most readily available source because of the Jews' unwillingness in such unprofitable transactions. Clearly, Adret recognized the effects of his stand upon the people; equally clear, however, is his unwillingness to allow the selfish desires of certain individuals to subvert the authority and integrity of the community, the rabbi, and the halachah.

There were several ways in which various upper class elements used their power and influence for the good of the community and all its members. The responsa contain very little in the way of concrete information about these efforts, but various hints found therein coupled with the information already discussed lead to a few reasonable conclusions.

First, there is no doubt that the upper class paid the great majority of the communities' taxes, both external and internal. Adret's decisions and recommendations concerning the allocation of the various tax obligations show that in

virtually every case the valuation method was used to raise at least part of the tax, thereby increasing the more wealthy citizens' share. It has also been seen that communities would appeal to their members to advance funds to meet immediate expenses, and we may assume that only the upper class was in a position to respond to such a request. We know from the responsa and other sources that the community and all its institutions were self-sufficient, receiving no funds from any external source. Even if we rely only upon the details which the responsa support fairly completely, we see that the community was obligated to support its poor, provide a minimal education for all its children, and pay for the burial of its indigent.²³ The community also provided its own defense, maintained a synagogue and administered its own affairs. In all these cases there is no question that the wealthy bore a disproportionate share of the cost.²⁴

As to the matter of loans to the community which did not produce income for the lender, it would appear from Adret's responses in this and similar cases that, while the wealthy may have balked at the prospect of such an unprofitable arrangement, there was not unanimous refusal to participate in them. Recognizing Adret's overriding concern for the welfare and security of the Jewish communities, it would be difficult to imagine him holding so firmly to a rule which placed the communities in real danger of default. The accuracy of this assumption is further attested to by

the two exceptions which he did make to the prohibition on interest. The first pertained to cases of tax default by an individual - in which case he claimed the interest penalty was necessary to compel people to make timely payments.²⁵ Another is in the case of interest which accrued to the benefit of scholars, in which instance he stated the necessity of raising such funds in this manner, and added the weak rationalization that the money being lent actually had no "owner," since it belonged to the community.²⁶ Using this same line of reasoning we might say that a loan to the community is not actually being lent to "a Jew!" On the basis of these clues I believe it is fair to assume that at least some members of the upper class did assist the community in times of need.

As discussed earlier, there is evidence that indicates a desire on the part of some community members to obtain a seat on the tax commission. It has been noted that the given reason for this desire was to enjoy the honor of public recognition, but it must also be recognized that there were opportunities for personal gain which may have accompanied an appointment to this office. In that discussion I noted several of the disadvantages of the office, including the fact that the king held the commissioners personally liable for the tax and could confiscate their property if the community defaulted, and that the community itself held the commissioners liable for any loss which resulted from their negligence. We must also remember that the position

was unpaid. Thus the question arises: what possible benefit could accrue to anyone volunteering for the position who did not intend to use the power of the office to his advantage? The responsa give no indication that any such benefit existed, save the honor of which Adret spoke. With this in mind we may understand more fully the question posed to Adret in which a community drew lots to determine membership on the commission, and one of the citizens whose name was selected refused to serve. Adret advised the community that they were to force him to serve the required term.²⁷

Evidently this man was not alone in his anxiousness to avoid service on the commission, as Adret mentioned the fact that in cases where there were no volunteers, the king himself would select commissioners.²⁸ It is safe to assume that the king's criterion for selection would be either loyalty to him, or confiscatable possessions, or both. Thus it would be greatly to the community's benefit to be able to select its own commissioners out of a pool of volunteers, rather than have them selected by the king, in order to insure that the qualities of fairness and discretion would be considered in the assessment process. If the community did indeed bestow honor upon the individuals who accepted such positions, it would appear that this was not too high a price for those willing to undertake this obligation and risk.

An area where there is clear evidence of contributions made by the aristocracy is that of diplomatic relations with

gentile authorities, as previously discussed.²⁹ These emissaries bridged the gap between the community and the high levels of the external government, carrying bribes to cooperative officials and even influencing the king himself to eliminate or reduce various restrictions and penalties. It is impossible to determine from the responsa how widespread or effective this influence was, but Adret left no doubt as to its importance to the community:

...Israel is battered about in the diaspora,
and we need effective people with the ability
to deal and operate within the king's castle
for Israel's many needs...³⁰

Determining the communities' responses to the upper class' constructive use of its power and influence requires much reading between the lines. Information on this subject is seldom clear, so we must rely on extrapolations based upon more clearly stated information plus the conclusions already drawn. It is my appraisal that this subject carries with it the greatest possibility for misreading the relevant material, and this possibility should be considered as the discussion proceeds.

