

## *Ethno-Religious Coexistence in Legal Norm and Practice*



# Voivodes and their Office as Agents of the Law in Christian-Jewish Coexistence: The Example of Early Modern Krakow

On June 3, 1637, Jacobus Lewkowicz Opatowczyk, the *syndicus*<sup>1</sup> of the Krakovian Jewish community appeared in the office of the Krakow Voivodeship.<sup>2</sup> He presented the clerks with a document, and asked them politely to accept it and place it in their books. Apparently, there was nothing special about this event. First, according to the voivode's regulation of 1527 each document had to be registered in order to be lawfully valid.<sup>3</sup> Second, registering the documents was one of the usual duties of the Jewish representative to the state authorities. Yet, the document itself was without precedent. It was an open letter (*litterae universalis*) addressed to the Elders of the Krakovian Jewish Community by the Krakovian voivode Jan Magnus Tęczyński,<sup>4</sup> who publicly condemned the bloody anti-Jewish tumult that had taken place in Krakow on May 22 of the same year. More precisely, the letter included a strongly worded rebuke of the violent behaviour of Christian students and townsmen as well as of the negligence of the municipality and ordered the Jews to turn to the Parliament and the King to ask for justice.

The document was not issued by the voivode in his capacity as a leader of the local parliament or a noble lord in charge of assembling local military forces. It was not written in his function as head of an appeal court either. The letter was rather a personal rebuke by the voivode who reacted beyond his regular

1 A *syndicus* (*syndyk*) was a representative of the local Jewish community in its interaction with gentile society and authorities holding power. Linguistically adept, he would intervene on behalf of the *kehilah* and was an integral part of the early modern communal structure and autonomy.

2 Archiwum Państwowe Miasta Krakowa (hereafter APMK), Varia 11, 935.

3 Stanisław Kutrzeba, *Zbiór aktów do historii ustroju sądów prawa polskiego i kancelarii województwa krakowskiego z wieku XVI–XVIII*, no. 12 (Kraków, 1909), 14. This regulation was later confirmed in the Diet's constitution of 1538.

4 Jan Magnus Tęczyński (of Topór) from a powerful noble family from Lesser Poland was a Crown cupbearer (*czesnik koronny*) from 1618 and Voivode of Krakow from 1620 to 1637.

prerogatives and acted as a representative of the law intervening in a Catholic-Jewish conflict to restore peaceful interreligious coexistence. From this perspective, both the letter and Tęczyński's reaction exemplify one of the ways in which voivodes gained relevance in interreligious communication.

This article – while reanalyzing both turbulent and peaceful times in the interreligious history of Krakow – briefly examines a number of ways in which Krakovian voivodes and their office became involved in the everyday coexistence of Jews and Catholics in the city and became active agents in their dialogue. It adapts a new perspective of multi-dimensional interfaith communication to the analysis of more and less known sources issued by the Krakovian voivodes, the kings, and the Jewish Krakovian community. This new perspective consists in paying special attention to the judicial and administrative functions of the voivode and his office, notably to the two components of the institution of the voivodeship as a legal authority dealing with religious heterogeneity. While reexamining the situation of the Jews in early modern Krakow and their relations with the voivode, the study takes a new approach to the law and legal practices as the one dimension of interreligious communication which greatly helped both the religious groups and the state representatives to overcome turbulences and failures in dialogue.<sup>5</sup> In a broader sense, while rethinking the interrelations between the state, the law, and religious communities, I hope to deepen the general understanding of the character and role of interreligious dialogue, coexistence, and law in religiously heterogeneous areas.<sup>6</sup>

#### *The voivode's office: tradition, history and historiography*

The office of the voivode is one of the oldest offices in Poland. Some chronicles, among them the Jewish chronicle *Tzemah David*, written by David Ganz in 1592, traces it back to legends about the time before the Piast dynasty:

Lechu, Ćech's brother, had also attacked in that time, together with the people of the Slovaks and the Croatians, the states of Silesia and Poland, and became their head [...] and Heinrich Rätel wrote [...] that this Lechu in the state of Poland

<sup>5</sup> For a discussion on the importance of litigation in interreligious dialogue see David Frick, *Kith, Kin, and Neighbors. Communities and Confessions in Seventeenth-Century Wilno* (Ithaca–New York: Cornell Univ. Press, 2013), 274–289.

<sup>6</sup> The sources mentioned in this article were collected as part of a larger project generously supported by the Vidal Sassoon International Center for the Study of Antisemitism and the Nevezlin Research Center for Russian and East European Jewry at the Hebrew University of Jerusalem. Unless indicated otherwise, all the sources in this article were translated by the author.

established seven governors and called them voivodes, and this rule exists to this very day.<sup>7</sup>

In the early stages of the development of the office, the voivodes – responsible for catching criminals, assembling local military forces, and even leading troops on behalf of the duke and replacing the ruler during his absence – already became the highest officers in the splintered country. Furthermore, with the nobility's increase in power, the voivode became the *palatinus* – both a sort of administrative governor of the province (*palatinatus*) and a chief representative of the local nobility to the prince, spending a great amount of time at the royal court. Last but not least, in addition to his state and administrative functions the voivode was granted jurisdiction over the Jews, as stated in the Statute of Kalisz in 1264: »The city has no jurisdiction over the Jews, only the prince or the voivode.«<sup>8</sup>

After the unification of Poland under one king, the office of the voivode was not terminated although it did lose some of its old prerogatives, which were granted to the royal *starosta* (*capitaneus*).<sup>9</sup> Probably due to his leading position among the nobles, the voivode managed to maintain the office all through the late medieval administrative and political changes, becoming a member of the king's great council – later the senate – and preserving a number of important functions throughout the early modern period as well: (1) as the chairman of the dietine (*sejmik*), the regional parliament of the nobility, (2) as the person responsible for military recruitment in his region during times of war and »general mobilization«, (3) in granting letters of protection (*glejty*), (4) in appointing functionaries responsible for sizes, weights, and measures, and (5) as a judge in the special regional court of appeal (*sqd wiecowy*).<sup>10</sup> And lastly, the voivode maintained jurisdiction over the Jews:

Likewise, if the Jews engage in an argument among themselves [...] or if a Jew and a Christian fight with each other, engage in hitting or injuring each other,

7 »Lekhu, hu ahiv shel Chehu, gam ala be-et ha-hi, im amei slovaken ve-kroaten al medinat Shleziah u- Polin ve-haya sham le-rosh [...] ve-katav Henrikus Rätel [...] she-Lekhu ze yised be-medinat Polin shiv'ah netsivim ve-kara lahem voyevodey, asher takanato nitkayma ad ha-yom ha-ze.« David Ganz, *Tsemach David* (Jerusalem: Magnes, 1983), 265.

