

Halakha and Microhistory: The Shifra-Affair in Brno, 1452

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Abstract

Shifra was a Jewish businesswoman in Moravia in the fifteenth-century. In 1452 due to financial fraud she was arrested in Brno. Her life was saved by some members of the local Jewish community, who renounced their financial claims against their Christian neighbours in the exchange of Shifra's life. However, one member of the community consented to the agreement only on condition that the other members would pay his losses. The case was extensively discussed in the correspondence of contemporary rabbis, among them Israel Bruna and Israel Isserlein. Their letters about the Shifra-affair reveal some important characteristics of the rabbinic authority in the late medieval Ashkenaz.

Zusammenfassung

Shifra war eine jüdische Geschäftsfrau in Mähren im 15. Jahrhundert. Im Jahr 1452 wurde sie wegen Steuerhinterziehung in Brno inhaftiert. Ihr Leben wurde von einigen Mitgliedern der lokalen jüdischen Gemeinde gerettet, die im Gegenzug zu Schifras Leben auf ihre finanziellen Ansprüche gegenüber ihren christlichen Nachbarn verzichteten. Ein Mitglied der Gemeinde willigte der Abmachung nur unter der Bedingung ein, dass die anderen Mitglieder im Gegenzug dazu seine finanziellen Einbußen begleichen werden. Dieser Fall wurde sehr intensiv in den Korrespondenzen zeitgenössischer Rabbiner, unter ihnen Israel Bruna und Israel Isserlein, diskutiert. Ihre Briefe über die Schifra-Affäre lassen einige wichtige Charakteristika rabbinischer Autoritäten im spätmittelalterlichen Aschkenaz erkennen.

Introduction

Halakhic responsa-literature has been used in historical research in several ways.¹ One widespread approach is to search for historical data that can be easily dissolved from the original context of the particular texts and be used

1 An earlier version of this paper was read at the conference "Patterns of Uniqueness: Singularity and Regularity in the Middle Ages" organized in honor of Gerhard Jaritz in Brno, November 4-6, 2009. I am grateful to all participants of the conference for comments and criticism, especially to Judit Majorossy (CEU) and Christian Gaspar (CEU). This study is published in the framework of the research project "Moravia and the world: art in open multicultural space" (MSM 6198959225). This research was supported by a Marie Curie European Reintegration Grant within the 7th European Community Framework Program.

for the specific research purposes.² This method has its origins in the *Wissenschaft des Judentums* and is detectable in some current publications as well.³ The “hard facts” that are referred to or implied by the responsum are the proper targets of the research: consequently, the particular details of the case related in the text are scrutinized. The ultimate decision of the rabbi may also be of interest, since it may reflect how Jewish religious authorities reacted to certain historical phenomena. However, much less attention is given to the *stricto sensu* halakhic part of the text, in which the case is analyzed in terms of Jewish religious law.

A different approach is associated with the name of the great twentieth-century historian, Jacob Katz. He treated halakhic texts as articulations of social-religious norms. Consequently, the halakhic terms and theories that were chosen to describe particular cases (or to *perceive* a particular event or situation as a subject matter for halakhic discourse) became as important, if not more important, as the “hard facts” that could be learned from the texts. The reason for this change is easily understood when we consider Katz’s programmatic statements on his research objectives: the general patterns of Jewish societies. In Jacob Katz’s perspective social and religious norms were more important targets of analysis than famous personalities or events. As long as halakhic texts were believed to articulate religious and social norms their proper halakhic content became the primary focus of attention.⁴

However, this last premise, namely, that halakhic texts articulate religious and social norms, has been recently questioned in the context of medieval Ashkenazi rabbinic literature and culture. Israel Ta-Shma’s various studies have pointed out the significance of customs (*minbagim*) in Ashkenaz: the actual

- 2 For an introduction consult Freehof, Solomon B.: *The Responsa Literature*. Philadelphia 1959. On methodological questions, see Weinryb, Bernhard D.: *Responsa as a Source for History (Methodological Problems)*. In: Hirsch J. Zimmels, Joseph Rabinowitz, and I. Finstein (eds): *Essays Presented to Chief Rabbi Israel Brodie on the Occasion of His 70th Birthday*. London 1967, pp. 399-417. See also Soloveitchik, Haym: *Can Halakhic Texts Talk History?*. In: *AJS Review* 3 (1978), pp. 153-196 presenting halakha as history rather than extracting historical data from halakhic sources.
- 3 A good representative of this approach is Suler, B.: *Rabbinische Geschichtsquellen*. In: *Jahrbuch der Gesellschaft für Juden in der Čechoslovakischen Republik* 8 (1936), pp. 27-56, especially pp. 27-39, with further references to works by Zacharias Frankel, S. I. Rappoport, and others. For a recent example see a Hungarian collection of selected responsa by Ezekiel Landau: *Bányai, Viktória: Ezekiel Landau prágai rabbi (1713-1793) döntvényeiből: Magyarországi adatok*, Budapest 2008.
- 4 Cf. Katz, Jacob: *The Concept of Social History and Its Possible Use in Jewish Historical Research*. In: *Scripta Hierosolymitana* 3 (1956), pp. 298-300.

norms regulating religious practice were often not related to the standard halakhic rules based on the Babylonian Talmud; sometimes they openly contradicted them. At the same time, it should be emphasized that the authority of the Babylonian Talmud was fully accepted by medieval Ashkenazic rabbis: “in theory” the Talmud was the norm; “in practice” it was often not the case.⁵

In a very influential paper, Haym Soloveitchik argued that the study of rabbinic texts was not the only way of articulating and transmitting religious norms in pre-modern Ashkenaz. The family, the synagogue, and other private or public spaces (for example, the kitchen of one’s mother) provided the framework to appropriate the ‘know-how’ of performing rituals, observing taboos, and other patterns of behavior as well as the key social and religious ideals. What was appropriated through “mimetic transmission” in the family, synagogue, or on the street was not always the same thing as the halakhic doctrines transmitted in books. Sometimes, the differences developed into veritable gaps that separated what people thought or felt to be correct from what the authoritative books prescribed. It is the former, *not* the latter, which was “the norm” for the given community. As Soloveitchik writes:

The simple truth is that the traditional [East-European] Jewish kitchen and pre-Passover preparations have little to do with halakhic dictates. They have been immeasurably and unrecognizably amplified by popular religious intuition. We all know this, but our religious sense, our religious experience belies this knowledge, and our instincts reject this fact out of hand... The prevalent has not here expanded the normative, it *is* the normative, and anything less is inconceivable. Once the existing becomes identified with the appropriate (as it does in any vibrant traditional society), this identity can easily spill over and legitimize practices that fall beyond the halakhic perimeter.⁶

If this statement is correct, then the previously mentioned assumption needs revision: halakhic sources cannot be treated as direct and unproblematic articulations of religious or social norms.⁷

5 Ta-Shma, Israel M.: *Early Franco-German Ritual and Custom* (Hebrew). Jerusalem 1992.

6 Soloveitchik, Haym: *Religious Law and Change. The Medieval Ashkenazic Example*. In: *AJS Review* 12 (1987), 2, pp. 205-221; here p. 220. Italics in the original.

7 This is not to say that Jacob Katz’s approach is fundamentally mistaken or that Katz himself was guilty of treating halakhic sources in a superficial or naïve way. The purpose of these remarks is to point out a *methodological* problem that is more often overlooked than not: it cannot be simply taken for granted that a halakhic text articulates a valid social or religious norm of the author’s society. One has to consider carefully every individual case.

This statement may sound rather counter-intuitive. What is halakha all about if not the religious norms to be followed in the Jewish communities?! On the other hand, one can consider the fact that a non-negligible portion of halakhic literature has a distinctively *l'art pour l'art* character: constructing and solving difficult theoretical problems that lack pragmatic relevance, scrutinizing situations that are unrealistic, etc. In some instances of responsa-literature the respondent rabbi, after elaborating a long and sophisticated argument in favor of a certain position, suddenly ignores all previous discussions and decides in favour of the opposite on the basis of simple and straightforward considerations. In such cases, it makes sense to assume that “the norm” was the non-technical statement pronounced at the conclusion of the text rather than the long *tour de force* of halakhic reasoning that constituted the main body of the text.⁸

In other words, when we encounter texts of this kind, there is reason to believe that the *stricto sensu* halakhic content failed to articulate the relevant religious-social norms accepted in the given society. So what did it actually express in this case? What was a pre-modern rabbi doing when he was inventing a halakhic argument? What was halakha all about?