In a responsum mentioned earlier,³¹ Adret prohibited any attempt by a member of the community to arrange for direct payment of taxes to the king, the only exception being if the community, not the individual, requested the special arrangement. In that case Adret advised the individual to approach a royal officer and make the following declaration:

My lord, although it is not my wish to separate myself from my fellows on this matter of taxes, nor to refrain from carrying my own portion of the burden, all the Jews in the kingdom are pressing me on this matter. It is not my will alone, but that of all my fellow Jews.³²

While it is clear from this quotation that Adret was condemning such arrangements made without the community's approval, even as he gave the text for making such a deal when the community did approve, he presents no information as to when or why the community would ever grant such permission. These deals benefited the individual at the expense of the community, which Adret repeatedly forbid. For this reason I suggest that this situation may have occurred in cases where the community wished to extend a favor to an individual for services rendered in one manner or another - perhaps for intervening with gentile authorities to prevent communal harm, or even as an indirect way of rewarding someone for a needed loan to the community at a particularly crucial moment. I can see no other possible explanation for the inclusion both of this exception to the rule and the actual text of the statement.

Concerning the issue mentioned earlier of communities demanding sworn declarations of expenses from communal emissaries,³³ Adret first acknowledged the communities' right to demand such an accounting from the emissaries, then explained that the communities should not press their full legal demands, since this could discourage the emissaries from volunteering again. "The goal here," he explained,

"must be neither to reduce nor to limit the power of the emissaries." He therefore advised the communities to accept the emissaries' statements without an oath and to investigate the accuracy of their claims only in extremely troublesome cases.

Deference was also shown to those citizens who accepted positions on the tax commission, by freeing them from any liability for loss of tax funds which resulted from theft or mysterious disappearance of the funds from their possession. Adret explained this practice as the result of one of two factors: either the person volunteered for the position, in which case the community should not penalize his volunteering with overly strict regulations, or the person was appointed to the position by the king, in which case he was already deemed to have more responsibilities than he desired or requested. In either case, the decision was motivated by a desire to make the tasks of the communal officers as easy as possible.

The other, less tangible way, in which the community responded to the contributions of the aristocracy was through respect of - and in some cases, deference to - their opinions. Two responsa indicate their communities' policy of requiring the Berurim to obtain the approval either of the entire community or of ten of the community's heavy taxpayers for any expenditure in excess of a specified limit.³⁴ Two other responsa reflect Adret's own belief that the rabbi should consult with and obtain the approval of his community's nobi-

lity before taking any strong or radically different course of action. Specifically, he advised a colleague

...always act with the advice and counsel of the nobility...those who are worthy advisors; the Lord your God will stand by your right hand, and you may do /as you see fit/ without any regrets.³⁵

Also, as previously mentioned, Adret advised his colleagues to use the advice of the nobility and communal leaders to temper their own desires for strict punishment or enforcement of halachah. He saw the value of their advice to be a reflection of public sentiment, something of which the rabbi might not be totally aware, and its moderating influence on his first, perhaps overly emotional, reactions. In this way, Adret felt, the rabbi could assure himself of a broader base of support for his actions and at the same time involve the pillars of the community in the process which decided the direction of communal life.³⁶

One other responsum deserves mention in the context of communal recognition of the support provided by members of the community's aristocracy. This responsum contains no question awaiting Adret's response; rather, it records the text of a declaration which the community of Barcelona adopted, prohibiting the study of various sciences and philosophy. When seen in the light of the Maimunist controversy which pitted the basically lower-class religious traditionalists against the upper-class supporters of philosophy and the natural sciences, this document is as sig-

nificant for what it does not say as it is for what it does say. The text affirms the centrality of Torah in every aspect of life, and prohibits the study of philosophy or the natural sciences in any language, or the teaching of these to any Jew, "lest these studies draw a person after them and turn him aside from the study of the Torah of Israel, which is above all these sciences."³⁷ The declaration then proceeds to list certain exclusions from the prohibition: the study of the sciences of medicine and astronomy were permitted, as was study of the works of Maimonides, and no restrictions whatsoever were placed upon a person once he had reached twenty-five years of age. Appended to the text of the declaration, in what appears to be a unique occurrence in Adret's responsa, is a list of the document's signatories. The list included both religious leaders of the day, such as Adret's son, Solomon b. Moshe Hen, a Barcelona judge, and Moshe b. Isaac Halevi, an anti-philosophy activist and author of Minhat Kenaot; and prominent community figures, including Bonafos and Perfet Shaltiel and Isaac b. Samuel Cap, all of whom were merchants in Barcelona. A total of 28 signatures accompany the text, and Baer comments that "nearly all of the signatories belonged to the old established Jewish families of Barcelona."³⁸

