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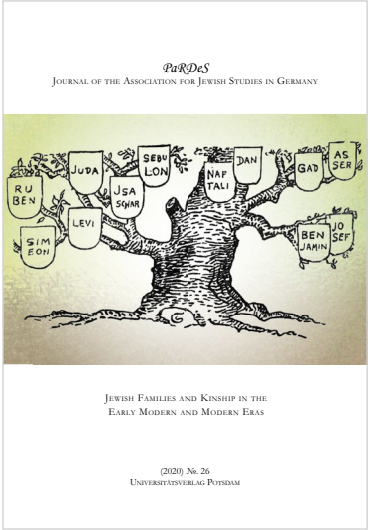

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Jay Berkowitz, Law's Dominion: Jewish Community, Religion, and Family in Early Modern Metz (Leiden: Brill, 2019), 404 p., $ 76.

Law's Dominion by Jay Berkowitz is as much a general social and economic history of Metz Jewry as a history of its communal institutions, in particular the Beit Din, the rabbinical court, its relationship with society at large, and, most importantly, a legal history and what may perhaps best be called a history of emancipation *avant la lettre*. The Pinkas Kahal, the communal register, and the Pinkas Beit Din, the collection of rulings of the Beit Din, published already in 2014 (Berkowitz, *Protocols of Justice*) provide the bulk of the empirical basis for this study. The former provides a view on the political agenda of the Metz communal leadership, the latter allows the reconstruction of the routines of everyday life of the Jews of Metz through a legal lens. Yet the book excels not only for providing us with a comprehensive picture of one of the more important Western Ashkenazic communities as well as with information concerning a range of individual topics from the material culture of Metz Jewry to the role of women in the judicial process and the concrete application of the Talmudic doctrine of *dina de malkhuta dina* ("the law of the land is the law"). On the basis of an admirable command of the sources the author engages with fundamental questions of the history of the Jews and their interaction with their non-Jewish context in the early modern period.

Berkowitz questions two positions deeply ingrained to this day: First, the view that Jews prior to emancipation had no rights and lived in more or less complete separation from the rest of society, in a ghetto, if not necessarily a formal one surrounded by walls; second, that there is an axiomatic correlation between modernity and secularization. Berkowitz argues, that the notion of

an "insular Jewish culture" on a general plane and, more specifically, of an "insular Jewish legal system" (359) is obsolete. The archival records reveal a far higher degree of interaction than has hitherto been assumed and collapse the conventional idea that more state intervention automatically meant less Jewish autonomy. Rather than interpreting the relationship between Jewish law and non-Jewish law in terms of a zero-sum game, Berkowitz demonstrates that the accommodation of the Metz Beit Din to non-Jewish procedural and substantive law "was more than simply capitulation to the stronger partner" (357) and within the established tradition of Jewish law. This also changes our understanding of the legal condition of the Jews of Metz in general. Although the acknowledgment of Jewish law as a "real law" by the French authorities according to the maxims of the *Ius commune* did not amount to legal equality, let alone an end of discrimination and prejudice on the part of Christian society, it testifies to the capacity of law to constitute an "arena in which Jews were viewed as participants in a shared public pace" (360), before the advent of the modern citizen republic. Berkowitz's findings about Metz resonate with two regularly overlooked points made by Christian Wilhelm von Dohm, the advocate of Jewish emancipation, who considered the right to live according to Jewish law as part and parcel of equal rights and identified the Jewish legal system including the Talmud and continuing authoritative rabbinical interpretation as a prerequisite for its further development.[1]

Although only a sequel to his main account, Berkowitz's reassessment of the Napoleonic Sanhedrin is even more remarkable than his critique of the scholarly *acquis* concerning early modern Jewish history represented by the legacy of Jacob Katz. Similar to Ronald Schechter he seeks to vindicate the Great Sanhedrin by highlighting its adherence to Jewish law.[2]

There are three areas, where the author might have pushed his arguments even further: The fabric of non-Jewish law, the mechanisms of legal interaction and comparison. The recurring references to French law as a short-hand for non-Jewish law imply a measure of uniformity, which only the codification of French law in the Code Civil in 1804 brought about. The specific brand

