

# Meir ben Simeon ha-Me'ili on Protracted Pregnancy

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## Abstract

Since antiquity, many people have believed that the length of human gestation is variable, ranging from seven months to ten or even twelve months. The significance of this belief is not confined to the medical sphere, since it has important legal ramifications. If pregnancy could last for an extended period, a mother could claim that her offspring was legitimately conceived from her husband even if she had not had physical contact with her husband for more than nine months prior to the birth. After surveying the history of the belief in prolonged pregnancy in ancient Greek and Talmudic literature, this article presents a new rabbinic discussion of the topic from medieval Languedoc, a hitherto unknown passage from Rabbi Meir ben Simeon ha-Me'ili's work *Sefer ha-Me'orot*.

## Keywords

Halakhah – history of science – pregnancy – Languedoc

## Greek, Near Eastern and Talmudic Background

According to Hippocrates, it happens quite often that women claim to have been pregnant for more than ten months. Nonetheless, it is scientifically impossible for gestation to last longer than ten months, and Hippocrates offered other explanations for the symptoms experienced by those women.<sup>1</sup>

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1 Hippocrates, *On the Nature of the Child* VII 532–534 (30.4–5); P. Potter, trans., *Hippocrates*, vol. x (Cambridge, MA 2012) 83–87; I.M. Lonie, *The Hippocratic treatises 'On Generation'*,

Yet, under certain circumstances, Hippocrates considered pregnancy to extend into the eleventh month.<sup>2</sup>

Aristotle claimed that human gestation, unlike that of animals, does not have a fixed duration, but ranges between seven and ten months.<sup>3</sup> Elsewhere, Aristotle accepted that pregnancy could last up to eleven months—but no more.<sup>4</sup>

A different approach current in the ancient Near East explained that a fetus could, at some point during its development, go to sleep and remain in the womb for an unlimited period.<sup>5</sup> This explanation became particularly popular in Islamic culture, and anthropologists have demonstrated its prevalence in North Africa into the twentieth century.<sup>6</sup>

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- 'On the Nature of the Child,' 'Diseases IV'* (Berlin 1981) 19. In a medieval Arabic paraphrase, his opinion was expressed in a more unequivocal way: 'Some people have another opinion and say that the fetus sometimes remains in the womb for eleven months; their opinion is false and mistaken, for the fetus does not stay in the womb for eleven months.' M.C. Lyons and J.N. Mattock, *Kitāb al-ajinna li-buqrāṭ: Hippocrates, On Embryos (On the Sperm & On the Nature of the Child)* (Cambridge 1978) 27. Ten months by his calculation corresponds to nine months by modern standards. A.E. Hanson, 'The Eight Months' Child and the Etiquette of Birth: Obsit Omen!', *Bulletin of the History of Medicine* 61 (1987) 598–602; M. Stol, *Birth in Babylonia and the Bible: Its Mediterranean Setting* (Groningen 2000) 24–25. For Sasanian texts that also refer to ten months as the standard duration of human pregnancy, see S. Adhami, 'Two Pahlavi Chapters on Medicine', *Early Science and Medicine* 16 (2011) 331–351, esp. 341.
- 2 Hippocrates, *Eight Months' Child* VII 450–469 (13); P. Potter, trans., *Hippocrates*, vol. ix (Cambridge, MA 2010) 99–101: 'Ten months' births and eleven months' births occur after the seventh forty-day period in the same way that seven months' births occur after half a year (...) In fact, whenever a woman conceives beyond the time around the middle of the month, all such fetuses must necessarily arrive at the eleventh month, if they remain in the uterus for their full term.'
- 3 Aristotle, *De generatione animalium* IV.iv 772b–9; Aristotle, *Generation of Animals*, ed. A.L. Peck (Cambridge, MA 1979) 439.
- 4 Aristotle, *Historia animalium* IX (VII), 584a38–b1, 584b19; Aristotle, *History of Animals*, Books vii–x, ed. D.M. Balme (Cambridge, MA 1991) 441–443, 445. Some scholars believe that chapter IX was falsely attributed to Aristotle, but Balme upheld its authenticity. *History of Animals*, 1–13; A. Scott, 'Pseudo-Aristotle's *Historia Animalium* 9 in Origen', *Harvard Theological Review* 85 (1992) 236 n. 8.
- 5 Stol, *Birth in Babylonia*, 25–26.
- 6 W. Jansen, 'Sleeping in the Womb: Protracted Pregnancies in the Maghreb', *The Muslim World* 90 (2000) 218–237; J. Colin, 'Au Maghreb un contre-pouvoir du côté des femmes: l'enfant endormi dans le ventre de sa mère', *L'Année sociologique*, 3rd series, 53 (2003) 109–122; *Encyclopaedia of Islam* (EI-2), s.v. 'Rākid', (by O. Verberkmoes and R. Kruk), [http://reference.works.brillonline.com/entries/encyclopaedia-of-islam-2/ra-k-id-SIM\\_6202](http://reference.works.brillonline.com/entries/encyclopaedia-of-islam-2/ra-k-id-SIM_6202) (accessed 22 July 2015). For twentieth century legal discussions, see A. Layish, *Divorce in the Libyan Family*:

The Romans were aware of the explanations of Hippocrates and Aristotle. According to the earliest Roman legal code, the Twelve Tables, if a woman gave birth to a child ten months after the death of her husband, the child was considered his legitimate issue, but any longer interval was not recognized.<sup>7</sup> Some authorities, though, did not entirely reject the possibility of a pregnancy that exceeded eleven months. This possibility, mentioned occasionally in literary works, had important legal ramifications:

Masurius states that Lucius Papirius as praetor in a suit for an estate brought by an heir presumptive gave judgement for the defendant; the plaintiff's case was that the heir apparent's mother said that he had been born after thirteen months' pregnancy, and the ground for the judgement was that there appeared to be no fixed period of pregnancy.<sup>8</sup>

A similar account appears in the Babylonian Talmud, told of one of the last sages of the Talmudic period:

With reference, however, to the practical decision which Raba Tosfa'ah gave in the case of a woman whose husband had gone to a country beyond the sea and remained there for a full year of twelve months, where he declared the child legitimate.<sup>9</sup>

The context of the Talmudic discussion is the possibility of a fetus 'resting' in the womb before birth. According to another widely held medical opinion

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*A Study Based on the Sijills of the Sharia Courts of Ajdabiyya and Kufra* (Jerusalem 1991) 112, 161–162; L. Welchman, *Women and Muslim Family Laws in Arab States: A Comparative Overview of Textual Development and Advocacy* (Amsterdam 2007) 142–143. For debates on the topic of extended pregnancy in eighteenth-century France, see L. Wilson, *Women and Medicine in the French Enlightenment: The Debate over Maladies des Femmes* (Baltimore 1993) 34–64.

7 A. Watson, *Rome of the XII Tables: Persons and Property* (Princeton 1975) 40; M.H. Crawford, *Roman Statutes*, II (London 1996) IV:4, 633.

8 Pliny the Elder, *Natural History* VII, 39–40; *The Elder Pliny on the Human Animal: Natural History, book 7*, M. Beagon, trans. (Oxford 2005), 67. For this and other stories, see also Aulus Gellius, *Attic Nights* III, 16; trans. John C. Rolfe (London 1927) I, 286–297; C. Bruun, 'Pliny, Pregnancies, and Prosopography: Vistilia and Her Seven Children,' *Latomus: revue d'études latines* 69 (2010) 758–777.

9 bYevamot 80b, trans. Israel Slotki (London 1984). For the time of Raba Tosfa'ah, at the very end of the Amoraic period, see A. Cohen, *Ravina and Contemporary Sages: Studies in the Chronology of Late Babylonian Amoraim* [Heb.] (Ramat Gan 2001) 55–58.

of the ancient world, a seven-month fetus was viable, as was a baby born after nine months, but an eight-month fetus would not live.<sup>10</sup> However, the Talmud explains, Raba Tosfa'ah's ruling made it clear that a fetus could 'rest,' and similarly a seven-month fetus could spend an additional month in the womb, being born in the eighth month with the positive prognosis of a seven-month baby.<sup>11</sup> Therefore it seems likely that the inspiration for Raba Tosfa'ah's ruling should be found in Near Eastern tradition of the sleeping fetus rather than in Aristotle's theory of variable development.<sup>12</sup>

Raba Tosfa'ah's precedent was not cited as authoritative by Isaac Alfasi in his legal code *Halakhot Rabbati*.<sup>13</sup> But Moses Maimonides incorporated it into his *Mishneh Torah*:

If a married woman who has become pregnant says, 'This expected child is not by my husband,' she is not to be believed to the extent of invalidating the child, and the child is presumed to be legitimate, for the Torah accepts only the word of the father in this respect. If, however, the husband says, 'It is not my child,' or if he is away beyond the sea, the child is presumed to be a bastard. If she declares that she had become pregnant by a heathen or a slave, the child is nevertheless deemed legitimate, since the husband cannot contradict her in this matter. A foetus cannot remain in the womb for more than twelve months.<sup>14</sup>

10 A. Wasserstein, 'Normal and Abnormal Gestation Periods in Humans: A Survey of Ancient Opinion (Greek, Roman and Rabbinic),' *Koroth* 9 (1985) 225–229; Hanson, 'The Eight Months' Child'; R. Reiss and A.D. Ash, 'The Eight-Month Fetus: Classical Sources for a Modern Superstition,' *Obstetrics and Gynecology* 71 (1988) 270–273; N. Solomon, 'The Eight-Month Fetus,' in B. Cohen, ed., *As a Perennial Spring: A Festschrift Honoring Rabbi Dr. Norman Lamm* (New York 2013) 445–471.

11 'In accordance with whose view did he act? Was it in accordance with that of Rabbi who maintains that birth may be delayed? Since R. Simeon b. Gamaliel also maintains that birth may be delayed, he acted in agreement with a majority.'

12 A Greek and Roman context for the Talmudic discussion was suggested by Wasserstein, 'Normal and Abnormal Gestation Periods,' 221–225; S.T. Newmyer, 'Talmudic Medicine and Greco-Roman Science: Crosscurrents and Resistance,' in J. Vogt, H. Temporini, and W. Haase, eds, *Aufstieg und Niedergang der römischen Welt. Geschichte und Kultur Roms im Spiegel der neueren Forschung* 11, 37/3 (Berlin 1996) 2908–2909.

13 Isaac Alfasi, *Halakhot Rabbati*, Yevamot 25a, and Yosef ibn Haviva, *Nimuke Yosef*, ad loc., s.v. 'bar sheva hu.'

14 Moses Maimonides, 'Laws of Forbidden Intercourse' 15, 19 (trans. I. Klein, *The Code of Maimonides—The Book of Women* [New Haven 1972] 101).

Although Maimonides was almost certainly basing himself upon the Talmudic precedent of Raba Tosfa'ah, he phrased the ruling in negative terms—no pregnancy can last longer than twelve months. In doing so, he may have been influenced by Aristotle's cap on the maximum duration of gestation. Aristotle spoke of eleven months as the upper limit, but Maimonides extended it one month longer to accommodate his Talmudic source.

