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THE RISE AND DECLINE OF THE
LAW OF THE REBELLIOUS WIFE
IN MEDIEVAL JEWISH LAW

by

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The ruling now prevalent is that a woman initiating divorce proceedings according to Jewish law is required to submit a ground, chosen from a defined list appearing in the Talmud; barring such a ground, the husband cannot be coerced to grant a divorce.¹ This approach originates in a mishnah stating that “the woman is put away with her consent or without it, but a husband can put away his wife solely by his consent.”² This formulation also appears in the last codification of Jewish Law, the *Shulḥan Arukh*, and is fully endorsed by R. Moses Isserles, who represents Ashkenazi tradition.³ Yet, between the talmudic period and the time close to the *Shulḥan Arukh*, Jewish law had sustained a divorce regime enabling the woman to coerce her husband to grant a divorce without submitting a defined ground. These proceedings were based on the law on the rebellious woman, which originates

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1 For a summary of the ground, see Benzion Shereschewsky, *Family Law in Israel* [Hebrew] (Jerusalem: Rubin Mass, 1992, 4th ed.), 295-308.

2 *M. Yevamot* 14:1.

3 *Shulḥan Arukh, Even ha-Ezer*, ch. 77. This section, which sums up the rulings on the rebellious wife, does not even mention the possibility of coercing the husband to divorce on the strength of this ground. In contrast, the two previous codes, *Sefer ha-Turim (Even ha-Ezer, ch. 77)* and *The Code of Maimonides, The Book of Women*, tr. Isaac Klein (New Haven, Yale University Press, 1972), *Laws of Marriage* 14:8, do speak of this suit as an available option, although they do not always agree with it.

in the Talmud and was expanded at the dawn of the geonic period to serve the woman as a broad and generalized ground. The rebellious woman ground spread throughout the East and to the large European centers in Spain and Ashkenaz to become the prevalent law enforced by all. What led to the decline of such a significant ground to the point that the *Shulḥan Arukh*, written in the second half of the sixteenth century, never even mentions it? This article attempts to trace the changes in the validity of the rebellious woman ground, from its beginnings in Northern Europe all the way to North Africa, pointing to a possible link between its rise and fall on the one hand, and the Gentile surroundings on the other.

Rebellion in the Mishnah⁴ and in the Talmud⁵ refers to the refusal of one of the spouses to fulfill a duty laid down in the marriage contract [*ketubah*], and primarily the duty of cohabitation. The Mishnah discusses both the rebellious woman and the rebellious man, and the Amoraim engaged in a dispute as to whether rebellion concerns only cohabitation or also a refusal to work.⁶ It appears that the ruling considers that rebellion is only pertinent to cohabitation,⁷ and this will also be the approach endorsed in this article. The core of the discussion on the rebellious woman in both the Mishnah and the Talmud focuses on the economic sanctions to be imposed on the woman who rebels against her husband, and on their enforcement.

The husband, according to the Talmud had no need for the rebellious woman ground in order to support divorce claims or obtain a license to marry another wife. We did find, however, that the Talmud relates to the possible existence of a divorce suit based on the woman's rebellion. Evidence appears at three different levels of halakhic sources: the first is the Talmud itself, the second are geonic writings, and the third are the commentaries of the early Rishonim. In the talmudic discussion on the rebellious woman, a saying is cited drawing a distinction between two types of rebellious women, one who says, "I like him but wish to torment him," and another who says, "he is repulsive to me." The printed version of the Talmud reads as follows:

4 *Ketubot* 5:7.

5 *BT Ketubot* 63a-64a.

6 The discussion in the Babylonian Talmud opens with a question: "Rebel in what [respect]? R. Huna replied: [In respect] of cohabitation. R. Jose b. Hanina replied: In respect of work."

7 R. Isaac Alfasi, *Ketubot* 63b. Maimonides, *Laws of Marriage* 14:8; *Tur Shulḥan Arukh, Even ha-Ezer* ch.77. Among the early authorities, only R. Eliezer b. Joel ha-Levi (*Ravyah*) sided with R. Jose b. R. Hanina, who holds that a woman is rebellious if she refuses to work.