8 I will mention only two famous nineteenth-century examples here: (1) Moshe Sofer [Moses Schreiber, Hatam Sofer, 1763-1839], ShU”T Hatam Sofer, I (Orah Hayyim), no. 83 (written in Pressburg, June 26, 1824) discusses the question whether a mentally retarded orphan child is permitted to be cured in a non-Jewish sanatorium without observing food taboos and other Jewish laws for many years. After a very long and complex discussion the author concludes that halakha permits the violation of ritual laws for the sake of healing, so the child may be sent to the sanatorium. However, in the last sentence of the responsum the author reverts his opinion saying that “it is better for him to remain mentally retarded for all of his life than to be a sinner for one hour,” obviously having in mind the possibility that the orphan may lose his Jewish faith after such a long abandonment of the Jewish lifestyle. This simple consideration expounded in no more than one sentence at the very end of the text was apparently more important from the pragmatic point of view than the long halakhic treatise preceding it. The conclusion of this responsum is often referred to in later halakhic literature. (2) Moshe Schick [Maharam Schick, 1807-1879], ShU”T Maharam Schick, I (Orah Hayyim), no. 66 (no date and place) discussing the question whether it is permitted to use Hebrew Bibles published by Christian missionaries. The author presents an admirable synthesis of earlier halakhic theories leading to the conclusion that the printing houses with their machines and professional crew effectively neutralize the improper intention [*kaavana*] of the missionaries, which could have rendered these Bibles into Christian cultic objects and as such forbidden to Jews. Since, in Moshe Schick’s opinion, the neutral-professional procedure of printing has “blocked” the *kaavana* of the missionaries, the Hebrew Bibles in question are not dedicated to Christian cult, so they are permitted to Jews. Nonetheless, in the last sentence the rabbi declares that nobody should use such books. There is no doubt that this last sentence expressed the norm considered to be valid in the rabbi’s community.

Perhaps, one should not look for an all-encompassing and exhausting answer to these questions. If we listen to the admonitions of the so-called microhistorians, then we should suspect any ambitious theorems addressing the *macro*-level of historical phenomena. The “norms,” “attitudes,” “ideals,” etc. governing a given society as reconstructed by historians may turn out to be crude abstractions of a much more subtle historical reality and may suggest a distorted image of the historical period.

Microhistorians, on the other hand, “have concentrated on the contradictions of normative systems and therefore on the fragmentation, contradictions and plurality of viewpoints which make all systems fluid and open.”⁹ Instead of taking it for granted that the “big structures and large processes,” in fact, governed the life of people, a microhistorical inquiry may show how these “big structures” were challenged, suspended, reformulated, compromised, or replaced in particular situations. The target of the analysis is the *singularity* of an event or phenomenon; “singular” here means ‘exceptional,’ something that goes beyond the generalized concepts and rules and the abstracted types and averages. Although microhistorians usually research “everyday life,” they are not necessarily interested in the “typical” or the “average;” on the contrary, the proper target of their research is the unique or even the idiosyncratic, since the latter are *not* abstractions, whereas the former are.¹⁰

These considerations seem to be relevant for the research of halakha especially in the context of the responsa-literature. What microhistorians call *the normal exception*, this “elegant oxymoron” (Paul Ricoeur) seem to be precisely the thing we most often encounter in rabbinic responsa.¹¹ Normal exceptions are everyday deviations: they are “exceptions” in so far as they violate rules (and they are retaliated; usually the extant sources about them are byproducts of retaliation procedures). Nonetheless, such deeds could be “normal” from the unique perspective of the perpetrators, as a major exponent of the concept, Edoardo Grendi explains.¹² Thus, the sentences condemning a deviation

9 Levi, Giovanni: On Microhistory. In: Peter Burke, ed., *New Perspectives on Historical Writing*, University Park, Pa., 1991, p. 107.

10 Cf. Edward Muir’s summary in *A Global Encyclopedia of Historical Writing*, vol. 1, ed. Daniel R. Woolf, New York/London, 1998, pp. 615-617.

11 Cf. Ricoeur, Paul: *Memory, History, Forgetting*. Tr. Kathleen Blamey and David Pellauer, London/Chicago 2004, p. 216.

12 Grendi, Edoardo: *Microanalisi e storia sociale*. In: *Quaderni Storici* 35 (1977), pp. 506-520, here p. 512. Cf. Muir, Edward/Ruggiero, Guido (eds.): *Microhistory and the Lost Peoples of*

issued by the authorities may be an evidence of various alternative systems of norms that operated besides the official one(s) and sometimes in collision with it (them).

Having the considerations above in mind a particular episode about the life of a fifteenth-century Moravian Jewish community will be discussed. Our primary research question will focus on the nature of the rabbinic authority in this period.

The Shifra-Affair: Sources and Date

Sometimes before the summer of 1452, a Jewish business woman called Shifra was arrested and imprisoned by the civic authorities of Brno (Brünn) in the margraviate of Moravia which had become part of the Czech Kingdom by that time.¹³ The charge against Shifra was theft and the sentence she could expect was the capital one. What she actually did is not entirely clear, and it is possible that it would be described today as “ethical misconduct in business” rather than “theft” as we shall see later. Nonetheless, her action fell into the former category and was punished by death according to the city law of Brno. Shifra’s life was finally saved by several members of the Jewish community of the town who agreed to abandon their financial claims against their Gentile neighbours in return of Shifra’s life.

However, this action led to a major controversy within the Jewish community itself: one of the businessmen involved, not named directly in the sources, did not subscribe to the agreement with the Gentiles until the rest of the community guaranteed that his financial losses were going to be reimbursed. Several members, as well as the charity foundation of the Jewish community offered themselves as bondsmen in case Shifra herself could not pay her debts to this man. Shifra was indeed unable to pay. So the man claimed the sum from the bondsmen. When the appointed time came, the bondsmen refused to pay. They said that saving Shifra’s life was a religious duty that obliged all the

Europe (Baltimore, 1991), p. xiv; Muir, *Microhistory – Microstoria*. In: *A Global Encyclopedia of Historical Writing*, p. 616.

13 The fact that Jewish women were engaged in business was not unusual by any means in the region. On this phenomenon of late medieval Ashkenaz see Keil, Martha: *Business Success and Tax Debts. Jewish Women in Late Medieval Austrian Towns*. In: *Jewish Studies at the Central European University 2* (2002), pp. 103-123; idem, *Mobilität und Sittsamkeit. Jüdische Frauen im Wirtschaftsleben des spätmittelalterlichen Aschkenas*. In: *Wirtschaftsgeschichte der mittelalterlichen Juden*, Hrsg. Michael Toch, München 2008, pp. 153-180.

members of the community. At this moment the case was referred to Rabbi Israel Bruna, a well-known expert of Jewish law, who himself used to be the rabbi of Brno before 1446, though he was active in Regensburg by the time of the Shifra-affair.¹⁴ He was probably visiting Brno, or perhaps, Prague when he was asked to judge the case.

Bruna initiated a correspondence about the case with at least three other rabbis. Some of these letters survived; they are our solely sources about the case. They are included in Israel Bruna's collection of responsa.¹⁵ The extant documents are the following ones:

(1) Bruna, responsum no. 57 – A summary of the case and Bruna's first opinion about it written by Bruna himself. In the present form, this document seems to be a later recollection of the events; perhaps Bruna composed it several decades after the events when he assembled and edited his correspondence in one volume. It is also possible that it is based on a letter Bruna sent to Israel Isserlein concerning the affair.

(2) Bruna, responsum no. 58 – A letter from Israel Isserlein of Wiener Neustadt, one of the two greatest halakhic authorities in the region, and Bruna's teacher, to Israel Bruna responding to the latter's inquiry concerning the Shifra- affair. Isserlein disagrees with almost all the legal arguments proposed by Bruna but he reinforces the validity of Bruna's conclusion on the basis of a modified argument. Other topics are also discussed. One of Bruna's disciples, Lazar (Eleazar) Pollak planned to move to Prague and work there as a rabbi. The local rabbi, Elijah of Prague, protested against this. Isserlein comments on a similar conflict about the addressee, Israel Bruna himself, whose presence in Regensburg was bitterly opposed by a certain Rabbi Anshel. Isserlein also refers to a (no longer extant) letter from Rabbi Peretz about the Shifra-affair.¹⁶

(3) Bruna, responsum no. 59 – A letter from Israel Isserlein of Wiener Neustadt to the aforementioned Elijah, rabbi of Prague. Among other issues Isserlein outlines his opinion about the Shifra-affair and recommends Elijah to

14 Cf. Fuchs, Abraham: Historical Material in the Responsa of Rabbi Israel Bruna (Hebrew). Unpublished PhD thesis, Yeshiva University 1974, pp. 60-62.

