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Jewish Hawking in Medieval France: Falconry, Rabbenu Tam, and the Tosafists

by Leor Jacobi

... when the Israelites left Egypt they were comparable to a dove that fled from a hawk and entered a small hole in a rock and found a snake's nest. She could not enter any further because the snake was there, and she could not turn around for the hawk was waiting outside. What did the dove do? She began crying out and flapping her wings so that the owner of her birdhouse would come and rescue her. (Canticles Rabbah 2, 2)

An interdisciplinary approach is useful in interpreting medieval rabbinic sources related to hawking. Traditional rabbinics, Jewish history, general history, the history and modern practice of hunting and falconry, zoology, and medieval art all must be harnessed in unison. In this manner, much light is shed on the various aspects of the practice, which are otherwise distanced from the modern gaze by a wide dark chasm of ignorance regarding “primitive” hunting techniques.

Hawking, otherwise known as falconry, is a method of hunting which utilizes captive trained predatory birds. It was developed in ancient times somewhere in the East—the precise time and location lost in the mists of ancient Eastern prehistory. Apparently, it was relatively unknown to the ancient Greeks and Romans, who did not practice it. Falconry was

developed extensively by the Persians, through whom the Babylonian Jews became acquainted with it. The practice spread independently both to Arabia and west into Europe.¹ Falconry reached an apex in the Middle Ages and Renaissance periods, but in the modern era it was displaced to a great extent by the use of firearms.² The present article explores the medieval Jewish knowledge of, and especially the exploitation of this technique, centered in twelfth-century Northern France in the communities surrounding the great master Tosafist, Rabbenu Tam. Various concerns regarding the Jewish dietary and other laws will be addressed in depth, as well as medieval biblical exegesis, all with an eye towards extracting material which may be of interest to general historians and scholars of falconry.

Rabbi Jacob ben Meir Tam ('*Rabbenu Tam*,' ca. 1100–1171) was a towering figure of medieval French Jewry, probably the dominant personality of the era.³ He was the primary force behind an entire legal school of *Tosafists*, which branched out over all of Jewish Europe and

- 1 About the vexing question of the earliest developments of falconry, a very useful study is that by Kurt Lindner, *Beiträge zur Falknerei und Vogelfang im Altertum*, Berlin, 1970. Recent detailed articles are by Karin Reiter, "Falknerei im alten Orient? Ein Beitrag zur Geschichte der Falknerei," in *Mitteilungen der deutschen Orient-Gesellschaft in Berlin*, 120 (1988), p. 189–206, and "Falknerei im alten Orient? II. Die Quellen," in *Mitteilungen der deutschen Orient-Gesellschaft in Berlin*, 121 (1989), p. 169–196. See also Jeanny Vorys Canby, "Falconry (hawking) in Hittite lands," in *Journal of Near Eastern Studies*, 61 (2002), p. 161–201. I am deeply grateful to Professor Baudouin Van den Abeele for providing these references and especially for his useful observations, which resulted in many revisions to this paper. Also see: Wietske Prummel, "Evidence of Hawking (Falconry) from Bird and Mammal Bones," in: *International Journal of Osteoarchaeology*, Vol. 7 (1997): p. 333–338.
- 2 Epstein, Hans J., 'The Origin and Earliest History of Falconry,' *Isis*, Vol. 34, No. 6 (Autumn, 1943), pp. 497–509.
- 3 Biographies may be found in all Jewish and standard encyclopedias. Most recently, see: Avraham Rami Reiner, *Rabbenu Tam and his Contemporaries*, Jerusalem, 2002, Hebrew University doctoral dissertation (English Abstract).

whose legal opinions appear on the page of virtually every edition of the printed Talmud. The grandson of the preeminent commentator Rabbi Shlomo Yitzchaki ('*Rashi*,' ca. 1040–1105), he also wrote on grammar, and composed a *piyyut* (Hebrew “liturgical” poetry) describing the traditional (masoretic) punctuation and cantillation marks of the Hebrew Bible.⁴ Rabbenu Tam first expressed the central principle of textual criticism, which many hundreds of years later was termed *lectio difficilior potior*.⁵ His elder brother and teacher, Rabbenu Samuel ben Meir ('*Rashbam*') studied with *Rashi* directly, and is particularly well-known for his innovative Biblical interpretations; a relatively rare foray of Rabbenu Tam's into biblical interpretation will be the topic of section III.

I. Silver Talons on the Hawk of the Jewish Antichrist

Rabbenu Asher... wrote in his *Tosafot* that he received a tradition that Rabbenu Tam would put talons of silver on his hawk, like shoes, when he wanted to eat what it trapped.⁶

4 See Henry Englander, 'Rabbenu Jacob ben Meir Tam as Grammarian,' in HUCA 15 (1940), pp. 485–495 and the *piyyut* fully annotated in the popular Hebrew edition: וינפלד, שמואל יהודה בן יעקב שאול, טעמי המקרא: של כל כ"ד כתבי הקודש שמותייחם, חוקותיהם ערוכים בטבלאות בתוספת השיר של ר"ת לחוקי טעמי המקרא, ירושלים: אשכול, תש"נ.

5 א"ש רוזנטל, "רב בן-אחי ר' חייה גם בן אחותו?", ספר חנוך ילון, ירושלים תשכ"ג, עמ' 288. See also: Haym Soloveitchik, *The Use of Responsa as a Historical Source* (Hebrew), Jerusalem, 1990, p. 40. Rabbenu Tam formulated the principle *lectio difficilior* as follows:

'שתלמידים המגיהים אינם מגיהים דברים של תימה'. ספר הישר (חלק התשובות, ברלין 1898) סימן מד.

6 Throughout this essay, biographical information from Bar Ilan University's Responsa Project Software has been copied freely. Rabbi Asher ben Jechiel was born ca. 1250 in Germany, and died in 1327 in Toledo, Spain.

שיטה מקובצת לרבינו בצלאל אשכנזי [מכון אופק, תשס"ה] חולין נג, א: וכתב הרא"ש ז"ל בתוספותיו ששמע כי ר"ת היה עושה לנץ שלו, כשהיה רוצה לאכול מצידו, צפרנים מכסף כמו מנעלים.

It may be possible to infer from this passage that there were also occasions on

So states Rav Betzalel Ashkenazi (ca. 1520–ca. 1592) in his monumental *Shita Mekubetzet*.⁷ An illuminating article written by Avraham Reiner describes three delicate questions in biblical interpretation, which Henri I (known as a very devout Christian) asked of Rabbenu Tam, and the favorably received responses.⁸



Illustration 1: Henry I, Count of Champagne. Bibliothèque municipale de Toulouse, Ms 450 - fol. 190r, http://numerique.bibliotheque.toulouse.fr/cgi-bin/superlibrary?a=d&d=/ark:/74899/B315556101_MS0450_190R

At the end of Reiner's article, he reports that the aforementioned quote from *Shita Mekubetzet* was verbally cited to him by Simha Emanuel, as proof of Rabbenu Tam's exemplification of some rather surprisingly “French” hunting practices.⁹ It seems particularly appropriate to quote

which Rabbenu Tam practiced hawking without the intention to eat what his hawk trapped, and in those cases he did not utilize the silver talons.

- 7 Literally: *compendium of opinions/approaches*. bHulin 53a, from a lone manuscript published separately in 2005 by both Machon Ofeq and Machon Ahavat Shalom. The editor of Machon Ofeq's edition, Rabbi Avraham Shoshana, claims that the manuscript was written by Rabbi Betzalel Ashkenazi's own saintly hand.
- 8 לזכרו של פרופ' ישראל משה תא שמע: דברים שנאמרו באזכרה לכבודו ט"ו בכסלו 36-29 עמ' (2005), תשס"ה, ירושלים, תשס"ה = Reiner, Avraham, 'Rabbénu Tam et le Comte Henri de Champagne,' Sirat, René Samuel, *Hérigates de Rachi*, 2006, p. 38.
- 9 In *Hamlet*, Shakespeare referred to French falconers as a paragon of (over)enthusiasm for their sport: 'We'll e'en to't like French falconers, fly at anything we see.' Act II, Scene 2. The tinge of satire may refer to the traditional wide variety of game still pursued in France, as opposed to a more sophisticated “sport” already popular in

Reiner's conclusion in his French translation:

Rabbénu Tam avait-il l'habitude de chasser, selon la coutume des nobles de France? Il me semble difficile de mettre en doute l'authenticité de cette description qui, selon notre point de vue montre que Rabbénu Tam était mêlé, plus que nous ne l'avions soupçonné jusqu'à présent, à la vie française et champenoise!¹⁰



Illustration 2: The Manesse Codex (UBH Cod. Pal. germ. 848), 1300-1330: König Konrad der Junge (fol. 7r)
<http://digi.ub.uni-heidelberg.de/diglit/cpg848/0009>

England at Shakespeare's time. Also, in *All's Well that Ends Well*, a 'Gentle Astringer' (=hawker, falconer) plays a role in the French court. Act 5, Scenes 1 and 3. See discussion in: Horobin, *Falconry in Literature*, Hancock, 2005, p. 46. <http://www.hancockhouse.com/products/pdfs/FalLitChap.pdf> (retrieved 17/11/2011).

- 10 For a related discussion of the French and Byzantine influence on the actual legal approach of the Tosafists, with a focus on Rabbenu Tam, see: José Faur, 'The Legal Thinking of the Tosafot: A Historical Approach,' *Dine Yisrael*, Volume VI (1975), pp. Xliii–lxxii; on a somewhat more skeptical note: Haym Soloveitchik, 'Dialectics, Scholastics, and the Early Tosafists' (Hebrew), in *Sidra 24-25* (2010), pp. 267–272.

From this source attributed to Rabbenu Asher (*Rosh*) by Rabbi Betzalel Ashkenazi, Reiner concludes that Rabbenu Tam himself practiced hawking. It seems quite likely that Rabbenu Tam was, in fact, more of a “Frenchman” than we may have realized, but it would be premature to reach a historical conclusion based on this source. Indeed, as Reiner states, it would be difficult to impeach the authenticity of such a statement stemming from Rabbenu Asher, even if the temporal separation of a hundred and fifty years, and the geographic and linguistic distance between Tsarfat and Ashkenaz do leave some room for doubt. However, after analysis of the manuscript sources, it seems highly unlikely that the *Rosh* himself actually wrote these words. A number of factors lead to this conclusion—even if none of them alone is more than a cause of doubt.

First of all, if this tradition, with its legal ramifications in terms of kashrut, was transmitted by the Rosh, we would hope for some mention of it in his other writings, or at least in the codex by his son Jacob, the *Tur*. Even though not all halakhic opinions discussed are found in *Piskei Ha-Rosh* and *Tur*, this one attributed to Rabbenu Tam is actually conspicuous in its absence.

More directly, this section itself does not appear in any of the four known manuscripts of Rabbenu Asher's own *Tosafot* on Tractate Hullin. In the introduction to the recent critical edition of Rabbenu Asher's *Tosafot* on Hullin, R. Eliyahu Lichtenstein states that some of the citations of the *Tosafot Ha-Rosh* in *Shita Mekubetzet* may have originated from a later editor and not from Rabbenu Asher himself.¹¹ Much evidence supports his hypothesis in the present case.

Shita Mekubetzet also records there, in an adjacent reference, that

11 Mossad HaRav Kook, 2002, p. 6, "יש לפקפק". A comprehensive study of all such citations to *Tosafot HaRosh* in *Shita Mekubetzet* on Hullin that are not found in our manuscripts is a scholarly desideratum. If a pattern would emerge linking these additions with the *Tosafot* by Rabbenu Peretz, our conclusions here would be further solidified.

Rabbi Perez ben Elijah of Corbeil (Rabbenu Peretz died ca. 1298¹²), a noted French Tosafist and student of Rabbenu Yehiel of Paris,¹³ attributes to Rabbi Isaac of Norwich (who will be discussed later) a practice seemingly identical to that attributed to Rabbenu Tam:

Similarly, Rabbenu Peretz... wrote in his *Tosafot* that: 'Rabbi¹⁴ Isaac of Norwich from the Land of the Island [=England] would do so [as follows]: His hawk, which is called *esparviere*, would have its feet covered and on its talons, silver, while hunting fowl, lest it inject venom. This is the proper procedure (*halakha l'ma'ase*).¹⁵ Until here [I have quoted verbatim the words of Rabbenu Peretz].¹⁵

- 12 Died between 1297 and 1299, according to Benjamin Richler, see: בנימין ריצ'לר, 'על כתבי היד של "ספר היראה" המיוחס לרבי יונה גירונדי', עלי ספר 58 (תש"ם), עמ' 23, הע' 58. My thanks to Rami Reiner.
- 13 The mother of Rabbenu Peretz hailed from the prestigious Kimhi family. Her father, Rabbi Mordechai was a grandson of the illustrious Rabbi David Kimhi ('Radak'), whose father, Rabbi Yosef composed *Sepher Ha-Zakkut* as a response to Rabbenu Tam's foray into the field of grammar. Rabbenu Tam wrote regarding the conflict between Menahem and Dunash, generally taking Menahem's side in the controversies. Rabbi Yosef Kimhi apologized profusely in the introduction for his daring to speak against the "king," but that did not stop Rabbenu Tam's student "Binyamin" from responding harshly in the margin of a manuscript of *Sepher Ha-Zakkut*, as reported by Urbach, p. 108. (According to Golb, *Normandy*, pp. 316–318, this is the same Rabbi Benjamin who appears in *Tosafot* and who participated in a disputation with a Christian.) The genetic genealogy of the Kimhi family has been recently studied by Matt Gross, and has thus far appeared in a popular article by this author: 'Racing Backward in Time,' *Mishpacha* magazine, 10.20.10.
- 14 The term "Rabbi," as opposed to "Rabbenu," which Shita Mekubetzet attributes to most sages, somewhat suggests that Rabbi Isaac was not a profoundly influential scholar, which seems reasonable given the dearth of citations of his rulings in the writings of the English Tosafists themselves.
- 15 שיטה מקובצת לרבינו בצלאל אשכנזי [מכון אופק תשס"ה] חולין נג, א וכן כתב הר"ף ז"ל בתוס' שה"ר יצחק מנורוויץ בארץ האי [=אנגליה, ליאור] היה עושה כן, היה נץ שלו שקורין אשפרווי"ר חפוי ברגליו ובצפרניו כסף לצוד עופות פן יטיל ארס. וכן הלכה למעשה. ע"כ.

The attribution may be considered highly reliable. No parallel is available, as Rabbenu Peretz's writings on this tractate are not extant, and are known to us only through *Shita Mekubetzet* as well as other secondary sources who cite this lost work. The two attributions of this practice of utilizing silver talons appear side by side in *Shita Mekubetzet*. I will argue that this one is the original and not the attribution to Rabbenu Tam. Even if we were to accept that the Ashkenazi/Sephardi Rabbenu Asher himself wrote this particular *Tosafot*, despite the considerable evidence that he didn't, the French Rabbenu Peretz would remain a much more reliable source for identifying the French sage who constructed talon covers. In Part III of this article, we will see another ruling governing a falconry practice, which was also transmitted through Rabbenu Peretz himself.

The only other medieval source discussing talon covers is Rabbi Menachem, son of the martyr Aaron, son of Zerah, in his primarily legal work *Tzedah La-Derech*.¹⁶ Rabbi Menachem was born in 1310, in Navarre, probably in the town of Estelle, the son of refugees from Philip the Fair's great French expulsion of 1306. His own parents were murdered, along with several thousand other Jews, during the persecutions of 1328 in Navarre.¹⁷ He himself was reportedly severely beaten and left for dead, but subsequently saved by a righteous gentile neighbor. Rabbi Menachem studied in the *yeshiva* of Toledo, under Rabbenu Yehuda ben Asher, and in Alcalá (de Henares), where he was eventually appointed Chief Rabbi in 1361. In the introduction to *Tzedah*

16 The work also includes substantial ethical and medical materials. The relevant passage reads:

ואם כסו צפרני הדורס בכסף או כיוצא בו וצד בו עוף מותר לאוכלו שהרי לא הטיל בו ארס והוא שלא ניקב אחד מהאברים שהנקב פוסל בהם. (צדה לדרך, למברג 1859, המאמר השני, הכלל הראשון, עמ' מ"ז).

17 Reimann, A. "Menachem Ben Zerach" in *Annuario di Studi Ebraici I*, Ed. Cassuro, U., 1935, p. 147-8.

אידלברג, שלמה 'הספר "צידה לדרך" ומחברו, רבי מנחם בן הקדוש רבי אהרן בן זרח'. הקונגרס העולמי למדעי היהדות 6, ג (תשלג) ע"ע 15-30.

La-Derech, he writes that between the years 1350 and 1368 he studied Talmud in Alcalá with the *Tosafot* of Rabbenu Peretz “continuously, day and night” along with his study partner, the former Rabbi of Alcalá.¹⁸ That is the only time in the entire work that Rabbenu Peretz is mentioned by name; thus, it would be safe to assume that after 18 years of Talmud study utilizing his *Tosafot*, that opinions and traditions found in those *Tosafot* must be well represented in Rabbi Menachem's opus.¹⁹ I propose that those *Tosafot* of Rabbenu Peretz are themselves the direct source of the ruling found in *Tzedah La-Derech*, with not only the name of the *Tosafot* omitted by Rabbi Menachem, but also that of the enigmatic Rabbi Isaac of Norwich, the most probable originator of the silver talon covers.

A scholar/scribe eventually mentioned the practice of silver talon covers in a gloss to his copy of Rabbenu Asher's *Tosafot*. (The text of this very manuscript, or a copy of it, was reproduced by the Spanish Rabbi Betzalel Ashkenazi in his *Shita Mekubetzet* and was later lost.) Toledo or its vicinity seems the most likely location for this addition, the intersection of *Tosafot* by Rabbenu Peretz, *Tzedah La-Derech*, and

18 צדה לדרך, למברג 1859:

‘ואחר כן באתי אל הארץ הזאת בשנת צ”א ועכבונני באל”קלעה ולמדתי שם עם ה”ר יוסף אבן אלע”יש נ”ע והיינו חוזרים תמיד יומם ולילה הוא ואני מראש המסכת בתוס’ רבי” פרץ...’

19 However, Rabbi Menachem was a direct student of Rabbenu Yehuda, son of Rabbenu Asher, at the famous *yeshiva* in Toledo. In addition, in the introduction to *Tzedah La-Derech* he indicates that, not surprisingly, the study was centered on the teachings of Rabbenu Asher, so the possibility that the source of the law in that compendium is *Tosafot Ha-Rosh* cannot be ruled out. Nevertheless, the *Tosafot* by Rabbenu Peretz seem like a much more likely source as the author was immersed in it while compiling his tome, and we have much greater cause to believe that the ruling actually appeared there. Aviad Markovitch informs the author that a published scholarly work indeed documents the relation between *Tzedah La-Derech* and the *Tosafot* by Rabbenu Peretz, but should this work exist, I have been unable to locate it. It reportedly claims that Rabbi Menachem's mention of Rabbenu Peretz is meant to absolve himself of the obligation to quote Rabbenu Peretz by name repeatedly within the work.

Tosafot Ha-Rosh, and the fermentation ground for the *Shita*.²⁰ This gloss may have been quoted and adapted directly from the *Tosafot* by Rabbenu Peretz, although the possibility of influence from the work *Tzedah La-Derech* should not be discounted. The lack of an attribution found in *Tzedah La-Derech* may be a crucial intermediate step in the eventual mistaken attribution. In Spain, the perceived distinctly “French” practice was ascribed to the prominent French Rabbenu Tam. It makes little difference if the silver talon covers may have technically originated in the French “satellite” of Angleterre, the Sephardi eye justifiably saw Tsarfat, probably in all things associated with Jewish hawking. Furthermore, the construction of silver talon covers itself clearly indicates great personal wealth, an additional factor which may have suggested Rabbenu Tam to the Spanish scribe.

It should be noted that the appearance of two identical traditions side by side with different attributions is a common phenomenon in the earlier rabbinic Talmudic corpus. Our catch-all compendium *Shita Mekubetzet* could provide a later model for some of those earlier parallels, as well as itself being understood according to critical scholarly methods already applied to the more nebulous Talmudic examples.