### Meir ha-Me'ili's Discussion of Protracted Pregnancy

Meir ben Simeon ha-Me'ili was a halakhist active in Languedoc in the mid-thirteenth century (died after 1270).<sup>15</sup> Although his cognomen 'Me'ili,' meaning 'of the cloak,' is presumably a reference to his family origins in Capestang, he lived in Narbonne. He was a disciple of his uncle, Meshulam ben Moses of Béziers, whose book *Sefer ha-Hashlamah* was designed as a commentary on and a completion of Alfasi's *Halakhot*. Alfasi had created an epitome of the Babylonian Talmud, incorporating all of the passages in the Talmud that he considered to be authoritative and binding. Many of his choices, of commission and of omission, were disputed by later scholars. As hinted by the title he gave to his book (*hashlamah*, completion), Meshulam aimed to 'correct' Alfasi's unjustified omissions by citing additional passages that were, in his eyes, equally binding.<sup>16</sup> Meir followed in his teacher's wake, and composed a similar work titled *Sefer ha-Me'orot*. Alongside extensive passages quoted verbatim from *Sefer ha-Hashlamah*, *Sefer ha-Me'orot* is replete with original comments.

*Sefer ha-Me'orot* has been preserved in a single manuscript, ms Moscow Guenzburg 525. The manuscript was copied in southern France by a scribe named Abraham, and it was then used by the author himself, Meir ben Simeon, who added marginal notes throughout the volume. Ms Moscow contains his commentary on tractates in the Mishnaic order of Mo'ed, which deals with the Sabbath and festivals, as well as chapters on the laws of ritual objects—Torah scrolls, phylacteries, fringes and *mezuzot*. The manuscript probably

15 W.K. Hershkowitz, 'Judaean-Christian Dialogue in Provence as Reflected in "Milhemet Mitzva" of R. Meir Ha-Meili' (PhD diss., Yeshiva University 1974); P. Roth, 'Later Provençal Sages—Jewish Law (Halakhah) and Rabbis in Southern France, 1215–1348' [Heb.] (PhD diss., Hebrew University of Jerusalem 2012) 74–81.

16 On Meshulam and his work, see D. Katz, 'The Talmudic Exegesis of Rabbi Meshulam Son of Rabbi Moshe in His Work *Sefer ha-Hashlamah*' [Heb.] (PhD diss., Bar-Ilan University 2013).

originally comprised one additional section that is no longer extant, on the laws of impurity. However, from internal references as well as citations by later scholars, it is clear that *Sefer ha-Me'orot* originally covered a wider range of topics and tractates, including several sections on marital law.<sup>17</sup>

Recently, I discovered a passage from Meir ben Simeon's work on tractate Yevamot, in a seventeenth-century manuscript at the National Library of Israel. Ms Jerusalem NLI 8°1729 is a florilegium of medieval citations copied by the scribe to follow the order of Jacob ben Asher's *Sefer Arba'ah turim* (Book of Four Columns). A number of the citations are from sages active in medieval Iberia and southern France, among them Joseph ibn Megas of Lucena, Manoah of Narbonne, Menahem Me'iri of Perpignan and Todros ha-Levi, nephew of Meir ben Todros Abulafia of Toledo.<sup>18</sup> On a page dedicated to the ruling in Jacob ben Asher's section on marital law, *Even ha-Ezer* §4, quoting Maimonides' position that a fetus cannot remain in utero for more than twelve months, the following passage appears:<sup>19</sup>

כתב רבינו מאיר בר שמעון המעילי ז"ל בחדושי' למ' [יבמות] בפרק הערל וז"ל: כתב הרמב"ם ז"ל בספרו כי אין הולד משתהא יותר מי"ב חדש. וצריך עיון מאין הוציא זה כי נוכל לומר כי כמו שהכשירו בנשתהו י"ב חדש א"כ הוה מכשיר ליה אם נשתהא ט"ו ימים או חדש יותר. ואני שמעתי שאירע מעשה במגדל אחד באשה אחת שנהפכו עליה ציריה בסוף תשעה חדשים להריונה ואחר יום אחד עברו ציריה ולא ילדה עד תשעה חדשים אחרים ואחר שמונה עשר חדש ילדה בן זכר והיו מראין אותו השכנים לבאים שם דרך מופת. ואני שמעתי מקצת חכמי<sup>20</sup> שאין ראוי לפוסלו אם נשתהא יותר מי"ב חדש לפי הנראה מן ההלכה. ולענין ירושתו בנכסי האב בעל אמו, איכא למימר דכיון דמכשרי ליה ירש בנכסי האב. וכל זה צ"ע גדול וישוּב ומתינות בדין אם

17 Ketubot, Nedarim and Gittin—Roth, 'Later Provençal Sages,' 77 n. 43.

18 On Meir Abulafia, see B. Septimus, *Hispano-Jewish Culture in Transition: The Career and Controversies of Ramah* (Cambridge, MA 1982).

