HEBREW UNION COLLEGE - JEWISH INSTITUTE OF RELIGION
NEW YORK SCHOOL

INSTRUCTIONS FROM AUTHOR TO LIBRARY FOR THESES

AUTHOR STEVEN C. DENKER

TITLE A STUDY in "PARISH" HALAKA

TYPE OF THESIS: D.H.L. ( ) Rabbinic (✓)

Master's ( )

1. May circulate (✓) to HUC. FACULTY, STAFF or students only.
2. Is restricted ( ) for 5 years.

Note: The Library shall respect restrictions placed on theses for a period of no more than ten years.

I understand that the Library may make a photocopy of my thesis for security purposes.

3. The Library may sell photocopies of my thesis. ___ yes ✓ no

March 19th, 1984 Steven C. Denker
Date Signature of Author

Library Record Microfilmed ___
Date

___
Signature of Library Staff Member

A STUDY IN "PARISH HALAKA":
THE HALAKIC STYLE OF THE TAKKANOT IN THE PINKAS MEDINAT LITA

STEVEN L. DENKER

Thesis Submitted in Partial Fulfillment of
Requirements for Ordination

Hebrew Union College-Jewish Institute of Religion

New York, New York

March, 1984

Referee: Professor, Dr. Michael Chernick

To my wife,

זיסל גישל

Who has joined me on the journey.

With all my love!

איתמר לכ

PREFACE

This thesis was written at the culmination of my rabbinic training at Hebrew Union College-Jewish Institute of Religion. Through its writing, I have come to realize that it represents a small cross-section of all that I have learned in the past four and one-half years. At the same time, it points the way to the work I have yet to do and the discoveries I have yet to make. Although this is only a "milestone" it is fitting that I now stop to look back and acknowledge those who have guided my work, enabling me to reach this goal.

All of my rabbis and teachers share in having contributed to my knowledge and skills. A few are deserving of my special thanks. Rabbi Sheldon Zimmerman has been more than a good friend. From his encouragement at the early stages of H.U.C.-J.I.R.'s application process through each stage of my training, he has been teacher, friend and wise counselor. It is my privilege to have Rabbi Zimmerman as my Moreh Derech. Professor Martin A. Cohen opened the doors to serious scholarship. By teaching me to take advantage of the knowledge that I already had, he gave me the confidence and courage to venture into unchartered territory. Dr. Cohen inspired this study and is truly deserving of my gratitude.

Professor Michael Chernick served as advisor for

this thesis. Looking back at his evaluation of my work in the first course I took with him, I realized that Dr. Chernick recognized my interest in halaka before I did. It is because of Dr. Chernick's confidence, gentle nudging, timely and able assistance that writing this thesis has been both a pleasurable and important experience.

I thank my friend Sharon Golec, who took time out of her own busy law school schedule to read and edit the initial drafts of my writing.

My wife Lisa, to whom this thesis is dedicated, has been the most important inspiration of all. Her contributions in editing and proof-reading have been invaluable. Throughout the often trying months that were occupied with this work, Lisa's patience, caring and love have truly been beyond measure.

Although so many people contributed to my ability to complete this writing, I accept responsibility for all errors of fact, judgment or interpretation contained herein.

Blessed be the Ruler of the Universe who has allowed me to reach this time.

S.L.D.

Shushan Purim, 5744
New York

TABLE OF CONTENTS

INTRODUCTION

This rabbinic thesis is a study of the halakic legislation (takkanot) of the Lithuanian communities of 1623-1763. The dates and location of the legislation to be considered was set by the availability of the records of the Council of the Principal Communities of Lithuania. The Va'ad Kehillot Rashiot d'Medinat Lita was the government of Lithuanian Jewry from the time of its break with the Polish Council (Va'ad HaArtzot) in 1623, until its dissolution in 1763.

This work is the result of my interests in both the time of Jewish history, and the place which is represented by the records of the Jewish communities herein examined. The time period is of interest because modernity had not yet reached Eastern Europe. In spite of the late date, Lithuanian Jewry of the Seventeenth and early Eighteenth Centuries lived in an essentially medieval world. There was no separation of "secular" and "religious" law. The halakot of the Va'ad were both the law and the faith of the Jews who lived by them. The distinctions of "Reform" and "Orthodoxy" did not exist. Various opinions and practices within the Jewish community were either accomodated or eliminated by the legislative actions of the Council.

Eastern Europe is of interest because it is from

there that most of the present American Jewish community draws its ancestry and traditions. This has given rise to great popular interest in Eastern European Jewish life. Unfortunately, this interest has been clouded by our view of what we would have hoped conditions to have been, rather than by a critical analysis of what they really were. By examining the Pinkas we gain important insights into the concerns of the Lithuanian Jews and the realities of their lives.

The Pinkas is available thanks to the work of the historian, Simeon Dubnow, who compiled the manuscripts, and, in 1925, published the volume known as Pinkas HaMedina. Dubnow's work is the text upon which this study is based. A small volume of additional material was published by Israel Halperin in 1936.

While Dubnow was preparing the Pinkas for publication, he recruited Rabbi Abraham Eliahu Kaplan to analyze the takkanot from a halakic standpoint. Stricken by a sudden fatal illness, Rabbi Kaplan did not live to complete his work. Upon his death, isolated fragments of his analysis were found but this aspect of the study was never pursued.[1] Menachem Elon, Israeli jurist and historian of Jewish law, points out the need for an examination of the Lithanian Pinkas.[2]

In addition to the Pinkas itself, this study relies on several other primary and secondary sources. It goes without saying, that our primary sources include the Talmud and the Codes, especially Isserles' glosses to the Shulhan Aruch. Ibn Adret's responsa on Takkanot HaKahal will serve as a "touchstone" for the establishment of the halakic authority of kehillah legislation.

This study would not have been possible without the several important secondary sources. Menahem Elon's HaMishpat HaIvri, pointed my interests in the right directions and provided a "map" of the vast world of Jewish law. To place the evidence from the Pinkas into historical perspective, I have relied on Salo W. Baron's Social and Religious History of the Jews, as well as the classical historical works of both Heinrich Graetz and Solomon Grayzel.

This thesis contains six chapters. Chapters One and Two discuss the historical background of the Va'ad and the development of takkanot hakahal as authoritative Jewish law. Chapter Three examines the takkanot which give evidence of the organizational structure of the Medina. Chapter Four investigates the qualifications for leadership within the Lithuanian Jewish community, and the position of the Rabbinate is studied in Chapter Five. Chapter Six is a survey of a number of issues which highlight the conditions of life in Lithuania during the period of the Va'ad, and the

takkanot which were enacted in response to the needs of the community. References to important deviations from halakic norms are made throughout this study. The conclusion summarizes the evidence gathered and suggests several other questions that are worthy of scholarly pursuit.