The issue regarding Talmudic literature has been methodically addressed by Shamma Friedman. The first question to ask is whether we are discussing two actual historical events, two ancient traditions regarding one historical event, or one event with an earlier version closer to the historical truth and a later, edited and adjusted version. The first

20 It should be noted that according to Urbach, Rabbenu Asher himself made use of the *Tosafot* by Rabbenu Peretz on certain tractates, perhaps also in Toledo, after his migration to Spain. Furthermore, according to Urbach, Rabbenu Asher directed criticism towards the *Tosafot* by Rabbenu Peretz on Tractate Hullin in particular. Ibid. p. 581. Regarding this criticism and the influence of the French *Tosafot* by Rabbenu Peretz in Spain, especially on *Ritva*, a contemporary of Rabbi Menahem, see: Ephraim Kanarfogel, 'Between Ashkenaz and Sefarad: Tosafist Teachings in the Talmudic Commentaries of Ritva,' in: *Between Rashi and Maimonides*, New York, 2010, especially p. 262–267.

model is characteristic of very traditional rabbinic scholarship (and therefore not even discussed by Friedman); the second possibility of two ancient parallel accounts is adopted by many modern scholars and endearingly referred to by Friedman as *zakhor v'shamor*.²¹

The third possibility, which Friedman champions in general, he refers to as *parashah shenithadesh bah davar*.²² He explains:

Similar but differing texts do not spring into existence in primeval twinning. Changes come about developmentally and usually editorially, and their effects can be recognized in terms of a wide range of well-known literary and stylistic categories, which are far from unique to our corpus.

This approach would be more fruitful in evaluating our parallel between Rabbenu Tam and Rabbi Isaac of Norwich. Elsewhere, Friedman explains that the general tendency in Talmudic and other parallels is to shift over time towards the more famous person and place names.²³ In this case, that would be Rabbenu Tam, obviously, as opposed to Rabbi Isaac of Norwich, our unknown "*lectio difficilior*."

To return to the basic issue at hand, of identifying the historical creator of the silver talon covers, an additional factor obviating the attribution of the practice to Rabbenu Tam himself, is the absence of any mention of it in *Sepher Ha-Teruma*, by Rabbi Baruch ben Rabbi Isaac (ca 1140–),²⁴ a student and associate of Rabbenu Issac of Dampierre, nephew

21 "Uncovering Literary Dependencies in the Talmudic Corpus", S.J.D. Cohen (ed.), *The Synoptic Problem in Rabbinic Literature*, Providence 2000, pp. 35–57, especially the beginning. Also see the beginning of his:

"שני ענייני חנוכה בסכוליון של מגילת תענית", ציון עא (תשס"ו), עמ' 40-5.

22 Ibid, p. 38.

23 פרידמן, שמא יהודה. 'לאגדה ההיסטורית בתלמוד הבבלי' בתוך: ספר הזכרון לרבי שאול ליברמן (תשנ"ג), עמ' 132.

Also appears in: 'עמ' 400-401, תשס"ח, עמ' 401-400.

24 According to Simha Emanuel, Rabbi Baruch was a distinctly French sage, and did not hail from Worms or represent Ashkenazi schools as commonly reported by

and successor of Rabbenu Tam. On the contrary, *Sepher Ha-Teruma* takes a lenient stance, which is much more likely to reflect Rabbenu Tam's own legal opinion than the stringency, which probably led to the manufacture of the silver talon covers.

Before elaborating on this point, and explaining the opinion of the *Sepher Ha-Teruma*, the Jewish legal rationale for the manufacture of silver talon covers requires some background explanation.

Exodus 22:30 states: “And ye shall be holy men unto me: neither shall ye eat [any] flesh [that is] torn of beasts in the field; ye shall cast it to the dogs.” According to traditional rabbinic interpretation, any animal which has been sufficiently mauled (Mishna Hulin 3, 1) by specific predators, or has had certain of its vital organs damaged (Mishna Hulin 3, 3), is rendered unfit for consumption—*treif* in the original Hebrew of the verse—even if it was subsequently slaughtered according to legal procedures. The Babylonian Talmud (Hulin 53a) explains that this disqualification of mauling is due to venom, which is released via the claws or talons and subsequently causes the puncturing of internal organs (*Rashi*, bHulin 53b) or death (*Tosafot*, bHulin 42a). The fact that this understanding appears to contradict our modern scientific understanding

many sources, including Urbach. I found through searches on the Bar Ilan Responsa Project software that the work *Sepher Ha-Teruma* quotes Rabbenu Tam by name about a hundred times.

שמחה עמנואל, 'ואיש על מקומו מבואר שמו': לתולדותיו של ר' ברוך בר יצחק, תרביץ סט (2000), עמ' 423-440.

רב ברוך בן רב יצחק, ספר התרומה (וורשא, 1897) הלכות טרפות סימן כה: ובהדי דשליף צפרניה אז שדי זהרי' וארס וא"כ כשהנץ או העוף טמא אחד הכה על עוף טהור בידו אם בעוד היד על העוף טהור שחט העוף קודם שהסיר ידו כשר דאין זורק ארס כי אם כשמסיר ידו מיהו יש ליוהר מזה כי יש פעמים שמסיר ידו מעל הטהור וחוזר ומכה ואינו ידוע. מחזור ויטרי הלכות שחיטה מספר התרומה (מה' הורוביץ, עמ' 755-782) סימן כה: או עוף טמא שהכה עופות טהורים. נץ בעוף הגס. וגז בעוף הדק. ושאר עופות בדכוותיהו טריפה. ואם שחט העוף טהור קודם שהסיר העוף טמא ידו מעליו כשר. אבל יש לחוש שהסיר ידו שלא בפניו אסור.

of animal physiology has long been the topic of much debate, which is beyond the scope of our discussion, but which I hope to address in depth in a future article.²⁵

Thus, any fowl mauled by a large raptor, such as an astor (hawk) or a falcon, is disqualified from consumption under Jewish law as *treif*. However, the Mishna states that a *netz* (interpreted by *Rashi* and most interpreters as a small raptor, such as an *esparviere*, a sparrowhawk) only produces enough venom to disqualify small fowl such as a dove, but not larger fowl, such as a duck, goose, or chicken. Its relative ease of availability and affordability likely account for the fact that the sparrowhawk is probably the most commonly mentioned bird of prey in medieval Hebrew sources discussing falconry or kashrut.²⁶

Furthermore, the Babylonian Talmud understands that this venom is released upon the withdrawal of the talons or claws, not upon their application. Thus, if the prey is ritually slaughtered while still in the clutches of even a large predator, the fowl is permitted. This leniency is endorsed cautiously, and appears to have been relied upon in practice by certain Jewish communities, as the decision is codified in the early French liturgical and legal compendium, *Mahzor Vitri*, and later *Tosafot* (bHulin 53a) refers to them as a living actuality: “There are those who err in

25 Explanations from modern perspectives have been offered by Rabbi Eliyahu Dessler and Rabbi Aryeh Carmell in *Michtav Me-Eliyahu*, Vol 4, Jerusalem, 1983, p. 355, note 4 (see also *Sihat Hullin* in Hebrew, cited below), which are further discussed by Natan Slifkin (in his forthcoming *The Torah Encyclopedia of the Animal Kingdom*). In Maimonides' Code, one finds no explicit mention of the venom. Rabbi Dessler maintains that the sages of the Mishnah and Tosefta had other rationale behind these laws, in addition to the explanation of the venom. Perhaps these early sages did not have venom in mind at all but, rather, *Drisa* was simply the most direct manifestation of the biblical prohibition on eating *treif* (Exodus 22:30). The latter point itself is stated explicitly by Maimonides in *Hilchot Shehita* 5, 3.

26 Use of larger birds was often restricted to the nobility, and may have been prohibitively expensive. 'The Decline of Falconry in Early Modern England,' in *Past and Present* 157 (Nov. 1997), p. 46.

permitting..." The procedure, as discussed by *Tosafot*, is depicted here by Rabbi Amitai Ben-David in his comprehensive illustrated *Sihat Hulin*:²⁷



Illustration 3: Rabbi Amitai ben David, *Sihat Hulin*, Jerusalem, 2003, p. 343

However, this practice was not endorsed by the *Tosafot* and all subsequent legal authorities. The reason stated is that although the practice is absolutely permitted from a technical standpoint, in fact implicit in the anonymous later strata of the Talmud,²⁸ it should not be actually relied upon, as the raptor usually strikes repeatedly, and will thus release its grip (injecting the venom) and reattach itself, without the

27 אמתי בן-דוד, ספר שיחת חולין, ירושלים, תשס"ג, עמ' 343.

28 Which in and of itself, strongly suggests Jewish falconry in the East, already assumed by the falconry historian Hans Epstein, in 'The Origin and Earliest History of Falconry,' *Isis*, Vol. 34, No. 6 (Autumn, 1943), pp. 497–509.

owner necessarily perceiving this.²⁹ Dr. Nick Fox, a Conservation Biologist specializing in raptors and falconry, wrote in a communication dated June 13, 2011:

Occasionally a raptor will strike prey a passing blow, but normally, once it has got the prey in its claws, it never lets it go, not if it can help it. It will hang on to the prey and if unattended will kill it, pluck it and eat it. But the falconer hastens to the spot and if the prey is not yet dead, kills it himself. So that is the norm.

Andrew Knowles-Brown, an expert English falconer and hawk breeder, estimated in a private communication dated June 12, 2011, that approximately 75% of hawk kills of bird prey are accomplished without the hawk ever releasing its talons. Nick Fox wrote in *Understanding the Bird of Prey*:

When the muscles contract, the foot closes tightly. The tendons slide in grooves in the underside of the toe bones and are held in place by tough sheaths. The sheaths are lined with fine ridges rather like the grooves of a fingerprint and engage with rough ridges on the tendons themselves (figure 1.17.2). When the foot tightens, these ridges lock together like a ratchet mechanism on a handbrake. Possibly, you will have noticed a stiff, jerky, creaky effect when loosening the grip of a live hawk; this is the ratchet being forcibly overridden. The ratchet has two useful purposes for the hawk: It enables it to "lock" its foot closed on a branch while sleeping, and it means that once it has got a tight grip on its prey, it

29 The leniency of *Sepher Ha-Teruma* is, in fact, contingent upon one taking utmost care to observe that the hawk's talons have not been released previously. Still, *Tosafot* claims that this is an erroneous opinion.

תוספות מסכת חולין דף נג, א ד"ה קא משמע לן:

קא משמע לן דבהדי דשליף שדי זיהריה - יש שטועין להתיר לשחוט כשהנץ שוכב ע"ג העוף ולא הסיר רגליו עדיין דאכתי לא שליף ולא שדי ביה זיהריה ואסור לעשות כן דכשהנץ רודף אחר העוף ולוכדו מכהו כמה פעמים ברגליו ודרים ושליף כמה זימנין.

does not require much muscular effort... Of course, the ratchet, like so many devices, is subject to technical hitches; not a few ospreys have drowned by being unable to unlock from an oversized fish.³⁰

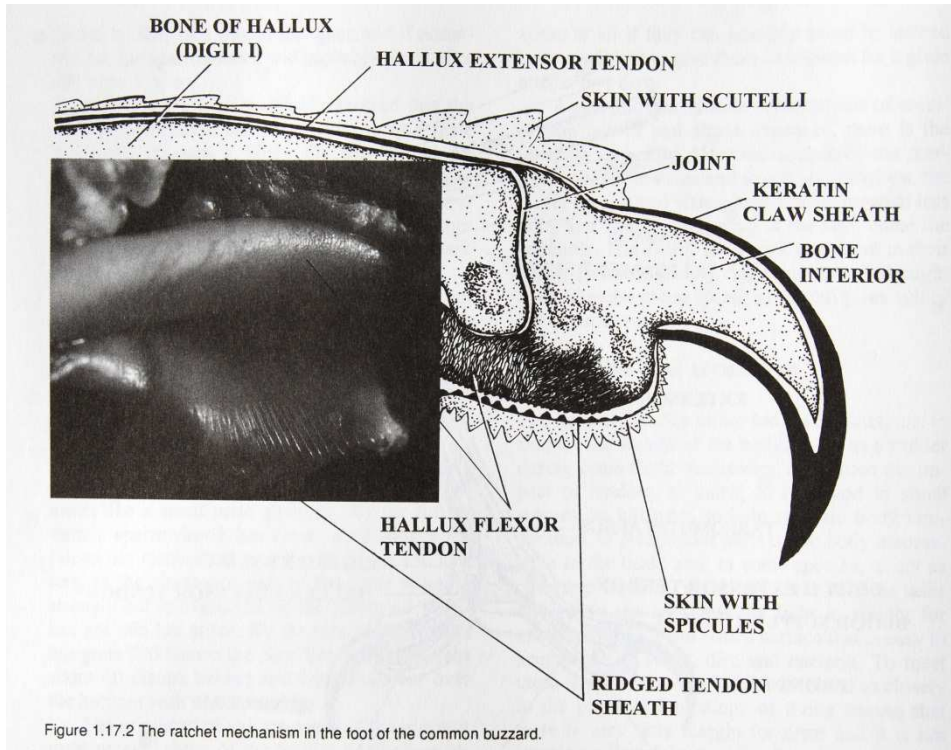


Figure 1.17.2 The ratchet mechanism in the foot of the common buzzard.

Illustration 4: Understanding Birds of Prey, Nick Fox, Hancock, 1995, pp. 52–3

The falcon, on the other hand, kills through high-speed airstrikes with its talons, or, after seizing the prey with its talons, by severing the spinal cord with a special notch in its mandible, referred to as the *tomial tooth*.

30 Nick Fox, *Understanding the Bird of Prey*, Hancock House, 1995, p. 52–53.

Indeed, the “killer falcon” seems much less suited for Jewish use than the hawk, and indeed, although all early descriptions of species are somewhat ambiguous, medieval Jewish sources almost invariably seem to refer to hawks, rather than falcons. The smaller *esparviere*, the sparrowhawk, can catch small birds, such as doves, and the larger *astor*, the goshawk, may trap larger fowl, such as geese. Thus, this article is primarily entitled “Hawking,” rather than “Falconry.”

What accounts for “our” *Tosafot* rejecting the basic talmudic assumption underlying the leniency of the *Sepher Ha-Teruma*?

One may argue that this is not an example of the simple tendency towards stringency of later authorities, here no longer accepting the leniency of assuming that the hawk never released its grip, which covers 75% of the cases. It seems, rather, as though *Tosafot* is describing “a different bird” than *Sepher Ha-Teruma* is, one which he claims “strikes several times with its talons” in the act of trapping the fowl. This is not the practice of the hawk, which, as we have seen, usually does not release its first grip on its prey. In other words, the descriptions of raptor predatory realities offered by *Sepher Ha-Teruma* and *Tosafot* diverge dramatically.

In our opinion, the most likely explanation is that our *Tosafot* is describing the hunting behavior of the falcon in particular, rather than that of the hawk. This medieval sage probably viewed the sport of falconry as a spectator and, not distinguishing between the falcon and the hawk, projected his impressions on all predatory raptors.³¹ In the next section we will see that the taxonomic distinction between the falcon and the hawk was commonly blurred during the medieval period, especially before Frederick's taxonomic advances, which will also be discussed later. In contrast, the lenient practice of the *Sepher Ha-Teruma* reflects an actual Jewish practice of hunting with hawks in particular, not falcons. As

31 We will see in Section IV that the high-speed attack of the falcon in particular, made it popular in spectator sports, as opposed to the earlier “bird in the bag” hawking, oriented towards food acquisition. See: “Evidence of Hawking,” *ibid.*, p. 333.

is the case with most tractates, our anonymous *Tosafot* on Tractate Hullin is attributed by Urbach to *Tosafot Tuch*, probably composed later, in the early or mid 13th century.³²

Even without this understanding of the hawk's characteristics, a Jewish hawkster may be motivated to manufacture silver talons as a stringency, which would remove any shadow of a doubt regarding possible transmission of perceived venom through the talons. However, according to this view of the *Tosafot*, that all raptors strike repeatedly, they would be an absolute requirement for any practice of hawking at all. Although *Shita Mekubetzet* on Tractate Hullin has only recently been discovered (and could thus be marginalized by many traditionalists as a practical legal source), and the mainstream authorities of *Tur/Beit Yosef*, and *Shulhan Aruch* and its commentators, were apparently unaware of the ruling described in *Tsedah La-Derech*, they did unambiguously follow the stringent opinion of the *Tosafot*—rather than *Sepher Ha-Teruma*, as would be expected—categorically prohibiting hawking (as understood, without silver talons.) Eventually, *Pri Hadash* (Rabbi Hezekiah da Silva, 1659–1698, Livorno, Italy) affirmed the stringency of the silver talons as described in *Tsedah L'Derech*, but by then we could assume that this was a mere transmission of a previous ruling, which did not reflect any Jewish practice then current.

Is it in fact possible to handicap a raptor with such a contraption as silver talon covers on its talons, and expect it to succeed in trapping prey? It may be argued that the practice was nothing more than a hypothetical legal fiction, or a legend that never existed in practice. However, Dr. Nick Fox states:

32 Urbach, *ibid.*, p. 666. It may be argued that the relative geographic and temporal proximity between the *Sepher Ha-Teruma* and the *Tosafot* obviates divergent identifications of the *netz*. However, not only was there great general confusion in the medieval period between the hawk and the falcon, but as we will see in Section II, a certain confusion probably reigned in the school of the Tosafists in particular, if only as a result of the fact that according to Rabbenu Tam himself, the identification of the *netz* as the hawk is itself erroneous!

We use beads on the falcons' claws when catching houbara uninjured for research. Sparrowhawks kill by driving in their claws, their beaks are relatively weak (unlike a falcon's). In early times, before freezers, the storage of meat was a real problem and it may well be that birds, such as quail, were caught alive and kept in a holding pen until needed for consumption later.³³

Thus we see that not only is the silver talon contraption of Rabbi Isaac possible, but this technology could provide the distinct advantage of trapping living, uninjured prey for later consumption. Further evidence to support this conclusion is found in a book written by the modern Spanish falconer, Manuel Diego Pareja-Obregon:

The project was based on studying the reaction of the different water birds that lived in the marsh when they were under attack by a bird of prey. We first placed a plastic thimble on the goshawk's talons that protected the prey from the clutch of the bird; once the different birds were captured they went on to take information of scientific interest: size, wing length, etc. Once the

- 33 The houbara is similar to a small ostrich. Although not permitted under Jewish dietary law, this bird is widely consumed by Muslim Falconers, for whom falconry is explicitly permitted in the Qur'an: "They will ask you what else is made lawful for them. Say: Those things which are fitting to eat are lawful for you, and the prey of those animals and birds of the chase which you have trained. Eat of what they catch for you and make mention of God's name over it, and fear God: God is swift to reckon." Qur'an, Chapter 5, Surah Al Ma'aida (Revelation of the Table), Verse No. 4. Allen, Mark, *Falconry in Arabia*, London, 1980, title plates and introductory pages. Qur'an quotation adapted from there and by the author from the Hebrew translation of Aharon Ben-Shemesh, Tel Aviv, 1978. The throat must be slit simultaneous to a verbal sanctification of the holy name. Apparently, at least some Muslim sects allow this slit to be performed even after the trained predator has dispatched the prey, as Dr. Nick Fox reported in a communication dated June 10, 2011. Also see: Shlegel, Hermann, *The World of Falconry: completed by a study of falconry in the Arab world*, New York, 1979.

ring was placed, they were set free...³⁴ Covering the birds' claws was not a problem, but before we started hunting the area, I made several samples with farm chickens in order to try its efficiency. These coverings *reduce the ability to kill by 85% and turned the hawk's claws into big traps* for the species to be captured. (italics – D. Horobin).³⁵

It is not clear how statistically significant this 85% figure is, but it makes no difference: Even with the handicap of these “thimbles,” the hawks are clearly able to trap other birds.³⁶ However, the primary purpose of the contraption is simply to prevent direct contact between the talons and the prey, thus interrupting the flow of the perceived venom. It need not handicap the abilities of the hawk, but may theoretically even enhance them. The prey may be either slaughtered while in the grip of the hawk—in a manner similar to that done without the contraption, as explained in *Sepher Ha-Teruma*—or taken alive.

The tradition passed on by the *Shita Mekubetzet*, which characterizes Rabbenu Tam as being personally engaged in hawking, may not be entirely

34 Manuel Diego Pareja-Obregon, *Goshawk: God Made You Eternal*. Huelva: Cartaya, 2007, p.177. I thank David Horobin for providing this reference. Pareja-Obregon also writes of a historic use of the goshawk, which, with the points of the talons filed off to prevent injury, would capture cranes and herons for use in the training of falcons to take large prey. A similar process was observed by Alan Taylor, an expert falconer, who wrote in a private communication on June 13, 2011, that he had repeatedly observed Chinese peasants flying “Tuhu” falcons at hares. The falcons “had their talons blunted and the point of their upper mandible removed to the notch... they did often take the hare alive to be used again as a released quarry for a novice falcon.