19 Ms. Jerusalem, National Library 8°1729, fol. 250r. The passage is cited by Avraham Israel Zeevi, *Orin gedolim* (Izmir 1758), *limmud* 108, fol. 38v: מצאתי 'מאן חפשי בספרי' מציאתי: 'מאן חפשי בספרי' מהא"ב ואין העובר מישתהי במעי אמו וכו' וצ"ע מאין הוציא זה כי נוכל לומר דה"נ הוּוּ מכשרי ליה אם נשתהה יותר ואני שמעתי שאיר' מעש' באש' שנה-פכו עליה ציריה לסוף ט' חדשים להריונה ועצרו ציריה ולא ילדה עד ט' חדשם אחרי ואני שמעתי מקצת חכמי דורינו שאין ראוי לפוסלו אם נשתהה יותר מיב"ח ושמעתי שחכמי הטבע כתבו שלא יוכל להשתהות יותר מיב"ח וע"ז נר' שסמ' רבינו משיטת הר' מאיר המעילי הטבע כתבו שלא יוכל להשתהות יותר מיב"ח וע"ז נר' שסמ' רבינו משיטת הר' מאיר המעילי לייבמות ע"כ. On Zeevi (d. 1731) and his work, see S. Glick, *Kuntres ha-teshuvot he-hadash* (*A Bibliographic Thesaurus of Responsa Literature published from ca. 1470–2000*) [Heb.] (Ramat Gan 2006–2009) vol. 1, 53.

20 The scribe left a space. The missing word is supplied in Zeevi's transcription (see previous note): דורינו.

האשה היתה מתנהגת בצניעות. גם כי שמעתי אשר חכמי הטבע כתבו שלא יוכל להשתוות יותר מ"ב חדש ועל זה נראה שכתב הר"ם מה שכתב עב"ל.

Rabenu Meir ben Simeon ha-Me'ili, of blessed memory, wrote in his novellae to T[ractate] <Yevamot>,<sup>21</sup> chapter 8:<sup>22</sup> Maimonides o.b.m. wrote in his book<sup>23</sup> that the fetus does not wait longer than twelve months. It requires study—where did he derive this from? For we could say that just as [the Talmud] declared it legitimate when it waited twelve months, he would declare it legitimate if it waited fifteen days or a month more. I heard of a case in a castellum (*migdal*) regarding a woman who experienced contractions at the end of her ninth month of pregnancy, and one day later they stopped. She did not give birth until an additional nine months [had elapsed], and after eighteen months she gave birth to a boy, and the neighbors would show him to people who visited there as a wonder (*derekh mofet*). I heard from some of the sages of [our generation]<sup>24</sup> that according to the halakhah it is not right to disqualify [a child] if he waited more than twelve months. Regarding his inheriting the estate of the father, the husband of his mother, one could say that since he is legitimate, he inherits his father's estate. All of this requires great study and concentration and moderation in judgement<sup>25</sup> [to determine] whether the woman was behaving modestly. Also because I heard that the natural philosophers (*hakhmei ha-teva*) wrote that it cannot wait more than twelve months, and it seems that is the reason that Rabbi Moses wrote what he wrote.

This passage has no parallel in *Sefer ha-Hashlamah* and is apparently the independent work of Meir himself.<sup>26</sup> While the opening and closing lines are devoted to understanding the source for Maimonides' ruling that a fetus cannot be assumed to have spent more than twelve months in the womb, the rest of his discussion undermines that same ruling by suggesting that there is no

21 Added by a later hand.

22 bYevamot 80b.

23 Maimonides, Laws of Forbidden Intercourse 15, 19.

24 'Our generation' according to Zeevi's transcription. The scribe of the Jerusalem manuscript left an empty space instead of this word.

25 mAvot 1:1.

26 Meshulam ben Moses, *Sefer ha-hashlamah*—Yevamot, ed. A. Hafutah (Tel Aviv 1965) 117–120.

upper limit on the length of gestation.<sup>27</sup> The only true criterion for determining the paternity and legitimacy of a child is the moral reputation of its mother.<sup>28</sup>

Three sources of information serve Meir ben Simeon in his discussion. One is the halakhic tradition—the written sources in the Talmud and Maimonides, and the opinions of local contemporary sages. Another is folklore, and the third is scientific literature, with which he was not personally familiar but whose content was conveyed to him by others.

### Possible Sources for ha-Me'ili

The works of Aristotle were known to Maimonides through Arabic translations and epitomes, and the Aristotelian writings on animals could quite easily have been among them.<sup>29</sup> For medieval Hebrew readers like ha-Me'ili, however, the

27 According to *Halakhot gedolot*, an early legal code from the Geonic period, the period of time was immaterial, since the possibility always exists that the absent husband visited his wife at some point for a single night without anyone's knowledge. *Sefer Halakhot gedolot*, ed. E. Hildesheimer, vol. 2 (Jerusalem 1980) 183–184.

28 A similar attitude, which sidesteps the biological question entirely by focusing exclusively on the mother's reputation as either modest or promiscuous in determining whether to believe her claim that her child was the result of an extended pregnancy during her husband's absence, can be found among prominent medieval and early modern rabbinic authors. Meir ben Baruch of Rothenburg expressed his opinion strongly in a series of rulings: in his responsa, ed. R.N.N. Rabinowitz (Lemberg 1860) no. 310; *Responsa et Decisiones*, ed. E. Kupfer (Jerusalem 1973) 237–243; S. Emanuel, *Responsa of Rabbi Meir of Rothenburg and His Colleagues* (Jerusalem 2012) 231–234. His ruling was followed by Moses Isserles of Cracow in his glosses to *Shulhan arukh*, Even ha-ezer 4:14. However, Joseph Caro (*Shulhan arukh*, *ibid.*; *Bet Yosef* to Tur, Even ha-ezer 4:14) did not introduce the woman's moral standing as a consideration.