15 Israel Bruna: Sheelot u-teshuvot Yisrael mi-Bruna, ed. Moshe Hershler, Jerusalem 1960. (Hereafter: ShUT Mahari Bruna.) On the textual history of Bruna's responsa see Fuchs, Historical Material, pp. 128-133.

16 On the identity of this rabbi cf. Dinari, Yedidya A.: The Rabbis of Germany and Austria at the close of the Middle Ages (Hebrew). Jerusalem 1984, p. 239, n. 49.

ask Bruna for further details. This advice seems to imply that Bruna and Elijah had personal contact: perhaps both of them stayed in Brno (or in Prague) at the time of the Shifra-affair. The letter concludes with an interesting remark: since the “princes” of the country (i.e. Austria) are engaged in some negotiations between “our lord, the emperor” and “your kingdom” (i.e. Czech Kingdom) Isserlein could not get some information.

The extant documents indicate that at least three more letters were written concerning the Shifra-affair that have apparently been lost:

(4) A letter from Bruna to Israel Isserlein outlining the affair and inquiring for his opinion about it. [Is it partly preserved in (1)?]

(5) A letter from Eliah of Prague to Isserlein mentioning among other things the Shifra affair. [(3) is a reply to this letter.]

(6) A letter from Rabbi Peretz to Isserlein. [Cf. (2).]

Two more documents should be mentioned that possibly refer to the Shifra affair:

(7) Bruna, responsum no. 86 – A letter from Jacob Weil to Rabbi Peretz. In the last paragraph, he mentions a controversy about a financial matter in the community of Brno. It seems that the majority of the community wanted to force a minority of the community “in a matter pertaining to money”. This surely means that the minority refused to contribute to some costs that the majority thought to undertake. Jacob Weil refuses to make a judgment and remarks that the involved principle – whether the majority can force the minority in financial matters – is controversial. He refers to a responsum from his master, Jacob Moellin, who refused the principle (probably no. 153 of the “new” responsa of Maharil). He advises Rabbi Peretz to ask Israel Isserlein’s opinion, because the latter knows the “custom of the land” (*minbag ha-medina*).

(8) Bruna, responsum, no. 87. – A letter from Jacob Weil to a certain Rabbi Judah concerning the controversy in his community. The details are the same as in no. 86.

It can be taken for granted that (7) and (8) refer to the same case. Therefore, the addressee of (8), that is Rabbi Judah, must have been a rabbi of Brno. Thus his name should be added to the list of rabbis of Brno.¹⁷

¹⁷ Cf. Graus, Frantisek: Brünn. In: *Germania Judaica*, vol. 3, part 1, ed. Arye Maimon and Yacov Guggenheim, Tübingen 1987, pp. 178-183; here p. 180.

But is the case mentioned identical to the Shifra-affair? Some elements make the identification plausible. ‘A financial controversy in which a minority was ultimately forced to contribute to the cost of something’ is a possible description of the Shifra-affair. Furthermore, the addressee of document (7) is the same Rabbi Peretz as the one mentioned in document (2) and the author of the (lost) document (6). The author of the letters, Jacob Weil (d. 1456), was the other greatest halakhic authority in the region, besides Israel Isserlein. He advised Rabbi Peretz to consult Israel Isserlein and this was apparently what Rabbi Peretz did in the Shifra-affair, see document (6).

On the other hand, Jacob Weil’s words suggest a matter in which the whole community was involved, and the minority (*miut*) mentioned in the text seems to have consisted of more than one individuals. He uses grammatically plural forms when referring to the minority. In the light of these facts the identification with the Shifra-affair is somewhat improbable, though not entirely impossible.

Nonetheless, if these documents happen to refer to the Shifra-affair, then we can add further items to the list of lost documents:

- (9) A letter from Rabbi Peretz to Jacob Weil [cf. (7)].
- (10) A letter from Rabbi Judah of Brno to Jacob Weil [cf. (8)].

It should be noted that the three items that have been integrated into Bruna’s collection of responsa, that is documents (1), (2), and (3), are not necessarily reliable copies of the original documents. The *raison d’être* of copying the letters into the collection was the halakhic content, especially the precious teaching of Israel Isserlein who was one of the greatest halakhic authorities in late medieval Ashkenaz. Therefore, the halakhic parts of the letters were probably reproduced verbatim by Bruna, when he edited his book. Non-halakhic parts, personal remarks, etc. could be abbreviated or left out entirely.¹⁸

Long extracts from the three extant documents were published in German translation by B. Suler in *Jahrbuch der Gesellschaft für Juden in der Čechoslovakischen Republik*, 1936.¹⁹ Suler was the first who attempted to date the incident and the documents about it. His dating was based on three sound premises:

¹⁸ Cf. Fuchs, *Historical Material*, pp. 128–129.

¹⁹ See Suler, B.: *Rabbinische Geschichtsquellen*. In: *Jahrbuch der Gesellschaft für Juden in der Čechoslovakischen Republik* 9 (1938), pp. 101–170, here pp. 115–117 and pp. 150–151 (notes).

(a) Since the Jewish community of Brno ceased to exist in November 1454, when Jews were expelled from Brno (and not permitted to return until the dawn of the modern period), the Shifra-affair must have taken place before the end of 1454.²⁰

(b) Document (2) assumes that Israel Bruna had already left Brno for Regensburg. Consequently, the date of this document must be dated after that event.

(c) The remark about the negotiations between “the emperor,” presumably, the Holy Roman emperor Frederick III, and “your kingdom,” that is, the Czech Kingdom, makes a closer dating possible, when the event mentioned in the text is identified.

Virtually all scholars of Suler’s time took it for granted that Bruna left his native city for Regensburg because he was expelled from Brno with the rest of the community in 1454. Suler was an exception. He was the first to suggest that Bruna must have been in Regensburg the latest in 1446. His hypothesis was corroborated by Abraham Fuchs several decades later.

Despite his correct dating of Bruna’s move to Regensburg, Suler seemed to assume that Bruna left Regensburg in 1454 when he attempted to date the sources. As a consequence, Suler searched for an historical event that took place after 1454 when he was about to identify the diplomatic negotiations referred to in document (3). The most likely option in his opinion was a series of diplomatic exchanges between Frederick III, Holy Roman emperor and George of Podjebrad, king of Bohemia, in 1458, although it is not evident how it would pose an obstacle for Isserlein to obtain information from Prague.

Suler eliminated this problem by supposing that Isserlein’s enquiry pertained to the possibilities of peace and war between Frederick III and George of Podjebrad and not about the news that he could not get from Prague. In his German translation, the passage about the diplomatic negotiations is separated from the previous discussions, as if Isserlein started a completely new and unrelated topic. However, this interpretation is very unconvincing. Nothing indi-

²⁰ See Engel, Alfred: *Die Ausweisungen der Juden aus den königlichen Städten Mährens und ihre Folgen*. In: *Jahrbuch der Gesellschaft für Geschichte der Juden in der Tschechoslovakischen Republik 2* (1930), pp. 50-96. The expulsion of the Jews from the major Moravian cities in 1454 seems to follow the late medieval pattern described by Bell, Dean Philip: *Sacred Communities. Jewish and Christian Identities in Fifteenth-Century Germany*, Boston 2001, esp. pp. 83-85 and 120-125.

cates in the Hebrew original that Isserlein would start a new topic. It is more natural to read the text as a continuous literary unit (see below). There is not a single allusion to peace or war between the two countries in the text; therefore, Suler's assertion that this was the topic of the text is completely hypothetical.

In any case, Suler concluded, document (3) must have been written in 1458.²¹ This dating implies that the correspondence was going on for many years after the events and that the dispute between the community members (including the charity fund!) and "that man" was vivid four years after the dissolution of the Brno Jewish community.

This is not entirely impossible, but it does not sound very probable either. In fact, nothing seems to indicate in document (2) and (3) that the Jewish community had been dissolved. One would expect that such an event would complicate further the nature of the conflict: for example one of the "bondsmen," the charity fund represented by the *gabbaim* would have ceased to exist by the time Isserlein was commenting on the affair. It is more natural to read these two documents as reactions to an ongoing conflict within a properly existing Jewish community, not an expelled and fragmented one.

And there is an alternative to Suler's reconstruction, which he was seemingly not aware of. Suler's application of the second principle (b) was mistaken, although the basic insight of the principle itself is correct. Since Bruna left for Regensburg *before* the Jews were expelled from Brno, there is no reason to suppose that the correspondence took place *after* 1454. We are not impelled to suppose that Isserlein sent Bruna and Elijah his opinion four years after the dissolution of the Brno Jewish community. And nothing prohibits us to identify the event mentioned in document (3) with some diplomatic negotiations that took place before 1454. Let us see first the relevant text from document (3).