What is to be understood by “a rebellious woman”? Amemar said: “One who says: ‘I like him but wish to torment him.’ If she said, however, ‘He is repulsive to me,’ she is not coerced (לא כייפינן לה).” Mar Zutra ruled: “She is coerced (כייפינן לה).”⁸

According to this version, the dispute between Amemar and Mar Zutra hinges on whether the rebellious woman is coerced to retreat from her rebellion. In contrast, the version in the Leningrad-Phirkovits Ms. reads as follows: “What is to be understood by ‘a rebellious woman’? Amemar said: One who says: ‘I like him.’ But if she said, ‘He is repulsive to me,’ he is coerced (כייפינן ליה).”⁹ In the latter version, the subject in Amemar’s saying is the husband, and, therefore, if the rebellious woman says, “he is repulsive to me,” she can coerce her husband to grant her a divorce on this suit.

The view that the Talmud itself is the source providing the rebellious woman with a divorce suit appears in geonic writings. This is extensively discussed in an article by Yerahmiel Brody¹⁰ on the legislative activity of the Geonim. His conclusion is that, according to the Geonim, the source of the halakha coercing the husband to grant a divorce to his rebellious wife is the Talmud itself. Several geonic writings indeed state so specifically. Rav Sherira Gaon, a prominent figure who provides copious and precise information on the history of the Geonim and their halakhic and public endeavor,¹¹ explains the Talmud as follows:

and their ruling was that she is suspended without a divorce for twelve months, since she may retract, and after twelve months the husband is coerced to write her a divorce.¹²

R. Isaac Alfasi, active in the second half of the eleventh century, was the most prominent halakhist in Spain after the geonic period. In his treatise, *Sefer Ha-Halakhot*, widespread throughout Spain (where he took refuge late in his life), he explicitly states that the ruling coercing the husband to

8 *BT Ketubot* 63b.

9 *BT Ketubot*, with *Mašoret ha-Shas ha-Shalem* (R. Moshe Hershler editor, Jerusalem, 1977), 88, in the section on variant versions. This manuscript is marked there as ^פל.

10 Yerahmiel Brody, “Were the Geonim Legislators?” (Hebrew), *Shenaton Ha-Mishpat Ha-Ivri* 11-12 (1984-1986), 298-300.

11 His well-known treatise, *Iggeret Rav Sherira Gaon*, is the most important source of information on the geonic period and on preceding eras, and excels in providing rich and accurate information.

12 *Otsar ha-Geonim, Ketubot* (Responsa Section), sec. 479, p.192. The source of the responsum is *Geonim Responsa Sha'are Tsedek*, 56a, ch.4, sec.15.

divorce his rebellious wife originates in the geonic ordinance rather than in the Talmud itself. Discussing the issue of a woman who has pledged a certain sum as a dowry and is unable to meet her commitment, he relates the dispute between Admon and the sages (according to R. Jose b. R. Judah) on whether she should continue waiting until her hair grew gray, or can tell her fiancé to either marry her or set her free.¹³ Alfasi then added:

As for what our rabbis have enacted on the rebellious wife, to grant her a divorce immediately regardless of whether it was her father or she who says he pledged either to marry me or set me free, he is *coerced* to divorce her against his will.

Clearly, then, according to Alfasi, the husband is compelled to divorce his rebellious wife, and the source of this ruling is the geonic ordinance.