1 Stephan Wendehorst, *Christian Wilhelm von Dohm as a Lawyer* (Ramat-Gan: Bar-Ilan University, 2020).

2 Ronald Schechter, "A Festival of the Law: Napoleon's Jewish Assemblies," in *Taking Liberties: Problems of a New Order From the French Revolution to Napoleon*, eds. Howard G. Brown and Judith A. Miller (Manchester: Manchester University Press, 2002), 147–165.

of the *Ius Commune* in force in Metz may not have been as complex as in neighboring Alsace,[3] yet was still characterized by multi-level normativity.

There are a few terminological puzzles: It is not clear, for example, why Berkovitz groups "legal centralism" and "legal pluralism" together and contrasts them with "autonomy" (357), whereas one would expect "legal pluralism" and "autonomy" to go together, or why the Noahide Code is called "residual," rather than subsidiary law (358). The book is replete with examples of "collaborative legal pluralism" (Wim Decock, 2017) or rather "contested collaborative legal pluralism" (Wendehorst, 2018) in the case of Jewish law and non-Jewish law. For the sake of the academic discussion, a more explicit use of the theoretical arsenal offered by the debates on legal pluralism, legal hybridity, and legal transplants might have been helpful.

As to the question, whether the case of Metz is rather the exception that proves the rule, Berkowitz remains surprisingly equivocal. At times he seems more inclined to see the experience of Metz Jewry as specific (12, 356). This creates a certain tension with the far-reaching conclusions he draws. One may think of two complementary options to resolve this tension. *Law's Dominion* is an imposing juggernaut of innovative academic achievement. It is reasonable to assume that the results of this in-depth investigation, will hold, *mutatis mutandis,* also for other examples of intersection between Jewish law and the *Ius commune*. One may also investigate Metz within the context of the Jewish history of the Holy Roman Empire. An older layer of scholarship, mainly from the interwar period, represented by Isidor Kracauer, Ludwig Feuchtwanger, Salo W. Baron and Vittore Colorni, and cut short by the Shoah, as well as more recent studies have produced and continue producing results in line with the findings of Berkowitz, subversive of the Katz legacy, and with a game-changing potential. As to legislative pluralism, one can point to the interaction between *Takkanot* (halakhic enactments) and the *Generaljudenordnung* (general Jewry ordinance) in Moravia and the deliberations about the inclusion of Jewish law on the basis of Moses Mendelssohn's *Ritualgesetze der Juden* (1778) into Austrian civil law, investigated by Rachel Manekin.[4] As to jurisdictional pluralism, we can think of the integration of Jewish courts

[3] Johann Friedrich Fischer, *De Statu et Iurisdictione Iudaeorum: Secundum Leges Romanas, Germanicas, Alsaticas* (Argentorati: Heitz, 1763).

[4] Rachel Manekin, "Moses Mendelssohn and Joseph II. Criticism, Admiration and the Galician Connection," in *Moses Mendelssohn: Enlightenment, Religion, Politics, Nationalism*, eds. Michah

as courts of first instance for litigation between Jews into the general court system and as to administrative pluralism of the notarial functions performed by rabbis and Jewish community officials. As to the institutional backbone of the Jewish law, Andreas Gotzmann has argued that the increase of rabbinical courts in the 18th century was as much due to the initative of the state as to that of the Jewish communities.[5]

In sum, an exceptional piece of scholarship – all the more impressive, since the author questions some of his earlier findings –, highly recommended for multiple audiences, not only for the few initiated of early modern Jewish history, but also for legal historians and more generally for all those interested in the shifting legal parameters of collective Jewish continuity.

Stephan Wendehorst, Gießen/Vienna

Gottlieb and Charles Manekin (Bethseda, Maryland: University Press of Maryland, 2015), 275–294.

5 Andreas Gotzmann, "Strukturen jüdischer Gerichtsautonomie in den deutschen Staaten des 18. Jahrhunderts," *Historische Zeitschrift* 267 (1998): 313–356.