Chapter One

HISTORICAL BACKGROUND

The Council of the Principal Communities of the Province of Lithuania (Vaad Kehillot Reshiot d'Medinat Lita) had its formal beginning in 1623. Initially, the principal communities were defined as Brest, Grodno and Pinsk, each representing not only the cities themselves but also the small towns and rural settlements within their respective regions. The origin of The Council of Lithuania is tied to the history of Jewish settlement in Eastern Europe in general, and, in particular, to the history of the combined monarchy of the Kingdom of Poland and the Grand Duchy of Lithuania.

The presence of Jews in Poland and Lithuania can be traced back to 905 when they came in the course of their business as traders.[1] Settlement by Jews from the East, including Karaites, did occur, however, few came as far as Lithuania. Small in number and cut off from their fellow orientals by the political divisions of Europe, these communities were overwhelmed by the influx of Jews from the West. Sizable eastward migration of Ashkenazim began in the Twelfth Century and grew over the next several hundred years.[2] Bringing with them their language, culture and customs, the Western Jews set the tone for the great communities that were to develop in Poland and Lithuania.

Poland and Lithuania were politically united in the Fourteenth Century as a result of "dynastic matchmaking." From that time on, one monarch sat on the throne as both the King of Poland and the Grand Duke of Lithuania.[3] This "marriage" was not without its problems. As pressure from the nobility pressed for independence from Poland, rivalry with the Muskovite rulers made Lithuania the frontier over which many of Europe's political and economic battles took place.

Driven by persecution, expulsion and political unrest, the rate of immigration to this rich and underpopulated land accelerated from 1348 through the Sixteenth Century.[4] Recognizing the contributions which could be made by Jewish settlement, the leaders of Poland and Lithuania welcomed the Jews and tried to provide for their safety and well being.

Boleslave of Kalish (the Pious) was the first to grant Jews the right of settlement in 1264. His edict was ratified by King Casimir in 1344. In addition to providing the right of settlement and other necessary protections, this charter provided for "Jews' Judges." These judges were non-Jewish officials who were required to hold court in a synagogue or other place of convenience to the Jews, and to rule in accordance with the wishes of the representative of the Jewish community. The shamash was the process-server, a

function that his successors would later fulfill in the courts established by the Council. [5]

The legitimacy of the Council and its legislation was based on two factors. One was the authority, based in Talmudic Law, the Codes and Responsa, for communities to regulate their affairs through takkanot hakahal. This will be discussed in a separate chapter. The second basis, to be discussed here, were the rights granted by the monarchy.

The initial rights of self-government were really attempts to appoint Jews as "supervisors" of the Jewish community. In 1512, Abraham of Bohemia, although expelled from his country, carried a recommendation from his king to King Sigismund I (1506-1548), and was appointed chief tax collector for all the Jews in Great Poland and Mazovia.[6] He had the complete backing of the king and little support from the Jews. In 1514, Sigismund I appointed Michael Yosefovich as leader of the Jewish community. He was to have been assisted by a rabbi and to rule in accordance with Jewish law. In reality, he was no more than a go-between in the developing relationship between the king and the growing Jewish settlements.[7]

Eastward Jewish migration increased in the Sixteenth Century, and, either as a result of greater understanding or, more likely, the growing importance of the

Jewish settlements, "rulers" more acceptable to the Jews were appointed. Rabbi Samuel Margolies (Margoliot) was authorized to be Chief Rabbi in 1527.[8] In 1531, Rabbi Mendel Frank of Brest was given extensive powers, including the right of imposing herem (ostracism) on the members of the community.[9]

As the Jews grew in numbers, their communal organizations gained in strength. In 1533, Sigismund I sanctioned the operation of an inter-city Jewish tribunal within his territories. Professor Salo Baron sees this as the basis for the establishment of the Councils of Poland and of Lithuania.[9] In the Charter of August 13, 1551, Sigismund II Augustus (1548-1572) granted the Jews the right to elect their own rabbis and "lawful judges." However, he warned the Jews that they must obey the officials that they had selected.[10]

Under Sigismund II, Jewish self-government was expanded and firmly established. The rabbis and the elders of the Kahal were given broad administrative and judicial powers to be exercised in accordance with "Jewish Law," and which were backed by the monarchy itself. [11] Sigismund Augustus sought to recapture the royal domain which had eroded during his father's reign. The strengthening of the Jewish community was considered part of his program for rebuilding the influence of the monarchy. In 1549, in order

to increase his tax revenues, Sigismund Augustus imposed a poll tax of one zloty on the Jews and others who lived under the protection of the crown, namely Tatars and Gypsies. In 1552, the tax was extended to the Jews of Lithuania, as well as those areas controlled by the nobles.[12]

In the context of the pre-modern society of Poland and Lithuania, the authority of the Jewish community over its own affairs cannot be interpreted as an act of beneficence or liberality on the part of the rulers of the country. The Jews settled by right of charters issued by the king, often in areas of economic importance such as border crossings where they were toll-agents or adjacent to the towns that were growing in size and political importance. Dependent on the king for protection, the Jews could be counted on as loyal servants of a monarchy engaged in a continual power struggle with the gentry and the emerging urban class. Even against the backdrop of the approaching modern world, the relationship between the Jews, as a whole, and the monarchy was feudal except that it "by-passed" the hierarchy. Thus, the king attempted to maintain more direct control over the affairs of his realm through a class of people who had no claim to protection save from the monarch himself.

In addition to the Jews' role as an arm of the monarchy, the Jews themselves were a source of tax revenue. The importance of the Council in tax collection cannot be

overestimated. Existing apart from the "normal" political structure, the usual methods of taxation could not have been easily implemented. The Council collected taxes which were levied against the Jews as a group. The Council was responsible for meeting the assessment and it did so by apportioning the tax among the "Principal Cities" or regions within the Medina. The Council worked for the mitigation of these taxes, but, at the same time, enforced their collection from within the Jewish settlements according to the "law of the land."[13] The primacy of tax collection as the reason for the existence of the Councils, at least in the eyes of the government, is best demonstrated by the fact that the Councils lost their royal sanction in 1764 when a constitutional change ended the apportionment of taxes and established direct taxation of the Jews. [14]

The territory of the Council of Lithuania was defined by the reorganization of the joint Polish and Lithuanian monarchy, known as the Union of Lublin of 1569.[15] This agreement set the border between Poland and Lithuania, and, although changing the administrative structure, served to secure the interests of Poland in Lithuania. Volhynia became part of Poland proper and the fourth "Land" in the Council of the Four Lands. Developments in the governmental structure of the joint monarchy called for the creation of separate Jewish councils in the two countries. In 1623, the Council of the Principal Communities

of the Province of Lithuania met for the first time.