What type of rebellious woman is the subject of the geonic ordinance — the one claiming, “I want him,” the one claiming, “he is repulsive to me,” or both? Although this is a crucial question, a comprehensive discussion of it is beyond the scope of this paper. Let me note that both types of rebellious women have been the subject of various interpretations in the course of the centuries, and changes in the meaning ascribed to each of these types may have been intended to solve problems faced by halakhists ruling on these issues. I hold that the rebellious woman claiming, “I want him” is the woman who refuses cohabitation with her husband but is interested in continuing the marriage. In contrast, the rebellious woman claiming, “he is repulsive to me” is the one interested in divorce and, therefore, she also refuses cohabitation. “He is repulsive to me” is merely the reverse of “I want him.” Alfasi indeed uses the expression “I do not want him” as an alternative to “he is repulsive to me.”¹⁴

Due to Alfasi’s prominent status in Spain and his direct and close links with geonic sources, we find that, from the beginning of the eleventh century, divorce was coerced in Spain on the rebellious wife ground.

Like Alfasi, Maimonides also ruled that a man is coerced to divorce his rebellious wife, but supported this ruling relying on evidence from the Talmud itself. In his Code, the ruling is worded as follows:

The wife who prevents her husband from having intercourse with her is called “a rebellious wife,” and should be questioned as to the reason for her rebelliousness. If she says, “I have come to loathe him, and I cannot willingly submit to his intercourse,” he must be compelled to divorce her immediately, for she is not like a captive woman who must submit to a man

13 *BT Ketubot* 109a.

14 *BT Ketubot* 63b.

that is hateful to her.¹⁵

On the one hand, Maimonides strengthened the rebellious woman ground by anchoring it in the Talmud itself rather than in the geonic ordinance. On the other hand, he weakened it by characterizing the rebellious woman claiming, “he is repulsive to me” as actually saying she cannot have conjugal relations with her husband on emotional grounds. In any event, the view of these two prominent halakhists shaped Jewish law in the Spanish domain for centuries to come, until the impact of later Ashkenazi influence began to register.

The ruling that the husband is coerced to divorce on the rebellious woman ground had already made its way into Ashkenazi surroundings during the geonic period, and is manifest in the rulings of R. Gershom, one of the early Ashkenazi authorities active around 1000 CE.¹⁶ A question addressed to him dealt with the case of a man who took a second wife, against the wishes of his first wife, who then demanded a divorce and her *ketubah*.¹⁷ R. Gershom ruled that, according to the Talmud, taking a second wife does not constitute grounds for divorce in favor of the first wife because the ruling follows Raba, who stated: “A man may marry wives in addition to his first wife,”¹⁸ and the woman’s claim must thus be rejected in this case. R. Gershom argues, however, that the talmudic ruling is no longer valid and “Should she want to divorce without her *ketubah* and against his wishes, he is coerced to grant her a divorce.”

After two generations, *Rashi* endorsed the ruling coercing the husband to grant a divorce to his rebellious wife, but claimed that this ruling originated in the Talmud. According to his interpretation of the Talmud, the rebellious woman claiming, “I want him” is indirectly coerced to stay with her husband

15 Maimonides, *Laws of Marriage (=Ishut)* 14:8.

16 Abraham Grossman, *The Early Sages of Ashkenaz: Their Lives, Leadership and Works (900-1096)* [Hebrew] (Jerusalem: Magnes Press, 1989, 2nd ed.), 111, sets the date of R. Gershom’s death at 1028, and estimates his date of birth c. 950-960. R. Gershom’s main activity, therefore, took place in the first quarter of the eleventh century.

17 Ephraim Kupfer, *Responsa et Decisiones* (Jerusalem: Mekize Nirdamim, 1973), sec.147; *Responsa of the Maharam of Rottenburg*, (Prague) sec.865. *Hagahot Maimoniot*, Constantinople edn., *Ishut*, 14:8, cites another responsum by R. Gershom on this matter, dealing with a man coerced to divorce his rebellious wife. Although some Tosafists wonder whether R. Gershom held that the husband is actually coerced to divorce, this responsum fully clarifies that R. Gershom did indeed endorse this view.