8 Statute of Kalisz (1264), § 8. Quoted from Ludwik Gumplowicz, *Prawodawstwo polskie względem Żydów* (Kraków: Uniwersytet Jagielloński, 1867), 8.

9 Although while accepting the Statute of Kalisz, Casimir the Great (Kazimierz Wielki) charged the starost and not the voivode with jurisdiction over the Jews, this change was short-lived.

10 For more information about the function of the voivode and its historical development, see Zbigniew Góralski, *Urzędy i godności w dawnej Polsce* (Warszawa: Ludowa Spółdzielnia Wydawnicza, 1983), 66–71.

then neither the judge of the city, nor the consuls, nor indeed anybody else, but only the palatinus [voivode] of the Jews or his surrogate shall judge them [...].<sup>11</sup>

Despite the voivode's numerous functions, his jurisdiction over the Jews has been the most intensely studied of all his prerogatives. Nevertheless, the relations between the voivode and the Jews have usually been examined as part of the research on the judicature of the Jews, and not as an aspect of everyday interreligious coexistence. Writing before the Second World War, Stanisław Kutrzeba and Majer Bałaban generally pictured the voivode as an administrator of justice to the Jews.<sup>12</sup> In the 1970s, Benjamin Cohen, in his detailed research on the relations between the voivode and the Jewish community, showed that the competences of the voivode were not limited exclusively to judicial administration and extended far beyond the organization of the *wojewodzinski court* – also known as the *court of iudex iudeorum*<sup>13</sup> – or presidency over the voivode's court.<sup>14</sup> Cohen's thorough research, however, had no immediate followers. It took another twenty years before Stanisław Grodziski revived the research on the voivode and the Jews and shed some light on the principles of law as applied in practice. This involved the analysis of the voivode's functions as portrayed in the regulations issued by the voivodes themselves, and not solely in the privileges

11 »Item si Iudei inter se de facto discordiam contentionis commisserint, aut aliquam guerram, vel Iudeus cum Christiano et se mutuo sic contendentes percerusserint, aut vulneraverint, tunc neque iudex civitatis, neque consules, neque etiam aliquis hominum, tantummodo palatinus ipsorum Iudeorum aut ille, qui loco eius praesidet, eosdem iudicet et illi iudicabunt taliter in iudicio locantes scabellum dum Iudeis.« From the privilege of Casimir Jagiellończyk (1453), § 5. Quoted from Moses Schorr, »Krakovskii svod statutov i privilegii,« *Evreiskaia Starina* 2 (1910): 76–100, here 85.

12 See for example Stanisław Kutrzeba, *Sądownictwo nad Żydami w województwie krakowskim* (Kraków, 1901); idem, *Zbiór aktów do historyi*; Majer Bałaban, »Ze studiów nad ustrojem prawnym Żydów w Polsce. Sędzia żydowski i jego kompetencje,« in *Pamiętnik trzydziestolecia pracy naukowej prof. dr. Przemysława Dąbkowskiego* (Lwów: Uniwersytet Jana Kazimierza, 1927), 246–280.

13 The *wojewodzinski court*, which was probably active in Krakow from 1334 was a first instance and appeal court nominated by the voivode but presided over by a specially appointed judge (*sędzia wojewodzinski*), and not by the voivode himself. With time, this court took up the task of administering justice to the Jews so that its judge became known as »the judge of the Jews« (*iudex iudeorum*) and the court was often called »the court of iudex iudeorum.« The sessions of this court were usually regular and held in a synagogue in Krakow or in the Old Synagogue in Kazimierz.

14 The *voivode's court* was a first instance and appeal court for cases from the *wojewodzinski court* and Jewish court. In contrast with the *wojewodzinski court*, it was presided over by the voivode himself and appeals of its decisions could only be brought before the King's court. Whether as a first or second instance, the voivode's court took place at his residence (*curia palatine*) or at the Wawel Castle and was open in session during the voivode's stay in the city.

and statutes administered by the king or the Diet.<sup>15</sup> This article intends to amend the existing research by analyzing the judicial and administrative functions of the voivode and his office through the new perspective of interreligious coexistence and dialogue.

### *Rethinking the voivode's judicial duties*

The voivode's jurisdiction over the Jews was one of his earliest prerogatives. Yet, as already defined in the Statute of Kalisz, it was not itself exclusive but shared with the prince.<sup>16</sup> Later on, in its elaborated version, confirmed in 1453 by Casimir Jagiellończyk and the following early modern kings of Poland, the general privilege asserted that this jurisdiction was to be hierarchically shared with the king and the judge of the *wojewodzinski court* known as »the judge of the Jews« (*iudex iudeorum*).<sup>17</sup> In this way, the privilege allotted the voivode the complex position of a second-instance judge and the highest executor of justice. Precisely due to this joint character of the jurisdiction over the Jews, the scope of the voivode's judicial authority was continually being redefined.

By the late Middle Ages the *iudex iudeorum* had already taken on the burden of the majority of judicial activities,<sup>18</sup> the king had replaced the prince as the highest authority over the Jews, and the cases among Jews, i.e. minor civil cases, had been removed from the voivode's court to be judged by the Jewish court itself.<sup>19</sup> Despite all these changes, at the beginning of the 16th century, Krakovian voivodes carried out a number of important judicial functions

15 Stanisław Grodziski, »The Kraków Voivode's Jurisdiction over Jews: A study of the Historical Records of the Kraków Voivode's Administration of Justice to Jews« in *The Jews in Old Poland 1000–1795*, ed. Antony Polonsky et al. (London: I. B. Tauris and Co. Ltd, 1993): 199–218.

16 Statute of Kalisz (1264), § 8.

17 Privilege of Casimir Jagiellończyk (1453), § 5.

18 In the first stage of the office development the *iudex iudeorum* was appointed for special cases only: »ad hoc specialiter deputatus« (e.g. Jan Koczyński, 1436). Later, it became a permanent office, e.g. Jan Chamiec from Dobranowic, the fourth judge known to us, held the office for at least 10 years: 1459–1469.