Initially, the "Principal Communities" were Brest, Grodno (Horodna) and Pinsk. With populations expanding, Vilna was added in 1652 and Slutzk in 1691. Each of these Kehillot Rashiot represented itself as well as the settlements, often remote, within its respective region. The "national" Council, or Vaad HaMedina, was made up of both rabbis and laymen sent as representatives of their provinces. The Council meetings became regularized around the great fairs (of which the fair at Lublin is the most well known) and convened at three year intervals except when emergencies required more frequent sessions. The rules for calling a meeting are set forth in the takkanot themselves. The authority of the Vaad extended to facets of Jewish life from the most mundane to issues which arose as a result of disputes between the Principal Communities, and between the Jews of Lithuania and the Jews of Poland. The Council's actions were taken with the internal needs of the Jews, as well as the maintenance of good relations with the host society, in mind.

The structure of the Council paralleled the structure of the Polish Diet (Legislature). The elective but oligarchical form of representation reflects the "nobles commonwealth" and elective monarchy which came into being in 1572 when the Jagiellon Dynasty ended with the death of

Sigismund Augustus. [16]

In its early stages, the dependence of Lithuanian Jewry on Poland is clear. Frequently, the takkanot of Poland are incorporated by reference into the takkanot of the Lithuanian Council. But, with the passage of time, population growth, and changing economic conditions [17], the Jews of Medinat Lita achieved an identity distinct from their Polish counterparts.

By the late Sixteenth Century, overpopulation and the fear of commercial competition gave rise to calls for restrictions on Jewish immigration by the Church and by Jews themselves. The Council which had, from the outset, maintained its legislation regarding Hezkat HaYishuv (The Right of Settlement) responded to pressure from both within and without by restricting the rights of potential settlers, rabbis and merchants from outside of Lithuania.

Life in Lithuania presented the Jews with unique opportunities as well as unique problems. This examination of the Pinkas Medinat Lita will demonstrate that our forebears, the leaders of Lithuanian Jewry, responded, through their takkanot, to both the needs of their time and the demands of our tradition.

Chapter Two

THE HALAKIC AUTHORITY OF KEHILLAH LEGISLATION

> You shall neither side with the majority to do wrong - you shall not give perverse testimony in a dispute so as to favor the majority. (Exodus 23:2)

Through this verse our rabbis and leaders learned that Jews would look to the governing bodies of the House of Israel for solutions to communal problems and laws responsive to the needs of their own time. The law was not the exclusive domain of those vested with rabbinic authority. The community as a whole had rights and could expect compliance from individuals, but the rights of the community were to be exercised within a specified framework. And the law, in both the public and private domains, had to be administered and interpreted. Thus, in Twentieth Century terms, the community had the authority to legislate and adjudicate. Within the system of halaka, the legislative actions of the various communities of Jews are known as takkanot hakahal.

Communal autonomy was a crucial factor in the development of Jewish law and legislation.[1] As was mentioned, from the Second Century until the Eighteenth Century, Jews were permitted to arrange affairs within their own circles, but always within the limits set by the rulers of the host society.[2] The development of both the law and

the organizational structures for its administration often reflects the customs and practices of the host society, as well as the needs of the Jewish community. Although clear evidence is not available prior to the Tenth Century, the Talmud provides evidence which suggests the earlier existence of communal legislation.[3] In addition, the concepts which serve as the theoretical basis for kehilla legislation are talmudic in origin. This chapter examines the bases, for the halakic authority of takkanot hakahal.

THE MISHNAIC PERIOD

Menahem Elon, the eminent Israeli jurist and historian of Jewish law, relates the earliest establishment of Jewish courts to the limited autonomy granted by the Romans in the Second Century. In this early period, he finds the precedent for "arbitration" under Jewish auspices at the hands of judges who were not legal experts, i.e., they were not endowed with rabbinic authority. [4] Mishnah Sanhedrin 3:2 allows cases to be heard by persons who are otherwise disqualified due to familial relationship or because they are not experts in the law as long as the litigants agree to have them serve as their "judges." Those who are not expert are described in the Mishnah as "רועי בקר." The term is understood as a general reference to the uneducated and untrained. [5]

The statement of the Mishnah hardly removes judicial authority from dayanim, giving it to lay people. The authority of the "lay-judges" is based solely on the oath through which the litigants are bound by the decision. Even then, the Mishnah shows debate as to whether the parties in the case may or may not retract their agreement. Sanhedrin 3:2 can be used only as evidence for the possibility of lay involvement in cases adjudicated under Jewish law. It provides only for the possibility of lay-judges in cases where the litigants agree to have the case tried in this manner. Certainly no broad based judicial or legislative power is given to the non-experts at this early stage of halakic development.

THE TALMUDIC PERIOD

The Talmud gives evidence of a somewhat broader, and more permanent, establishment of "lay-judges." Sanhedrin 3a provides for two types of courts. In one, the judges are " מומחין " - experts in the law; in the other the judges are identified as "הדיוטות." The latter judges are empowered only to hear cases regarding money matters. In the Mishnah, the court of non-experts acts as form of arbitration, agreed upon by the litigants. In the Talmud, we see the description of an existing judicial organization, staffed by judges who do not have rabbinic ordination but which is, nevertheless, an established decision making body within the community.

The Talmud also takes notice of the fact that somewhat variant procedures existed in different settlements of Jews. Elon attributes this to an attempt by the leaders of the communities to limit adjudication of disputes within the community by non-Jewish tribunals through the adaptation of some of the judicial forms in use by the government. [6] In this vein, the redactors of Sanhedrin 23a note that the communities in Syria followed a somewhat different procedure than the one they considered to be the norm.

The authority of the "King" is expressed in Sanhedrin 5a, wherein the legislative authority of the exilarch is explicitly stated and described. More important is the implication that there is an element of local autonomy in the development of Jewish law and that this autonomy is related to the "King's Law" here personified by the exilarch. It is understood, through this passage, that Jewish law recognizes independent legislative authority, vested in the leadership of communities of Jews living in Babylonia and in Eretz Yisrael.[7]

In its discussion of King David and his general, Sanhedrin 49a recognizes the authority of the king and, at the same time, takes notice of the fact that others within the realm will exercise authority. In this case, separate military authority can be interpreted as creating the

possibility of a division of powers within a single governmental structure, each having its own area of jurisdiction. A division of authority was seen in the distinction between the two types of courts and will be seen again when we trace the rights and responsibilites of the various organs of the governing structure of the kehilla which resulted in the takkanot under consideration in this study.

With the passing of dynastic rule, a basis for rule through legislative and administrative structures had to be developed. We find several terms for the officers of the community and, as expected, these terms vary from place to place and from time to time. In the Talmud, examples of respresentative decision makers are provided by discussions of "בני העיר" and "טובי העיר."