35 Pareja-Obregon, p.180. I corrected minor grammatical errors in the translation from Spanish.

36 In an initial query to falconers on June 8, 2011, before becoming aware of this source, this author asked, paraphrasing the practice of Rabbenu Tam: “Would silver ‘thimbles’ ever be placed on the talons of a hawk (astor)?” ‘Thimbles’ is the exact term used by Pareja-Obregon.

spurious, although the claim of his having manufactured special paraphernalia has no significant evidence supporting its historical veracity. All that we can do is to paint a portrait of the cultural climate in which the great sage found himself, one in which falconry occupied an important space, especially in the context of the royal court. Let us begin with a quote from the opening paragraph of the English abstract of Avraham Reiner's 2002 dissertation on Rabbenu Tam, which expands our appreciation of the master sage, and which illustrates his connection to, and influence on, other rabbinic centers, where falconry is also mentioned in the rabbinic literature:

His approach is characterized by vision, originality and magnificent mastery of text on the one hand, and a sense of “truth” in interpreting and applying halakhah on the other. Recognition of his power and ability in study and interpretation transcended his native boundaries and, as a result, students from distant places in unprecedented numbers made their way to study with him in his school in Champagne. On returning to their native cities and towns, his students brought with them a new way to interpret the Talmud and apply halakhah, which influenced all of Europe. Alongside this, Rabbenu Tam maintained a correspondence with many scholars spread across Europe, from Regensburg to the east, to Provence and Italy to the south, and across the Channel to England in the north. Such a geographic range and number of responsa exchanges had never before been known to exist in Europe, nor, seemingly, afterwards can this easily be found.

The Champagne region of France, where Rabbenu Tam resided, appears to have been a traditional center of falconry, where its practice continued.³⁷ Soon we will hear more from Rabbenu Tam's student,

37 Apparently, the practice of falconry has continued in the region without interruption until the present day. Much later, a formally organized falconry club in France named Club de Champagne was in existence from 1865 to 1870 (until the upheavals of that year). Wood, Casey and Fyfe, F. Marjorie, *The Art of Falconry*,

Rabbenu Ephraim of Regensburg, and also from Rabbi Isaac of Norwich, a prominent member of the Jewish community of Rabbenu Tam's disciples in England, a community which was probably brought to England from northern France along with William the Conqueror and the Normans.

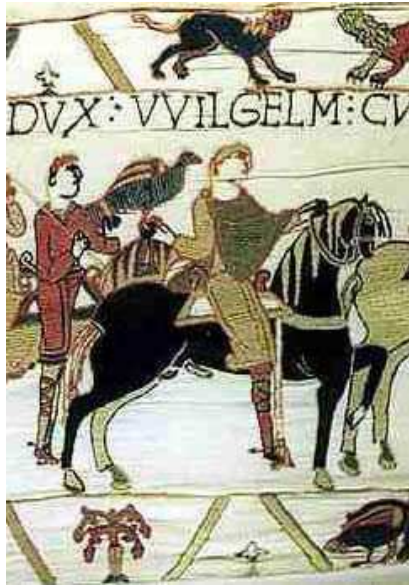


Illustration 5: William the Conqueror, Bayeux Tapestry, Reading Museum, www.bayeuxtapestry.org.uk

Rabbi Zerachya Ha-Levi, a prominent sage of Provence who was profoundly influenced by Rabbenu Tam, also weighs in on the topics of hawks and falconry. The paths of transmission of the teachings of Rabbenu Tam described by Reiner lead to the very locations in which we find evidence or discussion of Jewish Hawking.

According to Israel Ta-Shma:

R. Tam lived in Ramerupt where he engaged in moneylending

Oxford University Press, London, 1943, p. 452.

<http://www.oqimta.org.il/oqimta/5773/jacobi1.pdf>

and viticulture, typical occupations of the Jews there at that time, and became well-to-do. His business affairs brought him into contact with the nobility and the authorities, who occasioned him much trouble. To a great extent his attitude toward non-Jews in various halakhic questions was conditioned by his direct contact with them ...³⁸

One might prefer the term "affected" to "conditioned," but this underscores a central point. Falconry and hawking are considered sports of the nobility and the affluent. The activity seems out of place for the Jewry of a highly differentiated medieval society, with Jews excluded from many trades and certain aspects of the surrounding social life which falconry and hawking seem to represent.³⁹ Therefore, Rabbenu Tam's personal affluence is a strong mitigating factor against this potential objection to the very possibility of medieval Ashkenazi Jews having engaged in Hawking. According to Norman Golb, "Jacob Tam's correspondence actually indicated that he was in the service of the crown, apparently as chief counselor responsible for royal policy towards the Jews of Champagne."⁴⁰ Golb proceeds to cite medieval sources, which report that Rabbenu Tam was "a man of great wealth and beloved in the king's court." He was "[often] present in the palace of the King of France, who had great affection for him." This probably refers to King Louis VII, whose wife Eleanor was also an avid hawker.⁴¹ Golb suggests that some

38 *Encyclopedia Judaica*, Jerusalem, 1971, Vol. 15, p. 779.

39 I thank Prof. Benjamin Arbel for repeatedly stressing the gravity of this point in our personal communications. See the beginning of his 'Venice and Kytherian Falcons,' in *Acts of the 8th International Congress of Pan-Ionian Studies*, Athens, 2009, Vol III, and the literature cited there in Note 2. Indeed, I am suggesting that the results of this present study indicate the need for a reevaluation of the role of Jewish leaders in medieval Anglo-French society.

40 Norman Golb, 'The Rabbinic Master Rabbenu Tam,' in *Crusades*, Vol. 9 2010, p. 60–61.

41 David Hilliam, *Eleanor of Aquitaine*, Rosen, 2005, P. 16. Falconry is by far the form of medieval hunting most accessible to women, who are pictured in many medieval depictions, including the Flemish tapestry found in Section IV.

of Rabbenu Tam's writings surreptitiously refer to the powerful Count Theobald the Great, who once warred against Louis VII and prevailed.

A similar or even greater level of affluence may be found as well in the personage of Isaac of Norwich, to whom the practice of hawking is more reliably attributed, as discussed above. Isaac can probably be identified in the following passage as one of the wealthiest and most powerful members of medieval Anglican Jewry. As noted above, the rabbinic leadership of the entire Anglican Jewish community during that period should be viewed as consisting of disciples of the school of Rabbenu Tam.

One of the earliest known anti-Semitic caricatures, dating to 1233, was directed primarily against Isaac of Norwich:⁴²

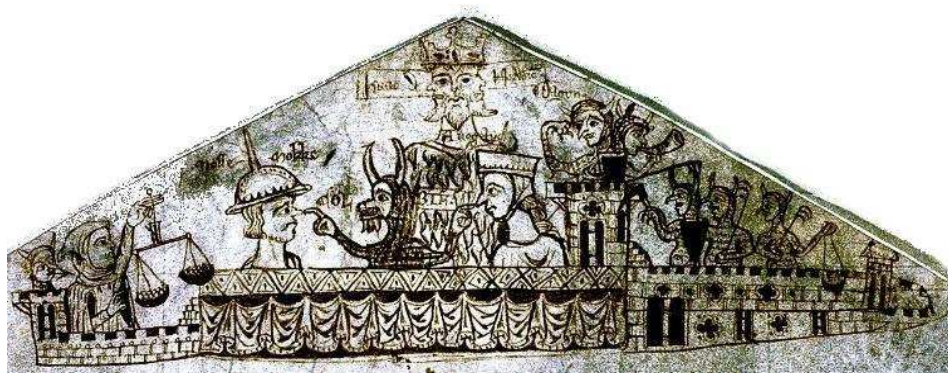


Illustration 6: Exchequer of Receipt, Jews' Roll, no. 87, Hilary Term, 17 Hen. III., 1233 The writing surrounding the head of the crowned three-headed figure reads: 'Isaac of Norwich.'
<http://www.umilta.net/tallynorwich.jpg>

The precise intention of this caricature is not clear and has been the topic of much scholarly discussion. Rabbi Isaac is portrayed as a three-headed antichrist.⁴³

42 Lipman, V. D., *The Jews of Medieval Norwich*, The Jewish Historical Society of England, 1967, P. 106–7.

43 Sara Offenberg explains that the three-headed figure is a representation of the antichrist, who denies the Christian trinity: *Expressions of Meeting the Challenges of*

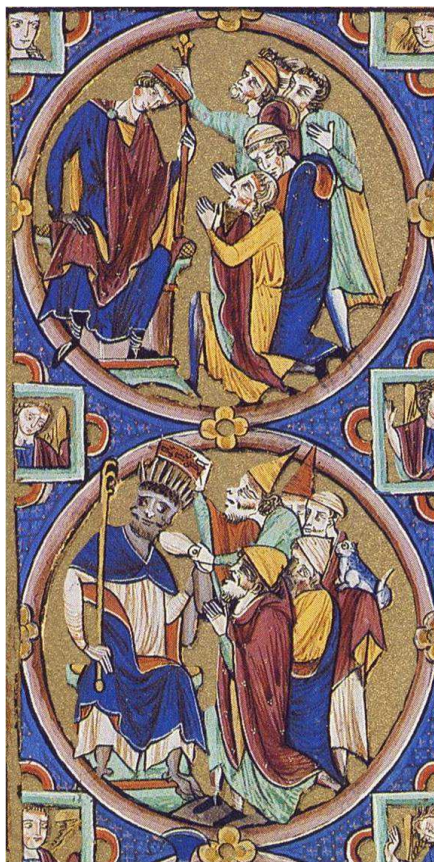


Illustration 7: Bible Moralisée, Paris 1220–1230. ÖNB/Wien, Cod. 2554, fol. 43v. Three-headed Jewish Antichrist pictured below. From: S. Offenber, “*Expressions of Meeting the Challenges of the Christian Milieu in Medieval Jewish Art and Literature*,” (Hebrew Doctoral Dissertation), Beer Sheva, 2008, part 2, p.21.

the Christian Milieu in Medieval Jewish Art and Literature, (Hebrew Doctoral Dissertation), Beer Sheva, 2008, p. 31–32, image 11. See: Fellenstein, Frank, 'Jews and Devils: Anti-Semitic Stereotypes of Late Medieval and Renaissance England,' in *Journal of Literature & Theology*, Vol. 4, No. 1 (March 1990), especially Note 10 and Lipman, *ibid*.

Isaac had extensive business dealings with the upper strata of Anglican society, primarily through money lending.⁴⁴ Along with many other prominent Jews, he probably was imprisoned for an extended period sometime between 1210 and 1213. He personally had to pay a mark a day for a thousand days in order to escape capital punishment, which others indeed suffered.⁴⁵ For example, Moshe Mokke, portrayed on the left with the pointy Jewish hat, an associate of Rabbi Isaac, was later executed. This all occurred during the reign of, and under the auspices of King John, himself a legendarily avid falconer,⁴⁶ who in 1208 reserved falconry exclusively to the Crown, though his aggressiveness was curtailed by the Forest Charter of 1217 which confirmed the right of every freeman to “the eyries in his woods.”⁴⁷ The nuns of Carrow, Norfolk (so close to Norwich that today it is considered a central part of modern Norwich, just a half-mile from the castle walls) offered King John a sparrowhawk in return for having a phrase in their charter altered. Falconry and hawking are popularly practiced in the Norwich region to this day.⁴⁸

It seems as though Rabbi Isaac of Norwich's practice was later

44 See the great number of references to him in *Exchequer of the Jews*, J. M. Rigg (ed.), London, 1905.

45 BBC News of June 23, 2011 reported that DNA and other tests performed on 17 bodies found at the bottom of a well, mostly children, were probably Jewish victims of a mass-murder committed in the 12th or 13th centuries. <http://www.bbc.co.uk/news/uk-13855238>

46 Robert Oggins, *The Kings and their Hawks*, Yale, 2004, p. 65–71.

47 Richard Grassby, 'The Decline of Falconry in Early Modern England,' in *Past and Present* 157 (Nov. 1997) p. 58. Eyries = the nest of an eagle or other bird of prey, built in a high, inaccessible place.

48 Oggins, *ibid.* David Horobin, author of *Falconry in Literature*, Hancock, 2005, wrote in a private communication on June 19, 2011, “There are also quite a few references to falconry in this era in Norwich—King's Lynn, not that far away, was a chief centre for imported hawks and falcons... Norfolk has long been a stronghold of British falconry since the flat, open landscapes have provided scope for some of the more dramatic flights from the earliest times up until the mid 19th century.”

ascribed to the more prominent Rabbenu Tam. I would like to conclude this section with a methodological anecdote. An earlier version of this paper accepted the attribution to Rabbenu Tam as likely historical fact. At the time, I was rebuked by a rabbinic acquaintance. How could the great Torah sage, Rabbenu Tam, have whittled away precious hours on such a frivolous sport? He must have been engaged in learning Torah day and night! After reluctantly and inconveniently reversing my position—not for his reasons, but on the basis of additional evidence presented in this paper, and of which I was previously unaware—I received an opposite rebuke from a critical researcher, actually a cousin of the Rabbi. He accused me of apologetically refraining from casting Rabbenu Tam as being integrated with the secular culture of his time, as a hunter and inventor, embodying the spirit of “Torah and Derekh Eretz.” Indeed, when evaluating great historical figures, it is very difficult to be truly objective and prevent our own biases from clouding the historical gaze backwards, on one side or the other. If objectivity cannot be attained, it can at least be striven for.

II. The eternal *Shtadlan* sways the king with a falcon

A central thesis of this article is that the Jews of Medieval France did indeed practice falconry (or to be specific, hawking), if only peripherally, and that the locus of this activity was in the French communities which happened to surround Rabbenu Tam. A similar conclusion has already been stated, virtually “divined,” by the great falconry historian, Hans Epstein, in a footnote (39) to his “Origin and Early History of Falconry.”⁴⁹

49 Epstein, Hans J., “The Origin and Earliest History of Falconry,” *Isis*, Vol. 34, No. 6 (Autumn, 1943), pp. 497–509, URL: <http://www.jstor.org/stable/225894> Compare: A. Berliner, *Aus dem Leben der deutschen Juden im Mittelalter*, Berlin: M. Poppelauer’s Buchhandlung 1900, p. 29, who apparently stopped short of this conclusion. On the basis of *Orchot Chayim*, cited in Section III, he concluded that the Jews of Provence (!) practiced falconry—a point this paper leaves undetermined—rejecting Berliner’s conclusion. I thank Gad Freudenthal for this

The source for his conclusion is an interpretation found in several medieval commentaries on the Pentateuch, one of which attributes it to Rabbenu Tam himself. We will quote Epstein's words in full:

That the Jews adopted falconry from other people is borne out in another passage. In a Hebrew commentary on the Pentateuch, *Hadar Zekenim*, composed in France in the 12th century (see: Ginzberg: *The legends of the Jews*, I, 392)⁵⁰ in its comment on Gen. XXXII, 14, Jacob is said to have presented Esau with "a bird called in French *esparvier*, which princes and knights carry on their hands."⁵¹ The word *esparvier* (*modern F. epervier; G. Sperber; sparrowhawk*) is transliterated in Hebrew characters. The same comment is quoted in a MS commentary (cited in Kasher's *Torah Shelemah*, ad. loc.) in the name of Rabbenu Tam, French, 1100-1171 A.D., as follows: "that which came to his hands,"⁵² i.e. that which is customary for a man to bring in his

important reference.

50 It is somewhat surprising that this commentary entered Ginzberg's opus of legends. The modern reader may understand it as a legend, but Rabbenu Tam probably meant it as a *pshat*—the *sensus literalis* of the verse. I thought that this citation might indicate that Ginzberg understood that Rabbenu Tam viewed it as a *midrash*, but David HaLivni indicated to me in a personal conversation in early June, 2011, that he does not think that this is so.

51 Epstein's translation of this word, *parashim*, as *knights* is particularly apt, as the biblical word typically is translated *horsemen*, its plain meaning. However, numerous medieval examples are appropriately translated *knight*, and listed as such in the monumental Ben-Yehuda Dictionary. The context of *ministers* strongly supports this reading.

הדר זקנים 5 כתבי יד, מתוך: גליס, הרב יעקב, עורך, תוספות השלם, ירושלים תשמ"ד, עמ' רטו:
 וי"א שנתן יעקב לעשו עוף שקורין אשפרייבייר שנושאים שרים ופרשים על ידיהם.
 (וכתב יד אחד מוסיף: והוא הנץ הצד שאר העופות שהוא רגיל להיות יושב ביד האדם).

52 Epstein is following the translation of the King James Bible, but the Hebrew would be most simply translated: *that which came in his hand* (singular!), i.e. certain items that Jacob was bringing; in this case, the various flocks in Jacob's possession

hand, namely, a hawk etc. which kings and princes carry in their hands to hunt birds therewith.”⁵³ Thus each age sees past history in the light of its own achievements!

While we agree with Epstein's conclusion on the basis of other, more explicit evidence presented here, it seems a bit hasty to conclude from this commentary alone that some Jews did, in fact, practice falconry. Nevertheless, in retrospect, it seems that his logic is quite compelling, if we understand him correctly. The willingness of a commentator or author to project an activity back to a mythic founder is a telling sign of its presence and acceptability in his own community.

In marked contrast, the Spanish sage, Rabbenu Bachya (or Bachye) ben Asher (1255–1340), a member of the famous rabbinic ibn Halawa family and a disciple of Rashba in Barcelona, cites this commentary, but interprets it in a surprising manner. The verse states: “That which came

(figuratively “hand”) mentioned explicitly in the following verses. Rabbenu Tam introduces the novel interpretation: *that which came on his hand*, i.e. a hawk. In Hebrew the same prefix, *b'*, is used to indicate both *in* and *on*. An additional factor which the commentary attributed to Rabbenu Tam (too) deftly exploits is the singular *hand* of the masoretic text. In the plain sense, one would expect that objects brought to be given to Esau would be carried in the plural: *hands*. The somewhat unexpected use of the singular *hand* suggests an object which would be carried in/on one hand alone, and never with two hands: the hawk! Other commentators exploited the singular *hand* in various ways. See *Rashi* and *Torah Shleima* ad. loc.

- 53 פירוש לתורה של רבינו אפרים, מתוך: תוספות השלם, י' גלים, עורך, (ירושלים תשמ"ד) עמ' רטו בראשית לב, יג. תוקן ע"פ כ"י ירושלים - הספרייה הלאומית Ms. Heb. 28°636.
שמעתי בשם הגאון רבינו תם ז"ל "ויקח מן הבא בידו" ממה שדרך האדם להביא בידו והוא הנץ שקוראין אותו בלעז אסטור שהמלכים והשרים מוליכין אותו בידם לצוד בו עופות, והוא דבר חשוב מאוד בעיניהם, לפי שצדין בו בלי פרישת מכמורת ופח ומצודה ויעקב ידע בעשו אחיו כי היה איש שדה ויודע ציד לכן נתנו במתנה.
כ"י מוסקבה גינצבורג 1059, עמ' א122:
ויקח מן הבא בידו שמעתי בשם הגאון רת' ז"ל ממה שדרך בני אדם להביא בידו והוא הנץ הנקר' בלשון לעז פלקון שהמלכים והשרים מוליכין אותו בידם לצוד בו עופות והוא דבר חשוב...

on/in his hand:' According to Rabbenu Bachya, "his hand" does not refer to the hand of Jacob, but to the hand of Esau!⁵⁴ Only Esau, the gentile hunter, would carry a hawk on his hand, not Jacob, who dwells in Jewish tents of study. We may infer from this shift of his interpretation that hawking was neither practiced nor considered acceptable in the Sephardic community of Rabbenu Bahya.⁵⁵ It seems safe to assume that Rabbenu Tam, however, in an environment where Jews did indeed practice hawking, did not have in mind the same interpretation as Rabbenu Bahya. Hence, he felt no compunction in the hawk befitting equally well to Jacob's hand.

Medieval Spain seems a doubtful location for Jewish falconry. However, Provence, home of the aforementioned Rav Zerachya and Rav Menahem Meiri, borders Northern France and Spain in more ways than one. A falconry manual was once translated to Hebrew, probably in Montpellier, Provence, entitled *Sepher Ha-Otot Ha-Tofsim Aherim*.⁵⁶ The anonymous translator, who refers to himself as "Do'eg Ha-Edomi," was an apostate with misgivings about his betrayal of Judaism. He undertook a great translation project of twenty-four scientific and medical works from Latin to Hebrew (of which the falconry manual was the final translation) in order that more of his Jewish brethren should be able to

54 רבינו בחיי (ירושלים תשנ"ד) בראשית פרק לב פסוק יד:
 ויש שפירש "מן הבא בידו", עוף הנקרא פלקו"ן, כי מפני שהיה עשו איש ציד הביא לו העוף הזה
 שיצוד בו, ויהיה לפי כן שיעור הכתוב: ויקח מנחה לעשו אחיו מן הבא בידו, כי מלת "בידו" תחזור
 לעשו, כלומר ממה שנהג להביא בידו.