Isserlein rebukes his addressee, Elijah of Prague for not disciplining one of his relatives, Moses by name, for his scandalous behavior. Moses is mentioned in document (2) as well; it seems that he had some financial conflict with Israel Bruna. In any case Isserlein tells Elijah that he is expected to influence his relative unless he already did so, which Isserlein cannot know since lately he has problems with getting news from Prague. Isserlein writes:

I wonder why he does not listen to you or why do you not stop him [from doing such thing]. Whether you have already disciplined him [*lit.* "he is in your

²¹ Suler, *Rabbinische Geschichtsquellen*, p. 151, fn. 82.

hands”], we have no clear information about it, because the princes and the noblemen are involved in bringing about a compromise between our lord, the emperor and your kingdom [*malkuta dilkbon*].²²

Suler translates the passage as follows:

Es wundert mich, daß er auf Dich nicht hört. Oder warum hältst Du ihn davon nicht ab? Kannst Du es aber? – Es gibt bei uns keine klaren Nachrichten denn die Herrscher und hohen Würdenträger sind bemüht, zwischen unserem Herrn dem Kaiser und Euer Herrschaft zu vermitteln...²³

This solution assumes a break in the line of argument between “Kannst Du es aber?” (*ve-im beyadkha hu*) and “Es gibt bei uns...” (*en sbemu’ot...*). However, there is no reason to assume any break there. From a purely grammatical point of view it is possible to understand the phrase “*ve-im beyadkha hu*” as being dependent on “*en sbemu’ot.*” Moreover, this interpretation is preferable from a rhetoric point of view: after criticizing his addressee, Isserlein seems to admit the possibility that Elijah perhaps did already what he was supposed to do just the reports about it could not get to Wiener Neustadt.

Isserlein uses the Hebrew word *qeisar* (“Caesar”) which may refer only to a Holy Roman emperor in the context. Emperor Sigismund died in 1437, the next emperor, Frederick III was crowned in Rome, March 19, 1452. He traveled to the coronation in the company of the young Ladislaus Posthumus, who was elected to be the king of Hungary and Bohemia, but who was hindered from taking over his countries by Frederick himself. While Frederick was in Italy, the Bohemian, Moravian, and Hungarian estates contacted the Austrian estates to form a coalition against the emperor in order to force him to let the young Ladislaus go free and govern his kingdoms.

Upon Frederick’s return from Rome, together with Ladislaus to his usual place of residence, Wiener Neustadt (which was also Isserlein’s place of residence), on June 20, 1452, an army of the Austrian, Bohemian, and Moravian estates encircled the city. The blockade around Wiener Neustadt lasted until

22 ShUT Mahari Bruna, no 59.

תמהני שלא ישמע לך או למה לא תעכב על ידו ואם בידך הוא אין שמועות ברורות אתנו, כי המושלים והשרים מתעסקי' לפשר בין אדונינו הקיסר ובין מלכות' דילכון

23 Suler, *Rabbinische Geschichtsquellen*, p. 117. Cf. also the discussion on p. 151 n. 82.

September 1, 1452, when the emperor finally agreed to hand over the king to the estates.²⁴

Isserlein's remark quoted above is the easiest to understand in the context of these events. At first one may wonder how the diplomatic negotiations referred to in the text could hinder Isserlein in obtaining information about Elijah of Prague and his relative, Moses. However, if we assume that Isserlein in fact meant the blockade of the emperor's city, Wiener Neustadt, which happened to be Isserlein's place of residence as well, then we can understand that the persons who used to bring news from Prague or Brno to Isserlein could not get so easily to Wiener Neustadt at that time as before because of the troops of the estates encircling the city and threatening the emperor with war. Thus, it can be assumed that Isserlein was relatively isolated from the outer world in Wiener Neustadt in those days.

After the quoted sentence the letter ends somehow abruptly with Isserlein's usual greetings and signature. It is possible that there were some further details which the original document provided about the blockade of Wiener Neustadt and that the sentence quoted above was only the beginning of a slightly longer report. As has been mentioned above, it is possible that Bruna skipped such passages in the original letters when he produced his book, since they had no halakhic content.

If the reconstruction proposed here is correct – I am not aware of plausible alternative at the moment – then document (3), that is Isserlein's letter to Elijah of Prague must have been written between June 20 and September 1, 1452. Consequently, the Shifra-affair must have taken place shortly before that time, probably in 1452.

Shifra's Friends and Enemies

The first round of the events is summarized by Israel Bruna thus:

Once it happened in the community of Brno that the citizens arrested lady Shifra because they gave her objects and jewelry to sell them and she [did not sell them but] gave them to Mister Abraham Jeckl and other Jews as pledges.

²⁴ Cf. Vancsa, Max: *Geschichte Nieder- und Oberösterreichs 2: 1283 bis 1522*, Deutsche Landesgeschichten 6/2, Stuttgart/Gotha 1927, pp. 315-316 and Niederstätter, Alois: *Das Jahrhundert der Mitte. An der Wende von Mittelalter zur Neuzeit, Österreichische Geschichte 1400-1522*, Hrsg. Herwig Wolfram, Wien 1996, p. 146.

And she was guilty of the capital sentence according to their [i.e. the Gentile's] law.

So the citizens took the pledges back to their possession and sent a message to the Jews [asking] whether they were ready to give them the pledges for free, because in this case they would let her [i.e. Shifra] go free, but if not, then she would be judged according to their law. All the Jews gave their pledges to the Gentiles for free except one man; and as a consequence of this situation, her life was in danger. So many from the community assembled and offered themselves as bondsmen to this man for the sum of 20 golden: this man for 1 [gold], that man for 2, and in this way even the *gabbaim* offered 4 golden from the charity fond [*tsedaqa*] in order to save her from death.

But when the time came [to pay] they asked my opinion about the legal situation, because, [they thought,] the agreement about the bonds were not accompanied by an act of purchase; they were merely uttered [and thus remained invalid.] And it seemed to me that all of them should be exempted from the legal obligation [to pay the debt].²⁵

Unfortunately, no record of the affair survived in the municipal records of Brno up to my best knowledge. This is not surprising in the light of the fact that the evidence about the economic and legal affairs of the Jews is extremely scarce as for the first half of the fifteenth century – as opposed to the preceding half century. The reason for this is that less administrative documents survived from this period, on the one hand, and even the surviving material covers less Jewish material than before. In another Moravian town, the nearby Znojmo (Znaim), the administrative records concerning Jews were written into separate “books of Jewish affairs” (*Judenbücher*) since the second decade of the fifteenth century.²⁶ Perhaps, the same practice was followed in Brno as well from the beginning of the century or even slightly earlier. However, when the Jews were expelled in 1454 these “books” were probably no longer preserved,

25 ShUT Mahari Bruna, no. 57.

מעשה אירע בקהילת ברונא שהעירוניים תפסו את מרת שפרה על שנתנו לה מטלטלין ותכשיטין כדי למכור אותם, והיא השכינה אותם לר' אברהם יעקל ולשאר יהודים, ובדיניהם היא חייבת מיתה, ונטלו העירוני' כל המשכונות לידם, ושלחו אחרי היהודים אם רוצים ליתן לגוים המשכונות בהנם או יניחו אותה פטורה ואם לאו אז ידונו אותה בדיניה', וכל היהודים נתנו משכונותיהם לגוים חוץ מפ', ומכח זה הייתה מסוכנת למיתה ונמלכו רבים מהקהל ונתערבו לפ' עבור סך כ' זהובים זה עבור א' וזה בעד שנים, וכה"ג גם הגבאים נתערבו עבור ד' זהובים מן הצדקה כדי לפטרה ממיתה, וכשהגיע הזמן שאלו לי מה דינם כי כל הערבות לא היה בו קנין רק באמירה בעלמ

26 Cf. Bretholz, Bertold: Quellen zur Geschichte der Juden in Mähren vom XI. bis zum XV. Jahrhundert (1067-1411), Prague 1935, p. xxix and pp. xxxii-xxxiii.

if not actively annihilated, by the civic authorities.²⁷ As a consequence, the documentation of Jewish life in Brno has been largely destroyed.