In its consideration of the collection and distribution of tzedaka, Baba Batra 8b specifies the number of "בני העיר" required to collect and to distribute the various forms of charitable contributions required of the community. In this context, we cannot understand the "בני העיר" to be the entire citizenry, but must read the term as a reference to those appointed to this task. The connection between the level of tzedaka and values in the marketplace is critical to the relationship between this enactment of the Talmud and the development of kehillah

legislation. In this section, wherein the Talmud notes the role of the "גבי העיר," notice is also taken of the need for standards of weights and measures if tzedaka is to be properly distributed.

The authority of the "גבי העיר" over collection and distribution of charitable donations is tied to their control over weights and measures. Since it is clear that officials in charge of caring for the poor could have carried out their task by simply collecting what they could and distributing what they had, it is reasonable to look deeper into the connection which was made between these two issues. We can say with a fair degree of assurance that the question of tzedaka, already an accepted practice of the community, was used as the basis for introducing a new practice. That is, the delegation to a group of officials, known as "גבי העיר," the right to control weights and measures, and to act on behalf of the community in the regulation of commerce.

A clear example of representative communal government and the delegation of authority to a group of leaders is found in Megillah 26a-b. Here, the officials known as the "שבעה טובי העיר" are given authority over property and are described as being "במעמד אנשי העיר." In this example, the rights of the community are in fact delegated to this body which has the authority to act

according to its own will.[8] This precedent for true representative government is reflected in the takkanot of Lithuania by the continuous use of the title " טובי העיר " and references to "שבעה טובי העיר" which are found throughout the Pinkas as a council of leaders in each of the individual kehillot.

Even the important matters of proper Shabbat and holy day observance are not without variations from community to community. As far back as the Mishnaic Period there is recognition of local practices and an acceptance of their alidity. The Mishnah goes further, and advises the traveler from one jurisdiction to another to abide by the rules of the place in which he finds himself.[9] This serves not only to prevent discord, but is also an acknowledgment of the authority of each community to set its own standards.

Following this Mishnah, we find the statement in Pesahim 50a which deals with the importance of the practices of one's forebears. In its discussion of variant customs of Shabbat observance, the Talmud presents us with a case where seemingly improper behavior is explained with the phrase, " כבר קבלו אבותיכם עליהם ." Although this concept serves as a reinforcement of local custom, the principle expressed is to be an important theoretical foundation used to bind the Jews of the community to the takkanot of their kehilla.[10]

No legal system can stand without built in safeguards against abuse and radical deviation from its own norms. Elon points out the existence of the principle of the " אדם חשוב" (distinguished person) whose approval is needed in order for legislation or a judicial decision to have the weight of law.[11] This theory, which is first announced in Baba Batra 9a, later developed into the legal tradition which vests special powers in the rabbis and officers of the kehillah. We will see that this principle is the basis for regulations whereby the kehillah is restricted, in some areas, if its actions do not carry the approval of the אב בית דין or specified communal officials.

Avodah Zara 36a deals with the authority of one court over another. It simply states that courts of equal "wisdom" or size cannot abrogate each others' decisions. However, appeals to a higher court, by virtue of "wisdom" or size, are possible. Once again we see precedent for local jurisdictions, but with the added possibility of an overarching structure. This is an important feature of the organization of the va'adot in both Poland and Lithuania. The same section of Avoda Zara prohibits onerous legislation with the statement of R. Eliezer b. Zadok: "אין גוזרין גזירה על הצבור אלא אם כן רב הצבור יכולין לעמוד בה."

Thus far we have examined the talmudic precedents and broad principles which make way for the development of

the concept of takkanot hakahal. There is no specific talmudic provision for kehillah legislation [12], nor is the question of majority rule versus minority rights settled in the Talmud. [13] However, there are two important principles of Jewish law which are expressed by the Amoraim and which come to be "keystones" in the theories by which the writers of the codes and responsa justify the authority of kehillah legislation. These are the principles of "בית דין מכין ועונשין שלא מין הדין" and "תקנת בית דין תקנה"

The principle of "תקנת בית דין תקנה" is repeated in several places.[14] It is by this authority that the court, and later the kehillah, assumes the power to transfer property in both the public and private domains. It is the basis for making the court's judgments binding in "civil" cases and the theory behind the kehillah's authority in matters of commerce and taxation.[15] Authority over "criminal" matters is derived from the statement of R. Eliezer b. Yaakov: " בית דין מכין ועונשין שלא מן התורה ." [16] Later authorities use the expression: " ב"ד מכין ועונשין שלא מין הדין" as well as other variants.[17] Over the course of time, the kahal is equated with the bet din, and the broad powers which are justified by these principles rest with the communal government. It is important to note that the terms "בית דין" and " בית דין הגדול " in the earlier literature do not denote a purely judicial body. When " בית דין" later

comes to indicate a form of judiciary, it is apparent that the legislative powers have shifted to the " קהל " which is to be equated with the earlier usage of "בית דין."[18]

TAKKANOT HAKAHAL IN IBN ADRET'S RESPONSA

The authority of the kahal and the right of communities to legislate for their own needs emerges with the increase of Jewish autonomy in the Tenth and Eleventh Centuries.[19] Therefore, we look to the codes and the responsa for a fuller understanding of the halakic authority of the Lithuanian Va'ad.

The responsa of Solomon ibn Adret (known as Rashba; c.1235-c.1310), played an important role in this process. Although he served as rabbi in Barcelona, he was a world-wide halakic authority whose rulings were sought by both individuals and communities.[20] The opinions and rulings of the Rashba are a major influence on the development of kehillah legislation, and his teshuvot will serve as a "touchstone" for many of the issues to be examined in this thesis.

By the time of the Lithuanian Va'ad (Va'ad HaMedina), the legislative authority of the kehillot was no longer in question. Rashba had already declared that the majority of the members of a community could compel the minority to abide by its laws. He compared the authority of

the community to that of the Bet Din HaGadol (Sandedrin).[21] The implication of this ruling and its wording indicates that Rashba acknowledged the authority of the legislation and innovations of the kehillot.

The complete authority of the community over matters which were later divided into "religious" and "secular" fields was also well established prior to the time period of the Lithuanian Council. Needless to say, the basic practices of Jewish observance were not subject to question. However, there is evidence of the "קהל" having achieved control over areas of Jewish law which we would have expected to be the exclusive reserve of "חכמי התלבה." Rashba grants the community control over the laws of witnesses, and lets stand the procedures employed by an individual community regardless of possible contradictions with prior normative practices.[22] Takkanot HaKahal were considered to be judgments with the same force and effect as those of halakic scholars. Rashba clearly states that it is within the power of the "ציבור" to enact takkanot and provide for their enforcement. Both the legislation and the punishments for failure to comply with them "קיים כדין תורה."[23]

Thus far we have discussed the powers vested in communities which are described as "עיר" or "ציבור" but

not as a " מדינה." In Lithuania we find a system whereby the regions subjected themselves to the " ועד המדינה" which was the overarching authority for Jews of the Grand Duchy.[24] Again turning to The Rashba, we find that communities which were part of the same tax fiefdom, i.e., under one government, have the right to join together to enact legislation. Such legislation is binding, not only on individuals, but on the communities that have joined together to make up an overarching body for the governance of the Jews within their state.[25] It is this type of "federation" which existed in Lithuania, giving rise to its "official" title: "Council of the Principal Communities of Lithuania."