55 Earlier, in his novella to bHullin 62b, the great Spanish sage Nahmanides makes reference to having observed many others carrying around falcons, "everywhere and all the time," but it seems that he was relating to it purely as a Jewish spectator.
 חידושי הרמב"ן (מהדורת "זכרון יעקב", ישראל, תשנ"ד) מסכת חולין דף סב עמוד ב:
 ואנו רואין בני אדם בכל מקום ובכל זמן שהעוף המזומן להם לצידה והורגלו לצוד בו יותר משאר
 עופות כולן הוא הנקרא בלע"ז אשפרכי"ר [צ"ל אשפרכי"ר], וכן נהגו הראשונים ז"ל ללעז הנץ
 אשפרכי"ר וכן פירש"י ז"ל בהלכה בפ"י המשנה וכ"כ בפ"י התורה, ובל' ערבי כן נקרא נץ [נ"א בץ]
 בחלוף קרוב ומורגל בלשונות.

56 Barkai, Ron, *A History of Jewish Gynecological texts in the Middle Ages*, Brill, 1998 p. 27.

study and practice medicine. Then, Jewish patients would not have to rely upon gentile doctors who prescribe non-kosher remedies such as blood and prohibited fats!⁵⁷ The great bibliographer Moritz Steinschneider undertook an extensive quest to find an actual copy of the manual, but only succeeded in locating references to it.⁵⁸ Thus, there is little chance that the existence of this Provencal falconry manual informs us in any way about a possible Jewish falconry practice there. Similarly, in the next section, we will see a clear reference to Jewish falconry preserved in the Provencal legal compendium, *Orhot Haim*, however it seems that is simply a Provencal transmission of an original French source.

Returning to the topic of Rabbenu Tam's commentary, we find that much more can probably be inferred from it. However, before proceeding in a somewhat speculative direction, some caution is in order regarding the attribution of this commentary to Rabbenu Tam, especially since in Section I of the article we focused on an attribution that is probably somewhat fanciful. The only commentary that mentions Rabbenu Tam by name is that of Rabbenu Ephraim, not to be confused with Rabbenu Ephraim of Regensburg (whose legal innovation will be discussed in the following section), nor with the author of another confusingly similar

57 Gad Freudenthal, "The Aim and Structure of Steinschneider's *Die Hebraeischen Übersetzungen des Mittelalters*. The Historiographic Underpinnings of a Masterpiece and Their Untoward Consequences," in *Studies on Steinschneider*, ed. R. Leicht & G. Freudenthal, Leiden, p. 203–4. Forthcoming from Freudenthal is further discussion on the enigmatic translator, as well as a linguistic analysis of his Hebrew prose and poetry, in cooperation with Uri Melammed of the Hebrew Language Academy.

58 Steinschneider, Moritz, *Die Hebraeischen Uebersetzungen*, Berlin, 1893, p. 969–970. Provencal rabbinic sources indicate that the Jewish sages of Provence displayed a more scientifically advanced conception of bird taxonomy than did their rabbinic contemporaries, which increased over a period of two hundred years until the time of the expulsion of the Jews from Provence. Given the number of medical and scientific manuals translated to Hebrew from Arabic and Latin in Provence, this is not at all surprising.

commentary attributed to Rabbenu Ephraim ben Shimshon.⁵⁹ The identity of the author, presumably named Rabbenu Ephraim, is unknown, but undoubtedly, it was written in the early or mid-fifteenth century.⁶⁰

The work definitely dates from the early to mid-fifteenth century and thus a gap of over two hundred years separates it from Rabbenu Tam himself, a fact that should warrant historical skepticism. On the other hand, other attributions to Rabbenu Tam in the commentary are corroborated in the *Tosafot*. The author was a student of R. Yohanan ben Matitya of France, whom he quotes much more often than any other sage, lending at least some geographic proximity (even if separated by one or two expulsions). A commentary cited from Maimonides with the exact terminology, "I heard in the name of..." (*shamati b-shem*), is indeed found almost verbatim in the commentary of Rabbi Avraham ben Ha-Rambam.⁶¹ In the event that the attribution is not correct, the following

59 Which is itself quoted in this commentary, adding to the bibliographic confusion!

60 According to Simha Asaf, the author was R. Ephraim Al-Nakawa (d. 1448 according to *Malkhe Yeshurun*, p. 47, recorded elsewhere as 1442) of North Africa, son of R. Israel, author of the alternative *Menorat Hamaor*. However, Naftali Ya'akov HaKohen in his encyclopedia of rabbinic figures does not accept this conclusion, as there are other candidates from the same period named Ephraim, who may fit the bill. Our author was a student of R. Yohanan ben Matitya of France, and of an otherwise unknown mystic R. Levi ben Shem Tov.

ס' אסף, 'פירוש התורה לרבינו אפרים ז"ל', מחקרים לזכרון ר' עמרם קאהוט, ניו-יורק תרצ"ו, עמ' א-ה.

הכהן, נ' יעקב הכהן, ספר אוצר הגדולים אלופי יעקב, בני ברק, תשכ"ז-תש"ל, חלק ב', ערך תתצט.

(09/02/12) <http://www.hebrewbooks.org/pdfpager.aspx?req=22628&st=&pgnum=257>

אפרים בן ישראל נקאוה, שער כבוד ה', תוניס, תרס"ב.
<http://www.hebrewbooks.org/21126> (20/02/12)

However, compare the folk style of this commentary with the Maimonidean approach of Ephraim Al-Nakawa: C. Sirat, "La pensée philosophique d'Ephraim al-Naqawa," *Daat* 5 (1980), p. 5–21.

61 אסף אלהים את חרפתי: שמעתי בשם ה' רבינו משה מר' מימון ז"ל פירוש פסוק זה: אמרה רחל קודם שנולד לי בן זה הייתי חרפה וקלס בפי הבריות שהיו אומרות עלי שאיני ראויה לעשות פרי, כי אם לתשמיש לבד, והיום הזה שילדתי בן אסף אלהים את חרפתי, שהרי על כרחם

proposal should simply be modified so as not to portray Rabbenu Tam's personal psychology in devising the commentary, but rather, as an explanation for the historiographical thinking of the later generations, who pinned him down as the sage who should have conceived it.

Hans Epstein concluded his discussion by noting that “each age sees past history in the light of its own achievements!”⁶² The converse is that each age sees past history in the light of its own predicament as well, while viewing itself as reliving the stories of the mythical characters with whom it identifies. Epstein justifiably draws historiographical inferences from Rabbenu Tam's apparently anachronistic projection of falconry back to biblical times; by reversing the direction of the projection, the precise context in which the projection occurs can also inform us about the situation in Rabbenu Tam's time.

Perhaps it is no accident that Rabbenu Tam was named for the patriarch Jacob. “Tam” is an affectation added to his given name, Jacob, in accordance with Genesis 25:27, where Jacob is described as a “plain man” (KJV), in contrast to Esau, who is identified in the very same verse as a hunter. The Hebrew *tam* is translated here as *plain*, but it can also connote, *pure* or *quiet*, which is probably the intended meaning behind the appellation of Rabbi Jacob “Tam”. Rabbenu Tam, following the main current of all Jewish interpretation, probably identified strongly with his namesake, facing no small danger to himself and to his camp from his mighty brother Esau, who bears Jacob a great grudge. Jacob is helpless to defend himself, and must adopt primarily a strategy of placation. How in Rabbenu Tam's eyes is the mighty hunter Esau bought off and won over? Just as Esau's medieval counterpart, the powerful gentile king, is bought off—with a precious hawk.

יאמרו שהרי אף אני ראוייה אף לבנים. (מה' גר, עמ' 33). והשווה פירוש רבינו אברהם בן הרמב"ם, מה' ששון, לונדון, תשי"ח, עמ' צד וההפניות שם בהערות לרמב"ם עצמו.

62 Origin and History, *ibid*.



Illustration 7: Ptolemy with a falcon, *Der Naturen Bloeme* (National Library of the Netherlands, KA 16, fol. 85v), c. 1350, http://resources42.kb.nl/MIMI/mimi_KA16/MIMI_KA16_085V_MIN.JPG

Esau has complete military superiority over Jacob and his camp, just as the medieval Jewish subjects were entirely at the mercy of their king and officers. Our biblical story is the archetypical tale of the Jewish *shtadlan*,⁶³ which would be repeated over and over again throughout the history of Jewish exile. The goal of the *shtadlan* is to stave off the deadly decree of the ruler, or to enlist his protection from the mob. The role of the patriarch Jacob was one that Rabbenu Tam was actively playing himself on the medieval set of crusading massacres and the eventual expulsion of the entire Jewish communities of France and England.

63 The Hebrew term itself implies a tinge of fatality. It literally means “a striver, an attempter.” His goal is to strive to save his people, but the unfortunate fate was often already sealed. The patriarch Jacob was the successful role model for the future *shtadlan* of every age. Rabbi Haim David Azulai, *Hida*, a prominent 18th century sage and noted bibliographer, once described a fellow Jew as *shtadlan*, *parnas* (provider), and *manhig* (leader). That description may fit Rabbenu Tam as well. In this paper, the term is certainly not intended to encompass Rabbenu Tam's essence or indeed any more than one minor component.

Ephraim of Bonn relates that Rabbenu Tam himself narrowly escaped with his life from a mob of crusaders afflicting on him the punishments, which, as they understood, his people were responsible for once inflicting on their savior.⁶⁴ Rabbenu Tam passed away while protecting the Jewish community from the persecution following the events in Blois, where in the spring of 1171 thirty-one Jews (including two students of Rashbam) were immolated on pretext of the murder of a Christian child.⁶⁵ Such were the times.

Numerous medieval and ancient sources provide accounts of birds of prey being given to rulers in order to placate and influence them. They were a sort of “diplomatic currency” until the modern era. Little could win the favor of a wealthy and powerful ruler more effectively than the gift of an exotic bird of prey, which the nobleman could utilize in his hunts, and which would increase his status in the highly stratified medieval world, in which one's hawk was a significant social symbol.⁶⁶

64 The Book of Remembrances (*Sepher Ha-Zechira*), by Ephraim of Bonn, as published in *Hebräische Berichte über die Judenverfolgungen während der Kreuzzüge*, Berlin, 1892, p. 64. (Also cited in Golb, *ibid.*) This story is well known and has been recounted in many popular accounts of Rabbenu Tam's life.

65 Golb, Norman, *The Jews in Medieval Normandy*, Cambridge, 1998, p. 311

66 “Life on a Medieval Baronry” is a clever imaginary period account of life in Champagne of France in 1220, written by historian William Stearns Davis in 1923. While discussing the status of Jews (p. 364–5) he writes, “Every great seigneur has 'his Jew,' and the king has 'the royal Jew' who will loan him money when no Christian will do so in order to wage his wars or to push more peaceful undertakings. The Jews are indeed hard to do without because the Church strictly forbids the loaning of money on usury, yet somehow it seems very difficult to borrow large sums simply upon the prospect of the bare repayment of the same.” A footnote highlights the basic necessity of the Jewish money lender in procuring the good favors of the nobleman: “The chances of an unfriended Jew being unable to collect any part of his loan were extremely great. As a rule his hopes lay in becoming the indispensable man of business and financier of a king or other great lord who would support him in recovering principal and interest from lesser debtors, in return for great favors to himself.” What types of favors could those be?

Jacob's selection of the gift of a hunting bird as a gesture of peace is understood in its medieval context as described in Yvonne Friedman's 'Gestures of Conciliation: Peacemaking Endeavors in the Latin East':

The falcon, a hunting bird, was in and of itself a symbol of peace, as hunting was the favourite pastime for non-belligerent warriors among both the eastern and western nobility. Hunting—the use of arms outside the battlefield—symbolized peaceful encounters, somewhat similar to modern sports. This can be shown, for example, by the Bayeux tapestry, where a herald rides with a falcon on his shoulder to prove his peaceful intentions... The gift of a falcon as part of a peace treaty is further illustrated by a western illumination to William of Tyre's chronicle, showing the Hungarian king returning the hostages to Godfrey of Bouillon. The two leaders clasp right hands and a falcon sits on the Hungarian king's arm, this hunting bird being a gift to seal the agreement.⁶⁷

Davis states in general, while discussing falconry (p. 60–61): “There are few more acceptable presents to a nobleman or, better still, to a lady, than a really fine bird. Abbots send five or six superior hawks to the king when craving protection for their monasteries. Foreign ambassadors present His Royal Grace with a pair of birds as the opening wedge to negotiations. The 'reception of hawks' is indeed a regular ceremony at the Paris court.” See there as well on the ubiquitous nature of hawks in Champagne society.

- ⁶⁷ *In laudem Hierosolymitani: Studies in Crusades and Medieval Culture in honour of Benjamin Z. Kedar*, Iris Shagrir (ed.), Aldershot: Ashgate, 2007, 45–47. See the discussion on the depiction of the falcon being given as a gesture of peace in artwork reproduced there: Bibliothèque nationale, MS fr.9081, fol 16v. See also Friedman's “Peacemaking: Perceptions and practices in the Medieval Latin East,” in *The Crusades and the Near East*, Conor Kostick (ed.), London 2011, p. 245–6.



Illustration 8: Bibliothèque nationale de France, 9081, fol. 16v. Godfrey and King of Hungary.
<http://visualiseur.bnf.fr/ConsulterElementNum?O=IFN-07883820&E=JPEG&Deb=1&Fin=1>

Indeed, in this author's opinion, it seems likely that the medieval scene of the ruler being gifted with a bird of prey by his fearful subject — which Rabbenu Tam projects back into Genesis — is one that he was not only intimately familiar with in the Courts of the French rulers, but was an active player in, starring as the patriarch “Jacob Tam,” the *shtadlan par excellence*.⁶⁸

68 As stated in a previous note, this term is not meant here to denigrate or to depict Rabbenu Tam's main general role on the world's stage, that of the great sage. Rather, it is meant to highlight an additional component, one that could easily have

Another commentary, one authored by Rabbi Joseph (aka Rabbi Joseph Bechor Shor, ca. 1140–), a pupil of Rabbenu Tam's, also features hawking and a sort of *shtadlan* approaching another biblical gentile ruler. Correspondence between Rabbi Joseph and Rabbenu Tam is recorded in *Sepher Ha-Yashar*, and there is a tradition that at an early age he traveled to Champagne to study in Rabbenu Tam's yeshiva.⁶⁹ He is also, probably, the sage known as Rabbi Joseph of Orleans.⁷⁰ Rabbi Joseph is particularly well known for his novel bible commentary, in the style of Rashbam, and the part it played in his very active role as a community leader, filling the vacuum left with the passing of Rabbenu Tam.⁷¹ This is in an age marked by increasing physical and intellectual pressure put on the Jewish community to convert to Christianity and assimilate into French society, and Rabbi Joseph was probably Judaism's most vocal

gone unrecorded in the traditional rabbinic writings that form the bulk of our knowledge regarding the sages and their lives.

69 See literature cited by Reiner, dissertation, p 141, note 4. Golb, Norman, *The Jews in Medieval Normandy*, Cambridge, 1998, p. 308.

70 This point has been contended. See literature cited in: יהושפט נבו, פירוש רבי יוסף בכור שור על התורה, מוסד הרב קוק, ירושלים, תשס"א, מבוא עמ' 1 and by Avraham Reiner in his dissertation (ibid. note 3), p. 151, footnote 4. 'Bechor Shor,' literally "first-born ox," is an addition to his name Joseph, based on Deuteronomy 33:17, which describes the biblical tribes emanating from Joseph. It appears to be a similar type of affectation as that of Rabbenu "Tam" himself. Section IV of this article will focus on Rabbenu Ephraim, aka Rav "Yakir." the Tosafists were uniquely fond of these types of nicknames. Other examples include Ri Zaqen, Yitzhaq (Genesis 27:1), and Rav Porat, another nickname for Joseph (Genesis 49:22). Apparently, the Tosafists were unique in developing this system of nicknames. Avraham Tzvi Shav-Aretz suggested to the author that we might find a parallel in the practice of assigning monks a new biblical name upon their ascending to a certain rank in the priesthood.

71 Historian Joseph Jacobs wrote in *The Jews of Angevin England*, London, 1893, p. 411, "Joseph Bechor Shor, the most important twelfth century exegete after Avraham ibn Ezra..."

apologist of the time.⁷²

Exodus 7:15 describes how Moses was commanded to approach Pharaoh, king of Egypt “on the side of the Nile River” as he “goes out in the morning to the water,” and to request permission there for the Israelites to leave Egypt. Commentators were disturbed by the apparent insignificance of the fact that the meeting took place as Pharaoh went to the river, and sought to deduce from this text various extrapolations.⁷³ One well-known interpretation is cited by *Rashi*, that Pharaoh attempted to conceal his bodily functions in order to portray himself to the public as a deity, and that he would venture out to the river in the morning in order to be sequestered while relieving himself. In contrast, Rabbi Joseph Behor Shor explains:

It is the practice of ministers and kings to tarry by the riverside, and they bring birds in their hands, such as *astor* and *esparviers*, and hunt other birds with them. It is called *riviere*, and that is where you [Moses] should speak with him, for there will not be many people there with him, so you can speak to him there.⁷⁴

72 Golb, Norman, *The Jews in Medieval Normandy*, Cambridge, 1998, pp. 308–315.

73 This might be considered part of the traditional search for what James Kugel has coined “Omnisignificance.” *The Idea of Biblical Poetry: Parallelism and Its History* (New Haven and London, 1981). According to this approach, no biblical text can be considered simply redundant or trivial. See also the beginning of: Elman, Yaakov, ‘The Rebirth of Omnisignificant Biblical Exegesis in the Nineteenth and Twentieth Centuries,’ in JSIJ 2 (2003), pp. 199–249, <http://www.biu.ac.il/JS/JSIJ/2-2003/Elman.pdf>

74 The identity of the Old French *divarre* (דיברא in Yehoshafat Nevo’s critical edition of *Bechor Shor*) is unclear. Avraham Ophir Shemesh was unable to ascertain its meaning in a recent Hebrew article (cited at end of note). However, we read it as *riviere*. Prof. Baudouin Van den Abeele wrote in a personal communication from 16.08.2011, “The point about *riviere* is very sensitive and I fully agree with this. The term *riviere*, or the verbs *riverer* or *aller en riviere* are current Old French designations for hawking, because it was very often practiced along rivers. You can

find many examples of this in the corpus of 1031 quotations of falconry in Old French texts I have published as an appendix to the following book: *La fauconnerie dans les lettres françaises du XIIe au XIVe siècle*, Leuven: Leuven University Press, 1990, XXV + 348 p., ill. (Mediaevalia Lovaniensia, XVIII)."

The commentary of Bechor Shor reads:

פירוש יוסף בכור שור (מהדורת נבו) לשמות ז, טו:
דרך השרים והמלכים לטייל על שפת הנהר ומוליכין עופות בידם כגון אושטירא ואשפרבריש
ולוקחין להם עופות אחרים וקורין דיברא ושם תדבר עמו כי שם לא יהי עמו רוב עם ותוכל לדבר
אליו שם (הניקוד ע"פ כ"י מינכן Munich 52, שנת 1549).

Compare also the similar commentary of *Rashbam* on this verse, and his use of the word 'לטייל', which demonstrates a clear literary relationship between the two commentaries:

הנה יוצא המימה - כדרך השרים לטייל בבקר ולרכוב אנה ואנה:

The commentary of Bekhor Shor expands upon the commentary of *Rashbam* here, adding the mention of falconry as a parenthetical statement:

"דרך השרים והמלכים לטייל על שפת הנהר - ומוליכין עופות בידם כגון אושטירא ואשפרבריש
ולוקחין להם עופות אחרים וקורין ריברא -- ושם תדבר עמו כי שם לא יהי עמו רוב עם ותוכל
לדבר אליו שם".

Note that the commentary of *Rashbam* is not at all related to *riviere*. Pharaoh's presence at the river is merely a function of his general wandering around. Bechor Shor's addition of the falconry element adds footing in the verse itself. This is typical of Bechor Shor's editorially active reliance upon the commentary of *Rashbam*. An extensive list of examples, including this very one, is provided by Nevo in the introduction to his critical edition on page 13.