As to the document's purpose itself, it is clear that the authors wished to state their displeasure with these studies in no uncertain terms. However, it is not at all clear whether the document had any real effect on the lives

and studies of the people to whom it was addressed. By eliminating medicine, astronomy and all the works of Maimonides from the prohibition, it restored much of what it purported to eliminate, and by restricting the prohibition to those less than twenty-five years old, it effectively did no more than assure that a child would have some traditional Jewish background before engaging in these "misleading" studies. What we should consider, though, are the other effects which this document could have had, and which may, in fact, indicate its actual purpose. It did succeed in uniting the leading elements of the community - those who were themselves the most likely to have the time, education and exposure to secular subjects necessary to undertake the study of these "forbidden" sciences - in an agreement in principle. Torah comes first, and is superior to all other forms of knowledge, and is clearly superior to those studies which may mislead its students. The document may also have served to appease the traditional elements in the community by indicating the common bond of Torah which united everyone, rich and poor alike. Additionally, we must consider the possibility that Adret took his own advice and sought the approval of the nobility in his community in order to involve them - even if only symbolically - in the decision-making process. This conclusion provides both an explanation for the unique aspects of this responsum, and a telling insight into the personality and attitudes of Adret.

V. Conclusions

It is to Epstein's credit that he recognized the historical value of the material "deposited undesignedly, cursorily, and somewhat obscuredly in the practical decisions contained in the Responsa of Adreth."¹ The responsa describe several aspects of Jewish life in Aragon and surrounding areas, particularly the more legalistic aspects, with sufficient clarity and unambiguity to give reasonable assurance of the accuracy of the descriptions. This information allows us to reconstruct a reasonably complete picture of the basic framework of communal structure and societal organization in the communities which corresponded with Adret, and it is in this endeavor that Epstein was most successful. His portrayals of communal offices and their functions, social institutions, laws, and enactments are useful for an understanding of this period. However, I have concluded that Epstein's reconstruction of the details of communal life, particularly his evaluation of the motivation behind many actions and opinions preserved in the responsa, is incomplete, misleading, and not infrequently, inaccurate.

I believe that Epstein's goal in researching and writing his book, namely, to reconstruct a comprehensive picture of Jewish life in Spain in the late thirteenth century, was responsible for his major scholastic error. He stated in his Conclusion, "We marvel at the comprehensiveness and

adequacy of the material available in these incidental records for a fair, if not exhaustive, reconstruction and presentation of various aspects of Jewish life in Spain."² My study of his source material indicates that his desire to demonstrate general rules of law and practice overrode his attentiveness to accuracy. The book contains many examples of unjustified generalization, with one or at most two references providing his basis for describing a matter as a commonly accepted rule or prohibition. It appears that Epstein overlooked two limitations of the responsa literature, first, its relative inability to distinguish between rule and exception in its description of either the circumstances or the rulings in specific cases, and second, its inability to distinguish between recognized facts and the opinions of the correspondents. In order to use every detail which the responsa provide as a basis for generalization, without any sensitivity to the source of the information, it is necessary to assume both that exceptions were never made and that Adret's and his correspondents' statements reflected only unbiased and uncolored factual information. Clearly, such an assumption is unwarranted in the field of responsa literature and it substantially weakens Epstein's book.

A symptom of this unjustified generalization is Epstein's proclivity for certain words whose use conveys an impression of the widespread nature of a phenomenon. For example, he used the phrase "as a rule," and the words "some," "general-

ly," and "cases" in circumstances not warranting their use. This last example, "cases," is especially notable in that it was used to describe something referred to only once. Even in instances where exceptions to the general rules were actually noted, it was contrived in such a way as to convince the reader both of the singular nature of the exception and the general acceptance of the rule, when in fact an equal number of examples supported each side. This gives a quality of security and accuracy to the book's descriptions which, in my opinion, is often not warranted by the source material.

A specific illustration is Epstein's statement that

Provisions were made by the community for the maintainance of professional students. The funds generally came from endowments bequeathed to the community for the purpose...³

This statement is supported by only two examples (I,669 and I,1100) yet Epstein implied that the practice was universal. Further, the note that funds "generally" came from endowments is supported by only one piece of evidence from one community.

On the subject of support for the poor, Epstein noted that the responsa provide little information,⁴ yet he continued to cite minimal support to provide sweeping generalizations. Thus he wrote of the community's charity overseers that "in some communities the management of the schools was entirely in their control,"⁵ although the responsa provide

only one mention of such an arrangement (I,1157). The same single responsum is all the support Epstein cited for his statement that

The salaries of the communal teachers were paid, as a rule, monthly, sometimes yearly. In one instance the salary amounted to ten sueudos per month.⁶

His use of general statements combined with his citation of "one instance" provides the reader with a sense of universal practice which the solitary source does not confirm.