NO DISTINCTION OF "RELIGIOUS" AND "SECULAR" AUTHORITY

Elon draws a distinction between "religious" and all other areas of law. He claims that the "religious" laws were always the province of rabbinic authorities, while the other communal concerns were given over to the laity.[26] The distinction of "religious" versus "secular" issues is, however, a recent phenomenon. In the pre-modern world, including Lithuania during the time of the Pinkas, this distinction did not exist. It is only with the onset of modernity that Jews, and everyone else, separated the two realms. It is this change which ended the practice, begun by the Romans and prevalent in Eastern Europe until the Eighteenth Century, of rule through religious and ethnic groups which were granted internal autonomy. The

participants in formulating the takkanot which we will be examining, and those whose lot it was to live by them, saw all the legislation of the va'adot as halaka - nothing less than the continuation of the Law of Moses.

Chapter Three

STRUCTURE OF THE VA'AD HAMEDINA AND THE KEHILLOT

In this chapter we begin examining the halakic style of the Takkanot HaKahal of Lithuania by investigating the governmental structure of the Va'ad HaMedina, as well as the authorities and responsibilities of the local communities.

TERMINOLOGY

Various terms are used to indicate the several levels of halakic authority. The Council of Lithuania is always known as the " מדינה " and the Principal Communities are styled " קהלות ראשיות." Towns are often referred to as "עיר" which is generally interchangable with the expressions " קהלה" or " ישוב " both of which indicate smaller groupings that were either within the town or were outlying settlements. On the lowest "rung" were the areas surrounding the population centers known as a " סביבה " or a " ישוב " where no other Jews lived. In the tax rolls of the Pinkas, we find that the " סביבות " are included in the levy against the principal community of the region.

THREE-TIERED STRUCTURE

The organizational structure of Medinat Lita was three-tiered. The primary levels of authority were the "Medina", the "Kehillot Rashiot", and the "Kehillot". At the

top of the hierarchy was the Va'ad HaMedina. This "national" council legislated for all the Jews of Lithuania. The Va'ad consisted of representatives of the principal communities who met at three year intervals. When necessary, they met more frequently. The takkanot of the Va'ad HaMedina superceded the legislation of all other centers of halakic authority within the Grand Duchy of Lithuania. The Va'ad's authority derived from a royal charter, and it was answerable only to the Grand Duke of Lithuania (who was also the King of Poland).

At the middle level of the hierarchy were the "Kehillot Rashiot" (principal communities). Each of these regional centers had its own council and set of functionaries. The va'adot of the principal communities passed legislation which governed the communities within their respective regions. Customs and practices often differed from region to region. Initially the Kehillot Rashiot were Brest, Grodno (Horodna), and Pinsk. Vilna was added in 1652 and Slutzk in 1691.

The "kehillot" were the lowest level of authority. Their policies and procedures were regulated by the takkanot of the Va'ad HaMedina and the Kehillot Rashiot. Having no legislative authority of their own, kehilla officials were required to enforce the takkanot of the superior levels of government. Kehillot could, however, levy taxes for local

needs.

The degree of autonomy of a kehillah was dependent on its size. The smaller and more remote settlements were disadvantaged, and, one might say, discriminated against by the "national" and regional authorities. This became more evident in the later years of the Va'ad when, through a process of centralization, greater restrictions were placed on the settlements that did not have a full communal structure of their own. [1] Jews living in isolated settlements were subject to the rules of the nearest town.

AUTHORITY OF THE VA'AD HAMEDINA

The Va'ad's authority extended to the full range of communal issues. The minutes of almost each meeting of the Va'ad HaMedina include a statement which demonstrates the council's broad concept of its own authority. Perhaps the most explicit is the opening statement of the Council which met in 1631: "להוסיף או לגרוע או לשנות כפי הוראת שעה, לפי העת, ולפי הזמן כי לא כל העתים שוות."

[2]

The takkanot of the Medina were subordinate only to the law of the Grand Duke. Neither the individual kehillot, nor the principal communities, could pass any legislation that contraticted or attempted to subordinate the legislation of the Va'ad HaMedina.[3] The officials of the local

communities were officers of the Medina in that they were held responsible for the enforcement of its takkanot. The extent to which local officials could exercise discretion in the enforcement of the takkanot of the Medina is not clear. Through takkanot, various officials were often reminded of their responsibilities. For example, local leaders were specifically prohibited from reducing either the fines or physical punishments called for by the legislation of the Medina.[4] Likewise, local officials were not permitted to interfere with tax collectors for the Medina unless the tax collector demanded payments above those required by the assessments of the Va'ad haMedina. The tax rolls themselves could not be changed by local action.[5]

All legislation of the Va'ad HaMedina was published under the seal of authorized officials and distributed to the communities and settlements.[6] In special cases public announcements at certain intervals were also required.[7]

The Council exhibited the characteristics of a permanent and sovereign government. Among its very earliest enactments is a rather stern rule which seeks to solidify its own authority by cutting off the influence of judgments coming from the outside. "No one, whether individually or as part of a group, may bring any judgment or belief from any other place or any other jurisdiction whether it be a rabbinical judgment or the judgment of communal

officers."[8] The transgressor of this enactment was liable for no lesser punishment than to be found deserving of ostracism in both this world and the next.

At its next meeting the Va'ad placed an obstacle in the way of rabbis and teachers who might bring with them non-Lithuanian views of the law. While a community could simply hire a "רב" or "מורה" who was Lithuanian, it had to obtain prior approval from specified officials of the principal communities before it could "import" a religious leader or teacher from outside of the Medina.[9] Later va'adot passed rules which placed more detailed restrictions on the hiring of rabbinical officials. This issue will be discussed in a subsequent chapter.

In sum then, the halakic style of Jewish settlements within the Grand Duchy of Lithuania included an overarching authority as the Va'ad HaMedina. Its legislation was binding on the communities and communal officials that comprised the Medina. Although it may have remained ad hoc "on paper", the Council provided for the continuation of its laws and for a self-perpetuating legislative process. The fact that changes in the laws were, from time to time, necessary, was openly stated. The takkanot were enacted by a representative body which prohibited enacting legislation without a formal session of the legislative body, even when all concerned were in informal agreement. Moreover, the

Council protected its exclusive right to legislate for the communities of Lithuania by prohibiting the introduction of laws from other jurisdictions.