19 The authority of the Jewish elders' court in cases among Jews was first mentioned in the privilege of Casimir Jagiellończyk of 1453. Yet, according to some scholars, the king simply granted written legitimacy to a long-existing practice, see for example Shmuel A. Cygielman, »The Basic Privileges of the Jews of Great Poland as Reflected in Polish Historiography«, *Polin* 2 (1989): 117–149, here 119–122. The authority of the Jewish court in inner-Jewish cases was also accepted and restated in the regulations issued by the Krakovian voivode Andrzej Tęczyński in 1527, see Majer Bałaban, *Historja Żydów w Krakowie i na Kazimierzu 1304–1868* (Kraków: Nadzieja, 1931): 365.

through which they became involved in the everyday coexistence of Jews and Catholics in the city.

Most prominently, the voivode set up the entire apparatus of the *wojewodzinski court*, which was founded upon the interreligious cooperation of a Christian judge and Christian functionaries together with Jewish staff and assessors in order to satisfy the claims of both sides and safeguard the Jewish-Catholic dialogue. In establishing the court, the voivode initially appointed the aforementioned *iudex iudeorum*,<sup>20</sup> who judged in cases where a Jew was involved. While in most of the royal cities this function was performed by the voivode's deputy (*podwojewodzi*), in Krakow this duty was usually undertaken by a specially appointed noble.<sup>21</sup> According to the privileges and the practical ruling of the voivodes, this noble had to be a Catholic and a man of means familiar with the »law of the land« (*prawo ziemskie*)<sup>22</sup> on the basis of which he passed sentences, for example in cases of Christian violence against a Jew.<sup>23</sup> Hence, by appointing the *iudex iudeorum*, the voivode ensured the multi-religious character of the staff and the *wojewodzinski court* itself. This character was further strengthened in 1591 when King Sigismund III granted the Krakovian Jews the right to have a say in the election of the *iudex iudeorum*. Unfortunately, there is no evidence as to how this right was put into practice. Based on examples of other communities and from later developments we can assume that the *kahal*, the executive board of the Jewish community,<sup>24</sup> first used

20 According to the preserved examples, appointing the Jewish judge was one of the first actions taken by a new voivode. Alicja Falinowska-Gradowska, »Sędziowie żydowscy w województwie krakowskim w XVI–XVIII wieku«, in *Żydzi w Małopolsce. Studia z dziejów osadnictwa społecznego*, ed. Feliks Kiryk (Przemyśl: Południowo-Wschodni Instytut Naukowy, 1991), 37–58, here 41.

21 See Bałaban, *Historja Żydów*, 373–375.

22 The early modern Commonwealth had a corporative legal system in which social estates had separate codes of laws. The »law of the land« was the code of the nobility in contrast to the city law (*prawo miejskie*) which applied to the burgher class. Despite serious attempts at its codification (e.g. Łaski's *Statutes*, *Formula processu*, *Correctura Iurium*) it was basically customary law and had a rather arbitrary character. Unlike the locally-oriented city law, *prawo ziemskie* had a general character and was often used as a common Polish law system. It was therefore also applied in cases concerning the Jews.

23 Statute of Kalisz, paragraph 21: »Za gwałt na żydzie wyrządzony, chrześcianin będzie karany podług prawa ziemskiego« (»For violence to a Jew, a Christian shall be judged according to the law of the land«), in Gumplowicz, *Prawodawstwo polskie*, 9.

24 The most informative record about the Krakovian Kahal and its rulings is the Community Statute of 1595; see Majer Bałaban, »Die Krakauer Judengemeinde-Ordnung von 1595 und ihre Nachträge«, *Jahrbuch der Jüdisch-Literarischen Gesellschaft* 1 (1913), 296–360; 2 (1916), 88–114; *Statut Krakowskiej Gminy Żydowskiej z roku 1595 i jego uzupełnienia*, ed. Anna Jakimyszyn (Kraków: Księgarnia Akademicka, 2005).

this privilege to ensure that the judge was a noble rather than a burgher inclined to support townspeople. Later on, Jewish influence was probably limited to the simple approval of the voivode's appointment.<sup>25</sup>

After assigning a judge, the voivode also appointed the scribe to the court of *iudex iudeorum*, who prepared documents, kept records, announced rulings, and probably took part in the passing of sentences. Similarly, responsibility for the appointment of a Catholic scribe gave the voivode an active role in the establishment of the court's multireligious – and therefore more balanced – character and consequently in the creation and maintenance of Jewish-Catholic coexistence and dialogue. The Jews obtained the right to influence the appointment in this regard as well: »Another notary of a trial shall not be elected or deposed, unless his election is previously approved by a senior Jew [i.e. one of the elders].«<sup>26</sup>

Furthermore, according to the regulations issued by the voivode Andrzej Tęczyński in 1572, it was the voivode's right to appoint the Jewish assessors to the court of *iudex iudeorum*: »The Jews will be judged by the vice-voivode [*iudex iudeorum*] with the help of Jewish assessors elected and delegated by the voivode.«<sup>27</sup> While we do not know exactly how the dialogue between the Catholic judge and the Jewish assessors was carried out,<sup>28</sup> the royal legislation testifies that there were cases of disagreement between the two organs of the court and they required the voivode's mediation.<sup>29</sup> Consequently, the voivode was not only responsible for the bi-religious character of the court and its staff but also contributed directly to the continuation of the Jewish-Catholic dialogue. He played a crucial role in this as long as the presence of the assessors

25 Even this right was rescinded from time to time. In 1633, the constitution stated that the *iudex iudeorum* must be a noble and an owner of rural estate (i. e. man of means) and the privilege of the kahal's consent was granted by the king to the Jews throughout the whole country; see Benjamin Cohen, »Ha-rashut havoyevodit ve-ha-kehilah ha-yehudit ba-meot ha-16–18,« *Gal-ed* 3 (1976): 9–32, here 12; Bałaban, *Historja Żydów*, 374–376.

26 »Notarius Iudicij alius non eligatur aut deponatur, nisi ita prius seniori Judaeo visum fuerit cuius electionem calculo suo aprobet.« Privilege of Stefan Batory (1578), § 31, quoted in Schorr, »Krakovskii svod,« 98.