18 *BT Yevamot* 65a.

by the threat of a gradual decrease in her *ketubah*.¹⁹ In contrast, the rebellious woman claiming, “he is repulsive to me” is not coerced to stay, and *Rashi* implies that the husband is coerced to divorce her.²⁰ Although this was the reading of *Rashi* prevailing among the Tosafists,²¹ some understood him differently.²² *Rashi* seems to have followed a course similar to that of Maimonides, who had relied on the talmudic ruling for coercing divorce in the case of the rebellious woman. R Samuel b. Meir (*Rashbam*), *Rashi*’s grandson, was even more explicit.²³ Ruling on a case in Paris in which a woman had rebelled against her husband, he stated that the man should be coerced to divorce.²⁴ Several other sages mentioned in the question, members of the Paris court, joined *Rashbam* in this responsum.

This responsum preceded a turning point in the rulings coercing the man to divorce his rebellious wife, for, when *Rashbam*’s verdict reached his brother, R. Tam, he, in the uncompromising style that was his trademark, vehemently rejected the ruling coercing the husband to divorce his rebellious wife. In the view of R. Tam, the two sources in halakhic literature widely adduced to justify coercion — the geonic ordinance and the reading of the Talmud — were completely inadequate. *Rashi*’s interpretation of the Talmud, which was well-known to him, appeared mistaken to R. Tam, and he therefore concluded that nothing could be learned from the Talmud on this count. Regarding the geonic ordinance, R. Tam held that the Geonim had exceeded their authority when instituting ordinances of this type. He held that the authority to authorize suits coercing a husband to divorce his wife was confined to the talmudic sages; they had drawn up a closed list of grounds, and nothing should be added to it. Babylonian Geonim had no authority to legislate new grounds beyond those explicitly mentioned in the Talmud, hence his conclusion that a husband cannot be forced to divorce his rebellious wife.²⁵

19 *Rashi, Ketubot* 63b, s.v. “*de-amrah ba’ena lei*.”

20 *Rashi, Ketubot* 63b, s.v. “*aval amrah me’is alai*.”

21 *Toṣafot, Ketubot* 63b, s.v. “*aval amrah me’is alai*” (at the opening). See also *Hagahot Maimoniot, Ishut*, 14:6.

22 *Toṣafot, Ketubot* 63b, s.v. “*aval amrah me’is alai*” (at the end). See also *Hagahot Maimoniot, Constantinople edn., Ishut*, 14:8.

23 *Tur, Even ha-Ezer*, ch.77.

24 *Sefer ha-Yashar, Responsa Section*, edited by Shragah Rosenthal (Berlin: n.p., 1898), sec.24.

25 This view of R. Tam is also mentioned in *Toṣafot, Ketubot* 63b, s.v. “*aval amrah me’is alai*.”

Echoes of R. Tam's criticism reached the South of France close to his times. R. Isaac b. Abba Mari of Marseilles, in the *Sefer ha-Ittur* (1179),²⁶ cites the geonic ordinance on the rebellious woman stating that "whatever she is holding is taken away from her, and he is coerced to give her a divorce immediately" and, by his testimony, "this was the practice for six hundred years." But he was already aware of R. Tam's view, and wrote as follows:

R. Jacob's (=Tam's) innovation was that, according to the Talmud, the husband is not coerced to divorce against his will, but we do enforce coercion according to the later rabbinical ordinance, because all the rabbis agreed to this.²⁷

R. Isaac accepted R. Tam's interpretation of the Talmud, preferring it to Rashi's. He rejected, however, R. Tam's position concerning the geonic ordinance and, unlike him, ruled that the Geonim had not exceeded their authority in their ordinance on the rebellious woman, which is fully valid.