An interesting element to consider, in regards to the literary relationship between the commentaries of *Rashbam* and Bechor Shor here, are their pictorial representations. An illustration found in the Passover Haggadah known as "Hispano-Moresque Haggadah" (reproduced further of our discussion here) clearly depicts the scene described by Rabbi Joseph Bechor Shor. An additional image in the same Haggadah, on folio 72, which is based on a parallel verse, depicts Pharaoh at the same scene, but without the raptor in hand. Indeed, there are numerous examples of repeated scenes with variations depicted in this particular Haggadah, but it seems quite likely that this second illustration depicts the commentary of *Rashbam*, in particular. The second illustration may be found at: <http://www.bl.uk/catalogues/illuminatedmanuscripts/ILLUMIN.ASP?Size=mid&Ill>

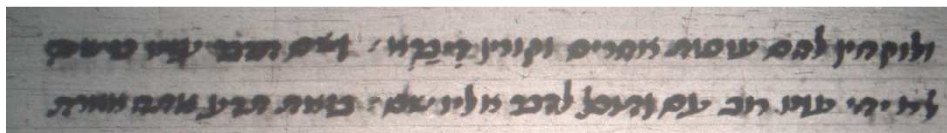


Illustration 9: Muenchen - Bayerische Staatsbibliothek, Cod. hebr. 52 (1549)

ID=45326.

I discussed aspects of the French influence on this Castillian Haggadah, supporting the conclusions of Katrin Kogman-Appel, in a talk on Falconry in Jewish Art at the September 2012 ARS Judaica Conference at Bar Ilan University. I hope to elaborate on the discussion there and here in an upcoming article. See Katrin Kogman-Appel, *Illuminated Haggadot from Medieval Spain: Biblical Imagery and the Passover Holiday*, University Park 2006, pp. 42-43.

Oxford Bodleian 271/1 (also cited by Rabbi Gellis in *Tosafot Ha-Shalem* on this verse) apparently contains a later, abbreviated and paraphrased version of Bechor Shor's commentary. The word in Old French, ייברי"ש, seems to suggest a corruption from an original *riviere*, rather than *divarre*, with the *resh* graphically morphing to *yod*:

"הנה יצא המימה לצוד עופות וקורין אותן ייברי"ש ושם הוא במתי מעט ותמצא פנאי לדבר אליו".

Leiden Or. 4765 has been erroneously attributed to Rabbi Joseph Bechor Shor, but actually contains a collection of Tosafist commentaries, including his. Here already, the Old French has been completely lost:

"הנה יוצא המימה בדרך למלכים להפריח עופות".

So too, in the later compendium of Hezkuni, *riviere* has been lost:

ד"א הנה יוצא המימה, לטייל לצוד שם עופות על ידי גץ שנושא על ידו כשאר מלכים ושם תמצאנו פנאי לדבר עמו. (חזקוני, מהדורת שעוועל, ירושלים, תשנ"ד).

The commentaries of Bechor Shor and Hezkuni here were discussed by Avraham Ophir Shemesh, along with the most thorough description of falconry in Hebrew that I am aware of:

אברהם אופיר שמש, "הנה יצא המימה" - למסע צייד: הרקע לביאורם של שני פרשנים צרפתיים, תלפיות יב (תשס"א-תשס"ב), עמ' 138-144.

I am most grateful to Sara Offenberger for bringing to my attention the commentary of Bechor Shor, as well as the Haggadah, both mentioned in her 2008 dissertation cited previously.



Illustration 11: Hawking ducks at the riverside. Bodleian Library, MS. Bodley 764, Folio 76v. Note the use of the drum. The Tosaphists, in their commentaries to Genesis 25:27, describe drums being used for fowling by Esau. <http://bestiary.ca/manuscripts/manugallery1085.htm>

Riverbanks have long been a popular spot for hawking and waterfowling of all sorts, for the simple reason that wildlife is present there in high concentrations, attracted to the life-giving waters.⁷⁵ Chaucer's *Canterbury Tales* describes hawking by a riverbank, *ryure*, in 14th century England:

He coude hunte atte wylde deer
And ryde an haukyng for ryuere
With grey goshauke on hond
Therto he was a grete archer
Of wrastlyng was ther none his peer⁷⁶

The opportune moment to approach the king, the "*et ratzon*," is while he is out hunting at the riverbank with his hawk, relatively free of the crowds and the pressures of the palace. Rabbi Joseph Bechor Shor may have understood that, as a "minister," Moses would have been an active participant of the

75 'The Decline of Falconry,' *ibid.*, p. 41

76 British Library, Cx2: Folio ii3r; The Tale of Thopas, Lines 25–29. I thank David Horobin for this reference.

haukyng = hawking; ryuere = riverbank (or the type of hawking itself); goshauke = goshawk, a large hawk or astor; hond = hand.

hawking party, although this is neither indicated in the verse itself nor is it stated overtly in his commentary, and it seems rather unlikely. An illustrated depiction of this commentary of Bechor Shor is found in a Passover Haggadah produced in Spain around the thirteenth century.⁷⁷

Pharaoh is depicted as hawking on horseback, while receiving the warning, apparently from Moses.⁷⁸ The coat of arms of Castille, consisting of castles of three turrets, is incorporated in the upper portion of the illustration.⁷⁹ This illustration probably speaks as much about the extent of

77 Hispano-Moresque Haggadah, Castile c. 1300. London, British Library, MS. Or. 2737, fol. 69r. See Offenberg, *ibid.*, p. 142, who seems to have first connected the illustration with the commentary of Bechor Shor.

78 However, the fact that the character issuing the warning appears beardless suggests that it may be a depiction of Aaron, who seems to be portrayed as clean-shaven in other illustrations of the Haggadah (in contrast to the bearded Moses). This interpretation does not seem to be corroborated by any commentaries, and furthermore the verse itself explicitly states that the command was given to Moses. A subsequent illustration corresponding to a similar verse, Exodus 8:16, appears on folio 72v, and depicts a bearded Moses issuing the warning. The illustrator may have been confused by the fact that Aaron initiated the first three plagues with his staff (as opposed to the following three, which were initiated by Moses), and mistakenly extended Aaron's jurisdiction to the warnings as well. According to Narkiss, the illustrator intended to depict Moses and simply did not make a distinction, alternately drawing either Moses or Aaron with and without beards. Bezalel Narkiss, *Hebrew Illuminated Manuscripts in the British Isles I* (Jerusalem and London 1982), no. 9: The Hispano-Moresque Haggadah, p. 46. Narkiss' interpretation is followed by Offenberg in her dissertation, *ibid.*, p. 142, and seems the most likely.

79 "On the top of the trefoil arch is a gable decorated with a red clover-leaf, and flanked by two triple towers—the arms of Castille." Narkiss, *ibid.* It is worth noting that the monarchy of the Christian kingdom of Castille is related to the French and English monarchies, pronouncedly through Eleanor of England, Queen of Castille and Toledo (13 October 1162–31 October 1214), daughter of Henry II and Eleanor of Aquitaine. It is possible that the Hispano-Moresque Haggadah was the product of, or influenced by, "their Jews" of France, subjects and protected servants of these royal families. Thus, they would have been familiar with the commentary of Bechor Shor.

the practice of French falconry in the Castilian court, as it does about the influence of the French Jewish Bible commentary itself in Sepharad.



Illustration 12: Hispano-Moresque Haggadah, Castile c. 1300. London, British Library, MS. Or. 2737, fol. 69r, <http://www.bl.uk/catalogues/illuminatedmanuscripts/ILLUMIN.ASP?Size=mid&IllID=45325>

Riverside hawking is also depicted in an ivory ornament produced in Paris in the 14th century. Many of the pieces of this genre, which were produced for the aristocracy, depict scenes of hawking, as well as elements of chivalry and romance. In this French genre of ivory ornaments, falconry is depicted in a surprisingly high percentage of scenes. It is in this climate of the ubiquity of hawking in the consciousness of the aristocracy that we can best understand the preoccupation of the Jewish Bible commentators who served them. They clearly had hawks on their minds.



Illustration 13: Louvre, Ivory Box, Paris, 14th Century. See Riverside hawking at the bottom, far right; the use of hunting dogs in tandem, and a lure to retrieve a hawk from a tree.

<http://users.stlcc.edu/mfuller/LouvreMedievalivory.html> (retrieved 17/11/2011)

Furthermore, the ubiquity of riverside hawking in Medieval France led to an expansion of the old French term *riviere* to encompass waterside

<http://www.oqimta.org.il/oqimta/5773/jacobi1.pdf>

fowling itself.⁸⁰ The expansive sense was assumed by Rabbi Joseph Bechor Shor to exist in Hebrew as well. By applying this linguistic phenomenon to the phrase “goes out to the water,” in the Biblical verse itself, the new interpretation was born. It could be that Rabbi Joseph was first translating the verse to French on the fly and then analyzing this translation.⁸¹ It goes without saying that the expansion is not found in Hebrew at all or in modern vernaculars, so the interpretation of Rabbi Joseph is completely baffling to the modern scholar without an appreciation of the Old French phenomenon.

Earlier, we saw how Rabbenu Tam might have identified with his namesake Jacob. In the eyes of his students, however, such as Rabbi Joseph, Rabbenu Tam was the great sage and the powerful leader of the Jewish people—the Moses of his age, *Moshe Rabbenu*—as is evidenced by the great reverence displayed to him, almost without parallel in the history of the Jewish people.⁸² It is not difficult to imagine Rabbenu Tam (or perhaps even Rabbi Joseph himself) cast as Moses, playing the role of the tough *shtadlan*, without the physical threats of the plagues in the biblical narrative, but still firmly pleading the case of the Jewish subjects at a riverside hawking expedition of their king or count.

Another commentary by Rabbi Joseph Bechor Shor illustrates the great controversy in the French community at the time, regarding the commandment of covering the spilled blood of slaughtered wild beasts or

80 See previous note on the reading *rivierre* instead of *divarre*.

81 It is worth noting that at the time in France and Provence the Aramaic translation of the Pentateuch was being phased out of synagogue use, and its replacement with the vernacular was advocated by certain rabbinic authorities, especially for personal use in fulfilling the precept of reading the weekly portion twice along with a translation. This proposition was eventually over-ruled by Rabbi Isaac of Dampierre, relying on gaonic opinions. (Tosaphot Berakhot 8a, sv. Shnaim Miqra). See: J. Penkower, 'The Canonization of Rashi's Commentary on the Pentateuch,' *Study and knowledge in Jewish thought*, ed. Howard Kreisel, Beer Sheva, 2006, pp. 123-146 (Heb.), especially page 135.

82 Urbach, *ibid*.

birds, found in Leviticus 17:13.⁸³ Rabbi Joseph explains that the commandment does not apply to the blood of slaughtered domesticated animals, whose blood is fitting for ritual Temple offerings; however, the blood of birds and wild animals must be covered with dirt lest it be consumed, which is prohibited. The verse explicitly mentions animals hunted or trapped, but the sages of the Mishna clearly understood the commandment to apply to domestic (*mezuman*) birds as well.⁸⁴ Rabbi Joseph lists several different types of claims, made by Jewish groups, in order to deny the force of this commandment. Christian influence was probably behind this attempt at interpreting away the verse, as is evident in Rabbi Joseph's strong retorts:

The blasphemers say... take them by their hands and throw them out, for their words are those of the Sadducees. Some say... their words are a desecration even to mention, and their books are fit to be burnt.

The explanations offered by the lenient groups, while Christological in nature, seem to appeal to a special type of Jew, as they implicitly acknowledge the general principle of binding commandments, just not here in the case at hand.⁸⁵ One interpretation offered is that the purpose of the commandment to cover the blood with dirt only applies to the case in which one wishes to keep his courtyard clean. This explanation seems very forced, as the verse explicitly describes the case of hunting or trapping, where a kill is likely to occur in the field. It stands to reason, nevertheless, that those who made this claim were very likely claiming a leniency precisely in the hunting situation, far away from the tidy courtyard. What could account for such an unlikely explanation?

83 מהדורת נבו, עמ' 207.

84 mHullin 6, 1.

85 This point is alluded to by Rabbi Joseph in his commentary to Numbers 12:8. For further discussion regarding actual ancient sectarian approaches to the obligation to cover the blood see:

כ' ורמן, 'דין כיסוי הדם ואכילתו בהלכה הכהנית ובהלכת חכמים', בתוך תרביץ סג, תשנ"ד, עמ' 173-184, and especially Ron Naiwald's lecture on the topic in Jewish sectarian and Christian sources: <https://thetalmudblog.wordpress.com/2012/02/27/i-know-it-was-the-blood>.



Illustration 1410: A hawking party. Flemish tapestry, late XV or early XVI century. Note one rider with a hawk and another with a small dog. Image © The Metropolitan Museum of Art. Reproduction prohibited without express written permission in advance

An “assimilated” but observant Jew out in a mixed hunting party, Jews and gentiles, would not have much difficulty in providing kosher fowl without drawing any undue notice, by relying on the opinion of *Sepher Ha-Teruma* (see Section I) and others, and making certain to perform the slaughter himself. However, covering the blood is clearly an overt and demonstrative commandment of the Pentateuch. Such a dramatic and vivid departure from the wilderness norm, such as taking considerable trouble to cover the blood, might prove too distinctly Jewish to his gentile companions. In their eyes, his accursed race had previously spilled the blood of its most holy member, crucified for their sins.⁸⁶ *Solo sanguine Christiano*. Sending out a

86 This type of explanation finds support in another commentary by Rabbi Joseph Bechor Shor, which displays a similar strident opposition to a heretical commentary, and even uses some of the same language. In his commentary on Deuteronomy 6:9 he fervently attacks heretics who explained that *Tefillin* and

message that the Jews have a blood ordinance may not be sufficiently diplomatic in a climate of blood libels and suspicion.

In sum, hawking was so central to the French consciousness of Rabbenu Tam and Rabbi Joseph Bechor Shor, that mere indirect hints by the Pentateuch in the context of relations between the leadership of the Jewish and gentile communities were interpreted as references to hawking.

III. The Horse and the Hawk as the Ox and the Donkey

All of the following sources in this section concern a single question in Jewish law, which was raised by a prominent disciple of Rabbenu Tam, and debated extensively by his fellow disciples. I have attempted to include only those sections of the extensively complex discussions—characteristic of the Tosafists—which are necessary in order to draw conclusions that may also be of interest to historians and scholars of falconry or of medieval Jewry.⁸⁷ Two attempts are made at presenting the sources: The first, congruous, for the most part, with subsequent authoritative rabbinic legal interpretation. The second, taking a more critical approach.

R. Yitzchak ben R. Moshe of Vienna (*Or Zarua* ca. 1180–ca. 1250)⁸⁸

Mezuza are only symbolic, not actual physical commandments (although see *Rashbam* on Exodus 13:9). It seems that in both instances we are dealing with similar groups of heretics, concerned with eliminating outward signs of their Judaism, and both interpreting the commandment symbolically, as in the then-current Christological mode of interpretation. See his commentary to Numbers 12:8 in which he complains against the general acceptance of this approach in the Jewish community. See also literature cited in note 33 of the introduction to the critical edition of Yehoshaphat Nevo (see note 70).

87 Haym Soloveitchik wrote that he selected only early French Responsa, earlier than the 12th century, for discussion in his *The Use of Responsa as a Historical Source* (Hebrew), Jerusalem, 1990, p. 12, because subsequently the dialectics of the Tosafists are extremely technical. That is what we are dealing with here, and in the responsa of Rabbenu Tam in Section II above.

88 From Avraham Reiner's dissertation: "... the contribution of the Ashkenazi *Ravyah*

relates that Rabbenu Ephraim bar Yitzhak of Regensburg issued a novel ruling forbidding Jews from tying either small dogs or a hawk to the saddle of a horse, while venturing out hunting.⁸⁹

Rabbenu Ephraim of Regensburg is considered to be Rabbenu Tam's student. We have records of their correspondence, and in it, Rabbenu Tam urges Rabbenu Ephraim to consult directly with the travelers carrying messages, in order to receive reports and clarifications regarding his own legal rulings.⁹⁰ In fact, Rabbenu Ephraim and the Regensburg school are

in transmitting the doctrine of Rabbenu Tam, the Frenchman, is absolute... An additional phase in this propagation we find in the activities of Rabbi Yitzhak ben Moshe of Vienna, a student of *Ravyah* and author of *Or Zarua*... *Or Zarua* contains the teachings of Rabbenu Tam coming through two main channels, Ashkenaz-Regensburg and France-Paris. This indicates the completion of the conquest of Ashkenaz spearheaded by *Ravyah*..."

- 89 רבנו יצחק ב"ר משה, ספר אור זרוע ח"א (זיטאמיר, תרכ"ב) - הלכות כלאים סימן רצא עמ' 76-77. ... למדנו שהנהגה בכלאי' בלא שום מלאכה אסורה. הלכך הי' רבינו אפרים ב"ר יצחק מרגינשפורק מיכן אוסר לאותם בני אדם שקושרים כלבים קטנים באוכף שלהם לצוד בהם עופות ואע"ג דלא עבדי שום מלאכה אלא הנהגה בעלמא וגם אוסר לקשור נץ באוכף של סוס דתנן בפ' שור שנגח וכן חי' ועוף כיוצא בהם... מיהו גופא דעובדא דאתינן עלה לא דמיא. דודאי אם יקשור הכלב באוכף והכלב רץ אצל הסוס הא ודאי דשבת ראי' היא לאיסור. וכן אם קשר הנץ באוכף והוא פורח. אבל אם קשר הכלב והנץ באוכף והם יושבים על הסוס שהכלב אינו רץ והעוף אינו פורח למה יהי' אסור וכי יש לנו לאסור להרכיב בהמה ע"ג בהמה שאינה מינה הא אין כאן הנהגה כלל והכי אמר לעיל בירושלמי ר' ירמיה' בעי קשרו בשערו פי' שקשר סוס ועגלה אהדי בשערו ומסיק מה אנן קיימין כך אני אומר אסור להרכיב בהמה ע"ג בהמה בתמי'. פי' הא אין כאן הנהגה כלל דאותה שעל גבה אינה זוה ונראה בעיני דרבינו אפרים לא אסר אלא כגון שהכלב רץ אצל הסוס והעוף פורח אצל הסוס:

- 90 Urbach, p. 83-4. In one of their disagreements, Rabbenu Ephraim accused Rabbenu Tam of emending a text. Rabbenu Tam responded very sternly and told Rabbenu Ephraim to accept the testimony of the messenger who had seen the text that Rabbenu Tam was working with. At the end of a protracted, vituperative debate, one Rabbenu Ephraim finally conceded, Rabbenu Tam replied in a beautiful dramatic verse greatly praising Rabbenu Ephraim as "my teacher," "my brother." *Sepher Ha-Yashar, Mekitzei Nirdamim*, No. 64, P. 178. Of course, in the case at hand, we are clearly dealing with Rabbenu Ephraim's own novel legal ruling in the style of the master, and not a direct transmission.

the primary transmitters of Rabbenu Tam's teachings and methods, as shown in Abraham Reiner's dissertation:

...the contribution of the Ashkenazi *Ravyah* in transmitting the doctrine of Rabbenu Tam, the Frenchman, is absolute...

Through which channel did Rabbenu Tam's teachings reach *Ravyah*? ... It seems most possible that *Ravyah* received the teachings via the Regensburg group of Rabbenu Tam's students who returned to Ashkenaz after studying with the master [for example, Rabbenu Ephraim – LJ]. It was in Regensburg that Rabbi Yoel, *Ravyah*'s father, studied and stayed there when he also studied under Rabbi Yehuda He-Hasid. The Regensburg School later served as a propagation center for spreading the study-culture of France in the eastern stretches of Ashkenaz. In this sense, one must rank the writings of *Ravyah* as the literary expression of the French doctrines in their Ashkenazi version.

Whether or not the reference is to a particular type of hawk, it is quite clear that the prohibition by Rabbenu Ephraim pertains to a bird used by Jews in the act of falconry. The source of the prohibition is the biblical injunction on plowing with an ox and a donkey in tandem,⁹¹ the rationale of which has been explained by R. Abraham ben Meir ben Ezra (1089–ca. 1164) as a form of divine “mercy on his creations”, whose natural characteristics are too different to be expected to co-operate.⁹² In contrast, Maimonides (1138–1204) interpreted it as a precautionary injunction, lest the different species of animals come to mate with each other.⁹³

In any case, the prohibition was understood by the rabbis to refer to various situations in which animals of different species are exploited

91 Deuteronomy 22:10.

92 In his Bible commentary ad loc.

93 Maimonides, *Guide for the Perplexed*, M. Friedlander (Tr.), 1904, Section 3, 49. Most subsequent Jewish commentators, such as Nahmanides (1194–1270) favor this interpretation, as the previous verse describes a prohibition on planting seeds of different species in close proximity, which could result in a hybrid.

simultaneously. Rabbenu Ephraim's novel application of this prohibition to the situation of simultaneously riding a horse while carrying either dogs or birds in tow, has been considered controversial from its very inception and throughout all subsequent layers of interpretation of Jewish law, with no final verdict having ever been rendered.⁹⁴ A discussion of the dispute regarding this ruling will suggest a strong historical source for the practice of falconry by medieval Jews.