THE PRINCIPAL COMMUNITIES

We now turn to an examination of the relationship between the Va'ad HaMedina and the principal communities of the Jewish settlements in Lithuania. Our purpose is to see where authority in the halakic process was held as the exclusive domain of the overarching council and where, within Lithuania, halakic authority was shared with the regional centers.

In theory, the principal communities were the basic unit of halakic authority. Their autonomy was superceded only when the principal communities, took joint action through the Va'ad HaMedina. During the period of the Va'ad, a centralization of authority took place. As the years went on, the Va'ad haMedina became concerned with the details of local issues that are absent from the earlier records. Centralization occured at the expense of the authority of the principal communities.

The sharing of authority for the benefit of the entire Lithuanian community is demonstrated by the legislative "rules" of the Va'ad Ha Medina. Takkanot could not be changed, even if all three principal communities

agreed, until there was a formal meeting of the entire Va'ad. Through the takkanot of 1631, we learn that the enactments made at these formal meetings had to be passed by a majority vote of the kehillot rashiot; at the same time we are reminded that no takkanah can be changed in the absence of such a meeting. This established a condition under which any one of the principal communities could prevent the enactment of takkanot by failing to participate in a meeting of the Va'ad HaMedina. To insure the continued function of the central council, the principal communities agreed to the enactment of what could, in our idiom, be described as a constitutional provision in the takkanot of 1634. This provision allowed the heads of two of the principal communities to compel the third to attend a meeting of the Va'ad HaMedina. The "summons" had to state the time and place of the meeting, and give at least thirty days notice.[10] By agreeing to this procedure, the representatives of the principal communities, shared their halakic authority with their colleagues through the mechanism of a "national" council.

There is evidence that regional va'adot followed their own course and created their own laws. These regional variations come to light through takkanot which take notice of local practices, albeit in the process of establishing the law for the entire Medina.

Takkanah number 54 requires that the "קופאר העיר" write all legal documents. In Horodna, however, the "דיינים" wrote legal documents themselves. The takkanot record a settlement of this issue. Takkanah number 55 accepts Horodna's regional practice, but Horodna would have to conform to the practices of the rest of the Medina within twenty-four years.

In an even more striking example, the Va'ad HaMedina outlawed the offensive practice of a man using his wife or children as security for a loan. This was termed an "evil deed" making one liable for the worst sorts of punishment. The representatives of Horodna asked for an exemption from this law on behalf of several communities within their region. The ruling of the Va'ad was that, in this matter, Horodna must comply with the takkanot hamedina at once. However, all such agreements already made would remain in force.[11]

LOCAL AUTHORITY

The local community (עיר or קהל), held a great deal of control over affairs within its jurisdiction as long as it did not contradict takkanot of the Medina. This is demonstrated by rules which restricted appeals from both legislation and court judgments made at the local level. The takkanot of a kahal could not be challenged by either an individual or by "טביבות" through a direct appeal to the

Principal Community. The local council (טובי העיר), and the president of the local rabbinical court (אב בית דין), had to first hear the case against their own takkanot. Complaints were limited to errors in fact or in law. Only after this challenge was heard at the same local level could a complaint, based on the certification of the local officials, be lodged with the officials in the Principal Community. To further discourage challenges to local takkanot, the plaintiff had to post a bond before a judgment from a higher authority could be sought. A judicial decision (דין פסק), could not be challenged even if there was an error in fact or law.[12]

Later takkanot made it easier for the individual to sue his kehillah. At times these takkanot protect the individual from unfavorable actions of the local council.[13] They went so far as to allow the individual to choose the principal city in which the case would be heard, and endow that judgment with the force and effect of a judgment of the Medina.[14] These takkanot are indicative of the gradual centralization of power which was mentioned earlier.

The local officials were not only called upon to legislate for the Jews of their territories, they were also required to enforce the laws of both the local community and the Medina. Upon a ruling from the bet din, the leaders of the communities were required to carry out the judgment, even

if it meant jailing or ostracizing one of their neighbors.[15] Cases arising from within the boundaries of a community, especially if they were private matters between individuals, were almost always heard and adjudicated within the community. An early takkanah provides that the venue of such a case could not be changed without good reason. Even with sufficient cause, the party seeking the change of venue would have the additional burden of posting a bond.[16] A few years after this enactment, the Medina stated that cases could not be moved until they had first been presented to the kahal and the av bet din. The local authorities then had to issue a document releasing the case. This was so even in instances where the local officials were clearly disqualified because of familial relationship or an interest in the case. Taking a case outside of the jurisdiction without the prior approval of the local court was punishable by an extraordinarily high fine of 1,500 zlotys.[17]

The Medina, the kehillot and even smaller sub-divisions, had the authority to incur debts which would obligate the entire community. Although there is little mention of this practice in the earlier records, we later see evidence of such transactions when takkanot are enacted to deal with irregularities that did occur. In 1676, the Va'ad HaMedina had to outlaw the signing of documents obligating a kehillah if the council of that community did not know about them. It would appear that there was some misuse of such

documents and the funds they could yield.[18] There also must have been considerable traffic in the legitimate obligations of the Medina and the kehillot. Since this is one of the few Jewish communities that borrowed money from non-Jews, there was a concern about into whose hands the notes fell. In 1720, the written obligations of the Medina and the kehillot were made non-negotiable. Notes that had been traded would yield only 10% of the full interest due.[19]

Groups within Lithuania could lend money to the Medina. We see an example of this in the case of a 9,000 zloty loan made to the Medina by the Trustees of the Bet Midrash of Kloz. Years after the loan was made, repayment was arranged by the Medina agreeing to pay 1,000 zlotys per year toward the expenses of Torah study at the Bet Midrash of Kloz.[20] This action may also reflect a change in the economic position of the community which had been able to make a very large loan.

There was some degree of local taxation. The head of the court (probably in the Principal City) set the tax on each kahal for the support of its rav. In towns where there was a permanent rabbinical position (רב קבוע), the community had the authority to set the rate of this tax for itself.[21] This is an example of the scope of local authority increasing with the size of the town. Naturally,

this left isolated settlements at a disadvantage.