27 Regulations of A. Tęczyński (1527), § 1, quoted in Bałaban, *Historja Żydów*, 365.

28 Unfortunately only a small portion of the judicial decisions from the time of Voivode Stanisław Lubomirski (1642–1647) have survived until today, see APMK, *Decreta iudicij palatalis, Varia* 12, 1675–1766.

29 See e. g. the statute of Sigismund Augustus from March 19, 1554: »If the judge cannot not agree with the Jewish Assessors upon the sentence, the Voivode has to decide.« Quoted in Bałaban, *Historja Żydów*, 361.

– frequently required in the rulings of the voivodes,<sup>30</sup> the king<sup>31</sup> and the Jewish community<sup>32</sup> – remained essential to the court and to general coexistence. Even when the voivode's prerogative was later restricted to the approval of delegated elders and the securing of their participation in the trial, its significance to the bi-religious perspective was not diminished. Instead of direct appointment, the voivode provided legal legitimacy for the assessors and thus continued to secure the Catholic-Jewish composition of the court.

Lastly, the voivode worked closely with the *szkolnik* (*scolni ministerialis*), the Jewish usher of the court. Although not appointed by the voivode, the *szkolnik* was a middleman between the court, the voivode, and the Jews. He held the authority of summoning individuals to the court,<sup>33</sup> examined the injuries to the aggrieved Jewish party,<sup>34</sup> served as a witness, kept order during the trial, issued declarations, received Jewish oaths, etc. In Krakow, there were two *szkolniks* at the same time.<sup>35</sup> They cooperated with the gentile functionaries and their role was fundamental to the entire bi-religious apparatus, one which was established and maintained by the voivode<sup>36</sup> but financed by the Jewish community.<sup>37</sup>

Besides organizing the staff of the *wojewodzinski court*, the voivode was involved in securing peaceful cooperation in other ways as well. He was responsible for the coordination of the court's schedule in harmony with the two systems of religious holidays and religious laws, a matter that was addition-

30 Ibid., 365. The rule legislated by Andrzej Tęczyński was later confirmed by Stanisław Potocki on May 28, 1659.

31 This rule already appeared in the general privilege of Casimir IV and was confirmed by Sigismund Augustus in the Judicial Statute for Krakow of March 19, 1554, in a local privilege for the Jews – in which he asserted that in case of the assessors' absence the court session should be canceled – as well as in Stephan Batory's privilege of 1576.

32 Jakimyszyn, *Statut Krakowskiej Gminy*, XIII, § 17.

33 See the Judicial Statute of Sigismund Augustus from March 19, 1554, § 1: »A Jew should be summoned by the *szkolnik* two weeks before the trial.« Quoted in: Bałaban, *Historja Żydów*, 361.

34 See *ibid.*, 380.

35 According to the two preserved texts of the *szkolniks*' oath of May 1640 and April 1641.

36 Benjamin Cohen, »Ha-rashut ha-voyevodit,« 15–17. For more information on the *szkolnik* and his statutes, see Feivel Hirsch Wettstein, »Divre Hefets. Dokumenta hebrajskie z pinkasów gminnych w Krakowie,« *Hameasf* (1902), quoted in Moses Schorr, »Przegląd literatury historyi Żydów w Polsce,« *Kwartalnik Historyczny* 17 (1903): 475–490, here 487–490.

37 At first, the community paid only in emergency cases but around the seventeenth century it paid annually for the activities of the voivode's office, see Falinowska-Gradowska, »Sędziowie żydowscy,« 39; Cohen, »Ha-rashut ha-voyevodit,« 28. In the eighteenth century the community paid a regular salary to the voivode, the judge, and the notary. See Bałaban, *Historja Żydów*, 383.

ally safeguarded by a Jewish statute and by royal edicts that forbade scheduling trials on Saturdays or during Jewish holidays.<sup>38</sup>

The voivode's judicial duties were not confined to the *wojewodzinski court*. The voivode, for example, also served as the first instance judge in severe criminal cases among Jews, between Jews and Christians, as well as in civil cases among Jews if the parties – although discouraged by the kahal – turned to the voivode's court.<sup>39</sup> Moreover, he was a second instance judge and head of the appeal court for decisions of the Jewish court and in cases of complaints filed against the *iudex iudeorum*. He presided over the court and passed the sentences (*iudicium palatinum*) during his irregular stays in Krakow.<sup>40</sup> Lastly, the voivode served as an agent of the law in a special court (*iudicium compositum*) for cases of blood libel established in 1633 by King Władysław IV. In this court the voivode sat together with a *starosta* and a royal commissar, with his presence intended to guarantee the court's impartiality and its interest in the Jewish side of the case.

All these functions of the voivode, when analyzed from a legal or legislative perspective, may seem purely judicial. Yet, in the reality of the existence of a Jewish community within a Catholic environment, the roles of the voivode also grew meaningful in terms of everyday Jewish-Christian relations. This perspective is applicable not only to general privileges, but also to their interpretation in royal edicts and judicial statutes, to the voivodes' regulations and acts, as well as to Jewish legislation such as the Krakow Communal Statute of 1595. Analysis of these legal documents and of the above re-examined judicial functions of the voivode from an interreligious perspective shows that the voivode's jurisdiction over the Jews was designed not to alienate them, but quite the contrary, in order to support Christian-Jewish coexistence. The voivode was meant to secure the integration of the Jews into the corporative law system of the multireligious

38 See for example Jakimyszyn, *Statut Krakowskiej Gminy*, XIII, § 16: »Der *szkolnik* zol kein *pozew* an namen nayert al yom bet ve-yom hey« (»The *szkolnik* shall not accept summons for days other than Monday or Thursday«) and the Judicial Statute of Sigismund Augustus, § 3: »It is forbidden to schedule a trial for the Jews on Saturdays or Jewish holidays.«, translated from Bałaban, *Historja Żydów*, 361.

39 Hanna Zaremska, *Żydzi w średniowiecznej Europie Środkowej: w Czechach, Polsce i na Węgrzech* (Poznań: PTPN, 2005), 94. On the Jewish use of Polish courts, see also Adam Teller, »In the Land of their Enemies? The Duality of Jewish Life in Eighteenth-Century Poland,« *Polin* 19 (2007): 431–446, here 435–437. In 1659 the kahal received the voivode's order preventing the *iudex iudeorum* from settling inter-Jewish cases within the jurisdiction of the Jewish court (*Beit din*).