The first record of Rabbenu Ephraim's decision is found in a legal question addressed by him to Rabbi Yoel Ha-Levi, the father of R. Eliezer (*Ravya*, born ca. 1140 in Mainz, Germany, and passed away in Cologne ca. 1220). In this query, only the pairing of horses with dogs is mentioned, not one with birds, and the dogs are described as running alongside the horse, not riding upon it. We will focus upon this distinction towards the end of the discussion.



Illustration 15: Dogs on a leash, running alongside horse. Title page from *Habicht zum Baizen*, Ausburg, H. Schobser, 1497. <http://ic.ucsc.edu/~langdale/arth189j/hawking.htm>

94 יורה דעה, סימן רצז

Rabbenu Ephraim wishes to prohibit this practice,⁹⁵ while Rabbi Yoel responds that in his opinion it is permissible.⁹⁶ Rabbenu Ephraim and Rabbi Yoel disputed many issues of Jewish law, and most of these disputes have reached us as a result of having been recorded by Rabbi Yoel's son, *Ravya*. Aptowitzer⁹⁷ and Urbach⁹⁸ have pointed out the general differences in approach that underlie their many disputes. Rabbenu Ephraim, a student of Rabbenu Tam, takes an active intellectual approach to Jewish law, while Rabbi Yoel, likely a descendant of Jewish martyrs, takes a much more conservative approach, in which preserving traditional custom is the primary consideration, and sources indicating contradictory practices are often reinterpreted with that in mind.⁹⁹ Those are the very considerations underlying their dispute regarding this matter, as, based on his understanding of talmudic sources, Rabbenu Ephraim seeks to forbid the practice of driving horses and dogs while hunting, while Rabbi Yoel argues characteristically in favor of the prevalent custom. It appears that the subject of the dispute is an actual practical case, not a hypothetical one.

95 There are some differences in the exact frame of the debate that emerge when comparing this original letter with Rabbi Yitzhak's portrayal of the opinion of Rabbenu Ephraim. Those differences form difficulties, which will be addressed later in the paper, in the form of an alternative historical explanation.

96 ראבי"ה ח"אג' מהדורת א' אפטוביצר, ירושלים תשכ"ד - מסכת נדה סימן קצג: שאלני מורי הרב ר' אפרים בר' יצחק:
אשאלך והודיעני אם ישראל רוכב על סוס לצוד צייד ולהביא ומושך בחבל כלבים אצל הסוס אם הוא לוקה משום מנהיג בכלאים...
תשובתי. מה ששאלת מורי אם ישראל רוכב על סוס ומושך בחבל (כלאים) כלבים וכו', דעתי נוטה שאין בו כלל איסור... אב"י מור"י:

97 43 עמ' 1938, ירושלים 1938, מבוא לספר ראבי"ה, <http://www.hebrewbooks.org/pdfpager.aspx?req=21884&st=&pgnum=52&hilite=> (Accessed June 6, 2011)

98 Urbach: 204-199 עמ' תש"מ, ירושלים, בעלי התוספות, תש"מ, עמ' 204-199.

99 The conflict between these two considerations continues in Jewish law up to the present day, perhaps most famously described in Haym Soloveitchik, 'Rupture and Reconstruction,' *Tradition*, Vol. 28, No. 4 (Summer 1994). <http://www.lookstein.org/links/orthodoxy.htm> (Accessed June 6, 2011)

Disputes between Rabbenu Ephraim and Rabbi Yoel often became intense (almost exclusively from the side of Rabbenu Ephraim, very much in the spirit of his master, Rabbenu Tam, whose wrath was at times directed even towards Rabbenu Ephraim himself¹⁰⁰). It must be stressed that their correspondence does not fit the usual pattern found in Responsa literature, where the opinion of a greater authority is sought in order to resolve an ambiguous matter. These are active debates and discussions in which Rabbenu Ephraim rarely recognized his correspondent's authority or even his opinion. In addition to the later aforementioned citation in *Or Zarua*, an additional responsum exists—probably from Rabbenu Yehuda ben Kalonymus to Rabbenu Ephraim—supporting him, at least partially, in the prohibition.¹⁰¹

Perhaps Rabbenu Isaac Or Zarua himself expanded on the prohibition of Rabbenu Ephraim to include birds? That seems extremely unlikely, as I will now attempt to show. Rabbi Yitzhak introduces a difficulty based on his understanding of a passage from the Jerusalem Talmud, which seems to indicate that no prohibition could apply in a scenario where one animal is actually carrying the other, as in our case, in which the falconer's horse is in fact carrying the bird, as it is tethered to the saddle. Therefore, he states that Rabbenu Ephraim's original objection must have been to a case where the bird is actually flying alongside the horse while tethered. Clearly, he is not introducing a new scenario but, on the contrary, seeking an alternative understanding of the circumstances of the scenario described by Rabbenu Ephraim. While his proposition may have certain merits from a legal standpoint, it is not reasonable to assume that these are the circumstances of the case Rabbenu Ephraim was in fact discussing. Indeed, the proposal does not seem to correspond at all to the basic realities of falconry, as this author is unaware of any mention of birds of prey ever having been led on

100 Urbach, p. 83–84.

101 תשובות בעלי התוספות, מהד' אברהם יצחק אייגוס, תלפיות, תשי"ד, סימן ל"ד, עמ' 97, <http://www.hebrewbooks.org/pdfpager.aspx?req=1445&st=&pgnum=97> (Accessed June 6, 2011)

a leash.¹⁰² S. Kent Carnie, Founding Director and Curator of The Archives of Falconry and a lifelong falconer, wrote:

“What you describe would not be a normal situation in the regular practice of falconry. Certainly it might be useful, even advisable, to tie a bird's leash to the saddle as a precautionary measure (to prevent escape if the rider is thrown or becomes otherwise engaged in distracting activities), but to have it flapping about on the end of the leash would be totally abnormal, or, at least, certainly neither desirable nor intentional. Not that it couldn't happen, but I can't conceive of any falconer wanting it to happen, much less depicting such an accident in print.”¹⁰³

It must be noted that, far from being a practicing falconer, Rabbenu Yitzhak Or Zarua was probably the most vocal rabbinic opponent of sport-hunting ever,¹⁰⁴ even having composed a short acrostic condemning

102 Nevertheless, not surprisingly, this explanation was clearly attributed to Rabbenu Ephraim himself in the abbreviated codification of the work carried out by Rabbi Yitzhak's son, Hayyim, 'Maharah Or Zarua':

מהר"ח אור זרוע, דרשות ופסקי הלכות, ירושלים, תשס"ב, סי' רצא, עמ' קלד: 'אומר רבינו אפרים זצ"ל דאסור לקשור כלב באוכף לצוד בו עופות והכלב רץ אצל הסוס וכן אסור לקשור עוף נץ באוכף והעוף פורח אצל הסוס.'

Compare:

דרשות מהר"ח אור זרוע, מה' אביטן, ירושלים תשס"ב, סימן ג:

ורבי' אפרים אסר לישב בעגלה שהכלב קשור אצלה והסוס מוליך העגלה, ומיהו שמעתי שיש זה להתיר. אכן לישב על הסוס שהכלב קשור אצל הסוס אע"פ שאינו משתמש אלא בסוס אחר אסור.

103 Prof. Baudouin Van den Abele wrote in a private communication of 16.08.2011, "I fully agree with K. Carnie's statement about the abnormality of having a tethered bird flapping about on the end of the leash, and might add that there is no single evidence for this in medieval iconography of falconry."

104 ספר אור זרוע ח"ב (זיטאמיר, תרכ"ב) - הלכות שבת סימן פג-יו, עמ' 37:

והא דאמר' גבי כל בעלי השיר דיוצאין בשיר ופירש"י כגון כלבים ציידים משמע דמותר לצוד בכלבים דאי לא הכי הוי השיר משוי. מיהו אומר אני המחבר שכל מי שצד חיות בכלבים כעין שהעכו"ם עושין שלא יראה בשמחת לויתן דאמר' פ"ק דע"ז ובדרך חטאים לא עמד בקנגיון שלהם ופירש"י קנגיון צידת חיות ע"י כלבים שכל מעשיהם לשם שמחה ושחוק ודוגמתו בשחיטת חולין וכי משה קניגי היה ואמר' בויקרא רבה פרשת ויהי ביום השמיני פרשת ר' פנחס בהמות ולויתן הם

it.¹⁰⁵ His opinion was later included by Rabbi Moshe Isserles (*Rama*, 1520–1572) in his authoritative Ashkenazi gloss to the *Shulhan Aruch*,¹⁰⁶ although not endorsed there as a binding opinion incumbent upon all Ashkenazi Jews.¹⁰⁷ The insistent tone of Rabbi Yitzhak's protests seems to indicate further that he is responding to facts on the ground, of an increasing Jewish participation in hunting activities, possibly spreading to Ashkenaz from Northern France. In fact, the extensive, strictly legal discussion of the earlier authorities, which we have seen regarding the possible technical prohibition of utilizing different species, seems to indicate a tacit toleration of the practice of sport-hunting in general, and may explain why Rabbi Yitzhak's opinion was not recorded as a universally binding one.¹⁰⁸

קניגין של צדיקים לעתיד לבוא כל מי שלא ראה קניגין של אומות העולם בעוה"ז זוכה לראותן לעתיד לבוא:

105 ספר אור זרוע ח"א (זיטאמיר, תרכ"ב) - אלפא ביתא סימן מז, עמ' 11:

צ ק ר צד קניגון רשע וזה"כ אשרי האיש אשר לא הלך בעצת רשעים. ואמ' בפ"ק דע"ז דרש ר"ש בן (עזאי) [פזי] מ"ד אשרי האיש אשר לא הלך בעצת רשעים מי שלא הלך לאסטרטיות ולקרסיות של עכו"ם. דהיינו פלטרין וכל דבריהן כשהם נאספין לשחוק ולליצנות. ובדרך חטאים לא עמד זה שלא עמד בקניגיון שלהם. פ' רבינו שלמה זצ"ל קניגיון צידת חיות ע"י כלבים וכל מעשיהם לשחוק ולשמחה ודוגמתו בחולין וכי משה קניגין היה. ואמר בויקרא רבה פ' ויהי ביום השמיני. ר' פנחס או' בהמות ולויתן הם קניגון של צדיקים לעתיד לבוא ומכאן אני המחבר אומר שכל מי שהוא צד חיות עם העכו"ם ע"י כלבים בזמן הזה לא יראה בשמחת בהמות ולויתן שהם קניגיון של צדיקים לע"ל. והיינו דדרישנא צ' ק' ר' צד קניגיון רשע ורע לו שלא יזכה לראות בקניגיון של צדיקים לע"ל:

106 *Shulhan Aruch* literally means *set table*. Rav Isserles' gloss is metaphorically referred to as the *mapa*, *tablecloth*, that renders the *Sephardic* "table" suitable for an *Ashkenazi* to "dine" at.

107 שולחן ערוך אורח חיים (הוצ' כתובים, ירושלים, תשנ"ג) סימן שטז סעיף ב:

וי"א אף בחול אסור לצוד בכלבים, משום מושב לצים (תהילים א, א) (א"ז). רמ"א.

108 I later found this exact claim made by Rabbi Zeev Wolf Leiter in his *Shut Beit David* (conveniently referenced in full at the end of the new edition of *Noda Bi-Yehuda* published by Machon Yerushalayim, 1994), at least according to the opinion of Rabbi Yoel, who stated that in the case of utilizing horses and dogs, there is *no prohibition at all*. See also Aptowitz, *Introduction*, p. 444. A full discussion of sport hunting in Jewish law is beyond our scope here, and will

David Horobin, author of *Falconry in Literature*,¹⁰⁹ recently explained that Anglo-Norman falconry, which provides the cultural context for the forms of hawking that would have been practiced by the Jewish communities of the Tosafists, represented “an era where filling the bag was far more important than style and unlike more modern falconry, in which the style of the flight is key to the aesthetic of the sport.”¹¹⁰



Illustration 16: Emperor Frederick II, *De Arte Venandi cum Avibus* (Vatican Ms. Pal. Lat. 1971, fol Iv), http://en.wikipedia.org/wiki/File:Frederick_II_and_eagle.jpg

hopefully be the topic of a future article. In the meantime, mention must be made of the classic authoritative responsum on the subject, authored by Rabbi Ezekiel ben Judah Landau ('*Noda Bi-Yehudah*' 1713–1755).

שו"ת נודע ביהודה מהדורה תנינא - יורה דעה סימן י.

109 Hancock, 2005.

110 In a communication to this author on June 19, 2011. See note above on the distinction between falconry and hawking and the new work cited there regarding Anglo-Norman falconry manuals.

Rabbi Yithak of Vienna, author of *Or Zarua*, was a contemporary of Holy Roman Emperor Frederick II, the author of *De Arte Venandi cum Avibus*, literally "The Art of Hunting with Birds." Frederick, perhaps the most famous and influential falconer of all time, was also a renowned scientist, who made great strides in the field of bird taxonomy. Here we find a more sophisticated cosmopolitan form of falconry developing as a sport, or as the title of his manual proclaims, *De Arte*. Rabbi Yitzhak may very well have been responding to this new climate, where form and spectacle are the goal of *Cynegeticus*,¹¹¹ rather than simple sustenance, the *barburim u'slav v'dagim* that the Anglo-Normans and the Tosafists sought.¹¹²



Illustration 17: Rider hunting quail (slav). Tacuinum Sanitatis (BNF Nouvelle acquisition latine 1673, fol. 72v), c. 1390-1400,

<http://visualiseur.bnf.fr/ConsulterElementNum?O=IFN-08100553&E=JPEG&Deb=144&Fin=144&Param=C>

- 111 Greek: *hunting*. A version of this word is used by Eretz Israel sources in the Talmud to describe Roman hunting practices, and strongly condemns Jewish participation in them. This is the talmudic basis for Rabbi Yitzhak's decision.
- 112 *Geese, or swan, quail, and fish*, from the popular medieval *zemer*, or liturgical poem, *Mah Yedidut*, traditionally sung at the Sabbath meal, describing the delicacies enjoyed on the holy day. The author's name, Menachem, is indicated through an encoded acrostic, but his identity is not known to us.

Another possibility is that we are dealing here with a divide between “The Sages of France,” *Hachmei Tsarfat*, and “The Pious of Germany,” *Hasidei Ashkenaz*. As Avraham Grossman has discussed in detail that the intellectual French schools that influenced Rabbenu Ephraim and Rabbi Yoel were rather acculturated—one might say, more “*Sepharadi*” in spirit—while the German schools, which more prominently influenced Rabbi Yitzhak of Vienna, took a distinctly more pietistic stance towards the “outside world” in general.¹¹³ He was, in fact, a direct student of Rabbi Yehuda He-Hasid himself, his master in matters of piety.¹¹⁴ The German pietistic school was very fond of *gematria* numerology and acrostics, and the aforementioned acrostic by Rabbi Yitzhak contains his most focused condemnation of sport hunting.

If we may determine, based on the testimony of falconers, that Rabbi Yitzhak's interpretation of Rabbenu Ephraim is not tangible, this raises an additional question: Perhaps the scenario itself which he describes, in which a mounted rider tethers his “grounded” hawk to the saddle, is also unrealistic and hypothetical, and hence one cannot draw historical conclusions from it? First of all, it has already been stated that the opposition of Rabbenu Ephraim should most likely be interpreted as a protest against an actual custom in practice. Secondly, testimony from Dr. Nick Fox suggests that this tying could be a realistic practice:

I have hunted with falcons and accipiters [hawks – LJ] on horses for over 40 years now. We never tie our falcons to the horses because there is the risk that the falcon could bate [attempt to fly away], upset the horse and make it bolt, resulting in a bad accident. We always carry our falcons on the hand. However, it has been the practice, in North Africa at least, to carry two or even three falcons on a horse, one on the rider's fist and

113 אברהם גרוסמן, חכמי צרפת הראשונים: דרכם בהנהגת הציבור, יצירתם הרוחנית, ירושלים, תשס”א 2001, עמ’ 554-579.

114 Urbach, p. 437, 439.

sometimes tethered to the turban or perhaps to the saddle.¹¹⁵

In effect, according to Rabbenu Ephraim, a Jewish hawker must conduct himself in a similar manner to the practice of Dr. Nick Fox himself, and not according to the practice that Fox observed in North Africa, where a bird might be tethered to the saddle. However, according to Rabbi Yoel, even this is permitted. Of course, Dr. Fox is concerned purely with safety, and Rabbenu Ephraim only with forbidden mixtures, but that is irrelevant to our purposes. It has been demonstrated that the situation is a realistic one.

From within the very realm of halakha, an additional source bolsters the case against Rabbi Yitzhak's interpretation of Rabbenu Ephraim: A description found in an authoritative compendium of medieval Jewish law, entitled *Orchot Chayim*. The author was apparently R. Aharon ben R. Jacob Ha-Cohen of Narbonne, France (sometimes mistakenly identified as R. Aaron of Lunel). He lived in the thirteenth and fourteenth centuries and spent some time in Spain. In 1306, he was expelled from France, along with the entire Jewish community, and he settled on the island of Majorca, near Spain. Even though *Orchot Chayim* does not mention him or any sage by name here, in our opinion, his presentation should be considered as an accurate representation of Rabbenu Ephraim's subsequent decision. In fact, it corresponds precisely with Rabbi Yitzhak's initial understanding of Rabbenu Ephraim.¹¹⁶ The bird *esparviere* is mentioned here by name, and the prohibition is on tying the rope with which the bird is bound, to the grip ('*tfos*') of the saddle.¹¹⁷ It

115 Personal communications of Nick Fox and David Horobin, 03.11.2011

116 It is extremely unlikely that a case so precisely similar and well attested would be presented independently. Compare: A. Berliner, *Aus dem Leben der deutschen Juden im Mittelalter* (Berlin: M. Poppelauer's Buchhandlung, 1900), p. 29, http://books.google.com/books?id=3DIwQM_jDBUC&lpg=PP1&pg=PA29#v=onepage&q&f=false, who sees here a Provencal custom. I thank Gad Freudenthal for this reference.

117 אורחות חיים (מה' פירנזה, 1750) הלכות כלאים:
אותן היהודים הצדין בעוף שקורין אישפרוי"ר אין להם לקשור החבל שהעוף נקשר בו בתפוס מן

seems that the bird is already bound and riding, rather than flying, this in marked contrast to Rabbi Yitzhak's own interpretation.¹¹⁸ This opinion of the *Orchot Chayim* is cited verbatim by Rabbi Yosef Karo (1488–1575) in his *Bedeq Ha-Bayit* gloss to his monumental *Beit Yosef*,¹¹⁹ on which his *Shulhan Aruch* is based, and by Rabbi Shabbetai ben Meir Ha-Kohen ('Shach' 1621–1662, Lithuania) in his highly authoritative gloss to the *Shulhan Aruch* found in all subsequent editions.

In short, a possible sequence of events seems to have been that after consulting with Rabbi Yehuda ben Kolonymous, Rabbenu Ephraim of Regensburg decided to maintain his stance in prohibiting a mounted hawker from carrying a bird (in contrast to the lenient opinion voiced by Rabbi Yoel Ha-Levi) only in the case where it is actually tethered to the saddle. This view of his was later recorded in his name by Rabbi Yitzhak in his *Or Zarua* (where he dubiously adjusted it) and anonymously by

האוכף מן הסוס לפני [צ"ל 'לפי' וכן נמצא בכ"י מוסקבה - גינצבורג 1/107 ובכ"י לונדון - מונטיפיורי 1/131] שהן כלאים ע"כ.

118 My friend R. Shabsi Muller suggested that Rabbi Yitzhak's difficulty may be resolved according to the original case as presented in *Orchot Chayim*, with the understanding that if an animal riding on another is actually tied on, this would be prohibited. On the other hand, the Jerusalem Talmud may have been referring to a case in which the animals were not actually bound together. Still, this seems like a forced solution. The difficulty of Rabbi Yitzhak in *Or Zarua* will be discussed later in the paper.