One example of this unjustified generalization is so extreme as to border on the absurd. Epstein went to excessive lengths in his description of the communal "morals censors" (berurei aveirot), stating that they were

...officers who exercised a rigid control over the moral, social and religious life of the people, /who/ were, like the tax-commissioners, an independent body, apart from the Berurim. They had the power to ban, to exact fines, to inflict corporal punishment, and to banish as they sought fit...

Such censorship could not fail to maintain a very strict discipline within the community. The officers were very stringent, bringing charges for the least infringement of any law, whether Mosaic or Rabbinic. Cases of strict severity are recorded in Adreth.⁷

According to Epstein's description of this office, there is no doubt as to either the standards the censors upheld or the power they wielded in carrying out the responsibilities of their office. Even his note, appended to this description, that "not every community had similar func-

tionaries," does not diminish the strong impression which his portrayal imparts. Analysis of his sources, however, indicates that the truth of the matter does not precisely conform to this impression.

Epstein cited a total of four responsa in support of the above statements. Of the four, two are totally irrelevant to the subject, since they make no mention whatsoever of any independent body of censors. In I,1210 Adret dealt with a problem concerning fraudulent claims of marriage; the question was addressed to him by the leaders of the community. Similarly in IV,315, a man was punished because laborers he had hired were discovered working on the Sabbath and holidays. The responsum clearly states that the man was tried, judged and sentenced by the "heads of the community," with mention of no other body.

Of the two remaining responsa cited by Epstein in this context, one supports his claim and one contains several elements actually weakening it. The latter is III,318, which describes a situation brought to Adret, again by the community leaders. In this case, a maid was discovered by the morals censors as she washed her own clothes in the river on the last day of Passover. The censors imposed a heavy fine on her employer, claiming it was his responsibility to restrict the actions of his employee. The employer appealed to the community's leaders, who wrote to Adret.

In reading this responsum, what first strikes one is the description of the morals censors which the correspondents provided to Adret. They described the selection, responsibilities and powers of these censors in such detail as to arouse suspicion that they assumed Adret would not be familiar with this position. Surely, were these censors as common as tax commissioners or judges, there would have been no need for this careful and belabored description. Further, we see from the case itself and from Adret's response that the officials were somewhat overzealous in their enforcement of the law; the maid had not been performing part of her assigned job when she was apprehended, the employer was unaware that she had been breaking the law, and Adret rejected the censors' charges completely. While Epstein sees the censors' strictness as a reflection of their diligence, the responsum hints at another possible explanation: in their description of the function of the censors the correspondents noted that all fines which the censors collected were divided among the censors themselves. Thus it is not impossible considered that the censors' motivation for strictness, as well as their decision to fine the (wealthy) employer rather than the maid herself, was more for personal profit than communal morality. Epstein virtually ignored this information, including it only in a footnote to the chapter where he asked, "Was their stringency prompted by the prospect of lucre?"⁸

Only IV,311 fully supports the statements which Epstein made concerning the morals censors. In this case the censors appealed to Adret to determine whether the testimony of relatives could be used against an individual if the relatives testified voluntarily. Adret, citing the "need of the hour," allowed the testimony and instructed the censors to act with all possible strictness. (The details of the case are not given.) However, this one example, even if considered with the supportive information presented in the previous case, cannot support the extensive description which Epstein gave. Neither the censors' functions, nor their motivations nor even their virtually universal existence can be stated with any accuracy on the basis of the responsa cited, and Epstein's writing in this area must be seen more as the result of wishful thinking than of careful scholarship.

My other major criticism of Epstein's book is that more than once he appears to ignore the facts which contradict his conclusions. It is important to remember that the form and purpose of the responsa literature are conducive to this, since the responsa of even one rabbi cover many years, many communities and many circumstances, all of which are variables affecting the content of the writing. Also, as has already been mentioned, responsa do not necessarily differentiate between fact and opinion, or between rule and exception. Accordingly, we may find that a strong stand taken by Adret actually reflects his inability to do any-

thing to remedy the problem; as has been said, we try to convince when we cannot compel. Further, we must remember that every statement in the responsa has a source, and whether it was Adret or a communal leader, that source had biases affecting its outlook. This can lead to contradictions, especially as we seek general rules to apply to the overall society. Acknowledging these contradictions may complicate our study, but ignoring them - as Epstein apparently did - can invalidate the results of the study.