To understand the order and the internal logic of the events we have to be familiar with the relevant elements of both Brno city law and Jewish rabbinic law (*halakha*). As for the former, the following principles are involved:

(1) Brno city law did not have a refined categorization of crimes against private property. All sorts of misappropriations, embezzlements were treated as “theft,” which was understood as secret expropriation of someone else’s property. Shifra’s handling of the Gentile partners’ property as pledges without the latter’s knowledge, and consent met the criteria.²⁸

(2) A theft above the value of 60 silver-denars (5 groschen) was punished with the capital sentence.²⁹ The fact that her opponent claimed 20 golden (meaning probably Hungarian forints or *Reichsgulden*) from Shifra indicates that the value of the objects involved must have been far above the limit.³⁰

(3) If a pledge in the house of a Jew turned out to be a stolen object, the Jew was obliged to return it to the original owner.³¹ However, if the Jew made an oath that he had not known that the pledge had been a stolen object, then the original owner had to pay the Jew the loan with the due interest up to the time of returning the object.³²

27 This suggestion I owe to Judit Majorossy (Central European University, Budapest).

28 Flodr, Miroslav: *Brněnské měšťské právo*, Brno 2001, p. 310.

29 *Ibid.*

30 Hungarian forints were used, for example, by a Jew from Brno called *Isaák* [Yitzhak] the son of *Miř* [Moses/Moshele] according to a legal document from 1446; cf. Brandl, V (ed.): *Libri citationum et sententiarum seu Knihy pŕihonné a nálezové*. Vol. 3/1, Brno 1878, p. 227 [no. 1041].

31 Cf. Flodr, Miroslav (ed.): *Právní Kniha Města Brna z poloviny 14. století*. Vol. 1. Úvod a edice, Brno 1990, p. 246 (no. 308).

32 *Ibid.*, p. 397; This situation must have occurred frequently. Charles IV added a specification on March 23, 1348 that forbade Jews to take pledges at night and to accept objects that looked suspicious; see *ibid.* pp. 399-400. The rule is discussed in a Latin legal responsum to the city of Ivančice during the second half of the fourteenth century mentioning that Jews in Brno were reluctant to accept Charles IV’s amendments. See Flodr, Miroslav (ed.): *Nálezky brněnského měšťského práva*. Svázek I. (-1389), Brno 2007, p. 84. A particular case that occurred around 1345-1348 is known from a Latin legal responsum by a Brno jurist. See Flodr, *Právní Kniha*. pp. 289-290 (no. 427) and Flodr’s commentary in *ibid.*, vol. 2, *Komentář*, Brno 1992, p. 144; for a German translation cf. Bretholz, *Quellen*, pp. 22-23. The Jew involved in this case was charged with theft; he claimed that he got the stolen objects as pledges from someone else, and he did not know that they were stolen. He was not believed and finally hanged. Cf. also Flodr, *Brněnské měšťské právo*, pp. 125-127 and pp. 430-432.

It is not explicitly stated in the text what the charge against Shifra in precise legal terms was. The essence of the misconduct may seem evident enough: by using the objects as pledges, Shifra probably made more money on them than if she sold them in accordance to the original agreement with the Gentile owners. She probably got cash for the pledges from the Jewish partners, which she lent non-Jews on interest. It is possible that she did not inform the original owners about these operations at all and that she did not give them a share of the extra-profit. If this was indeed the case, it is easy to understand why her handling of the objects – still owned formally by the Gentile partners – could be perceived as a form of theft.

However, one should be very cautious in judging Shifra's behavior in historical terms (not to mention moral terms). It is very difficult to infer anything about Jewish-Christian relations solely on the basis of the text quoted above. To give the Gentile owners a share of the extra-profit, which may seem to us a fair solution, could be problematic because of the ecclesiastical prohibition on taking usury – the ultimate lenders in such an arrangement would have been the Christian owners, not Shifra herself, and the share of the extra-profit would have been a share of the interest. It is not easy to say what the point of Shifra's agreement with the Gentile partners was. The nature of Shifra's transactions and her cooperation with the Gentile neighbors is not sufficiently documented.³³

A second problematic point of the story is the Christian citizens' demand that the Jews should give them the pledges "for free" which they have already taken from them! This point can be understood if we consider principle (3) listed above. Although the Christian citizens seized the stolen objects, the Jews could demand the loans together with the interest Shifra took on the objects as pledges from the original owners on condition that they swear that they did not know that the pledges had been stolen objects. This piece of legislation was imported into Brno city law from Ottokar II's letter of privilege to the Jews of Brno in 1268 and its story can be traced back to Henry IV's letter of privilege to certain Jews in Speyer in 1090.³⁴

33 On the role of money-lending among medieval Moravian Jews see Štěpán, Václav: Die Gesellschaftliche und Rechtliche Stellung der Juden in Mähren in der vorhussitischen Zeit. In: *Judaica Bohemiae* 28 (1992), pp. 3-21.

34 Cf. Bretzhold, Berthold: *Geschichte der Juden in Mähren in Mittelalter*. Erster Teil. Bis zum Jahre 1350, Brno 1934, pp. 88-89.

The deal offered by the Christian citizens probably meant that the Jews renounce their right to demand the loans from the original owners in return to Shifra's life. Nonetheless, this action did not imply that they renounced their claims against Shifra herself. Since this was an affair between Jews the civic authorities had probably neither interest nor means to interfere. The Shifra-affair became an inner Jewish case after the Jews agreed to the proposal.

The man who was reluctant to give up his right to demand the loan from the original owners was probably the same Abraham Jeckl whom Bruna mentions at the beginning of the text. This identification has been already proposed by B. Suler, and his arguments are persuasive.³⁵ The fact that Abraham Jeckl is the only person among Shifra's debtors who has been named at the beginning of document (1) may be taken as a token that he had a special role in the story. He is mentioned a second time in document (2), that is Isserlein's letter to Bruna. All we learn is that Rabbi Peretz wrote "severe things" [*harmurof*] against Abraham Jeckl. It is not pointed out for what reason he was rebuked; the simplest explanation is that his role in the Shifra-affair was condemned by the rabbi.

Further evidence is furnished by document (3), that is Isserlein's letter to Elijah of Prague. In fact, the main body of the text is a series of corrections to Elijah's halakhic argument to the effect that one is permitted to take away an informer's property justifying his planned action to confiscate certain belongings of a particular informer. Isserlein points out several flaws in Elijah's inferences. Finally, Isserlein remarks, he has exempted "them" on the basis of "other arguments" in a letter written to Israel Bruna. In the light of this remark it seems that Elijah's argument served the same purpose: to show that "they" did not have to pay to that man because he was an informer and the informer's property could be confiscated – or at least debts did not have to be paid back to him.

In this context Isserlein names the informer as "Abram" being a variant of the name "Abraham." He also mentions the possibility that Abram would turn to the Gentile authorities for help. In this case, Isserlein concludes, it is justifiable to punish him and he will certainly support Bruna and Elijah to execute the punishment. Isserlein writes:

And if you think that concerning Abram it is a trait of character [i.e. that he regularly commits that sin], in this case you may confiscate all his belongings

³⁵ Suler, *Rabbinische Geschichtsquellen*, p. 151, n. 77.

and you can keep them to yourselves. However, I have written to Rabbi Israel – may his Rock protect him – other arguments to exempt them. On the other hand, if he revolts against the two of you [*lit.* “squirts on you”] and summon them to the court of the Gentiles – in this case it is proper for the two of you to issue a punishment to him and I will support you.³⁶

The continuation of the text explains a halakhic detail in connection of one of Bruna’s argument that he proposed for exempting the members of the community to pay “that man” Shifra’s debt. Therefore, it seems to be certain that Isserlein talks about the Shifra-affair all along. All these considerations make it very likely that the Abram in question was the Jew who dissented to the community’s plan to save Shifra’s life, and that he was identical to the Abraham Jeckl mentioned in document (1) and (2).

Correspondence about the Case

A second round of events started when the community members in Brno asked for Israel Bruna’s opinion and the latter initiated a wide-range of correspondence with his colleagues about the affair.

Bruna inclined to the opinion that the bondsmen were exempted from the obligation to pay. Two groups of arguments came to his mind according to document (1), which, as has been mentioned above, can easily be a later recollection of the events. The first group of arguments concerned the legal validity of the action. Bruna perceived the case in the light of a particular passage of the Mishnah:

This is just as if a creditor were [in the act of] throttling a debtor in the street, and his friend found him and said, “Leave him alone and I will pay you”, he would [certainly] be exempt [from liability], since the loan was not made through trust in him.³⁷

Shifra’s case was analogous to the situation described in this passage. Abraham Jeckl’s behavior threatened Shifra with death; the members of the com-

36 SHUT Mahari Bruna, no. 59.

ואם תחשוב לאותו אברם באותו מידה א"כ תתפוס כל אשר לו ותעכבהו לעצמך, אמנם כתבתי למהר"י יצ"ו טעמים אחרים לפטרם, ואם יתריז נגדכם ויתבעם בדיני האומות אם תשילו עליו עונשים יפה תעשו וידי עמכם:

37 Mishnah, Baba Batra 10:6; cf. Babylonian Talmud, Baba Batra 176a. English translation by Israel W. Slotki; cf. Epstein, Isidore (ed.): The Babylonian Talmud, vol. 11, London 1961, p. 190 (“Soncino Talmud”).

munity acted to save Shifra's life; thus, the rule formulated in the quoted passage of the Mishnah could be applied in such situation according to Bruna's opinion.