119 The new editions by Machon Ha-Maor contain an error not found in any other editions of *Bedeq HaBait* (first edition Salonika 1605) <http://www.hebrewbooks.org/44418>, and state that the *Esparviere* is the bird being hunted, an error strangely reminiscent of *Rashi's* interpretation to bShabbat 94a, in which *a horse suited to birds*, referring to one used in the course of falconry, is interpreted as *a horse suited to carrying trapped birds*. The text of *Rashi* in the printed editions has been altered, however. According to Rabbi David Aharonovsky of Yad Ha-Rav Herzog, all of the available manuscripts of *Rashi* do not contain certain additions that were probably added to "correct" *Rashi's* "error." See the commentaries of *Ramban* and *Maharshal* ad. loc.

Orchot Chayim, whose intact version was the one subsequently codified according to normative Jewish law.¹²⁰

However, this approach is difficult, so we will consider an alternative. The primary objection is that, unlike Rabbi Yitzhak's presentation of Rabbenu Ephraim's opinion, neither of the original responsa mention the case with the hawk, but are solely concerned with dogs running in tow alongside the horse. *Orchot Chayim* only mentions the hawk, while Rabbi Yitzhak describes the hawk and *small dogs* (omitting mention of the grip, but rather referring to the saddle itself). Certain phrasings are found in *Or Zarua* and *Orchot Chayim* and which are absent in the earlier responsa. Rabbi Yitzhak mentions "those people who..." and *Orchot Chayim* "those Jews who..." These two sources alone mention explicitly the fastening of animals to the horse's *saddle*. The earlier responsa are also explainable as referring to tying the leash of the dogs to the reins of the saddle, which is similar to certain talmudic examples of *kilay behema*. Furthermore, only these two later sources appear to take the perplexing step of forbidding the act in a scenario in which one animal is actually being carried on the other (and to this Rabbi Yitzhak understandably objects).

Or do they? The source in *Orchot Chayim* is ambiguous. It does not state the precise situation in which the hawk is tethered to the saddle. We have interpreted it in harmony with *Or Zarua*, who attributes it to Rabbenu Ephraim, but that may be a dubious assumption. Also, the conclusion that *Orchot Chayim* is transmitting an opinion of Rabbenu Ephraim regarding the hawk seems rather unlikely. Of only two explicit references to Rabbenu Ephraim in the entire work, one is within a quote of Rabbenu Meir of Rottenburg.¹²¹ The source of the ruling in *Orchot*

120 As stated above, Rabbenu Ephraim's original, more stringent opinion forbidding even in the case where the animals were not tied together, was itself codified more centrally as a contended matter, in the *Tur* and by *Rama*.

121 אורחות חיים הלכות עבודה זרה:
כתב הרמ"ע [= רבינו מאיר נחום עדן] על מה שנוהגין גויות [בעת] [ש]בשר אסורה [לקבץ נדבות והולכים אצל היהודים לקבץ מהם נדבות בשביל הכ"מ] אסור להרגילה לעולם ושמעתי ש

Chayim is Rabbenu Peretz of Corbeil, the very same French sage who transmitted Rabbi Isaac of Norwich's custom. In fact, it is rather surprising that neither subsequent authorities nor scholars have mentioned this source by name, given that the series of rulings appearing in the collection *Orchot Chayim* are explicitly attributed to him.¹²² These include Rabbi Yosef Karo in his *Bedeq Ha-Bayit*, *Shach*, and Avraham Berliner.¹²³ However, Isamar Elbogen not only pointed out this fact, but also located the actual source in a manuscript of *Sepher Ha-Dinim* by Rabbenu Peretz.¹²⁴

Like Rabbi Yitzhak and later Tosafists, Rabbenu Peretz acted primarily as a legal archive and not as a great innovator of jurisprudence. Thus, it seems likely that the ruling was first formulated in an earlier generation in France, and that Rabbenu Peretz transmitted the ruling in its native version, even though he was younger, and was probably writing at a time later than Rabbi Yitzhak. The French prohibition on tethering a hawk to the saddle grip may be a French extension of the innovation of Rabbenu Ephraim, who himself, in the original two responsa, referred only to dogs.

רבינו אפרים קורא עליהם וכסף הרביתי להם וזהב עשו לבעל. אבל במקומות הרגילים אין לבטל הדבר משום דרכי שלום. כדתניא ומחזיקין ידיהם בשביעית עכ"ל.

122 אורחות חיים הלכות כלאים:

והר"ף ז"ל כתב אסור לקשור שתי פרדות בקרון אם אין שוות מאב ומאם ... ואותן היהודים הצדין בעוף שקורין אישפרוי"ר אין להם לקשור החבל שהעוף נקשר בו בתפוס מן האוכף מן הסוס לפני שהן כלאים ע"כ:

123 All cited above.

124 REJ, 1902, P. 107. My thanks to Simha Emanuel for this important source. Also to Judah Galinsky for taking the effort to search through his transcriptions of extant manuscript copies of this work, and for explaining that the section referred to by Elbogen in Tractate Hullin is absent in extant manuscripts of *Sepher Ha-Dinim*. The manuscript Elbogen utilized for his 1902 article has been lost, and thus the REJ article itself remains our only direct evidence of this source! I previously undertook efforts to locate any mention of the ruling in various manuscripts and printed editions of the glosses by Rabbenu Peretz to *Sepher Mitzvot Katan*, but to no avail.

Alternatively, the French restriction may not relate to Rabbenu Ephraim's innovation at all. There is no mention in the text of Rabbenu Peretz of a scenario where the riding is being done outside of a work context, which is peculiar to Rabbenu Ephraim's stringency. An alternate point of comparison for what Rabbenu Peretz might have had in mind could possibly be found in modern bicycle-riding (!) Chinese hawkers. They utilize a long *creance*, a thin looped rope, which prevents the hawk from escaping with the prey after the capture. Were such a creance to be tethered to the saddle grip, it could be argued that the prohibition of *kilayim* would apply during the act of hunting itself, but not while riding to the scene.¹²⁵



Illustration 18: String attached to a Merlin, as practiced by modern Chinese bicycle-riding falconers. My thanks to Andrew Knowles-Brown for his reference to this practice, and the photo. Photo: Alan Gates.

- 125 However, the author is unaware of any evidence of use of a creance in Medieval Europe, except while training a raptor; during the actual hunt itself, it does not appear that they were utilized. Although highly unlikely, if this is in fact the case described by Rabbenu Peretz, it may demonstrate a Jewish exploitation of a primitive method necessitated by a lack of familiarity with established training procedures.

Yet another possibility is that the prohibition on tethering the hawk might have applied while the horse was stationary, and when the falconer required use of both hands in the field.¹²⁶ Yet another interpretation could be that the act of hunting is viewed as having begun already once one has set out towards the scene of the hunt, and the horse is viewed as assisting the hawk in the hunt itself, if only in conserving its energies until arriving at the scene. If so, in a case of mere transportation of the hawk, say from one town to another, there would be no prohibition at all, provided no hunting took place.¹²⁷

The common denominator between all of these—admittedly, not terribly convincing possible scenarios—would be that the French stringency was completely unrelated to Rabbenu Ephraim's stringency regarding the driving of a pair of animals. Indeed, the author is unaware of any evidence that the stringency of Rabbenu Ephraim was even accepted, or even mentioned, by the Tosafists of France. It was transmitted to us through Ashkenazi authorities.¹²⁸ At the end of the day, the most likely scenario seems to be that the prohibition is a French extension of the stringency of Rabbenu Ephraim into the environment of falconry, one that

126 It should be noted that the suggestion of this stringency in particular, but the others as well, seems predicated on the rejection of Maimonides' ruling that the biblical prohibition occurs only when utilizing a ritually pure beast in tandem with an impure one (such as the pure ox and the impure donkey). Since in our case, both the hawk and the horse are impure, it seems that a prohibition on tying them even while not working could only be justified as a rabbinic extension of a biblical prohibition, which would constitute an unlikely rabbinic extension instituted by French "Geonim" themselves. In any case, Rabbi Yitzhak of Corbeil, in his *Sepher Mitzvot Katan* does represent the French/Ashkenazi rejection of Maimonides' approach: ספר מצוות קטן מצוה קע

וכתב רבי משה מיימון שאין המלקות רק על שני מינין אחד טמא ואח' טהור אבל שני מינין טמאין או ב' מינין טהורים ודאי איסורא איכא מדברי סופרים ולא ידענא מנא ליה האי.

127 This approach was suggested to the author by his teacher Rabbi Binyomin Amsel of Jerusalem.

128 אור זרוע ומהר"ח או"ז, רא"ש (וטור), מרדכי, רבינו ירוחם

should not be attributed to Rabbenu Ephraim himself or to Regensburg.

Thus, the French offshoot bears many resemblances to Rabbenu Ephraim's Ashkenazi stringency, and following its arrival in Ashkenaz, the two rulings became conflated, and both attributed to Rabbenu Ephraim. Not only do both rulings discuss the issue of *kilayim*, but also they both deal with a horse, with hunting, and with the issue of tethering. Thus, it would have been natural for Rabbi Yitzhak, or the source for his *Or Zarua*, to equate these sources.



Illustration 19: Heinrich von Veldeke Eneit, ms. Berlin, SBB-PK, germ. fol. 282 (circa 1180), f. 11v. Note the small dog tethered to the saddle. This fits the description by *Or Zarua*. W. Rösener (ed.), *Jagd und höfische Kultur im Mittelalter*, Göttingen: Vandenhoeck & Ruprecht, 1997, p. 552. BIBLIOTHECA AUGUSTANA – http://www2.fh-augsburg.de/~%20harsch/germanica/Chronologie/12Jh/HeinrichVeldeke/vel_en09.jpg

<http://www.oqimta.org.il/oqimta/5773/jacobi1.pdf>

However, in order to equate them, each of them would have to be slightly but significantly altered from its original context. Instead of the description by Rabbenu Ephraim and the Ashkenazi authorities, of dogs running alongside the horse, in order to resemble the case of the hawk, we find in *Or Zarua* that the prohibition is on *small* dogs being tethered to the saddle, which Rabbi Yitzhak clearly interprets to mean that the dogs are riding on the horse. The French prohibition on tethering the hawk to the grip of the saddle was altered as well. Here, the description is definitely understood to be referring to travel, while riding the horse, which may or may not have been the original case. The grip is no longer referred to explicitly, possibly because the practice with small dogs, lumped together with the hawk in the formulation, was to tether them to the rear of the saddle, rather than on the grip which was located in the front.

The settings of these new conflated cases introduced a fundamental difficulty to Rabbi Yitzhak. The Jerusalem Talmud explicitly rejects the possibility of an infraction in the case where one animal is riding on the other. Thus, the case with the dogs was reinterpreted as one in which the dogs are led on a leash alongside the horse. This is a reversion to the original case cited by Rabbenu Ephraim.¹²⁹ The case with the hawk was interpreted as one where the hawk is being led flying on a leash, which we have seen is very unlikely from a practical point of view. A more likely resolution to the difficulty raised by Rabbi Yitzhak is that, unlike the case in the Jerusalem Talmud, here we do not consider the hawk to be riding on the horse, since it is resting on the hand of the intermediary rider. This fact, self-evident in the light of falconry art and knowledge, is

129 However, the prohibition here only applies in the case where the dogs are tethered to the saddle, like the compromise position attributed to Rabbenu Yehuda ben Kalonymus above. The position originally taken by Rabbenu Ephraim, that the prohibition applies even when the dogs are not tethered to the horse, but where the leash is held in the hand, is the one recorded by the Ashkenazi *Poskim* mentioned above (Rabbenu Asher, Mordechai, Rabbenu Yerucham, etc), who never conflated the case with the French one. It has been noted above that this case of running dogs tethered to the saddle is very unsafe and unlikely to occur in practice.

thus not stated in the French sources. The common positioning of the raptor on the hand of the rider may have been unknown to the Ashkenazi Rabbi Yitzhak of Vienna, or perhaps he did not consider it legally relevant. Be it as it may, this distinction seems sufficient to deflect his criticism of the French ruling in its original context.

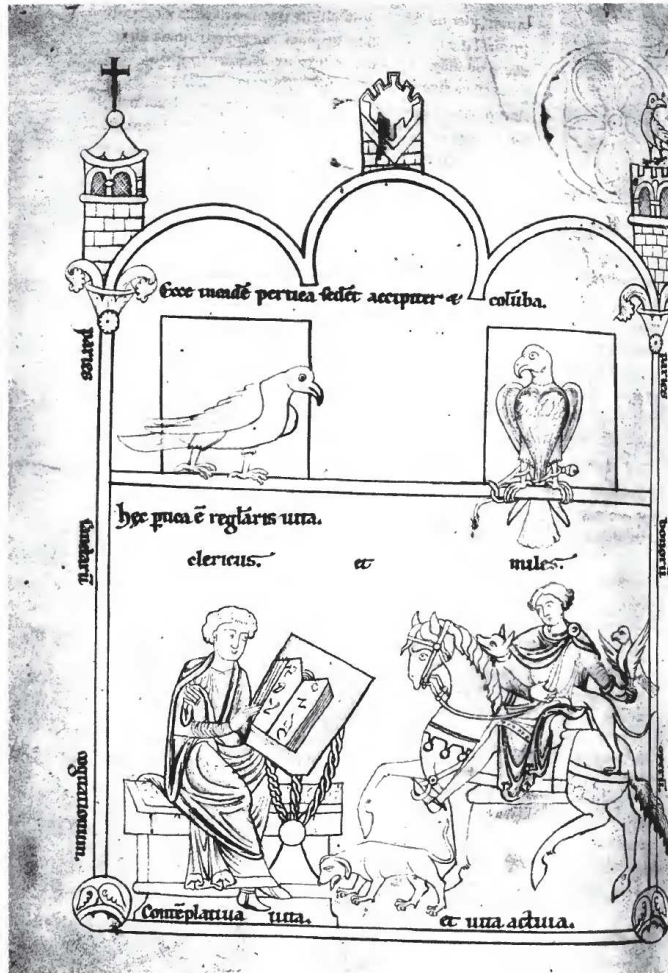


Fig. 1a. Heiligenkreuz Aviary, Prologue miniature
(Heiligenkreuz Abbey 226, fol. 129v)

Illustration 20: Hunting dog riding on a horse. France, 12th century. W. Rösener (ed.), *Jagd und höfische Kultur im Mittelalter*, Göttingen: Vandenhoeck & Ruprecht, 1997, p. 552..

IV. Summary: A Bird in the Bag, *Pat B'Salo*.

In Section I of this article, we examined evidence that Rabbi Isaac of Norwich, a prominent member of a community of Rabbenu Tam disciples, used contraptions of silver talon covers on his hawk as a stringency which other groups of French Jewry did not previously observe. He may even have invented or commissioned this device, given his great wealth. We showed that Rabbenu Tam himself enjoyed a unique status of power and influence, both in the Jewish world, and in the King's court, where falconry was a common currency. In Section II, we examined how Rabbenu Tam wielded his intimacy with hawks and falcons in effecting sweeping revolutions in Jewish dietary laws. In the third section, we shifted to the world of biblical exegesis, with a remarkable commentary attributed to Rabbenu Tam, which projects falconry back to the biblical patriarchs themselves, and which might be considered quite revealing with regard to his own personal struggles. Another similar style of commentary was discussed, one by his student Rabbi Joseph Bechor Shor, in which Moses' warning to Pharaoh on the riverbank is interpreted as having occurred during the act of hawking. In the fourth and final section, we discussed a ruling pertaining to a horse-backed falconer, found in the legal Compendium of Rabbenu Peretz, and which was related to a prohibition which was discussed in depth by Rabbenu Ephraim and Rabbenu Tam's other disciples. All of this evidence interlocks to support a conclusion that hawking was practiced by medieval Anglo-French Jewry. Perhaps even Rabbenu Tam himself engaged in falconry, as has been suggested by contemporary scholars, although we would be hesitant to draw any conclusions other than that he was certainly well aware of its elements.



Illustration 21: Ivory Mirror Back, France, 14th century, courtesy of the Metropolitan Museum of Art, www.artstor.org

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The rabbinic sources that describe falconry from a proximate perspective are all French or derived from this community. Additionally, we pointed to the gentile rulers they served closely and who sheltered these communities from the masses, with varying degrees of success. Familial links are found between these ruling families themselves, which may further explain the French Jewish “preoccupation” with hawking, even in the later Spanish Diaspora.

Falconry, while widely practiced in the East since ancient times, is not attested to in Western Literature, at least not until the early Middle Ages. To quote Hans J. Epstein: “The fullest technical knowledge of our sport was transmitted from the East and through the channels of Islamic civilization.”¹³⁰ Epstein is referring not to the introduction of falconry to Europe, but to its later refinement. While there is no direct evidence to suggest that Jews were involved with any elements of the transfer of this knowledge, it seems like a possibility well worth investigating, given that Jewish merchants were uniquely well suited to navigate between the Christian and Islamic worlds.¹³¹ Eastern Jewish communities were at the very least quite intimate with Persian falconry (which will hopefully be discussed in a future article), and later, Western Communities were active participants in European falconry.¹³² If there is one thing that the practice of falconry and the Jewish people share in common, it is the noted ability to transcend both geographic and linguistic borders. Communities of Jews and falconers alike have each historically served as living cultural conduits, even between worlds in conflict.

130 *The Origin and Earliest History of Falconry* Isis, Vol. 34, No. 6 (Autumn, 1943), p. 497.

131 On Feb. 21, 2011, speaking at a conference on *Rashi* and Language, at the Hebrew University's Academy of the Hebrew Language, Grossman stated that he believes that it was Jewish merchants from France and Ashkenaz who travelled to the East, who brought back home with them grammatical works or principles translated from Arabic texts. In that light, it would not seem unreasonable for them to have brought back some falconry principles as well.

132 According to Epstein, “Outside Palestine, the Jews, like the Arabs, seem to have learned hawking from the Persians.” p. 501 Again, we feel that Epstein may have read too much into these sources, but other sources support his conclusion. Also see: Herman, G., “One Day David Went Out for the Hunt of the Falconers”: Persian Themes in the Babylonian Talmud”, *Shoshanat Yaakov: Ancient Jewish and Iranian Studies in Honor of Professor Yaakov Elman*, (forthcoming 2012).



Illustration 22:

Above: Yehud Coin 1, Israel Museum, Jerusalem, 4th century BCE, with old Hebrew inscription: 'yhd' = 'Judah'. Jean-Phillipe Fontanille, www.menorahcoinproject.org.

Below: Another Yehud Coin, courtesy of Dr. Haim Gitler and Israel Numismatic Research. This coin depicts a deity or a ruler holding a falcon.

Appendix

The Law of the Birds, *Torat Ha-oph*

The following section only touches on falconry tangentially. It was written during an earlier phase of research, when it appeared that there was compelling historical evidence that Rabbenu Tam himself practiced falconry, and used silver talons on his hawk. Indeed, the citations in this section remain the only ones that we can attribute to him with a fair amount of certainty, so they seem to bolster other, weaker sources. If it turns out that the material here serves only a limited purpose in informing us about Rabbenu Tam's possible personal involvement in falconry, the historiographical interest remains. If he did not practice the sport, why was Rabbenu Tam associated with it by later generations in Spain?

Rabbenu Tam, in his *Sepher Ha-Yashar*, constructs a radically new approach to the rather controversial issue of determining which types of fowl are kosher for consumption and which are not. In the course of his long and complicated discussion in determining which type of fowl are kosher for consumption (to which I refer as *Torat Ha-oph*¹³³) he claims first-hand knowledge of particular behaviors of the hawk and the falcon. I've translated only the end of the long exposition, some of which - but not the section crucial to our discussion - is cited by *Tosafot* (bHullin 62a):

I do not agree with the ruling of Rabbenu Shlomo [*Rashi*] regarding [the matter of] *trampling*. Furthermore, the word *trampling* is not defined [in this context]¹³⁴ as he explained it

133 A play on Leviticus 11:46. For a full treatment of the topic of Jewish legal traditions regarding the consumption of birds, see: נהר צוף, מוסורת העוף, זהר עמר, 2004. On Rabbenu Tam's opinions specifically, see p. 29, 41.