An example of this selective use of facts is in Epstein's statement that

In most communities in the times of Adreth the executive power was in the hands of the local aristocracy, not an aristocracy of wealth, but essentially an aristocracy of learning and merit...⁹

Several responsa indicate that, while the control of the community was indeed granted largely to the aristocracy, it may have been very difficult to determine the distinction between the "aristocracy of learning and merit" of which Epstein spoke and the aristocracy whose position resulted from wealth. In the first place, it is reasonably clear from the responsa that one's education - certainly any education beyond the elementary level - was provided by private tutors, which argues a close correlation between learning and wealth. Further, two responsa (III,434; 443) describe communal legislation requiring the communal representatives to consult with the "heavy taxpayers" before

proceeding to any large expenditure; here the reference is specifically to an aristocracy of wealth, as measured by the contribution to the community's treasury. Finally, we must consider Adret's own position within the social framework of the community. He himself was an aristocrat, aware of the obligations and responsibility for communal leadership incumbent upon those of his class. A study of the positions and attributes of the men who signed the ban on philosophy gives a clear picture of the composition the group which Adret referred to as "the leaders of the community in wisdom and understanding." Of course, it is impossible to determine from the responsa the extent of consideration given to each of a person's attributes in elevating him to the "aristocracy," but the absolute certainty and single-mindedness with which Epstein proclaimed communal policy in this matter is unwarranted.

A similar error was committed in the description of the relationship between the king and the Jewish community. Epstein described a virtually autonomous Jewish community with which the king interfered only occasionally, and even then with restrictions:

...His mastership was limited, as, save for certain capital crimes, he could not confiscate their property.¹⁰

The judicial authorities based their decisions on the Jewish law without reference to the law of the land, which was, as far as they were concerned, not binding upon them. They, moreover presumed to define the validity of the royal,

baronial and Curia decrees according to their conception based on Jewish law, how far these decrees were within the constitutional rights of the kings, princes and barons.¹¹

In making these statements, Epstein ignored both Adret's remarks and the contents of the responsa themselves. As already discussed, Adret decided the outcome of many cases on the principle that "the law of the land is the law." Further, he specifically refused in one case to debate the question of the legality of the king's actions, and advised his correspondents to adopt the same practice. We may also take the number of questions dealing with matters of royal interference as a sign that such interference did indeed occur with some frequency, Adret's often strong replies notwithstanding. Epstein himself even mentioned a case of a baron who confiscated a Jew's property and sold it to another Jew, and he noted that "in such cases...Jewish juridical opinion would endeavour to invalidate the transaction." (emphasis mine)¹² We see then that the possibility existed that the Jewish community was, in fact, somewhat more subservient to gentile authorities than Epstein would have us believe.

Epstein's predilection toward portraying the Jewish communities of Spain as bastions of virtue and morality has already been discussed in connection with his description of the "morals censors." Further evidence of the lengths to which he was willing to go to prove this point is found in two statements which, when examined carefully, reveal

internal contradictions making the author's desired point only at the expense of logic:

As to the morals of Spanish Jews of our period, the modesty and chastity of the Jewish maidens of which Adreth speaks so highly, reflect very favourably on the morality of the elders. That, however, is only relatively correct, as Adreth remarks: "To-day unruly persons are on the increase, and there is no one to reproach his fellow man and say to one corrupting his place: 'Wherefore hast thou done so?' The daughters of Israel are gentle, but the generation renders them uncouth."¹³

And, in a similar vein:

...the Herem was merely a moral weapon intended to enforce discipline by invoking the wrath and punishment of the Almighty upon the head of the transgressors. That it was effective tends to indicate the religious character of the period. The communities would, however, at times be dissatisfied with the mere moral effect of the Herem and would affix a penalty, say, a corporal punishment, or exact a fine, in case of disobedience.¹⁴

Little need be said about these statements other than to acknowledge the obvious fact that Epstein did not permit the information contained in the responsa to influence the conclusions he wished to draw.

The final, and perhaps most incomprehensible case of Epstein's misreading or ignoring of the text concerns tax collection, about which he commented that "this fair apportionment of the burden worked without friction, except in regard to certain communal levies..."¹⁵ Here, we must assume that the vast number of queries referred to Adret con-

cerning tax disputes, royal and communal exemptions, delinquency, refusal to participate in communal assessments and numerous other conflicts indicate the presence of much friction in virtually every aspect of the taxation process. However, we need not rely even upon this convincing but indirect method of disproving Epstein's statement, since Adret himself noted at the end of two separate responsa dealing with tax matters that "the issue of taxes is still greatly debated." Given the paucity of instances in which Adret admitted to his own powerlessness, to say the least, it was inaccurate for Epstein to refer to this matter as "frictionless."