40 According to the regulation of Andrzej Tęczyński (1527), § 2: »Appeals against the sentence of the vicegerent, or the sentence of the Jewish elders [in cases among Jews], should be lodged with the Voivode,« quoted in Bałaban, *Historja Żydów*, 365.

Commonwealth in which social estates and ethno-religious groups had their own privilege-based laws and courts.<sup>41</sup> While establishing a more balanced, Christian-Jewish judicial platform for interreligious cases and passing judgments according to the existing »law of the land«, the voivode and his »gentile-Jewish court« incorporated the Jews into the existing legal network and legally shielded them from being summoned before other, essentially Catholic, and usually hostile authorities such as the city courts.

Whether protecting their own prerogatives or acting solely as guardians of Jewish legal rights, the voivodes strove to prevent intervention by other jurisdictions in cases that involved Jews.<sup>42</sup> They even often became involved in capital cases and severe interreligious conflicts, including blood libels, i.e. accusations of sacrament desecration and sacrilege, in which the king himself was the highest authority. They tried – though usually unsuccessfully – to prevent other courts from taking over cases before the oft-delayed royal intervention,<sup>43</sup> as for example during the famous process of the church thief Piotr Jurkiewicz.

In June 1635, Jurkiewicz, a Catholic, was caught in the act of stealing silverware from a church. When subjected to torture (*quaestie*) he confessed that, persuaded by a Jew named Jacob, he had also taken sacramental bread (i.e. host) and sold it to him. Aware of the consequences of such an accusation, the aforementioned voivode Jan Magnus Tęczyński asked the kahal to bring Jacob to his court in order to place him under the voivode's jurisdiction and enable the voivode to judge his case according to the »law of the land«. Unfortunately Jacob had escaped and since the voivode failed to bring the accused to the court, the city magistrate immediately availed himself of the opportunity and intervened by arresting a randomly selected Jew with his wife and children. When this became widely known, the magistrate released the imprisoned family and the city court sentenced both Piotr Jurkiewicz and the absent Jacob to be burned at the stake. During his last confession, however, the church thief admitted that he had never stolen the host and the whole accusation of Jacob had been a lie.

The voivode intervened immediately and sent his *iudex iudeorum* to interrogate Jurkiewicz and clear Jacob's name. The Jewish aspect of the case was registered in the voivode's acts (*ksiegi wojewodzkie*) in order to place it back under the voivode's jurisdiction and the rule of the »law of the land«. Again, the voivode's intervention succeeded only partially because – despite Jurkiewicz's

41 Benjamin Cohen, »Ha-voyevoda be-torat shofet ha-yehudim be-polin ha-yeshanah«, *Gal-ed* 1(1973): 1–12, here 1–2.

42 Ibid., 3, 6.

43 Benjamin Cohen, »Ha-yurisdiktsiyah ha-voyevodit legabei ha-yehudim be-polin ha-yeshanah« in *Sefer Raphael Mabler*, ed. Shmuel Yavin (Merhavia: Sifriat Poalim, 1974), 47–66, here 58–59.

confession – the magistrate still demanded that Jacob be arrested. Finally, on the June 24, 1636, the case reached the king, who supported the voivode's attempts and concluded the process by asking the kahal to swear again that they took no part in Jacob's escape.<sup>44</sup>

Although royal intervention did not calm public opinion in this case, it did put an end to the jurisdictional interplay between the voivode, who was protecting the privileges of the Jews, and the magistrate, who was attempting to extend city rule over the Jewish suspect. This judicial competition resulted mainly from the weak points of the court system in the Commonwealth, such as the law of *actor sequitur forum rei*.<sup>45</sup> In this system, the voivode, whose authority did help to incorporate the Jews into the legal system and to preserve Christian-Jewish coexistence, could only partially protect the Jews and fight other courts and their continuous attempts to undermine Jewish legal rights. After all, even with the king's help, the voivode hardly ever managed to summon Christians to his court. As Benjamin Cohen observed so precisely:

General privileges established the voivode as a protector of the Jews as a group, of their lives, their sacred things and possessions. On the other hand, they took from him the authority to judge or arrest those hurting the Jews.<sup>46</sup>

Aware of those limits to their jurisdiction, the voivodes found ways outside the court walls to support the Jewish community in conflicts with their Catholic neighbors, and thus to contribute to the maintenance of peaceful coexistence. As the above mentioned letter of Andrzej Tęczyński exemplifies, the voivode – who were not able to arrest or judge those guilty of the tumult – buttressed his judicial authority with an administrative status and used it to suggest legal procedures as means of conflict solution and compensation. This in turn allowed the Jewish community to overcome the tragedy and return to its everyday coexistence with its neighbors. In other words, the voivode combined his judicial prerogatives with the high local status arising from his administrative functions in order to act as an agent of the law beyond the court and to intervene in interreligious cases.

#### *Administrative and other duties*

In addition to the judicial duties re-examined above, the voivode had administrative and economic functions, through which he became an active agent in

44 For more details on the case, see Bałaban, *Historja Żydów*, 181–183.

45 »The actor must follow the forum of the thing in dispute.« This judicial maxim means that the plaintiff needs to sue in the jurisdiction where the subject of the lawsuit or the defendant is located.

46 Cohen, »Ha-yurisdiktsiyah ha-voyevodit,« 49.

the establishment and maintenance of Jewish-Catholic coexistence and everyday interaction. Among other things, he was responsible for issuing a price list for domestic and imported goods,<sup>47</sup> appointing functionaries to be in charge of sizes, weights, and measures, regulating local trade and crafts, and collecting taxes and customs. Consequently, he was often approached as the highest local state representative and an administrative authority over the Jews, especially in conflicts between the Jewish community and their neighbors, e.g. crises regarding Jewish settlement in the city, problems with trade and craft rights which he tried to settle through agreements, so-called *pacta* (ugody), between Kahal and municipality. Hence, the voivode frequently acted as an agent of the law and issued temporary regulations or signed agreements, which in turn were usually confirmed by the kings. For example, already in 1485 the voivode signed an important trade agreement between the Krakovian Jews and the municipality:

We the signed below, the Elders of the Jewish Community in Krakow, admit and testify with the signature of our own hand, how with the consent of the entire community we have been convinced and have undertaken of our own free will and without any coercion, to abstain from trade and cease from dealing with merchandise. Likewise, not to take various commodities or merchandise and sell with our own hands to other Christians, except for our unredeemed pledges by which we lost in usury and which we can sell in our houses at any time and opportunity. We may not dare to convey and bring these pledges to sell them in the streets or markets in the city, except during two days of the week, Tuesday and Friday, restricted for markets, as well as on the fair-days [...] Likewise we shall sell only the pledges we can swear on the Torah to be ours. And if it happens that a man or a woman will maliciously go and carry old or new commodities into the city [in order] to sell them, and will be caught selling them or willing to sell them on any other day except for the two above mentioned days and the market-days, then the inhabitants of the city have the right to confiscate all his commodities. Moreover, this Jew shall be put in prison unless he pays the penalty of 3 grzywny to the palatines. Likewise, poor Jewesses have the right to sell on all days shawls and scarves made by their own hands and craft. This letter shall be a testimony and evidence in the hands of the burghers and city council to be fulfilled as written without cunning and without any fraud we have written and signed.<sup>48</sup>

We have no evidence concerning the negotiations before or right after the agreement. As far as we know, the original document was written in Hebrew and signed – after approval by the entire community<sup>49</sup> – by four Jewish Elders in

47 Zdzisław Kaczmarczyk and Bogusław Leśnodorski, *Historia państwa i prawa Polski*, vol. 2, (Warszawa: PWN, 1966), 59.

48 Quoted in Majer Balaban, *Toldot ha-yehudim be-Krakov u-be-Kazhimezh, 1304–1868*, vol. 1, transl. David Weinfeld, Asher Wilcher, Sinai Leichter and Elazar Fershker (Jerusalem: Magnes Press, 2003), picture 8.

49 See Hanna Zaremska, *Żydzi w średniowiecznej Polsce. Gmina krakowska* (Warszawa: Instytut Historii PAN, 2011), 376–377.

front of the City Council. On June 7, a few days after the conclusion, a Latin translation of the agreement was submitted by the Elders to the voivode, Jan Amor of Tarnów.<sup>50</sup> Afterwards, the document signed by the voivode was inserted into the collection of city laws and only this version was presented later to the kings, who all frequently referred to the agreement as if made by the voivode himself.<sup>51</sup> According to Bałaban, who interpreted the agreement as anti-Jewish and imposed on the Krakovian community, the document was signed and sanctioned by the voivode as »the lord of the Jews.«<sup>52</sup> The voivode was not in fact asked by the city council to sign and enforce the treaty upon the Jews. Quite the contrary, it was the kahal that appeared in front of the voivode and as the Latin version reveals, the Jews approached him as subjects of the voivodeship (*ditioni et potestati nostri paltinatus dediti et subjecti*)<sup>53</sup> and not as commoners subject to the absolute rule of »their lord«. Moreover, the representatives of the community did not ask the voivode as »their lord« or protector to cancel the »imposed« treaty. On the contrary, the elders – who were probably involved in the negotiations leading to the writing of the Hebrew original and later preserved it scrupulously – requested his recognition of the treaty and presumably paid for all the diplomatic procedures as was customary.<sup>54</sup>

The fact that the kahal placed extra effort and invested substantial amounts of money into the validation of the agreement by the voivode sheds new light on both the meaning of the treaty itself and on the character of the voivode's involvement in the case. First, it implies that the agreement was not entirely anti-Jewish and had a great importance to the community. Second, it suggests that the voivode was approached not as a superior authority enforcing a destructive treaty but – on the contrary – as a state representative, who could and did use his

50 Jan Amor (Młodszy) z Tarnowa (lat. Ioannis Amor de Tharnow), circa 1425–1500.

51 See e.g. the edict of Sigismund I of 1527: »Sigismund I rex Poloniae ordinatio-nem Ioannis Amor de Tarnow palatini Cracoviensis, de mercatura Iudeorum a. 1485 factam, ratam esse iubet.«, quoted in Piekosiński. There are many other examples of the voivode's involvement in interreligious agreements, e.g. in 1533 Piotr Kmita helped to sign a settlement agreement between the Jewish community and the municipality of Kazimierz and Stradom, see Mathias Bersohn, *Diplomatariusz dotyczący Żydów w dawnej Polsce: na źródłach archiwalnych osnuty* (1388–1782), (Warszawa, 1910), 53–58.

52 Bałaban, *Historja Żydów*, 60.

53 Ibid.

54 For more information on payments for office services and chancellery procedures, see for example Stanisław Kętrzyński, *Zarys nauki o dokumencie polskim wieków średnich* (Poznań: Wydawnictwo Poznańskie, 2008); Andrzej Tomczak, »Kilka uwag o kancelarii królewskiej w drugiej połowie XVI wieku,« *Archeion* 37 (1962): 235–252.

administrative prerogatives and local status to foster the mutual pact resulting from interreligious negotiations and guarantee its execution. In turn, these conclusions challenge Bałaban's interpretation and justify the re-examination of the treaty itself and of the voivode's role from the perspective of interreligious communication.

From this point of view, the treaty of 1485 reveals itself as a trade-oriented chapter in a multi-dimensional dialogue between the Jewish community and Christian burghers, through which the Jews attempted to establish themselves as an economic corporation entering new markets.<sup>55</sup> Consequently, by sanctioning the document, the voivode appears to have functioned as an agent of the law validating the Christian-Jewish agreement. All in all, the analysis of the signing procedure in 1485 from the perspective of interreligious communication offers an alternative interpretation of the treaty and deepens our understanding of the role of the law, the state, and its representatives as supportive and validating factors in Christian-Jewish dialogue and coexistence.

The voivode, in addition to his judicial and administrative prerogatives, also acted as a local representative of royal authority, approving, for example, the results of inner-Jewish elections on the behalf of the king.<sup>56</sup> Through this prerogative, the voivode granted state legitimacy to Jewish functionaries, the kahal system, and Jewish autonomy in general, thus providing crucial support for Jewish self-government.<sup>57</sup>

Besides representing royal authority on a permanent basis, the voivode carried out the king's ongoing orders and hence frequently intervened in cases of interreligious conflict. For example, in 1539, after Catherine Wajgel – an 80-year-old widow who had been tried and convicted by the ecclesiastic court for apostasy from Catholicism to Judaism<sup>58</sup> – had been burned at the stake, Voivode Piotr Kmita<sup>59</sup> was ordered by the king to calm the anti-Jewish atmosphere and

55 On the changes in the economic orientation of the Jewish community and its role in the urban realm of the early modern Commonwealth, see for example Elchanan Reiner, »Aliyat >ha-kehilah ha-gdola<: al shorashei ha-kehilah ha-yehudit ha-ironit be-polin ba-et ha-hadashah ha-mukdemet,« *Gal-ed* 20, no. 2 (2006): 13–37.