ISOLATED SETTLEMENTS

The supervision of the "סביבות" by the nearest town is demonstrated in the regulations guarding the integrity of the communications sent by the kahal to the outlying areas. First, they had to bear the signature and/or seal of the av bet din of the kahal. The absence of his signature had to be explained by an attached document. Second, the av bet din could only sign communications that were directed to the settlements that were within his territorial jurisdiction. The same takkanah gives evidence of divergent rules regarding communication between the towns and the outlying areas in the various regions. It specifies that Pinsk, Horodna and Bresk must abide by the rules of the Medina.[22]

Those living in isolated communities were held in low regard, reminiscent of the "עמי הארץ" of the Mishnah. It was assumed that, without contacting the av bet din to receive instruction and an instruction book, the Jewish settler, as well as his wife and children, would fall prey to various unspecified transgressions. Those who failed to receive instruction were presumed "evil" and subject to herem.[23]

Jews living outside of the towns were

disadvantaged with regard to challenges to takkanot or judicial decisions arising from the kehillot. For the purposes of the court procedures for suits against a kehillah, the "סביבות" have the same legal status an individual. This legislation specifically denied small settlements of Jews, who were subject to the laws of the nearest town, any status, as a community, within the legal system.[24]

In a later takkanah the liturgical calendar is used as the basis for forcing Jews living in isolation to have contact with the community. This legislation required those who lived in a place where there was no regular religious service (מניין), to attend the "קהלה" on Shabbat Zachor and during Passover. The offender was liable for punishment at the hands of the local officials.[25] This law took advantage of the Toraitic and Rabbinic requirements regarding the parshiot that one is obliged to hear. However, it also served to insure the presence of isolated settlers at the election of communal officers which took place on or near Passover.[26]

This chapter has examined the levels of authority in the Jewish community of the Va'ad Medinat Lita. We have seen that there was a large degree of local control but that the takkanot of the Medina superceded rules made by the kehillot. The next chapter will take a closer look at the

leadership structure.

Chapter Four

LEADERSHIP

The preceding chapter discussed the nature of halakic authority, the organizational structure of the Va'ad HaMedina and its subordinate governmental structure. We have seen that the councils had the authority to both make and enforce legislation which was the halaka of Lithuanian Jewry. As has been mentioned, the evidence shows that the decision making power rested in the hands of the lay-leaders with considerable, but not decisive, input from the rabbinate. This chapter will examine the questions of who the leaders were, how they were selected, the qualifications for communal office and the requirements for participation in the selection process.

Jews have always been proud of their literacy. It is, therefore, surprising to find that the first meeting of the Va'ad Ha Medina had to insist that the officers of the bet din (גבירות) know how to read. These officers were appointed by the "מנהגי הקהל," the elected officials of the community.[1] The "מנהגי הקהל" were the various officers who formed the councils on the local, regional and national levels. Removal from office was difficult. No more than two "ראשי קהלות" could be removed in one year. This action could only take place at a full meeting of the Va'ad, and required the approval of the rabbis.[2]

Takkanot dealing with the councils of the towns and local kehillot borrow the talmudic idiom and refer to the "town councils" as "שבעה טובי העיר" or "טובי העיר". These terms appear interchangeable [3], although takkanot which provide per diem expenses to the manhigim while they were attending council meetings would indicate that the title "manhig" was, at least at times, reserved for the communal officials who represented their communities at regional and "national" va'adot.[4] The "Shivah Tovay HaIr," were not nececessarly seven in number and, depending on the context, might best be translated as the "trustees" of the communal funds.[5]

The qualifications for a manhig are found in late takkanot. Because of the importance of marriage to Eastern European Jewry, the qualifications were stated in terms of the number of years that a man had been married. In kehillot which had at least ten members of the "council," manhigim had to have been married for at least 30 years.[6] Assuming that a man would be married in his late teens or early twenties, we can surmise that the manhigim were men who were no younger than their late forties or early fifties. This condition is likely to have been different in smaller towns where there were less than ten members of the council and fewer eligible individuals with sufficient stature.

The manhigim appointed communal functionaries and were essential in the selection of the religious leaders. Except for real emergencies, no major issue could be discussed if any of the "מנהגי הקהל" were away on business. "Major issues" were defined as the appointment of a rav, hazan or shamash.

Elections took place on or near Passover. The electors would select the members of the communal "board" who were not to serve more than two consecutive years. Ballots were collected by the trustees. This takkanah was subject to local variation, and, in this instance, local takkanot took precedence over the legislation of the Va'ad HaMedina except with regard to those who were "פסול".[7]

Regarding service on the governing council of a town or settlement, "פסול" (disqualified) cannot refer to the halaka which disqualifies judges or witnesses on the grounds of familial relationship or an interest in the matter which is before them.[8] It must, therefore, refer to the disqualification based upon non-observance of normative Jewish practices.[9] This was not new legislation; rather, The Council was only enforcing existing halaka. Isserles had already stated that the communal officers had to be "כשר לעדות."[10] The fact that our takkanah insists

that the localities may not drop this "behavioral" requirement, even though a wide degree of autonomy was available in other aspects of the selection of the communities' officers, suggests that communities sought to appoint officers who were not qualified according to the halaka. The evidence from the closing years of The Council confirms our suspicions.

In 1761, meeting in Slutzk, the Va'ad HaMedina amended the halaka by introducing a formula for the number of members on a local council who may be " פסול לעדות דאורייתא." Where there were eleven "טובי העיר" ten must be "כשר." Where there were thirteen "מנהגים" eleven must be "כשרים," and where there were sixteen, thirteen of them must be "כשר." In no case can the head of the local council be "פסול." This amendment to the earlier takkanah was a concession to the kehillot. An additional provision of this takkanah said that a kehillah may act, through local legislation, only to reduce the number of "disqualified" members of its council. However, if a kehillah takes no action, the Takkanah HaMedina is the governing law. In this instance, the Va'ad HaMedina clearly exhibited its ability to change an existing and well known halaka even though it appeared to have a more conservative bias than the local councils.[11]

In the councils of each principal community, as

well as the kehillot, the leadership of the council rotated among the manhigim. This officer was known as the "פרנס החודש." The parnas acted as the head of the bet din of the community.[12] This function is not to be confused with the "President of the Court" (אב בי"ת ד'ין), a rabbi hired by the community whose role was that of "distinguished person." During his month of service, the parnas was the titular head of the community. Together with the Av Bet Din, the Parnas HaHodesh appointed tax collectors.[13] The crucial importance of tax collection on behalf of the government as the justification of the existence of the va'adot is evident in the requirement that the Parnas HaHodesh had to be well versed in the tax laws of the Grand Duchy.[14]

The Parnas HaHodesh was also the symbolic head of the community for strictly internal matters. In an unusual example of collective responsibility, a parnas could be placed in "חרם" if his community did not properly enforce the sumptuary laws (תקנ"י בגדים) of the Va'ad HaMedina. However, the judgment of ostracism was not made against the individual but against the office. Thus, when the title of Parnas HaHodesh rotated each month, the חרם went along with it.[15]

The selection of the local councils was democratic, but the right to participate in elections and to hold office was not universal. Democratic oligarchy, a common feature of