However, Bruna had to face several difficulties rising from minor exegetical problems that threatened the validity of his insight. The sentence of the Mishnah quoted above is attributed to a scholar called Ben Nannus in the Mishnah. The Babylonian Talmud states that Ben Nannus' opinion is rejected in favor of Rabbi Ishmael's opinion, which means that this sentence is not necessarily a valid rule which can serve as the basis for any judgments. However, the exact differences between Rabbi Ishmael's opinion and Ben Nannus' one are not stated unambiguously in the Talmud. Whether Rabbi Ishmael would agree with Ben Nannus in this particular point, is a question which is not easy to determine. Israel Isserlein scrutinized several difficulties of this type in his reply to Bruna.

When the community members offered themselves as guarantors, the debtor, that is Shifra, did not offer them a symbolic or real payment to accomplish the "purchase" (*qinyan*) of their services. She could not do so because she was not present at all; she was imprisoned at that time. Bruna endorsed the community members' argument that the act of purchase would have been necessary to make their offer legally binding.

However, a forceful objection can be raised on the basis of a major thirteenth-century authority, Mordecai ben Hillel, the author of an influential halakhic compendium called after him *Sefer Mordecai*. No act of purchase (*qinyan*) is required if the creditor lends money to the debtor upon hearing and trusting the offer of the bondsman. This is a standard Talmudic rule. Mordecai ben Hillel extended this principle to the case when the creditor gives away the letter of debt or the pledges from his deposit, since these cases are analogous to some degree with paying money. Can it be argued that Abraham Jeckl's case is basically the same, since he renounced his rights concerning the pledges upon hearing and trusting the guaranties offered to him?

Replying to this anticipated objection, Bruna seems to refer to the legal situation created by the Gentile citizens on the basis of Brno city law:

Our case is different [from the one mentioned by Mordecai ben Hillel], because all the pledges have already been lost. Had she been killed, what would it have helped against their [i.e. the Gentiles] right to collect [the items] according to their own law?! The pledges had been lost by then, because the [non-

Jewish] citizens decided not to return the pledges any more either by their law or by free will.³⁸

Bruna ignores the fact that Abraham Jeckl was free *not* to renounce his financial claims concerning the pledges. Although Brunna was probably right in assuming that Shifra's execution would have not brought the lost pledges back, he did not take into consideration that Abraham Jeckl did lose something of his own will, when he renounced his financial claims, and he did so because he trusted the promises of the bondsmen. Therefore, the analogy between our case and the cases mentioned by Mordecai seems to be more convincing than Brunna was ready to admit. The weakness of his argument is pointed out in Isselein's reply.

Bruna also mentions the possibility that the Gentiles may have required Abraham Jeckl "to swear" and Abraham may have refused to do so. In this case he would have lost his right to claim the money from the Gentiles. This is to be understood in terms of the above-mentioned clause of Brno city law that obliged the Jew to swear that he had not known that the pledge had been a stolen object.

Another passage of the *responsum* indicates that Abraham Jeckl had an oral agreement with Shifra: he gave her money on the pledge which she lent to Gentiles on interest, and Abraham was supposed to get a share of the profit besides the original loan. This arrangement was permissible despite the prohibition to lend money to Jews on interest: although Shifra effectively paid interest to Abraham Jeckl for the loan she took from him, formally she counted only as a representative of the Gentile debtors.³⁹

However, Brunna argues, after Shifra's arrest this situation changed. Abraham Jeckl could claim the money first from the original owners of the pledges, second from Shifra herself, and third from the bondsmen. Shifra could not be taken as the representative of the original owners in this context since she did not do what they wanted her to do, that is, to sell the goods. Therefore, Brunna argues, neither Shifra, nor the bondsmen were to be taken as representatives of those Gentiles from whom Abraham could claim the money. Consequently, when Abraham wanted to collect the money, that is to say, the loan and the interest, from Shifra or her bondsmen, then he, in fact, required Jews to pay him

38 SHUT Mahari Brunna, no. 57.

שאני הכא דכבר נאבדו כל המשכונות ממ"נ אם ימיתנה בדין תגבה בדיניהם או נאבדו המשכונות כי כך הסכימו העירוניים שלא לחזור המשכונות כלל או בדיניהם או ברצון

39 Cf. Babylonian Talmud, Baba Metzia 71b, Tur, Yoreh Dea 168-169.

back a loan with interest. Thus, in Bruna's interpretation, Abraham's demand was a violation of the biblical prohibition not to lend money on interest to Jews, and consequently, it was simply *forbidden* to pay him the debt. Bruna also mentions that it is not clear how much money Shifra actually owes him, and that there was a debate between Abraham Jeckl and Shifra about this issue as well.

Bruna has a second important insight to the nature of the halakhic case. Saving Shifra's life was a religious duty. Bruna quotes Leviticus 19:16: "neither shalt thou stand idly by the blood of thy neighbour," which is interpreted in the Babylonian Talmud (Sanhedrin 73a) as a positive commandment to save those whose lives are in danger. Abraham Jeckl was obliged to perform the *mitzvah* of saving Shifra's life even if it costed him a huge amount of money. And, Bruna argues, the members of the community were entitled to *force* him to do so.

It is unclear whether Bruna delivered his decision before or after consulting Isserlein's opinion. In any case, the Shifra-affair obtained rapidly a surprisingly wide publicity. Abraham Jeckl's deeds were vehemently disapproved by two other rabbis: Elijah of Prague and Rabbi Peretz. The latter's halakhic arguments cannot be retrieved on the basis of the extant sources. As for Elijah of Prague, his letter to Isserlein, our hypothetical document (5), is lost; nevertheless, on the basis of Isserlein's answer [document (3)] his main line of argument can be reconstructed

Elijah of Prague chose a different way of conceptualizing the affair, as has been mentioned above. Elijah's focus was not the validity of the agreement between the creditor and the bondsmen but the status of Abraham Jeckl, as a *moser*, a perpetrator of the generally despised crime of handing over a Jew to the Gentile authorities. It was possible to argue that Abraham Jeckl became a *moser* when he threatened Shifra's life by declining the Christians' offer to save her life. By using certain halakhic formulas that implied that a *moser* could be punished by taking away his property, Elijah probably attempted to prove that the bondsmen were legally permitted to cause financial losses to Abraham Jeckl by not paying him the debt.

Suler wonders how the range of Elijah's authority as rabbi of Prague could stretch as far as Moravia so that he could order confiscating Abraham Jeckl's property in Brno.⁴⁰ However, the text does not seem to say or imply that

40 Suler, *Rabbinische Geschichtsquellen*, p. 151, n 77.

Elijah wanted to issue a “command” or “order” to punish him. From the wording of Isserlein’s reply [document (3)] it seems that Elijah spoke of private persons’ actions and not punishments issued by an office. He argued that *anybody* had the right to take away Abraham Jeckl’s property. And ‘anybody’ could refer to the bondsmen whose refusal to pay the debt was a permissible form of “confiscating” the property of a *moser*. The purpose of the argument was probably only to show that the bondsmen were not liable; nothing indicates that Elijah as a rabbi planned a special action against Abraham Jeckl besides exempting the bondsmen.

Let us overview Israel Isserlein’s replies to his colleagues’ arguments. Isserlein had a special relationship to Bruna, who was one of his favorite students.⁴¹ Bruna’s loyalty to his master was apparently unconditional; and Isserlein was ready to give his student full support when he badly needed it, during the fierce controversy about his presence in Regensburg. It is not surprising that Bruna presented his opinion to his master for approval.

Isserlein’s reply is a remarkable combination of criticism and confirmation. He approved Bruna’s conclusion. Thus he did not challenge Bruna’s authority in the eyes of the outsiders and did not jeopardize the efficiency of the two Czech rabbis’ measures against Abraham Jeckl. He was indeed well aware of the limitations and the fragility of the rabbinic power and did not want to demolish it by contradicting his colleagues. On the other hand, he rejected all of Bruna’s solutions pointing to flaws in Bruna’s arguments. In doing so he asserted the superiority of his knowledge and his higher standing within the inner hierarchy of the rabbis. His approval of the conclusion was based on a revised version of one of Bruna’s argument: although the pledges were not yet completely lost to Abraham Jeckl, as Bruna claimed, it was doubtful whether Abraham could indeed collect the debt from the Christian citizens; therefore, Isserlein argued, the rule attributed to Mordecai ben Hillel did not apply to this case, and thus, the agreement between Abraham and the bondsmen without a purchase (*qinyan*) was indeed invalid.