56 See Jakimyszyn, *Statut Krakowskiej Gminy*, VIII, § 11.

57 On the interplay between the state and Jewish autonomy, see for example Moshe Rosman, »Tiv ha-autonomiyah shel yehudei polin,« in *Keħal Yisra'el: Ha-shilton ha-atsmi ha-yehudi le-dorotav*, vol. 3, ed. Israel Bartal (Jerusalem: Merkaz Zalman Shazar, 2001), 24–42.

58 The case was described by Łukasz Górnicki, *Dzieje w Koronie Polskiej* (Wrocław: Ossolineum, 2003), 13–15.

59 Piotr Kmita (1477–1553) was a Grand Marshal of the Crown and Voivode of Krakow. A humanist and »agile« politician, he was known for his love of »big money« and close relations with Queen Bona. Consequently, both the Jews as

find those who brought the »old townswoman« to Judaism. The voivode intended to quiet the people by arresting the local cantor who, according to public opinion, had been responsible for the widow's conversion. However, when it turned out that the alleged proselytizer had escaped, Kmita received new royal orders and arrested the Jewish elders for being responsible for the man's flight.<sup>60</sup> Although the Jews pleaded with Kmita to free their representatives, the voivode in this case functioned as a representative of the royal authority and acted solely according to the king's orders and not in line with his ordinary prerogatives and image as being the »protector of the Jews«.

Following the kings' orders – in which the voivode's judicial authority (*arbitrium*) was interpreted quite freely – the voivodes also intervened in internal Jewish cases. In 1537, for example, after all measures had failed toward solving the inner-Jewish conflict between the Krakovian community and Czech immigrants, King Sigismund I ordered Voivode Piotr Kmita to intervene. Since the two communities – which had separate rabbis and administrations following years of squabbling over their respective supremacy – could not agree on joint use of the old synagogue or on separate fiscal representation, Piotr Kmita was ordered to grant the Czech community a suitable place for an independent synagogue and to control Jewish fiscal affairs.<sup>61</sup> In other words, the voivode was ordered to represent the law and the king in an inner-Jewish conflict and to provide legal tools leading to its solution as well as to the improvement of Jewish fiscal discipline.

The voivodes, who themselves lived in a religiously heterogeneous environment,<sup>62</sup> also occasionally intervened into interreligious conflict on their own initiative, as in the cited case of the tumult of 1637. Whether acting solely as a protector of the Jews or trying to rebuild the city's reputation<sup>63</sup> and underline

well as Catholic merchants bribed him to influence the royal couple on their behalf; see Bałaban, *Historja Żydów*, 123.

60 Ibid., 128.

61 For details on this case, see Bałaban, *Historja Żydów*, 111–112. For examples of the voivode's involvement in Jewish communal life, see Cohen, »Ha-rashut ha-voyevodit.«

62 For example, in the 15th century the manor of the Krakow castellan and voivode from 1438–1459, Jan of Tęczyn, was directly adjacent to the Jewish cemetery. Moreover, in the 16th century a Protestant, Piotr Zborowski, was chosen to be voivode.

63 In 1637, there was a rivalry between Krakow and Warsaw in the matter of a royal marriage ceremony and the coronation of the new queen. Voivode Tęczyński, as a noble and representative of Krakow, probably tried to defend his city and wrote that such riots had never taken place in the capital before and could have easily be suppressed, see APMK, *Varia* 11, 959.

his innocence,<sup>64</sup> Jan Magnus Tęczyński issued a strongly-worded letter condemning the tumult that had taken place during his absence. In this way, he used his position to legitimize Jewish claims, calm the situation, and reinstate peaceful neighborly relations. By issuing the letter and advising the Jewish community on the legal steps it should take to obtain compensation for its losses, the voivode initiated legal procedures and acted as an independent agent of the law supporting the reestablishment of Christian-Jewish coexistence.

### *Officium palatinum and its functions*

The voivode's permanent judicial and administrative functions, accompanied by occasional duties and interventions, were undoubtedly far too numerous for one person to handle. Moreover, his position in the state and his regional authority obliged him to travel quite frequently. The burden of some of the voivode's multiple duties was therefore shared by the office of the voivode, the *officium palatinum*, at first during the voivode's absence and later on a permanent basis. Its officers took responsibility for the regular registration of Jewish merchants' deals and loans, for issuing licenses for Jewish business, and for the approval of Jewish acquisitions. The *officium palatinum* and its functionaries also occasionally became involved in interreligious cases requiring authorization and registration. As early as 1469, for example, the functionaries of *officium palatinum* – and not the voivode himself – certified a critical agreement, according to which the Jewish community sold its estates on the Jewish street to the Krakovian Academy and moved to a smaller and less central area of Krakow:

Judge Johannes Chamiec de Dobranowice, Johannes the notary and the *subiudex* of the Jews in Krakow, and also their [Jewish] seniors, allow, accept, and ratify the exchange of synagogues, hospitals, and cemeteries for the house and land located on Spiglarska Street has been undertaken by the Krakovian Jews with Jan Długosz the Krakovian canon.<sup>65</sup>

Although we do not know much about the circumstances leading to the signing of this agreement, its reexamination from the perspective of multireligious communication sheds light on the role of the *officium palatinum* as a local agent

64 In his letter, the voivode – probably to clear his name – underlines his absence from the city and rebukes the municipality and its lack of intervention to stop the riots: »Nie może się tesz tego zamilczeć iako magistratus Supremus na ten czas negligentissime i tak się zda iakoby właśnie umyślinie stanął. Gdysz aby iednym bramy zawarciem mogłaby się bella wielka częśc tumult uspokoić.« (»We should not conceal that the magistratus Supremus, rather neglectful at that time, refrained – as if deliberately – from action, while the mere closing of a gate could have calmed down a large part of the tumult.«), APMK, *Varia* 11, 959.