29 On Aristotle's writings on animals in the Arabic tradition, see J. Brugman and H.J. Drossaart Lulofs, *Aristotle—Generation of Animals: The Arabic Translation Commonly Ascribed to Yahya ibn al-Bitriq* (Leiden 1971) 38–53; R. Kruk, *The Arabic Version of Aristotle's Parts of Animals* (Amsterdam 1979) 37–45; *idem*, 'La zoologie aristotélicienne: tradition arabe,' *Dictionnaire des philosophes antiques*, ed. Richard Goulet, supplement (Paris 2003) 329–334; M. Zonta, 'The Zoological Writings in the Hebrew Tradition,' in C. Steel, G. Guldentops and P. Beullens, eds, *Aristotle's Animals in the Middle Ages and Renaissance* (Leuven 1999) 45–48; L. Filius, 'The Book of Animals by Aristotle,' in A. Akasoy and W. Raven, eds, *Islamic Thought in the Middle Ages: Studies in Text, Transmission and Translation, in Honour of Hans Daiber* (Leiden 2008) 267–273. An Arabic collection of citations from Aristotle's biological works was attributed to Maimonides in the Middle Ages, but that attribution is considered false. J.N. Mattock, *Tract Comprising Excerpts from Aristotle's Book of Animals Attributed Mūsā b. 'Ubayd Allāh al-Qurṭubī al-Isrā'īlī* (Cambridge 1966) x–xii;

options were more limited.<sup>30</sup> A Hebrew translation of *De animalibus* exists, which was probably translated from Michael Scot's Latin translation towards the end of the thirteenth century.<sup>31</sup> Yet, in this translation, Aristotle's reference to the possibility of eleven months pregnancy was effaced, probably as the result of a scribal error. Instead of describing seven, eight, nine, ten and eleven months, as found in the Greek original, or seven, nine and eleven as found in the Arabic and Latin versions, this translation offers only nine or ten months.<sup>32</sup>

A similar phenomenon occurs in the Hebrew medical text *Mi-koshi ha-ledah*. One of the two surviving manuscripts of this work reads 'The natural birth [occurs] most at the end of the seventh month or the ninth or the tenth,' while the other manuscript has 'Natural birth is one that is at the end of seven months or nine or eleven.'<sup>33</sup>

Of the Arabic commentaries to *De animalibus*, Avicenna's commentary was never translated into Hebrew, although it was translated by Michael Scot

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H.A. Davidson, 'The Authenticity of Works Attributed to Maimonides,' in E. Fleischer et al., eds, *Me'ah She'arim: Studies in Medieval Jewish Spiritual Life in Memory of Isadore Twersky* (Jerusalem 2001) 114 n. 13.

30 Zonta, 'The Zoological Writings,' 48–68.

31 Ms. Oxford, Bodleian Library, Neubauer no. 1369, fol. 135r: "ח מוגבלים כי עתי עבור שאר ב"ח מוגבלים כי אשה תלד בחדש השביעי ובשמיני ובעתים האמצעיים בין אלו ולפעמ' תלד בשמיני ויחיה וברוב ימות וסבת זה יהיה ידוע מן הסבות והטעמים שזכרנו וכבר בררנו טעמי אלו הדברים בספר שחברנו משאלות ודי לנו מה שבררנו וחלקנו וחלקנו מעניני השאלות. On this translation see M. Steinschneider, *Die hebräischen Übersetzungen des Mittelalters und die Juden als Dolmetscher* (Berlin 1893) 478–483; G. Furlani, 'Le antiche versioni araba, latina ed ebraica del De partibus animalium di Aristotele,' *Rivista degli Studi Orientali* 9 (1956) 117–124; M. Zonta, 'Medieval Hebrew Translation of Philosophical and Scientific Texts: A Chronological Table,' in G. Freudenthal, ed., *Science in Medieval Jewish Cultures* (Cambridge 2011) 41, no. 234.

32 Ms. Oxford 1369, fol. 42r: "ח שאר ב"ח יש להם עת באשר תלדנה והאדם יש לו עתים: נבדלים כי יש מהם נולדים בחדש התשיעי ויש מהם בעשירי ואם יולד קודם השביעי לא יחיה מכל וכל... ואם יחשב שילד עובר אחד י' חדשים נאמר כי תעו הנשים בחשבונם. This reading is confirmed by the two other surviving manuscripts of the translation—Ms. London, British Library Sloane 3029 (Margoliouth cat. no. 888) fol. 93v; Ms. Vienna, Oesterreichische Nationalbibliothek Cod. Hebr. 63 (Schwarz cat. no. 156) fol. 133v. I am deeply grateful to Dr. Aafke van Oppenraay, who provided me with the relevant passage in her forthcoming edition of Michael Scot's translation of *Historia animalium* (*De animalibus* part I).

33 Ms. Paris BN 1120, fol. 66v (הלידה הטבעית היא בסוף החדש השביעי או התשיעי או העשירי); Ms. London, British Library Or. 10766, fol. 9r (על הרוב לידה טבעית היא אותה שהיא); R. Barkai, 'A Medieval Hebrew Treatise on Obstetrics,' *Medical History* 33 (1988) 115.

into Latin, and Ibn Bajja's was not translated into Latin or Hebrew.<sup>34</sup> The commentary of Averroes on *De animalibus* was translated into Hebrew by Jacob ben Makhir in 1302, and in fact it survives today only in that translation.<sup>35</sup> This work, in its original Arabic, also served as the basis for the thirteenth-century Hebrew encyclopedias *Midrash ha-hokhmah* and *De'ot ha-filosofim*. However, in his treatment of Aristotle's discussion devoted to the variation in human gestation periods, Averroes focused exclusively on the mortality of eight-month births, and entirely ignored Aristotle's assertion regarding ten- and eleven-month pregnancies. For this reason, the Hebrew encyclopedists did not mention it either.<sup>36</sup> Neither was it mentioned by Gershom ben Solomon of Arles in his encyclopedia, *Sha'ar ha-shamayim* or by the author/translator of *Sefer Toledet*.<sup>37</sup>