R. Zerahiah ha-Levi Gerondi (*Razah*), also active in Provence, took a significant step toward adopting the approach represented by R. Tam. He wrote of the geonic ordinance on the rebellious woman cited by Alfasi, qualifying it as follows:

The ordinance issued at the [geonic] academy, therefore, ruling that a divorce resting on a rebellious woman suit is granted immediately, was an emergency measure, due to circumstances they had witnessed in their times, but in later times we apply the talmudic ruling.²⁸

Nahmanides, who lived in the North of Spain and was active in the middle of the 13th century, considered R. Zerahiah's argument an elegant evasion, covering his patent opposition to the geonic ordinance.²⁹ In his novellae on the Talmud he writes:

I would not, God forbid, dispute the geonic ordinance, for who am I to question and change a practice adopted by the Geonim from my rabbis.³⁰ Furthermore, I challenge those who claim that it is improper to follow their ordinance and that we should adopt talmudic law instead, and claim that we

26 Ephraim E. Urbach, *The Tosafists* [Hebrew] (Jerusalem: Bialik Institute, 1986), 100.

27 *Sefer ha-Ittur*, under *Mered*, vol.1, 58d.

28 *Ha-Maor ha-Gadol*, *Ketubot* 63b, s.v. *katav ha-Rif zal, ha-din hu dina de-Gemara be-moredet*.

29 Nahmanides, *Milhamot Adonai*, *Ketubot* 27a, s.v. *katav ha-Rif ha-din hu dina de-Gemara*.

30 In another version: "for many years".

should heed them and act according to their ordinance.³¹

Ultimately, however, he added the following sentence, which goes beyond his recommendation, stating, “presently, we must be very wary on this issue and refrain altogether from acting on this ordinance, which has already been rescinded because of the wantonness of the times.”

Nahmanides’ approach was indeed helpful in facilitating the next step, namely, forbidding the use of the geonic ordinance altogether. R. Solomon b. Adret (*Rashba*), Nahmanides’ disciple, who, like his teacher, was active in Northern Spain in the last quarter of the thirteenth century and in the first decade of the fourteenth century, adopted this policy. His position was that the rebellious woman ground could not be used to justify coercion, neither according to talmudic law nor according to the geonic ordinance.

In locations where rulings tended to follow Maimonides or Alfasi who, as noted, had adopted the geonic ordinance on the rebellious woman, *Rashba* did not preclude adopting the rebellious woman ground. He writes

In any event, if the custom in those places was to follow Maimonides, let them do so, because you know that the Geonim had also said that the husband is coerced to divorce his rebellious wife, and we have no strength to dispute or dismiss their views in those places that adopted them.³²

Rashba appears to be referring here to various places in Castile or Southern Spain, such as the kingdom of Granada, where the tendency was to rely on the rebellious woman ground in their rulings. These areas, which were strongly influenced by Moslem culture or even directly under Moslem rule, were not yet ready to reject the rebellious woman ground, unlike areas in Northern Spain, which had long ago been conquered by Christians and where Christian culture was dominant.

There were probably intermediate areas between Northern Spain, where the rebellious woman ground was ruled out by the end of the thirteenth century, and Southern Spain, where it was still enforced in practice. In Toledo, for instance, the capital of Castile at the center of Spain, the rebellious woman ground was not eradicated *de jure*, but was no longer enforced.³³

The rebellious woman ground underwent further and hastened erosion in Spain with the arrival of R. Asher b. Jehiel (*Asheri*), an Ashkenazi sage who

31 *Ketubot* 63b.

32 *Rashba, Responsa*, Part 2, sec.276.

33 *Asheri, Responsa*, ch.43, sec.13.

immigrated to Spain in 1305.³⁴ Upon his arrival, he found that the prevalent practice in the kingdom of Castile and in other places in Southern Spain was to coerce divorce on the rebellious woman ground. According to his testimony,

from my arrival to this country, I have prevented them throughout the land of Castile from coercing any man to divorce his wife upon her saying that she does not want him.³⁵

At some stage, he became involved in an intense controversy with a sage named R. Jacob Alfasi from the city of Cordoba, in Southern Castile, a city the Christians had conquered about fifty years previously.³⁶ R. Jacob Alfasi had issued a ruling coercing a man to divorce on the strength of a rebellious wife ground. *Asheri* opened by noting that “our teachers, the sages of Ashkenaz and France, go to the furthest extreme to avoid coercing divorce because they agree with R. Tam and his main arguments, and find it proper to rely on them.”³⁷