He rejected the argument of Elijah of Prague, too. He pointed out that the extreme punishments for informers could be put only in force if Abraham Jeckl were a notorious *moser*, who repeatedly endangered the life of several Jews on various occasions. This was, however, not the case, or not *yet* the case. Nonetheless, Isserlein counted on the possibility that Abraham Jeckl would

41 Cf. Fuchs, *Historical Material*, pp. 71-73.

rebel against the rabbis' halakhic decision and turn to the Gentile authorities for help. This step would justify taking more severe steps against him in Isserlein's opinion as well, so he ensured Elijah that he would support any punishment decreed on Abraham by Elijah and Bruna in such a case.

At the same time, in another, often quoted sentence of document (2), Isserlein warned Bruna against putting much trust into punishments: "I do not think that multiplying punishments and casting bitterness⁴² make much sense in this generation; [one should avoid punishing them] lest they throw off the yoke [of the Torah] off themselves completely, God forbid. For their faces are the faces of a dog."⁴³ In the continuation Isserlein advises Bruna "to be wise" in his "war" against his enemy evoking the vocabulary of King David's instruction to Solomon (1 Kings 2:1-9). In other words, Isserlein suggested that Bruna should reach his goals through everyday intricacies that anyone would use.

The ongoing correspondence about the Shifra-affair did not gravitate around the person who initiated it: the centre of the rabbinic circle was not Bruna, but his teacher, Israel Isserlein of Wiener Neustadt. His opinion had the greatest weight, he was the person to whom plans, conflicts, and halakhic arguments had to be presented. He signed his letters as "the least significant one in Israel" [*ba-qatan ve-ha-tzair be-yisrael*]. However, this apparent humility was to articulate the fact that Isserlein had the greatest intellectual authority and spiritual power among the rabbis in the region; the formula is comparable to the Roman popes' calling themselves *servus servorum Dei*. Did Isserlein actually imitate the popes? In any case, as the surviving fragments of the correspondence show, Isserlein's humility did not prevent him to state his authority vigorously.

The Rabbis in Action

All these information that we gathered together about the Shifra-affair suggest a particular image of the nature of rabbinic authority, Jewish leadership, and the role of halakha in Jewish life in the late medieval Central Europe. This image contradicts some of our usual assumptions.

42 Presumably, the intended meaning is "making someone bitter" by criticism or punishment.

43 אינני רואה תקנה בדור הזה בתוס' עונשים והטלת מרורות פן ח"ו יפרקו עול לגמרי, כי רובם פניהם כפני הכלב. Cf. Mishnah, Sota 9:15.

First of all, let us summarize what is *missing* in the story. We hear nothing about the role of the *iudex Iudeorum* “the judge of the Jews,” an official, who was supposed to act in cases between Christian and Jews according to Brno city law. As far as we can know this office was held by Christians in Brno.⁴⁴ Unfortunately, we do not know who the “judge of the Jews” was at that time, if there was any. In any case, his role is not discernible in the surviving Hebrew sources. If he did anything, it was not perceived distinctly from the other deeds of the “Gentiles.”

Latin administrative documents mention “elders” (*seniores*) and “jurists” (*iurati*) of the Jews who were supposed to administrate justice in intra-Jewish conflicts.⁴⁵ Jewish courts of justices are known from Hebrew sources as well. Generally, according to halakha, most of the conflicts could be settled by elected judges, and such *ad hoc* courts are known to have worked throughout the Middle Age.⁴⁶ Moreover, several major Jewish settlements had a rabbinic court of justice with stable members, and a more-or-less well defined territory of jurisdiction.⁴⁷ Since in Brno was one of the most important Jewish communities in the Czech Kingdom, it could be assumed that it had a Jewish court of justice, rabbinic or not. However, there is no slightest mention of the activities of any local judges, *iurati*, court of justices, or rabbinic *bet din* concerning the Shifra-affair. If such institutions existed in Brno at that time and did anything at all, it did not cross that threshold of relevance that would have made them necessary to mention to Bruna and his colleagues.

Document (8) evinces, that a certain Rabbi Judah was active in Brno roughly at the time of the Shifra-affair. According to Frantisek Graus’ assumption the rabbis of Brno were the same persons as those communal leaders who are referred to as *magister Iudeorum* or *episcopus Iudeorum* in Latin administrative texts from the city.⁴⁸ One of the two Jewish “bishops” known by name indeed seems to have had some connections to leading rabbinic authorities of his age; therefore, it is probable that he was indeed an alumnus of a yeshiva, or even an

44 Cf. Graus, Brünn, p. 179, Flodr, Brněnské městské právo, p. 126. Note that the role of such Christian officials was spelled out explicitly in one of Isserlein’s responsa, although in a quite hypothetical and theoretical context, see Dinari, The Rabbis of Germany, p. 106.

45 Cf. Graus, *ibid.*; Flodr, *ibid.*

46 Cf. Schwarzfuchs, Simon: A Concise History of Rabbinates, Oxford/Cambridge, Mass., 1993, p. 54.

47 Cf. Dinari, The Rabbis of Germany, pp. 119-125.

48 Cf. Graus, Brünn, p. 179.

ordained rabbi.⁴⁹ Nonetheless, it cannot be assumed a priori that the Jewish “bishop” was always a rabbi: Jewish communities functioning without rabbis were not unknown by any means during the Middle Ages, and a rich and influential member of the community could fulfill the task of representing the community before the city without possessing rabbinic knowledge.⁵⁰ (It should be remembered that the “rabbis” of the age were not yet officially employed by the communities even if they tended to be associated with “their” communities and were sometimes called the “leaders” of their folk.) Thus the Rabbi Judah mentioned in document (8) may or may not have been the *magister* or *episcopus Iudeorum* in Brno during the early 1450s.

In any case, neither the “bishop” nor the “rabbi” of the Brno Jewish community had any discernable role in the Shifra-affair. In case document (7) and (8) are indeed about the Shifra-affair, then this statement has to be slightly revised: the otherwise unknown Rabbi Judah of Brno took the liberty to contact Jacob Weil about the Shifra-affair and asked for his learned opinion. However, Rabbi Judah does not appear in the extant text of the letters exchanged between Isserlein, Bruna, and Elijah of Prague. This fact demonstrates that he hardly played any role in the affair: in all likelihood he did not take any significant step on his own, and he did not have an independent halakhic opinion about the affair which ought to have been reflected upon in the correspondence. He is not pointed out as one of the “bondsmen” either (whereas the *gabbaim* are pointed out). The local rabbi’s role in the story was apparently close to nothing.

It was not the local communal or religious authorities that tried to cope with the situation but a broad and surprisingly well functioning network of educated people, who seem to have known each other for many years – presumably, many of them were alumni of the same rabbinic schools, *yeshivot* – and whose common cultural-intellectual background helped them to communicate intricate matters quickly and efficiently and to act together as a corporate entity.⁵¹ The correspondence between Isserlein, Bruna, Elijah of Prague, and

49 Ibid., p. 180. Latin documents mention a certain Veybusz or Pfreybusz as *magister Iudeorum* of Brno in 1387 and 1389. Probably the same person is mentioned in Shalom of Neustadt’s *Sefer Minhagim*, no. 461.

50 Cf., for example, SHUT Mahari Bruna, no. 90.

51 Cf. Yuval, Israel J.: *The Sages and Their Times. Spiritual Leadership of the Jews in Germany at the Close of the Middle Ages* (Hebrew). Jerusalem 1989, p. 322; Breuer, Mordecai: *The Position of the Rabbinate in the Leadership of the German Communities in the Fifteenth Century* (Hebrew). In: *Zion* 41 (1976), pp. 47–67, here p. 66.

Rabbi Peretz reveals what it meant to be a rabbi in late medieval Ashkenaz in this context: it was *not* a matter of serving a particular community in a particular city; it was participation in a *network* of relationships, communication, and coordinated actions.⁵²

Although the rabbis certainly enjoyed some prestige within the Jewish society and this prestige could be tremendous in certain places and among certain people, they were far from *dominating* the society – at least this is suggested by the documents of the Shifra-affair.⁵³ Isserlein warned Bruna from issuing punishments against transgressors; these punishments, Isserlein explained, might backfire and demolish that little sense of loyalty to the rabbis which is left among most of the people. Abraham Jeckl's possible rejection of the rabbis' judgment and turning to the Gentile authorities was counted with as a normal possibility although it was considered to be a serious transgression. Disobedience to *halakha* as taught by the rabbis was a "normal exception": it was exceptional in as far as it was transgression, but, on the other hand, it was not perceived as something abnormal or unheard of, since it followed from the usual traits of characters that Isserlein attributed to most people of "this generation."