In the early fourteenth century the phenomenon of prolonged pregnancy was mentioned by Gersonides, in his supercommentary on Averroes' *On Animals*. But the thrust of his discussion was, like his base text of Averroes, the problem of eighth-month births, and his source for the possibility of postdate birth was rabbinic rather than Greek or Arabic:<sup>38</sup>

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- 34 A.M.I. van Oppenraay, 'Michael Scot's Latin Translation of Avicenna's Treatise on Animals,' in R. Beyers et al., eds, *Tradition et traduction: les textes philosophiques et scientifiques grecs au moyen age Latin—hommage à Fernand Bossier* (Leuven 1999) 107–114; R. Kruk, 'Ibn Bajja's Commentary on Aristotle's *De animalibus*,' in G. Endress and R. Kruk, eds, *The Ancient Tradition in Christian and Islamic Hellenism: Studies on the Transmission of Greek Philosophy and Sciences* (Leiden 1997) 165–179.
- 35 The Hebrew translation (with Gersonides' supercommentary) was rendered into Latin by Jacob Mantino, *Paraphrasis Averrois Cordubensis (...) de partibus & generatione animalium* (Rome 1521). D. Kaufmann, 'Jacob Mantino: Une page de l'histoire de la Renaissance,' *REJ* 27 (1893) 30–60, 207–238; C. Burnett, 'Jacob Mantino,' in D. Thomas and J. Chesworth, eds, *Christian-Muslim Relations—A Bibliographical History* (Leiden 2009–2014) 6: 523–527.
- 36 Ms. Leiden, Universiteitsbibliotheek Leiden Cod. Or. 4758, fol. 53v (*Midrash ha-hokhmah*) fol. 260v (*De'ot ha-filosofim*). On these works, copied together in the Leiden manuscript, see R. Fontaine, 'Averroes' commentary on Aristotle's "De generatione animalium" and its Use in Two Thirteenth-Century Hebrew Encyclopedias,' in A. Akasoy and W. Raven, eds, *Islamic Thought in the Middle Ages: Studies in Text, Transmission and Translation in Honour of Hans Daiber* (Leiden 2008) 489–502.
- 37 Gershom ben Solomon, *The Gate of Heaven (Sha'ar ha-Shamayim)*, trans. F.S. Bodenheimer (Jerusalem 1953) 239: '... children are sometimes retained in the womb until the tenth month'; R. Barkai, *Les infortunes de Dinah: le livre de la génération: La gynécologie juive au Moyen âge* (Paris 1991) 149: 'C'est lorsque la naissance a lieu au neuvième et au dixième mois que les chances de vie sont les meilleures.'
- 38 Ms Vatican Urb. 42, fol. 151v: ויהיה הזמן הנאות לו אם היו בתכלית החום והלחות בשביעי; זמן העבור בו זה האופן מההתחלפות ואם היה כה התגברות ההוא התחייב ממנו שיתחלף זמן העבור בו זה האופן מההתחלפות ואם היה

The optimal time [of birth], if [the fetuses] were at the extreme of heat and moisture, will be the seventh [month], because that increase required that the length of gestation should change accordingly. And if it was extremely weak, the time of its birth will be the eleventh or twelfth [month], as our ancient sages recounted.

The possibility of extended pregnancy allowed Gersonides to explain the viability of seven-month births and mortality of eight-month births statistically. Averroes took the position that fetuses were of two character types—seven month types and nine month types. If a seven-month fetus were born in the seventh month, it would survive. If a nine-month fetus were born in the ninth month, it too would survive. Trouble arose when a fetus was born in the eighth month, either before or after its time. Gersonides was troubled by this, since according to this scheme, one would expect the majority of babies to be born at eight months, as the median point between the two extreme cases. Therefore he stretched the model by adding the minority of babies born late, so that the ninth month falls squarely into the middle between the seventh and eleventh (or twelfth) month. Since his only source for Aristotelian thought on this topic was Averroes, who did not mention eleven-month births, Gersonides reverted to his rabbinic heritage to supply that information.<sup>39</sup>

In short, for the most well-read Jewish writers in thirteenth- and fourteenth-century Provence and the region, the idea of extended pregnancy was known only from the Talmud and Maimonides, and therefore only in its twelve-month version.

Thirteenth-century Christian scholars were exposed to the notion of pregnancy that extended longer than ten months, but for the most part they did not pay it much attention. Michael Scot translated Aristotle's *De animalibus*

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בתכלית החולשה יהיה זמן הולדתו בעשתי עשר או בשנים עשר כמו שספרו חכמינו הקדמונים. A. Gaziel, 'The Biology of Levi ben Gershom (Gersonides)' [Heb.] (PhD diss., Bar-Ilan University 2008), 42; idem, 'Cross-Fertilization of Scientific and Religious Knowledge: Gersonides on Matters of Reproduction and Heredity', unpublished lecture, Sixteenth World Congress of Jewish Studies, Jerusalem, 29 July 2013. I am grateful to Dr. Gaziel for providing me with the text of her lecture.