Asheri rejected Maimonides’ approach, which had relied on his interpretation of the Talmud, and he also dismissed the geonic ordinance on the rebellious wife, as cited by Alfasi. Contrary to R. Tam, however, he did not question the very authority of the geonim to issue such an ordinance, and merely claimed that the ordinance was invalid in contemporary Spain, on two counts. The first was that the ordinance had not really taken root in Spain, and had only become known to Spanish Jews through Alfasi’s books. Second, the ordinance had been meant to protect Jewish women, and “now it appears that the situation has turned; the daughters of Israel in this generation are impudent — hence, it is best to desist from coercion.”

Contrary to *Rashba*, *Asheri* ordered Spanish Jews to accept R. Tam’s view, and demanded that they desist from the practice of coercing husbands to divorce their rebellious wives. His approach was uncompromising, and he ruled, “all endeavors relying on this ground multiply bastards in Israel.” But he could not ignore past episodes when men had been coerced to grant

34 Abraham H. Freiman, *Rosh: R. Asher b. Yehiel and his Descendants* [Hebrew], tr. from German Menahem Eldar (Jerusalem: Mossad Harav Kook, 1986), 29.

35 *Asheri, Responsa*, ch.43, sec.9.

36 Cordoba was conquered in 1236, and Seville in 1248. See L.P. Harvey, *Islamic Spain 1250 to 1500* (Chicago: University of Chicago Press, 1990), 11.

37 *Asheri, Responsa*, ch.43, sec.8. Parts of this section are inseparable from sec.9, and deal with the same question.

divorces following local custom. In such cases, his stance was that the children were not bastards, since "this is my ruling only for the future, but concerning the past, if they have relied on our teacher Moses, what is done is done." This is a surprising stance, extremely interesting from the perspective of legal theory, but beyond the scope of the present discussion.³⁸

Spanish Jews were thereby denied the geonic ordinance as a legal source upon which they could rely to coerce divorce on the rebellious wife ground; they were only left with Maimonides' law, which from then on served as the most prevalent form of support among those seeking to preserve their older tradition.

Rashba's disciple, R. Vidal de Tolosa, who wrote the *Maggid Mishneh* commentary on Maimonides' Code, was already more resolute in his opposition and adopted *Asheri's* approach, perhaps even under the latter's influence.³⁹ At this time in Castile, R. Jacob b. Asheri, author of the *Sefer ha-Ṭurim*, ruled in favor of his father and against Maimonides.

The approach of these halakhists, however, did not close the matter. In last third of the fourteenth century, some communities in Spain were still following Maimonides in their rulings, after they had accepted his code as the compelling norm. The most prominent halakhists active in the kingdom of Aragon, such as R. Nissim Gerondi (*Ran*), who lived in Barcelona a generation later,⁴⁰ and R. Ephraim Vidal,⁴¹ were not decisive and unequivocal in rejecting as invalid the ordinance concerning the rebellious woman.

The move from Aragon to Algeria of two prominent figures such as R. Isaac ben Sheshet Perfet (*Ribash*) and R. Simeon Duran at the end of the fourteenth century brought them directly into contact with Jewish communities living in a distinctively Moslem environment where the rebellious wife suit was accepted without question. They engaged in a determined struggle to impose the legal tradition they had brought with them from Northern Spain and, for this purpose, they subverted the legal basis enabling the use of Maimonides' ruling by instating a qualifying ordinance. For *Ribash* this closed the issue, since he held that a divorce coerced on a

38 On this and on *Asheri's* position on the rebellious woman see my article, "Judicial Decisions by Rabenu Asher b. Yehiel in Spain", in *Studies in Halakha and Jewish Thought Presented to R. Prof. Menachem Emanuel Rackman on his 80th Anniversary*, edited by Moshe Beer (Ramat Gan: Bar-Ilan University Press, 1994), 162-168.

39 *Maggid Mishneh, Laws of Marriage*, ch.8, sec.8.