It is my conclusion that two major faults characterize Epstein's book and considerably reduce its usefulness. The first of these is the bias which he brought to his project and which, unrecognized and uncontrolled, colored what he saw and what he wrote. His description of communal life overlooked much that was strange to him, and he concentrated on those aspects which were familiar, namely, those which correlated with his own Orthodox and Ashkenazic experience and education. Many of the conclusions he drew and possibly the majority of his extrapolations were based upon the ideas and ideals held by the overwhelmingly Ashkenazic scholastic community of his time, resulting in contradictions and omissions which an objective examination of the source

would not have produced. Further, it is clear that he wished to portray an ideal society, in which problems were minimal and conflicts non-existent. He minimized disputes when the responsa indicated their undeniable presence, and took every statement of motivation at its face value.

Epstein's second major fault was in an unrealistic expectation of the ability of responsa literature to provide single, clear descriptions of an area and its people's history. Much valuable information is contained in the responsa of Adret, but in seeking his stated goal Epstein may have done a great disservice to Adret's work by ignoring or rejecting important material because it did not meet his purposes. It is clear to me through my study of these responsa that their greatest treasure Epstein never even considered: the character, personality and beliefs of a major rabbi of the Middle Ages, Adret himself. Through his writings we can peer into his mind and heart, and know his thoughts about his community and its religious, moral, political and social conduct.

A new study of Adret's responsa is needed. I have shown several major faults in Epstein's work which, if nothing else, indicate the possibility that other information and other conclusions may result from a more open, less prejudiced study. This paper is only a beginning. It was limited both by its incompleteness and by the fact that the responsa studied were those selected by Epstein, and therefore any comments concerning Epstein's possibly

biased selection of material must be applied to this paper as well. A critical edition would also be most welcome, but this would be a monumental undertaking.

In any event, certain conclusions about Adret may be stated on the basis of my work. First, there is little debate over his scholarship and skill with halachah and the various codes of civil law with which he dealt. Further, his position as an influential member of the Jewish community, both internally and externally, is incontestable. However, it is in his rôle as a communal leader, and as a model for other communal leaders, that his greatness has previously been overlooked.

Adret was a mediator. He recognized that his community contained diverse elements covering the entire spectrum in areas of wealth, knowledge and religious observance. He also understood that the surrounding structure of gentile society created the necessity for peaceful coexistence within the community. The Jews had no alternative in their mutual responsibility; they alone would reap the consequences of success or failure in achieving a peaceful symbiosis. Reciprocal cooperation and acceptance of community decisions offered the greatest benefit; concern only for personal aggrandizement would damage the entire community, including the self-serving individuals themselves. The responsa reflect Adret's appreciation of this elementary principle and his efforts to insure the community's survival.

As a lawmaker, Adret placed his desire for communal harmony foremost. I have discussed that he was often willing to overrule halachah, and even to suggest that an halachic prerogative be overlooked when its implementation would cause more harm than good. He strove to maintain the overall integrity of the communal structure, both politically and religiously, granting that even exceptions to halachah should, as a matter of principle, come from the community as a whole rather than from the authority of an individual. In many areas he strengthened the community's authority by upholding the practice of community constituted law, and several times he actually called upon the community to establish its practices to provide precedents for its subsequent judgments.

Adret acknowledged his own weaknesses, and recognized those of other rabbis. He advocated seeking advice from lay leaders before acting, and his comments to other rabbis concerning their attitudes and actions reflect a notable understanding of the desires and temptations which accompany positions of authority. He urged restraint in reacting to transgressors, and when circumstances permitted he saw great value in learning to overlook minor transgressions. Simultaneously, he acknowledged the "Power of the Sanhedrin" which he, as rabbi, possessed, and he did not hesitate to use that power to its fullest when the situation demanded. He upheld the halachah wherever possible, and he clearly

understood that even compassion and gentle persuasion had limits.

Adret emerges most clearly as a realist. Politically, he recognized the community's limitations both in relation to the king and his officers, and also to the community's own internal power forces. He acknowledged these limitations and worked within their framework, taking an absolute stand - possibly harmful both to the community and to himself - only when the situation allowed no compromise. He worked toward an effective communal government, a productive economic base and an efficient legal system within these limitations. He did not hesitate to honor and even reward those community members who assisted him in achieving these ends.