The norms of behavior promoted by the rabbis had to compete with other systems of norms. Three of them can be easily identified on the basis of the sources enumerated above. First of all, Jews had to face a Gentile society with its own ideas of justice. Shifra's sin deserved death according to Brno city law. An unique document, Eizik Tirna's anti-Christian polemic treatise written in Brno around 1424 indicates that local Jews found the capital sentence too harsh for a punishment in theft.⁵⁴ Perhaps, Shifra's behavior was criticized by

52 Cf. Tamás Visi, The Emergence of Philosophy in Ashkenazic Contexts – The Case of Czech Lands in the Early Fifteenth Century. In: Simon Dubnow Institute Yearbook 8 (2009), pp. 213-243, here p. 233.

53 Cf. Breuer The Position of the Rabbinate, pp. 60-66 and Bell, Sacred Communities, pp. 169-170 arguing that the professionalization of the rabbinate helped to undermine the position of the rabbinate in the community in relation to "lay" leadership.

54 Cf. London, Montefiore Library, MS 226, fol. 102v:

שאלתי לגוי למה אתם ממייתם הגונב ממון והא כתי' בפר' משפט' אם המצא תמצא בידו הגניבה [וכו'] שנים ישלם
 "I asked a Gentile, why do you put to death those who steal money, when it is written in the [weekly Torah-] lection of *Mishpatim* [Exodus 22:3]: 'If the stolen object is found in his hand [...] he should pay double.'" This polemical treatise by Eizik Tirna, the author of the famous *Sefer ha-minbagim*, has recently been discovered by Abraham David, who is preparing a critical edition of the text. Tirna was a rabbi in Brno in the 1420s; he probably debated the matters of faith with the cardinal and papal legate Castiglione Branda during the summer of 1424 in Brno. Cf. Visi, The Emergence of Philosophy in Ashkenazic Contexts, p. 230.

her coreligionists as well, but there is no slightest evidence that she would have been ostracized in the same way, as Abraham Jeckl was.

A second competing system was the *ethos* of the Jewish community in Brno. This ethos required saving Shifra's life even if the price was high and even if several members of the community had to mislead, in fact, cheat a wealthy member of the community by lying to him that they would pay his losses. It is obvious that both Bruna and Elijah of Prague tried to justify what the *ethos* commended through halakhic means. In other words, in that particular case, both rabbis shared the feelings about the affair with most members of the Brno Jewish community.

However, it does not mean that the *halakha* as taught by the rabbis was nothing more than an articulation of the community's ethos. In fact, Isserlein identified many technical mistakes in Bruna's and Elijah's arguments and he also maintained a critical distance vis-à-vis the community members. While Bruna claimed that it was a religious duty to save Shifra (and to cheat Abraham Jeckl) Isserlein pointed out with a cold mind that the question was not whether Shifra's life had to be saved but more whether Abraham's financial losses had to be reimbursed. He approved Bruna's ultimate conclusion, but in his presentation, the reason for the community members' exemption from liability was not that they were pious and good people who did precisely what they were supposed to do but a constellation of minor circumstances that rendered their financial obligations invalid. *Halakha* was not the same thing as the ethos of a particular Jewish community, although the two things could and did intersect.

A third competing system was the professional ethos of business women and men. The two opponents, Shifra and Abraham Jeckl had a peculiar common characteristic: both of them ignored some social norms for the sake of their business interests. Although their behavior was condemned, it was hardly unusual or surprising for the contemporaries.

How to understand the *halakhic* norms in this context? What was *halakha* all about? First of all, halakhic norms were *debated*. Although they loved to present halakha as a set of transcendent values that had been revealed on Mount Sinai, the rabbis themselves were often uncertain about judging particular cases. Halakhic norms were not pre-given: they were coagulated through discussions between the rabbis.

The motivations for taking this or that position were various: halakhic debates could be characterized as a multiplicity of particular games about diverse agendas that are often no longer evident for the posterity. Thus the *outcome* of

the debates could pertain to as many different things as the hierarchal relations between the rabbis themselves, the prestige of an individual or a community, approving or disapproving a new fashion, encouraging or discouraging new economic practices, etc. However, to effectuate the outcomes, whatever they were, the rabbis had to *make* a valid declaration. An opinion, a judgment had to be proclaimed; it had to pass the approval of a sufficient number of rabbis in order to become a valid declaration; and reaching this goal required special efforts.

We can understand the role of Israel Isserlein and Jacob Weil, the two great “genius” of the age in this context. Both of them had central positions within the network: they were asked for instruction and judgment; they were the ultimate halakhic authorities available in the region during the early 1450s. The reason for this was not simply that they were very clever, and so they were admired by the rest of the people. Their role was determined by the nature and the role of halakhic discussions. A sentence had to “pass” in order to effectuate the “outcome.” But it could not “pass,” it could not obtain a public validity without a “place of validation” where the status of the sentence could be determined.

Isserlein and Weil were these metaphoric places of validation.⁵⁵ A halakhic opinion that gained their support was likely to be accepted by a sufficient number of rabbis, even if Isserlein and Weil themselves were reluctant to attribute authoritative status to their responsa and employed an extremely humble style in their correspondence. It was the function of the “center” of the rabbinic network to effectuate the decisions and to *make* the norms that were halakhically valid. (The norms themselves, as has been pointed out above, could be of diverse origins.) The emergence of a “center,” a couple of rabbis who were generally admitted to be the “greatest ones of our generation” was the result of the inner dynamics of the rabbinic network and not simply a mechanic consequence of Isserlein’s or Weil’s intellectual virtues. This is not to

55 On the inner hierarchy of the rabbinic “class” see Breuer, *The Position of the Rabbinate*, p. 66. See also Bruna’s responsa no. 278 and 279: Rabbi Peretz disagreed with a halakhic decision of Rabbi Eleazar/Lazar Pollak of Passau and admonished him to send a copy of the document together with Peretz’s objections to “the rabbis of [Wiener] Neustadt” [referring obviously to Weil and Isserlein] so that they decide who was right (no. 279). In the chronologically later no. 278 Peretz criticizes Eleazar in an unusually harsh manner for having failed to turn to the “rabbis of Neustadt”.

deny that Isserlein and Weil were intelligent people, nor to deny that their personalities left their marks on the structure of the network.⁵⁶

The rabbis promoted the norms validated by halakha as they understood it. They did their best to impose these norms on the Jewish society. They had certain means to do so, whereas they lacked others. For example, they had no policemen or soldiers who would execute their orders. In most cases, they could not use physical violence at all. On the other hand, they could and did use *symbolic* violence, for example by humiliating the opponent through harsh words as rabbi Peretz did with Abraham Jeckl. As an ultimate weapon, they could excommunicate their enemies, in which they could cause significant financial losses to them besides the powerful psychological effects. Moreover, a rabbi could try to push forth the halakhically correct solution of a situation by building on the support of his relatives, friends, students, business-partners, etc. employing banal intrigues. This was what Isserlein advised Bruna in his conflict with Moses and what he himself exercised when he urged Elijah of Prague to discipline the same Moses who happened to be Elijah's relative.

Conclusion

In conclusion, although the rabbis appear to have been a well-identifiable social group, a rather exclusive “club” of highly educated gentlemen, they usually exercised their power through informal channels. The religious nature of the assemblage should not be overlooked: the rabbis saw it as their mission to interfere with certain processes or phenomena of the life of Jewish communities under certain conditions. Communication was a most essential aspect of their activity; it was in exchanging letters that the rabbis coordinated their ideas, speeches, and deeds.

Studying halakha was as essential as communication in the mechanism of coordination: reading and interpreting the classics of halakhic literature according to standard methods, experimenting with theoretical problems, and discussing them with colleagues were all ways of preparation to face real cases where the rabbis had to achieve a common understanding in order to act efficiently. The fact that Isserlein and Weil acquired a high status within the inner

⁵⁶ It would be very interesting to compare the rabbinic network with that “secular learned clan of jurists” dominated the legal sphere in late medieval cities; cf. Bell, *Sacred Communities*, p. 81. For example, as has been already mentioned, legal *responsa* were written in Latin by Christian jurists as well; cf. Flodr, *Brněnské městské právo*, pp. 64–66.

hierarchy of the “club” is to be explained under these lines as well: the efficiency of the network taken as whole was improved by forming a “center” to which virtually all members owed some degree of loyalty, and which could crystallize, validate and communicate the principles of common actions to the whole network. The sources about the Shifra-affair that are available for us today were the byproducts of these power-mechanisms.