40 *Teshuvot ha-RaN* (ed. Feldman (Jerusalem, 1984), sec.62.

41 *Tashbez, Responsa*, Part 2, sec.256.

claim of "repulsion" was invalid even *ex post factum*.⁴² In contrast, R. Simeon left open a slim chance of implementing the rebellious woman ground if the woman married after obtaining a divorce on these grounds.⁴³ Possibly, in Algeria and elsewhere in North Africa, R. Simeon's position was accepted because his descendants also served in prominent rabbinical positions for several generations after him.

This ordinance by *Ribash* and R. Simeon not to follow Maimonides regarding the rebellious woman claiming "repulsion" persisted even two generations later, as attested by R. Simeon's grandson:

Here, in Algeria, the original rabbis, our teachers *Ribash* and R. Simeon, agreed to follow the code of Maimonides except on three issues: on the rebellious woman claiming "he is repulsive to me."⁴⁴

Neither Maimonides' high standing nor the fact that his ruling on the rebellious woman claiming "repulsion" was deeply entrenched in North African communities were sufficient to withstand the pressure of these two prominent halakhists, *Ribash* and R. Simeon, who brought the juridical tradition of Christian Spain to this typically Moslem environment.

The course of the process unfolding over several centuries is quite clear. The erosion in the rebellious woman ground proceeded along the two axes of time and space. As we move forward in time, the ground of the rebellious woman, which allows coercing the husband to grant a divorce, is progressively eroded — the further South we move, the later in time the erosion. To explain this development, let us consider the main point in the rebellious woman plea. The origins of this ruling, or at least its strong entrenchment, are clearly related to specific circumstances of time and place — the onset of the Moslem conquest of Babylon in the second half of the seventh century. Halakhic sources explicitly indicate that the aim of this ruling was to prevent malicious manipulations in Moslem courts that forced Jewish men to grant a divorce demanded by women claiming "repulsion."⁴⁵ We know that Moslem law acknowledges a law similar to the rebellious wife plea, and allows the wife to divorce her husband if a suitable clause was made part of the marriage contract. This step could reflect the influence of Moslem law, which had become dominant in Babylon and could also be a result of deliberate

42 *Ribash, Responsa*, sec.104.

43 *Supra* note 41.

44 *Responsa Yakhin U-Boaz*, Part 2, sec.23.

45 *Hilkhot ha-Rosh, Ketubot* 85, sec.35. Brody, "Were the Geonim Legislators?", *supra* n.10 at 295.

government interference designed to limit the authority of Jewish courts. In any event, the geonic ordinance clearly originated as a result of factors that, although directly affecting Jewish circumstances, were extraneous to *Halakhah*. The waning of the rebellious wife ground was not related to a single, defined event; rather, it moved along time and place in a protracted process that was not always linear.

I hold that the influence of the Gentile environment also affected the decline of the rebellious woman ground, ultimately leading to its abolition. This influence, however, is indirect, as Jewish society internalizes the social norms of the Gentile environment as a result of a prolonged encounter, and projects them onto Jewish law through a complex mutual relationship whose stages cannot be traced.⁴⁶ The external environmental factor is Christian society and its prevalent legal and social norms concerning marriage and divorce. R. Tam's view constellated as Christian society became monogamous and imposed Catholic laws making divorce impossible.⁴⁷ In these circumstances, it is very hard to uphold divorce claims raised by the husband — and it was indeed at this stage that R. Gershom's ban became a powerful legal factor — and even more so to uphold a blameless divorce initiated by the wife. From here onward, the process of erosion moved along the lines of advance of Christian society, which gradually conquered and dominated areas that had so far been under Moslem influence and control, at least in Spain.

46 In this vein, scholars resort to different versions of these terms, including environmental stimulus or inspiration, but this issue is beyond the scope of this paper.

47 J.A. Brundage, *Law, Sex, and Christian Society in Medieval Europe* (Chicago: University of Chicago Press, 1987), 176-228.