Although there are few direct references in the responsa, it is clear that Adret recognized and appreciated the different social classes which comprised his community. His works indicate a sensitivity to the differing needs and beliefs of upper, middle and lower classes, and wherever possible he sought to harmonize views and prevent destructive schisms. This is reflected in several of the responsa discussed in this paper: the case of the two cantors appointed by different factions, the ban on philosophy, his careful justification of each method of tax assessment, his dismay at the wealthy individual who refused to pay for synagogue renovation, and even his statement that charity should be allocated to the poor on the basis of their for-

mer status. These cases reveal his perspective of his constituents as individuals, entitled to their own desires, and not subservient only to every one of the community's wishes.

Finally, I find that Adret's responsa do not reflect a "frictionless" communal life in the Jewish communities of Spain. In fact, "friction" may be precisely the word to characterize the interplay of forces and authorities in the lives of Jews in that day and age. Religiously, politically, economically and socially, Adret's communities were not "melting pots," but rather "mixing bowls." Forced by external circumstances into living with people of radically different types and temperaments, the Jews were challenged to devise a means for peaceful internal coexistence. It is through his contributions to this goal and his insights into the problems marking this struggle that Adret's true greatness is revealed.

Notations to the Foreword

¹i.e.: Yitzhak Baer, A History of the Jews in Christian Spain, Volume 1 (herein referred to as "Baer").

Notations to the Introduction

¹See Baer, p. 439, note 27 for discussion.

²Ibid.

³See p. 48.

⁴Encyclopedia Judaica, Volume 1; pp. 305-8.

⁵Isidore Epstein, The "Responsa" of Rabbi Solomon Ben Adreth of Barcelona (1235-1310) as a Source of the History of the Jews of Spain (herein referred to as "Epstein"); p. XXI, note 2.

⁶Epstein, p. XXIII, note 2.

⁷EJ, op. cit., p. 306; see I, 395.

⁸Baer, p. 281.

⁹EJ, op. cit., p. 306.

¹⁰EJ, Volume 6, p. 826.

¹¹Epstein, p. XIX.

Notations to Chapter I

- ¹III,392; 434; V,15.
- ²II,52.
- ³II,279.
- ⁴I,1206; III,398; V,180.
- ⁵II,279.
- ⁶V,245.
- ⁷II,279.
- ⁸III,428; 443; V,245.
- ⁹III,434; 443; V,125.
- ¹⁰III,398; 443; V,125; 245.
- ¹¹III,434.
- ¹²II,279; III,428; V,125.
- ¹³III,428.
- ¹⁴II,279; V,125.
- ¹⁵V,245.
- ¹⁶I,1206; V,125.
- ¹⁷Ibid.
- ¹⁸IV,308.
- ¹⁹I,609.
- ²⁰I,179.
- ²¹Ibid.
- ²²I,664; III,392; 400.
- ²³V,245.
- ²⁴V,242.
- ²⁵Epstein, p. 77.

Notations to Chapter I - Continued

²⁶I,664; III,392; 400; V,130.

²⁷V,238.

²⁸Ibid.

²⁹Ibid.

³⁰V,243.

³¹III,428.

³²I,680. .

³³I,680; 811.

³⁴Ibid.

³⁵I,811. Adret does not cite reference in P.T.

³⁶I,680: "ולר' ז'ה כח' שאמר נאמן ד' אבא נאמן ד' אב'ק."

³⁷III,402.

³⁸Ibid.

³⁹V,238; 243.

⁴⁰IV,315.

⁴¹I,1209.

⁴²IV,311.

⁴³V,238.

⁴⁴IV,311; 315; V,238.

⁴⁵IV,311; 315.

⁴⁶V,238.

Notations to Chapter II

¹II,134.

²II,213; III,421.

³Ibid; II,33.

⁴II,213.

⁵I,1159.

⁶Ibid; II,356.

⁷I,841.

⁸III,421.

⁹V,244.

¹⁰Ibid.

¹¹III,328.

¹²II,71.

¹³II,244.

¹⁴V,261.

Notations to Chapter III

- ¹III,381; 391; 392; V,15.
- ²III,391; 392.
- ³III,392.
- ⁴Ibid.
- ⁵Ibid; III,437; V,15.
- ⁶V,15.
- ⁷III,381.
- ⁸I,644; III,401.
- ⁹Ibid; III, 382.
- ¹⁰Ibid.
- ¹¹III,382.
- ¹²I,644.
- ¹³V,180.
- ¹⁴III,398.
- ¹⁵Ibid.
- ¹⁶I,644; V,183: "אבל דער נאָם צו"ן מאַלקה באַמאָלקט שוין".
- ¹⁷I,179.
- ¹⁸III,318.
- ¹⁹V,259.
- ²⁰Ibid; III,243.
- ²¹I,799.
- ²²Epstein, p. 68.
- ²³I,1156; III,297.
- ²⁴III,380.