39 Similarly for Levi ben Avraham, *Livyat Hen: The Secrets of the Faith, the Gate of the Haggadah*, ed. Howard Kreisel (Beer Sheva 2014) 251: 'It is also possible to stay in the womb until the twelfth month, like the case mentioned there [in the Talmud] about a woman whose husband went overseas and gave birth at the end of twelve months, and they legitimated him. And Aristotle wrote that there were places where babies born at eight months lived.'

from Arabic into Latin, making it accessible to medieval Christian readers.<sup>40</sup> Albertus Magnus (d. 1280), one of the first to use Scot's translation to write a commentary on Aristotle's zoological writings, asserted that he had heard from a trustworthy mother that her child remained in the womb after the tenth month and continued to grow.<sup>41</sup> However, in his Questions on *De animalibus*, he seemed to limit the range of human pregnancy between seven and ten months.<sup>42</sup> Petrus Hispanis used Scot's translation but did not comment on this issue—he commented only on the first seventeen books of *De animalibus*, thus neglecting the eighteenth book and its discussion of variable gestation.<sup>43</sup> Arnau de Vilanova and other doctors at Montpellier used *De animalibus* in their works.<sup>44</sup> However, it seems that they did not discuss the possibility of extended pregnancy.<sup>45</sup> Nor did law books in medieval France and England

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- 40 Aristotle, *De animalibus: Michael Scot's Arabic-Latin Translation*, part 3, ed. A.M.I. van Oppenraay (Leiden 1992) 192–193. On this translation: Lou Filius, 'The Arabic Transmission of the *Historia Animalium* of Aristotle,' in A. Vrolijk and J. Hogendijk, eds, *O ye Gentlemen: Arabic Studies on Science and Literary Culture in Honour of Remke Kruk* (Leiden 2007) 25–33; Aafke M.I. van Oppenraay, 'Some Recent Findings in Michael Scot's Arabic-Latin Translation of Aristotle's *History of Animals*,' in: *O ye Gentlemen*, 35–38. For the reception of this translation, see A.M.I. van Oppenraay, 'The Reception of Aristotle's *History of Animals* in the Marginalia of Some Latin Manuscripts of Michael Scot's Arabic-Latin Translation,' *Early Science and Medicine* 8 (2003) 387–403; B. van den Abeele, 'Le *De animalibus* d'Aristote dans le monde latin: modalités de sa réception médiévale,' *Frühmittelalterliche Studien* 33 (1999) 287–318.
- 41 Albertus Magnus, *De animalibus*, IX:4, ed. Hermann Stadler (Münster 1916) 692; idem, *On Animals: A Medieval Summa Zoologica*, trans. K.F. Kitchell Jr. and I.M. Resnick (Baltimore 1999) 790–791; L. Demaitre and A.A. Travill, 'Human Embryology and Development in the Works of Albertus Magnus,' in J.A. Weisheipl, ed., *Albertus Magnus and the Sciences: Commemorative Essays 1980* (Toronto 1980) 405–440; M.W. Tkacz, 'Albert the Great and the Revival of Aristotle's Zoological Research Program,' *Vivarium* 45 (2007) 30–68.
- 42 I.M. Resnick and K.F. Kitchell Jr., *Albert the Great—Questions Concerning Aristotle's on Animals* (Washington, DC 2008) 322.
- 43 M. de Asúa, 'Medicine and Philosophy in Peter of Spain's Commentary on *De animalibus*,' in Steel, Guldentops and Beullens, eds, *Aristotle's Animals*, 191 n. 10; F. Navarro Sánchez, 'Petrus Hispani: *Questiones super libro De animalibus Aristotelis*: studio, edición y traducción del ms. 1877 de la B.N. de Madrid' (PhD diss., Universitat Autònoma de Barcelona 2009; <http://hdl.handle.net/10803/5558>).
- 44 S. Grau Torras, 'L'assimilació dels llibres sobre els animals d'Aristòtil en la medicina d'Arnau de Vilanova (c. 1240–1311),' *Dynamis. Acta Hispanica ad Medicinam Scientiarumque Historiam Illustrandam* 35 (2015) 35–55; and briefly: idem, 'Aristotle in the Medical Works of Arnau de Vilanova (c. 1240–1311),' *Early Science and Medicine* 19 (2014) 236–257 (at 247–250).
- 45 I am grateful to Dr. Sergi Grau for this information.

recognize this possibility, since they considered the longest legally admissible pregnancy to be ten months long.<sup>46</sup> Thus, while the learned tradition and popular culture of medieval Europe accepted long pregnancies as feasible, lawyers resisted the veracity of this information.

*Ha-Me'ili and ha-Me'iri—Moderate Maimonideans and Protracted Pregnancy*

A discussion of this Talmudic source quite similar to Meir ha-Me'ili's appears in *Bet ha-behira*, the magisterial Talmud commentary composed by Menahem ha-Me'iri in Perpignan at the turn of the fourteenth century.

It happened even in our own times, that a woman waited fifteen months and then gave birth. Her pregnancy was apparent throughout that period, there was no suspicion about her, and all the people of the region were amazed by her, and thought she suffered from an illness called *rihim* (Latin: *mola matricis*).<sup>47</sup> She gave birth to a boy, and his hair and fingernails were long as if he were a toddler who had grown. The greatest codifiers [i.e., Maimonides] wrote that the fetus does not remain in the mother's womb longer than twelve months. My own teachers testified the same to me in the name of the medical work of the greatest sages. But the story [of fifteen months] actually happened, and I believe it can be used as a legal precedent.<sup>48</sup>

Like Meir ha-Me'ili, Me'iri mentioned Gentile medical experts whose opinion supported Maimonides' twelve-month ceiling, and contrasted that figure

46 F. Harris-Stoertz, 'Pregnancy and Childbirth in Twelfth- and Thirteenth-Century French and English Law,' *Journal of the History of Sexuality* 21 (2012) 280.

47 ריחים. Cf. רחא, 'the swelling of the womb, which is an illness that causes a woman to resemble on pregnant or swollen with malign water'—'A Record of the Diseases in the Genital Members,' in: Ron Barkai, *A History of Jewish Gynaecological Texts in the Middle Ages* (Leiden 1998), 133. On *mola matricis*, see *ibid.*, 73; K.L. Walter, 'The Form of the Formless: Medieval Taxonomies of Skin, Flesh and the Human,' in K.L. Walter, *Reading Skin in Medieval Literature and Culture* (Palgrave Macmillan 2013) 128–129.