134 Here Rabbenu Tam follows a classic approach of his, defining the same word in two locations in a completely different manner. To quote Avraham Reiner in his dissertation: "Rabbenu Tam constructed each term's meaning or relevance in the context of each specific situation, without necessarily applying one interpretation to the term in other contexts..." See also: Haym Soloveitchik, 'Halachic Texts,' in

[that the bird stands on its food with its legs to hold it in place as it eats].¹³⁵ The custom of the birds which are [categorized as] *trampers* can be clarified through observing the hawk (*aushtveir* = *astor*) and the falcon, as they are referred to in the vernacular, who *trample and* [simultaneously begin to] *eat* [their prey] alive. According to its [correct] interpretation, the biblical *netz* is not the hawk or the falcon, for it [the *netz*] is among the 21 birds listed [in Leviticus 11 and Deuteronomy 14] who are not *trampers*, as I have explained [previously]. Furthermore, we see that they [the hawk and the falcon] *trample* and eat [their prey alive], as I have explained. In truth, neither can they be a type of [the biblical] *nesher* [prob. vulture], for they have an extra “toe.” Rather, one should say that the hawk and the falcon

AJS, Vol 3, 1978. However, both the traditional and the novel interpretation of *Rashi* (like that of Maimonides in his commentary to the Mishna) already interpreted *drisa* differently than the definition appearing earlier in the third chapter of Mishna Hullin.

- 135 This is the second interpretation offered by *Rashi*, which he states in his commentary to the Gemara—as opposed to the interpretation he gives in his commentary to the Mishna—that *dores v'ochel* is defined as a bird which lifts its food while it eats. Rabbenu Tam does not state which interpretation he is rejecting, and this point has been the cause of much confusion, apparently from the time of the *rishonim*. *Ma'adanei Yom Tov* and critical notes on *Beit Yosef* and *Piskei Maharih*, published at the end of the edition of *Shita Mekubetzet* published by Machon Ofeq discuss this point. According to several early sources it appears that Rabbenu Tam is rejecting *Rashi's* opinion expressed in the commentary to the Gemara. *Pri Megadim* on the *Taz* explains so, and I wish to concur, since *Rashi* begins that commentary with “*it seems to me*” (*li nir'e*), suggesting that this is indeed his own interpretation, while that which he offered to the Mishna is that which he learned from his teachers. This fits *Rashi's* distinct style of disputing his teachers, which here his grandson Rabbenu Tam extends in turn. In the words of Avraham Reiner, he follows, ‘the “French” approach that halakhah is open-ended, and its study allows constant innovation.’

are types of [the biblical] *orev*,¹³⁶ like the white *senunit* according to Rabbi Eliezer and [the] *zarzir*, which are also types of *orev*.¹³⁷ In contrast, the biblical *netz* does not *trample* [and eat]... However, do not be astonished at how [many people] commonly refer to the [biblical] *netz* as “hawk,” for they have [merely] become accustomed to their error. Similarly, they commonly refer to the [biblical] *nesher* as “eagle,” but that is not so, for it has an extra “toe” and the *nesher* does not.¹³⁸ Likewise, they identify the [biblical] *qora* as *cuckoo*, but that is not so, for if it were true, it would be permitted... This is how I understand these teachings, not like the [traditional] interpretation of Rabbenu Hananel or that of Rabbenu Shlomo.¹³⁹

136 Not the biblical *orev* itself, which is identified as the *crow or raven*, but as examples of “types of *orev*” hinted at in the verse. Although it seems unusual to group the hawk and falcon with the raven, who is a scavenger, it does kill prey as well, and it may even have been trained to hunt as in falconry, as reported in *The Baz-Nama-Yi Nasiri: A Persian Treatise on Falconry*, Lieut. Colonel D. C. Phillott (trans), London, 1908, pp. 35–36.

137 *Senunit* may be identified as: *khataf* = *kestrel*, as attributed to Rav Hai Gaon in *Sihat Hulin*, ad. loc., *ibid*, or more likely, according to *Rashi*: *arondele* = *swallow*. *Zarzir* is perhaps: *Nesher* = *Eagle*, attributed to R Moses Kimhi, or, according to *Rashi*: *estornel* = *starling*.

138 This objection to the identification of the *eagle* as the biblical *nesher*, is echoed, albeit for different reasons, by contemporary scholars, such as Prof. Judah Feliks, who cites Rabbenu Tam in his entry: *Nesher* in *Plants and Animals of the Bible*, Sinai, 1962.

139 : ספר הישר לר"ת (חלק החידושים, מהדורת ש"ש שלזינגר, ירושלים 1959) סימן תנ ... שאין נר' לי מה שפסק רבינו שלמה (לספוקי) בדריסה. וגם אין לשון דריסה כפירושו. ומנהג הדורסין יש לברר כמו שעושים האושטוייר והפלקון בלעז שדורסין ואוכלין חיין. לפי פתרונו [נץ] דקרא לאו היינו אושטוייר ופלקון שהרי הן מכ"א עופות המנויין (שכן) [שהן] אינן דורסין כדפריש'י. ואנו רואין שהן דורסין ואוכלין כדפרישית. וגם ממין נשר אינו שהרי יש לו אצבע יתירה. אבל יש לומר שהם האושטוייר ופלקון מין עורב כמו סנונית לבנה לר' אליעזר וזרזיר שהן ממין עורב. אבל נץ דקרא לא דריס... ואל תתמה (ואם) [כן] על מה שהורגלו לקרות לנץ אושטוייר כי לפי טעותם הורגלו. כמו שהורגלו לנשר איגלא. ואינו דהא יש לו אצבע יתירה. ונשר אין לו. וכן קורין לקורא קוקו. ואינו דאם כן הוה ליה טהור. כדמוכח גבי שילוח הקן דאינו נוהג אלא בטהור.

In this text, Rabbenu Tam proclaims his first-hand knowledge of the hawk and the falcon, and demonstrates it well. Indeed, as he states, their prey will quite often be consumed alive, especially in the case of the hawk, which kills more slowly with its talons, whereas the falcon kills quickly by severing the spinal cord with a special notch in its beak. Andrew Knowles-Brown, an English falconer and hawk breeder, relates that even in most cases where the prey has already been dispatched, it may keep flapping for up to two additional minutes while the predatory bird is plucking and feeding, and this certainly would appear as if the predator is eating the prey alive.

To this author's knowledge, the above text from *Sepher Ha-Yashar* represents the first appearance of the Latin term *falcon* in a Hebrew manuscript. Rabbenu Tam, while not distinguishing between the characteristics of the hawk and the falcon, clearly differentiates between the two distinct species by going out of his way to mention both. This is in itself quite notable, because miniatures and texts from this period in which this distinction is possible are relatively rare. As late as 1943, Hans Epstein wrote that, "it is impossible to distinguish between the *accipitrinae* and *falconinae* in either literary or pictorial evidence before the 13th century," and here Rabbenu Tam is writing in the middle of the 12th century and deliberately distinguishing between them, even if only in name.¹⁴⁰

Rabbenu Tam employed his first-hand knowledge of birds of prey to

כנ"ל אלו השמועות. ולא כפר"ח ורבינו שלמה זצ"ל. זה הועתק מכתבת יד רבינו תם. וגם זה מכתבת ידיו.

¹⁴⁰ 'Origin and History,' note 5. For a clear, concise description of the distinction between *falconry* and *hawking*, see the beginning of 'The Decline of Falconry.' Perhaps recently publicized ancient falconry texts, such as Hunt, Tony, (ed.), *Three Anglo-Norman Treatises on Falconry*, Oxford: Society for the Study of Medieval Languages and Literature, 2009, will provide further counterexamples to Epstein's comment. These particular texts would seem to provide a context most similar to that in which Jewish hawking would have occurred.

boldly craft here a novel approach to identifying permitted and forbidden birds, one that would be considered absolutely authoritative by Ashkenazi authorities for the next five hundred years.¹⁴¹ It is the first explicit expression of a blanket prohibition on the consumption of birds of prey (although it may be argued that this was long implicit in the ancient Mishna), a point taken for granted by observant Jews today, thanks in part to this ruling by Rabbenu Tam. While not at all obvious, this prohibition is, in fact, apparently non-existent according to *Rashi* (except for particular birds such as the hawk), who defines “trampler” either as a bird that lifts its food, or as a bird that holds its food in place with its feet while eating.¹⁴²

141 With no alternative opinion even mentioned (or immediately refuted) by *Smag, Rosh, Hagahot Maimoniot, Tur, Bach, Levush, Taz*. Its dominance was unseated in Ashkenaz by *Maharshal* and *Shach*, but it lives and breathes, and no authority would dare propose a leniency in opposition to it. The author is preparing a Hebrew study, which illustrates the impact of Rabbenu Tam's opinion on the Tosafists themselves. R. Yitzhak Zaken of Dampierre, nephew and successor to Rabbenu Tam as leader of the French community, states in *Tosafot* (bShabbat 156b) that dogs consume certain small birds alive. It is proposed that R. Yitzhak himself, or a later Tosafist editor, altered that text in the parallel discussion appearing in *Tosafot* (bHulin 14a), which instead states that hawks eat birds alive and that lions eat small goats alive. The intention behind the revision is to ensure that the discussion does not contradict the opinion of Rabbenu Tam. The source in *Tosafot* discusses animals owned by Jews, thus providing further evidence for hawking in the community of the Tosafists. It is argued that the private pet lion was a hypothetical possibility, which was familiar to the Jews in the royal French menagerie of the period.

142 It is remotely possible that certain birds of prey may have been consumed by isolated Jewish communities in talmudic times, such as the *zarzir* and the *senunit*, but their precise identity is unclear. See *Sihat Hulin* 425.



Illustration 23: A Hawk lifting its food with its legs, or holding the food down. See Note on *Rashi's* interpretations. Bodleian Library, MS. Douce 366, Folio 38r. <http://bodley30.bodley.ox.ac.uk>

Although it seems unlikely that medieval Jews would have consumed birds of prey even in the absence of Rabbenu Tam's decision, the possibility cannot be discounted entirely, for we have before us one of the most complex and confusing sections found anywhere in Jewish law.¹⁴³ One could imagine an alternate legal stance developing in the absence of Rabbenu Tam, perhaps based on the interpretation of *Rashi*, and possibly permitting the consumption of birds of prey.¹⁴⁴ The words of one of the

¹⁴³ 39 עמ' עמ', מסורת העוף, נה צוף 2004, עמ' 39.

¹⁴⁴ Although it was certainly far from Rabbenu Tam's concerns, the issue of human consumption of birds of prey is today a significant ecological issue. High in the food chain and thus very susceptible to the decrease in natural habitats where their prey flourish, in certain regions the bird populations are further stressed by human consumption and are being driven to the brink of extinction, and past it. For example, Helmut Walter wrote, "... the young falcon's breast constitute[s] an important food resource. We can therefore expect that all accessible colonies within

leading rabbis in southern France, Rabbenu Menachem ben Shlomo Meiri (1249–1315), regarding this law, prove most illustrative: “You must know that this Mishna, its interpretation, and the matters resulting from it have become very confused (*‘mevulbalim’*) by the commentators; and the legal decisions change as the interpretations vary.”

A story which has repeated itself throughout Jewish history up to the present day, is that of Jews arriving in some new land, or species being introduced from afar, and the Jews, unfamiliar with it, cannot decide clearly whether it is kosher or not. Differing opinions result in much internal conflict, such as has occurred recently regarding the South American zebu, whose meat is prepared in a kosher manner and shipped worldwide to many, but not all, Jewish communities. The proper approach to this issue is an additional topic addressed by Rabbenu Tam here in this chapter of *Sepher Ha-Yashar*, where he fundamentally disagrees with *Rashi*. According to *Rashi*, if we have no existing tradition, and there is any doubt whatsoever regarding any of the criteria, we must disqualify the animal for consumption. Rabbenu Tam disagrees, and believes that the proper approach is to follow to the best of our ability the general principles laid forth in the Talmud (as understood by Rabbenu Tam here) even though they themselves are not entirely clear to us.

A controversy arose in France during the generation following

50 km. of human settlements have probably regularly suffered from human predation. The persistence of the species in so many locations where this human impact has existed is probably due to the reproductive capacity of those pairs..." Walter, Hartmut, *Eleonora's Falcon. Adaptations to Prey and Habitat in a Social Raptor*, Chicago and London, 1979, p. 315. For a discussion into the history of the historic trade of falconry birds taken from these islands, and the identification of the species, see Benjamin Arbel, "Venice and Kytherian Falcons." See also: T. Krüper, "Beitrag zur Naturgeschichte des Eleonoren-Falken, *Falco Eleonorae* Gén ", *Journal für Ornithologie*, XII (1864), p. 20. I thank Prof. Benjamin Arbel for these references.

Rabbenu Tam, regarding the permissibility of the pheasant, which may have been introduced to Northern France from its native Eastern Asian lands. According to Zohar Amar, a leading expert on flora and fauna in Hebrew sources, it is identified explicitly in the Babylonian Talmud as *pheasioni*, but the traditional identification was lost and forgotten in Europe due to its being relatively rare and expensive.¹⁴⁵ In any case, the Jews of France were not familiar with the pheasant and there were those who sought to forbid its consumption. The matter was eventually brought to Rabbenu Isaac ben Shmuel, *Ri*, the nephew of Rabbenu Tam and his successor as the supreme arbiter of Jewish law. Based on his personal examination of the bird according to the principles his uncle Rabbenu Tam outlines in this text, he permitted it. This decision was considered authoritative and was recorded in subsequent works of Jewish law, and it is considered binding to this day.¹⁴⁶ Had the pheasant been introduced several hundred years later, it would very likely have been forbidden, as later legal authorities tended to lean more to the position of *Rashi* regarding this matter.¹⁴⁷

145 ז'הר עמר, מסורת העוף, נה צוף 2004, עמ' 67.

תלמוד בבלי מסכת יומא דף עה עמוד ב: ארבעה מיני סליו הן, ואלו הן: שיכלי, וקיבלי, ופסיוני, ושלי. תלמוד בבלי מסכת קידושין דף לא עמוד א: יש מאכיל לאביו פסיוני וטורדו מן העולם. תלמוד בבלי מסכת בבא קמא דף נה עמוד א: אמר ר"ל, כאן שנה רבי: תרנגול טווס ופסיוני - כלאים זה בזה.

146 ספר מצוות גדול, מהדורת שלזינגר, ירושלים תשנ"ה, עשין סימן נט-סב (וכן בהגהות מיימוניות (הלכות מאכלות אסורות א, ט

ואומר מורי רבינו יהודה ברכי יצחק כי רבינו יצחק בר רבי שמואל בדק בעוף שקורין פיישנץ ומצא בהם כל סימני טהרה וראה שהתירם וכן היה רבינו יעקב אומר. ובני פרובינצא אוכלין אותן על פי המסורת אף על פי שיש שקורין אותן תרנגולין בריים ומסקינן (סב, ב) אסר אמימר בין תרנגולא דאגמא בין תרנגולתא דאגמא ומ"מ אין אלו העופות בכללם:

147 The situation is not simple, as Rami Reiner pointed out to me that *Smag*, mentioned in the previous note, also states that the Provencal custom was to permit the pheasant, so the pheasant may have eventually been permitted in any case. The secondary version of *Smag* found in *Hagahot Maimoniot* cited above, which attributes the transmission of the Provencal custom to Rabbenu Tam himself, should be considered the result of the maculation of רבני into ובני.

A principal means of obtaining pheasant in Northern France in the 12th century was through hawking. As such, pheasants would likely have been quarry for many of French Jewry's hawking expeditions, which quite likely triggered the inquiry that resulted in the examination undertaken by Rabbenu Isaac. It should be noted however, that other forms of trapping, such as with nets, were also widely employed.

An earlier Provencal sage, R. Zerachyah Ha-Levi (ca. 1130–ca. 1186) was the author of a controversial gloss on the *Alfasi* entitled *Ba'al Ha-Maor*. Highly influenced by the contemporaneous (yet older) Rabbenu Tam and his school, his aggressive and original approach was severely criticized with much vitriol by his Provencal rival *Ra'avad* and in much extensive depth by the Spanish *Ramban* (Nahmanides) in his *Milhamot Hashem*, “Wars of the Lord.” In contrast, R. Zerachyah's glosses are generally quite brief and succinct. Here however, he graces us with one of the most extensive discussions of all of his glosses, spanning half a column of extremely fine print in the standard Vilna edition. He describes in detail three fundamentally different approaches to the topic: The traditional one, the Provencal and novel one, and the third, this one of Rabbenu Tam, whose text in *Sepher Ha-Yashar* he quotes in its entirety. He concludes that while any of the approaches provides a satisfactory interpretation, that of Rabbenu Jacob Tam is the one that should be followed in practice.

According to R. Zerachyah, the greatest difficulty in Rabbenu Tam's interpretation is his labeling of the hawk and falcon as types of the biblical *orev*. The difficulty is not anatomical, but etymological: A regnant interpretation of the time, found explicitly in manuscripts of the Tosafists,¹⁴⁸ is that *orev* refers to “blackness,” the color of the raven or crow, signifying “evening,” *erev*, when the skies turn black. Furthermore, we find in Canticles 5:11 “black as an *orev*.” In contrast, Rabbenu Tam identifies the hawk and the falcon, which are generally

148 Oxford Bodelian 268/1 (16736) as cited by Rabbi Jacob Gellis in *Baalei Ha-Tosaphot Ha-Shalem*, Vol. I, Jerusalem, 1982, p. 246.

not black, as types of *orev*, posing a difficulty. R. Zerachyah resolves the difficulty in Rabbenu Tam's approach with an incredible etymological twist: *Orev* is not related to *erev* as in "evening," but rather to *erev* as in *erev rav*, "mixed multitude" (Exodus 12, 38), with *orev* meaning *mixed*. R. Zerachyah explains that hawks and falcons are considered "mixed" by Rabbenu Tam because *orev* is, "the type [of bird] that mixes with man in that it flies to his hand."¹⁴⁹ It is doubtful that this was the intention of Rabbenu Tam himself, but given R. Zerachyah's intimacy with his approach, and the geographic and temporal proximity, as he outlived Rabbenu Tam only by about fifteen years, it remains a remote possibility.¹⁵⁰ In light of the highly original and remarkably similar biblical interpretation attributed to Rabbenu Tam himself, which we saw in Section II of this article, as well as the subsequent one from his student Rabbi Joseph Bechor Shor, it seems not entirely unlikely that this etymology might have been what Rabbenu Tam himself had had in mind.¹⁵¹

149 Alternatively, "in that it flies in close proximity to him [without fear]", as some of my colleagues have suggested, but which seems unlikely to this author.

150 If we can rely on the text before us, which indicates that R. Zerachyah refers to Rabbenu Ya'akov z"l, *zichrono livracha*, in other words posthumously, we can infer that he was writing at an advanced age. This would be in direct refutation of the popular legend that R. Zerachyah's commentaries were written in his teens, and that that accounts for his brashness, for which *Ra'avad* and *Ramban* felt compelled to admonish him so strongly. Later, it came to our attention that this opinion appears to accord with that of *Chida* in *Shem Gedolim*, but Rabbi N. N. Rabinovitz, author of *Dikdukei Sophrim*, dismissed it, on the basis of Rav Zerachyah's commentary here. See:

ברדט, אליעזר יהודה, "ציונים ומילואים למדור 'נטעי סופרים', לזכרו של ר' רפאל נתן נטע רבינוביץ זצ"ל, בעל ה'דקדוקי סופרים', ישרון כג, תש"ע, עמ' רלו.

See especially the supplemental analysis by Eliezer Brodt, in

ישרון כד, תשע"א, עמ' 429.

According to Urbach, p. 100, all of R. Zerachyah's glosses were written towards the end of his life, beginning in the year of Rabbenu Tam's passing, 1171.

151 However, Andrew Knowles-Brown points out in a private communication on June

Postscript:

Since the preliminary version of this article appeared, I received valuable feedback from various readers. I would especially like to thank Jordan Penkower and Yisrael Dubitsky for suggesting numerous improvements which I incorporated. Most notably, Simha Emanuel sent a reference to a medieval source which he published in “Responsa of Rabbi Meir of Rothenburg and his Colleagues,” 2012, after this article was completed. That source suggests a clear and unexpected resolution to the difficulty of Part III of this article. I would certainly rewrite parts of that section, but what doesn't "fly" here is clearly labeled as speculative or unconvincing; furthermore, it should help to trap the scholarly prey which slipped away momentarily. The hawk will have to swoop in for the kill in a future pass.

21, 2011, that, “technically a falcon does not come to a hand. It comes to a lure and is then picked up off that by the falconer. Only hawks and eagles come [directly] to the hand or fist.” This somewhat suggests either the alternative interpretation, “in close proximity” mentioned in a previous note, or adds more doubt to the actual attribution of R. Zerachya's already forced understanding to Rabbenu Tam himself. See this case in a discussion of the influence of Rabbenu Tam on R. Zerachya in:

י' תא-שמע, רבי זרחיה הלוי בעל המאור ובני חוגו, ירושלים תשנ"ג, עמ' 107.

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