Notations to Chapter III - Continued

²⁵III,297.

²⁶V,220.

²⁷I,1103.

²⁸I,1157.

²⁹I,645. .

³⁰I,1100.

³¹I,669.

³²Ibid.

Notations to Chapter IV

- ¹i.e.: Baer.
²II,279; III,428; V,125; 245.
³V,101.
⁴III,399.
⁵Ibid. .
⁶V,125.
⁷I,644.
⁸V,279.
⁹I,841.
¹⁰III,434.
¹¹See Ch. III, note 16.
¹²I,1205.
¹³Ibid; III,446.
¹⁴V,245; similarly, see note 2 above.
¹⁵See p. 29.
¹⁶See p. 28.
¹⁷II,279.
¹⁸See p. 29.
¹⁹Baer, p. 440.
²⁰II,229
²¹I,915.
²²III,243; V,259.
²³I,1103; 1156; 1157; III,297; 380.
²⁴Ibid; III,434.

Notations to Chapter IV - Continued

²⁵See p. 39.

²⁶See p. 49.

²⁷III,417.

²⁸V,101.

²⁹See p. 14.

³⁰III,402.

³¹I,841; see p. 26.

³²Ibid.

³³See p. 14.

³⁴III,434; 443.

³⁵V,243.

³⁶V,238.

³⁷I,415.

³⁸Baer, p. 304.

Notations to the Conclusion

- ¹Epstein, p. XIX.
- ²_____, p. 95.
- ³_____, p. 64.
- ⁴_____, p. 68
- ⁵_____, p. 39
- ⁶_____, pp. 64-65.
- ⁷_____, p. 38.
- ⁸_____, p. 108, note 57.
- ⁹_____, p. 33.
- ¹⁰_____, p. 3.
- ¹¹_____, p. 53.
- ¹²_____, p. 4; see II, 356.
- ¹³_____, p. 88.
- ¹⁴_____, pp. 77-78.
- ¹⁵_____, p. 10.

Appendix A - Responsa Studied

<u>Volume I</u>	<u>Volume II</u>	<u>Volume III</u>	<u>Volume IV</u>	<u>Volume V</u>
179	19	64	56	4
316	33	195	66	5
395	52	243	67	6
415	71	296	181	15
539	134	297	276	22
548	213	318	285	101
609	226	322	293	125
610	229	328	308	130
626	244	380	311	136
638	279	381	314	152
643	300	382	315	162
644	356	383		178
645		386		179
664		388		180
669		391		183
680		392		184
696		394		209
799		396		220
811		397		222
841		398		229
873		399		238
887*		400		239
891		401		240
915		402		241
967**		404		242
998		405		243
1019		406		244
1100		407		245
1103		408		246
1129		410		249
1156		413		259
1157		414		261
1159		417		267
1167		418		268
1205		420		270
1206		421		277
1209		428		279
1210		429		281
1249		430		282
		434		286
		437		473
		440		
		443		
		445		

*-Identical to V,136.
 **-Identical to III,430.

No responsa from Volumes
 VI or VII were studied.

Appendix B - Incorrect Citations in Epstein

As indicated in the Introduction, the following responsa are those which were cited by Epstein to support a statement or conclusion but which I found to be irrelevant to the issue.

I,316: Cited in discussion of the use of herem "in cases of presumptuousness and arrogance." (Epstein, p. 76, note 4.)

I,1019: Cited in discussion of Christian fines and restrictions. (Epstein, p. 9, note 7.)

I,1210: Cited to support claim that the morals censors (berurei aveirot) were separate community officials. (Epstein, p. 38, note 51.)

II,213: Cited to support claim that Jews purchased privileges from royalty at "exorbitant rates." (Epstein, p. 2, note 15.) Text never mentions the cost or the rate.

III,417: Cited to support claim that "the community had often imposed upon it communal officers whom it did not like." (Epstein, p. 37, note 46.)

IV,66: Cited in discussion of bans imposed by one Jew upon another. (Epstein, pp. 77-78, notes 61 and 62.) Text mentions only self-imposed bans.

V,101: Cited to support claim that "the community had often imposed upon it communal officers whom it did not like." (Epstein, p. 37, note 47.) This was an incorrect reading of the text.

V,267; 268: Cited as an example of an individual bequeathing his estate to the poor. (Epstein, p. 68, note 73.) Text never mentions estate's intended usage.

V,277: Cited to support claim that "a person could not be secretary if his annual tax assessment was less than three dineros." (Epstein, p. 34, note 14.)

VII,246: Cited in discussion of royally-appointed rabbis. (Epstein, p. 42, note 99.) VII,246 refers to I,539; irrelevant.

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