48 Menahem ha-Me'iri, *Bet ha-Behirah—Yevamot*, ed. Shmuel Dickman (Jerusalem 1962) 289: ואף בימינו אירע מעשה באשה ששהתה חמש עשרה חדשים וילדה והיה עיבורה ניכר: כל ימי העבור שלא היה בה שום חשד והיו כל בני המחוז תמהים עליה וסבורים שהיה חולי הקרוי ריחים וילדה בן והיו שעריו וצפרניו גדולים כאלו ולד ונתגדל. וגדולי המחברים כתבו שאין העובר משתהא במעי אמו יותר משנים עשר חדש. ואף רבוותי העידו לי כן באותו זמן בשם ספר הרפואות לגדולי החכמים שבה אלא שמעשה שהיה כך היה ונראה לי לדון בה למעשה.

with a longer pregnancy which they knew of from local stories. However, while ha-Me'ili's rabbinic informants ('the sages of our generation') voiced their opposition to the twelve-month limit, Me'iri's teachers supported that limit on the basis of scientific knowledge. Perhaps Me'iri was referring to his teacher Reuben ben Hayyim, whom he extolled as being 'wise in types of knowledge' and whose surviving writings reflect his scientific and philosophical leanings.<sup>49</sup> Nevertheless, the similarity between the two passages is so great that it is hard to imagine that Me'iri did not use ha-Me'ili in his discussion of this topic.

But what is the scientific tradition they both refer to, which pronounces twelve months the upper limit of pregnancy? The texts of Hippocrates and Aristotle mentioned above, in their various extant versions, do not allow for more than eleven months. Did a different version, perhaps in Hebrew and with twelve months instead of eleven, circulate in thirteenth-century southern France? No such version has emerged so far, although one might perhaps find a hint of it in the opinion of a thirteenth-century Islamic jurist in Egypt.<sup>50</sup> Perhaps an oral tradition circulated in the rabbinic academies of southern France—a synthetic tradition that fused an awareness of Aristotle or Hippocrates with the specifics of the Maimonidean code by presenting twelve months as a possibility raised by scientists. In the absence of further textual evidence, the second explanation seems more likely, and provides some further insight into medieval rabbinic culture.

Rabbinic Judaism in thirteenth-century Languedoc and the region was in the midst of a cultural shift. Towards the end of the twelfth century, through Hebrew translations prepared for them by Andalusian refugees as well as through their correspondence with Moses Maimonides, Jewish scholars in southern France became aware of the riches of the Greek-Arabic philosophical and scientific tradition.<sup>51</sup> For some, this new knowledge changed their entire religious orientation and led them to question Judaism as they had known it. For others, rationalism and its local Jewish adherents were a new heresy

49 Menahem ha-Me'iri, *History of the Oral Law and of Early Rabbinic Scholarship* [Heb.], ed. S.Z. Havlin (Jerusalem 2006) 139; P. Roth, 'New Light on Rabbi Reuben ben Hayyim,' *Revue des études juives* 173 (2014) 371–380.

50 M. Ghaly, 'Human Embryology in the Islamic Tradition: The Jurists of the Post-formative Era in Focus,' *Islamic Law and Society* 21 (2014) 157–209 (at 175–177).

51 G. Freudenthal, 'Arabic and Latin Cultures as Resource for the Hebrew Translation Movement: Comparative Considerations, Both Quantitative and Qualitative,' in idem, ed., *Science in Medieval Jewish Cultures*, 74–105; idem, 'Arabic into Hebrew: The Emergence of the Translation Movement in Twelfth-Century Provence and Jewish-Christian Polemic,' in D.M. Freidenreich and M. Goldstein, eds, *Beyond Religious Borders: Interaction and Intellectual Exchange in the Medieval Islamic World* (Philadelphia 2012) 124–143.

that must be rejected and driven out. But most rabbis perceived Aristotelian thought as a welcome addition to their existing body of knowledge, and they endeavored to follow the example of Maimonides (as they understood him) in assimilating science and philosophy into traditional Judaism. This third group, which scholars sometimes refer to as 'moderate Maimonideans,' included both Meir ben Simon ha-Me'ili and Menahem ha-Me'iri.<sup>52</sup>

This question of extended pregnancy is an important case study for understanding the ways in which the uniquely integrative rabbinic culture of the medieval Midi molded its perception of the natural world. Talmudic texts were the most authoritative from a legal perspective, but were not unquestionably correct in their scientific statements. The opinions of the ancient Greeks were significant, but not necessarily authoritative—and not necessarily accurate in the version that reached medieval European Jews. Local popular knowledge was not to be dismissed either, although its flaws as an evidentiary source were probably the most obvious. The rabbinic interpreter had to take all of these resources into account in his attempt to reach a legal conclusion that would be both responsible and convincing.

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52 M. Halbertal, *Between Torah and Wisdom: Rabbi Menachem ha-Meiri and the Maimonidean Halakhists in Provence* [Heb.] (Jerusalem 2000); G. Stern, 'What Divided the Moderate Maimonidean Scholars of Southern France in 1305?', in J.M. Harris, ed., *Be'erot Yitzhak: Studies in Memory of Isadore Twersky* (Cambridge, MA 2005) 347–376; idem, *Philosophy and Rabbinic Culture: Jewish Interpretation and Controversy in Medieval Languedoc* (London 2009).