65 Bałaban, *Historja Żydów*, 57–59.

of law. According to Bałaban's narrative »the Jewish move to the Szpiglarska Street was almost equal to an expulsion.«<sup>66</sup> Yet, as Hanna Zaremska has recently suggested, the treaty was not entirely anti-Jewish. Individual Jews and the community as a whole had already acquired estates in the new area before the agreement and had even built one of their synagogues there. Moreover, although the new location was further away from the city center, it did not harm Jewish trade or residential rights. It seems therefore that the treaty was a compromise preceded by Jewish-Christian negotiations and constituted a joint attempt to reduce tensions resulting from living in close proximity.<sup>67</sup> In this case the *officium palatinum* was thus not in fact an apparatus imposing a »semi-expulsion« but functioned as a representative of the state, lending legitimacy to the contract. In other words, the voivode's office used its powers to validate the results of the ongoing negotiations aimed at the preservation of Christian-Jewish coexistence.

Over time and due to the demographic growth of the Jewish population as well as the improvement of the administrative and judicial system of early modern Poland, more and more of the voivode's roles were carried out by his office. Consequently, the administrative center moved from the synagogue to the *officium palatinum* and its functionaries became more involved in Christian-Jewish communication. The *officium palatinum* received the right to issue preventive orders and laws and announce them in the synagogues. The *szkolnik* became responsible for registering low-value sureties.<sup>68</sup> In the 17<sup>th</sup> century a newly established functionary – the *instigator* – took on a number of judicial competences and became the voivode's general prosecutor responsible for law and justice among the Jews.<sup>69</sup> The voivode himself henceforth passed judgment only in cases dealing with large sums.<sup>70</sup> In the 18<sup>th</sup> century, the voivode's authority was in fact functionally based on the *officium palatinum* which took care of all civil and petty criminal cases and served as a notary office where city

66 Ibid., 58.

67 Zaremska, *Żydzi w średniowiecznej Polsce*, 359–360.

68 The Statute of 1649 by Voivode Władysław Dominki Zasławski-Ostroński (1618–1656), § 4, see Gumpłowicz, *Prawodawstwo polskie*, 114.

69 According to Benjamin Cohen the appointment of an instigator marked a shift in the character of the voivode's jurisdiction over the Jews from their protection to persecution and close interference in communal life, a shift which was to define the relations between the voivodes and the Jews over the last centuries before the partition of Poland. Both the new function and the change in the relations could however also be ascribed to the maturing of the Polish administration and bureaucracy, demographical growth, and the decline of Jewish autonomy, see Cohen, »Ha-rashut ha-voyevodit,« 11; idem, »Ha-yurisdiktsiyah ha-voyevodit,« 54–56.

70 According to the Statute of Voivode Stanisław Potocki (1659) appeals could be lodged to the voivode's court only in claims of value higher than 250 zloty.

inhabitants registered their contracts, agreements, accusations, and testimonies. In short, by mediating in interreligious conflicts and legitimizing the outcome of Christian-Jewish dialogue »the voivode's functionaries were involved in everything that happened in the Jewish community, on the Jewish street and the market square.«<sup>71</sup> Moreover, they were an active party to religious coexistence and dialogue, and were not mere representatives of the state or the voivode, but actual agents of authority and law involved in these areas.<sup>72</sup>

The early activities of the office, its involvement in interreligious coexistence, and its growing responsibilities were the result of many factors. The very legitimacy of the office's authority, however, had its roots both in the real necessity for an administrative mechanism that could manage the burden of the voivode's multiple functions and in the understanding of the status of the Jews not as subjects to voivode's (*palatinus*) personal rule but as a social group belonging juridically and administratively to the voivodeship (*palatinatus*).<sup>73</sup> Hence, both the voivode and his office represented the Krakow Voivodeship (*Palatinatus Cracoviensis*) and as such became involved in interreligious coexistence and dialogue in early modern Krakow.

### *Conclusion*

In early modern Krakow, the voivode and the *officium palatinum* formed a common authority, the *Palatinatus Cracoviensis*, which functioned in a religiously heterogeneous reality. Through the constant redefinition and widening of their judicial as well as administrative duties they became both an intermediary between the state and its dwellers of various religious adherence, as well as agents in the interreligious communication between Catholics and Jews living in Krakow and its urban environs. Whether acting in accordance with their written prerogatives and occasional royal orders or pursuing a freer interpretation of their duties, both the voivode and his office supported and strengthened interreligious communication both in times of crisis and during periods of more relaxed relations. Their activities usually aimed at maintaining peaceful neighborliness and dialogue in spite of the fact that the religious elites supported the

71 Cohen, »Ha-yurisdiktsiyah ha-voyevodit,« 47.

72 At the time the vice-palatinus and his office (*Officium vicepalatinale*) also became more active and issued laws, e. g. laws regarding trade and guilds, Jewish tax payments, and various warnings. We unfortunately have no documents from the office and its proceedings.

73 Bałaban, *Historja Żydów*, 60.

policy of separation.<sup>74</sup> On an everyday basis, they formed the apparatus that incorporated the Jews into the country's legal system and tried to protect them from antagonistic courts. Buttressed with the normative law, they provided a juridical and administrative basis for Catholic-Jewish dialogue and granted it state and local legitimacy. Whenever necessary, they mediated between the sides and offered legal tools and means for preserving or re-establishing bi-religious coexistence and communication.

Through the voivodes' involvement, normative law turned into legal practice which contributed to the establishment and maintenance of peaceful neighborliness. My reexamination of the functions and actions of the voivodes and their office from the perspective of multireligious coexistence proves that Christian-Jewish communication had many dimensions and was based not only on the real necessity that resulted from sharing the same urban space, but also on the pragmatic adaptation of normative law. Through the use of law, the voivodes and their office mediated in dialogues between Christians and Jews as well as between the state and its various religious groups. This aspect of their activities and functions has rarely been noticed by historians. Without a doubt, in the developing administrative and juridical system of early modern Poland other institutions and agents were also involved in the establishment and maintenance of interreligious communication as well. Their activities also await analysis from the perspective of Christian-Jewish dialogue. Such a reexamination could further build on existing research and provide new conclusions leading to a deeper understanding of the relations between the law, religion, and the state in religiously heterogeneous areas.

Anat Vaturi

74 See for example Magda Teter, »Kilka uwag na temat podziałów społecznych i religijnych pomiędzy Żydami i Chrześcijanami we wschodnich miastach dawnej Rzeczypospolitej,« *Kwartalnik Historii Żydów*, no. 3 (2003): 327–336.

