Ed. by Yvonne Kleinmann, Stephan Stach and Tracie L. Wilson

# Religion in the Mirror of Law

Eastern European Perspectives from the Early Modern Period to 1939

Religion in the Mirror of Law Eastern European Perspectives from the Early Modern Period to 1939

> edited by Yvonne Kleinmann Stephan Stach Tracie L. Wilson

Studien zur europäischen Rechtsgeschichte

Veröffentlichungen des Max-Planck-Instituts für europäische Rechtsgeschichte Frankfurt am Main

Band 280



Vittorio Klostermann Frankfurt am Main 2016

## Religion in the Mirror of Law

Eastern European Perspectives from the Early Modern Period to 1939

Edited by Yvonne Kleinmann Stephan Stach Tracie L. Wilson

Copy-edited by David Dichelle



Vittorio Klostermann Frankfurt am Main 2016

Bibliographische Information der Deutschen Nationalbibliothek Die Deutsche Nationalbibliothek verzeichnet diese Publikation in der Deutschen Nationalbibliographie; detaillierte bibliographische Daten sind im Internet über http://dnb.dnb.de abrufbar.

© Vittorio Klostermann GmbH Frankfurt am Main 2016

Alle Rechte vorbehalten, insbesondere die des Nachdrucks und der Übersetzung. Ohne Genehmigung des Verlages ist es nicht gestattet, dieses Werk oder Teile in einem photomechanischen oder sonstigen Reproduktionsverfahren oder unter Verwendung elektronischer Systeme zu verarbeiten, zu vervielfältigen und zu verbreiten.

Druck und Bindung: docupoint GmbH, Barleben Typographie: Elmar Lixenfeld, Frankfurt am Main

Gedruckt auf Alster Werkdruck der Firma Geese, Hamburg-Alterungsbeständig ⊚ 180 9706 und PEFC-zertifiziert €

Printed in Germany ISSN 1610-6040 ISBN 978-3-465-04181-8

#### Contents

Acknowledgements	VII
Note on Transliteration	VIII
Yvonne Kleinmann, Stephan Stach, and Tracie L. Wilson Reflections on the Meanings of Religious Belonging in Eastern European Legal Culture: An Introduction	IX
Imagining Law – Imagining Society	
Jürgen Heyde Polemics and Participation: Anti-Jewish Legislation in the Polish Diet in the 16 <sup>th</sup> Century and its Political Context	3
Anna Juraschek Shylock as a Symbol of the Disenfranchised Jew – A Comparative Study of Karl Emil Franzos' and Rudolf von Jhering's Legal Thinking	21
Jana Osterkamp »Imagined Law« and »Imagined Communities«: Confessional Collectives and their Ideas for a Federal Habsburg Partition of Galicia	41
Tracie L. Wilson Emergent Law: Women's Charity and Anti-Trafficking Associations as Sites for Enacting Social Reform	61
Shifts in Political Rule and the Reorganization of Law	
Angela Rustemeyer Blasphemy's Long Shadow: Confessional, Legal, and Institutional Conflict in the Tsarist Partition of Poland under Catherine II	89
Oksana Leskiv Trust and Conflict: Relations between Ruthenian Priests and Peasants in 19 <sup>th</sup> -Century Galicia	109

Hanna Kozińska-Witt Austrian Law, Krakovian Habitus, and Jewish Community: The Construction of New Local Hierarchies in Habsburg Galicia	127
Stephan Stach The Institute for Nationality Research (1921–1939) – A Think Tank for Minority Politics in Poland?	149
Competing Laws – Competing Loyalties	
Dror Segev Enlightenment versus Religious Law: Debating Jewish Burial in the Hebrew Press of Late Imperial Russia	183
Vladimir Levin Civil Law and Jewish Halakhah: Problems of Coexistence in the Late Russian Empire	213
Liliana Hentosh Competing Loyalties in Galicia: The Challenges Facing Metropolitan Andrei Sheptytskyi after the Disintegration of the Habsburg Empire	241
Ethno-Religious Coexistence in Legal Norm and Practice	
Anat Vaturi Voivodes and their Office as Agents of the Law in Christian-Jewish Coexistence: The Example of Early Modern Krakow	263
Yvonne Kleinmann How to Safeguard a Town Constitution in Early Modern Poland: A Case Study on the Legal Status of Christians and Jews	283
Maria Cieśla The Other Townsfolk: The Legal Status and Social Positions of the Jews in Cities of the Grand Duchy of Lithuania in the 17 <sup>th</sup> and 18 <sup>th</sup> Centuries	307
Eugene M. Avrutin Economic Entanglements and Neighborly Disputes in the Northwest Provinces of the Russian Empire	329
Notes on Contributors	347

### Acknowledgements

This volume has its roots in the international conference *Religion in the Mirror of Law. Research on Early Modern Poland-Lithuania and its Successor States in the 19*<sup>th</sup> and Early 20<sup>th</sup> Centuries held in Lviv at the Center for Urban History of East-Central Europe in 2010. This interdisciplinary meeting included perspectives from history, legal studies, literature, and ethnology, with participants from Austria, Germany, Israel, Poland, Ukraine, and the United States. The articles presented here are extensively reworked versions of most of the papers presented.

The conference was the initiative of the research group *Pathways of Law in Ethno-Religiously Mixed Societies: Resources of Experience in Poland-Lithuania and its Successor States* based at the Institute for Slavic Studies at Leipzig University, the members of which are also the editors of this volume. The German Research Foundation (Emmy Noether Program, GZ KL 2201/1-1) acted as primary sponsor of the conference as well as of this volume. Additional partners and sponsoring institutions are the Center for Urban History of East-Central Europe in Lviv, which hosted the conference, as well as the German Historical Institute in Warsaw and the Max Planck Institute for European Legal History in Frankfurt am Main, both of which generously contributed to the conference budget.

The editors would like to take this occasion to thank all those who participated in the conference and especially those who braved the editing process in discussing and revising their articles. We offer special thanks to Harald Binder, Director of the Center for Urban History of East-Central Europe and the center's coordinator, Irvna Matsevko. We wish to thank Eduard Mühle, Director of the German Historical Institute in Warsaw from 2008 through 2013, and especially Deputy Director, Ruth Leiserowitz, who represented the institute at the conference. We wish to express our gratitude to the Director of the Max Planck Institute for European Legal History, Thomas Duve, and to Stefan Ruppert who took part in the conference. We are particularly grateful to the Max Planck Institute for integrating our book into the series Studien zur europäischen Rechtsgeschichte (Studies in European Legal History) and we extend special thanks to Karl-Heinz Lingens, the coordinator of the series for his steady encouragement and patience. Finally, we would like to thank Nadja Mitzkat, Magda Wlostowska, Sven Jaros and Anja Schyma, the students whose efforts have also contributed to the conference and the editing of this volume.

The editors

#### Note on Transliteration

The transliteration of Belarusian, Russian, and Ukrainian in this book follows the Library of Congress system with the exception that for the sake of readability the many »ь« (soft signs) in Ukrainian are represented as »'« only in the footnotes but not in the main text.

Hebrew is transliterated according to a simplified version of the Library of Congress system with the aim to reflect the pronunciation of Modern Hebrew: *alef* and *ayin* are both depicted as »', « *tet* and *taf* as »t, « and *kaf* and *kuf* as »k, « whereas the distinction between *het* and *khaf* has been retained in the form of »h « and »kh.«

The transliteration of Yiddish follows the YIVO-style.