European governments in this time period, is reflected in the Noble's Commonwealth then current in Poland and Lithuania. The Jews, having no noblity, other than scholars, instituted a financial requirement for participation in the governance of the community. A late takkanah illustrates the nature of that limitation. The vote was limited to those who contributed at least fifteen grush (1/2 zloty) to the community each week. Dayyanim and scholars were allowed the slightly lower minimum of ten grush per week. The officers who were responsible for the collection of tzedakah and, more significantly, the manhigim, had to contribute at least one full zloty each week.[16]

In addition to the local council (שובי העיר or מנהגים), the electors chose five people to collect the "basic tax" (מכוס) for the government.[17] The kehillah, through the council, was required to select another five people to supervise weights and measures, shatnez, violations of Shabbat, and "all other prohibitions." The selection of these officers, as well as a panel which developed the rolls for the hearth tax, required the participation of the "distinguished person," namely the Av Bet Din.[18]

The position of Av Bet Din as well as the other rabbinical offices were filled by the kehillot. The rabbis were employees of the community. Takkanot regulated the contractual relationship between the rabbinical officials and

their communities. For example, an av bet din had to be notified, at least six months in advance of expiration, if his appointment was not to be renewed. The rabbi was protected in that a failure to act on the part of the kehillah meant automatic renewal under the same terms of employment. One of the "טובי העיר" was made personally responsible for the rabbi's income in the event that the kehillah failed to meet its obligation.[19] Both of these provisions are instances where the Va'ad HaMedina sought a considerable amount of authority over the local community. Late takkanot indicating serious problems in the rabbinate and the control of rabbinical office will be discussed in a subsequent chapter. Of importance to this discussion is a significant break with normative halaka which took place in 1631 over the issue of the communal selection of the Av Bet Din.

Takkanah number 171, enacted by the Va'ad of 1628, the Takkanah which provided for automatic renewal f the rabbi's term of office if the kehillah did not act, also states that if the "kahal" (i.e., the council) is undecided, the "kahal" votes and the Av Bet Din is retained or released by majority rule. The takkanah goes on to say that the rabbi's relatives may paritcipate in this vote. Our a priori response to this provision would be to say that members of the council would be disqualified from participation in this decision because of their interest in a

family member. In fact, the accepted halaka of the time appears to indicate that their participation was completely acceptable.

Remembering that in halakic terms, the council is a "Bet Din", we can relate the issue of the participation of the rabbi's relatives to the participation of judges in communal matters. The normative halaka understood that the judges in any given community were technically disqualified from judgment in matters of public property or taxes because, as members of the community, they have an interest in the case (נוגע בדבר). However, a community can agree to allow judges of the community to rule on cases where there is a communal interest.[20] The Shulhan Aruch and the Mapa take specific notice of this practice and find it acceptable.[21] With regard to taxation, Rashba found that all members of the community were eligible to participate in communal decision making even though they have been personally involved in the issue at hand.[22] It is clear that neither dayyanim, officers of the kehillah, nor the members of the community themselves were disqualified from participating in communal decisions either because of personal interest or familial relationship. Just as we saw in takkanah supporting the ban on manhigim who were "פסול לעדות," the Va'ad Ha Medina is again restating the normative halaka against what we must assume was pressure for change from the kehillot.

In contrast to the case of the manhigim, in this matter the response of the Va'ad HaMedina was both faster and more complete. In the takkanot of 1631, we find that the Va'ad reversed itself and created an exception to the rule of communal participation in communal matters by prohibiting a rabbi's relatives from participating in the discussions of the renewal of his contract to serve as Av Bet Din.[23]

In addition to these officicers of the communities, the honorary titles of "חבר" and "מורינו" were bestowed on members of the community. To receive the title of "מורינו" one had to be a "seeker of Torah," having study as his primary occupation. He also had to have been married for eleven years and be at least thirty years of age. The "חבר" was required to have at least two years of continous study following his marriage. The head of the Bet Din, with the agreement of two communal officers, could bestow the titles to the "upright" in the community. The "רב" had to personally officiate in the granting of this "סמיכה."[24] The majority of the trustees of a community (שמאים) had to be such officially designated "upright" members of the community.[25]

We have now outlined the structure of the Jewish government of Lithuania and examined the process by which the communal officials were selected. Through several specific examples we have seen that the va'adot shared authority

between the "national" and local levels, and that normative halaka was, in several cases, adjusted to fit the needs of communities. In the qualifications of the manhigim and the selections of the Av Bet Din, we have seen two instances where the legislation of the Va'ad HaMedina ran counter to halakic practice. In both cases there was evidence which suggested that pressure for change originating in the kehillot was building for some period of time. In the following chapter we will look into several issues where the Va'ad HaMedina extended the scope of takkanot hakahal in attempting to deal with circumstances peculiar to Jewish life in Lithuania.

Chapter Five

THE RABBINATE UNDER THE VA'AD HAMEDINA

Rabbis served the Lithuanian communities as employees of the Va'ad and the kehillot. They were judges, supervised ritual observance and were responsible for education.[1] As officers of the community, these rabbis were required to enforce the legislation of the Va'ad HaMedina. However, they were hired and paid by the kehillot. A portion of the rabbi's income came from fees paid for services (e.g., weddings).[2]

Because of the supervisory role of the rabbinate, the Va'ad HaMedina had an interest in controlling and protecting the rabbinical officials. This insured enforcement of the takkanot. We can examine both the position of the rabbis and the relationship between the Va'ad HaMedina and the kehillot through the legislation which regulated the relationship between the rabbis and their kehillot.

THE EARLY YEARS OF THE VA'AD

In the early years, the Va'ad did not concern itself with the appointment and removal of rabbinical officials. The Lithuanians were content with conditions as they stood prior to the separation from the Polish communities.[3] The rabbi's role in ritual was already

defined, as were his limited judicial and legislative responsibilities. In the area of education, the community, and not the rav, had the final say in the number of students to be educated in a"בי"ת המספר."[4]

The Medina took a "hands-off" attitude. An av bet din who was hired for a specific period of time could, at the end of his term, be dismissed without notice or cause. The kehillah had to act to renew the term of office or the rabbi was dismissed.[5] A takkanah making local officials responsible for the enforcement of the laws of the Medina fails to mention any rabbinical office. This oversight was corrected at the next meeting of the Va'ad.[6]

THE VA'AD MOVES TOWARD GREATER CONTROL

The Va'ad intervened in the relationship between the kehillot and their rabbis within the first five years of its inception. Initially these takkanot were general in nature and did not restrict hiring. Their effect was to afford incumbents a small degree of protection.

As mentioned above, the takkanot of 1623 ruled that a community could dismiss its Av Bet Din at the end of his term, by simply taking no action. In 1628, this rule was changed so that a failure of the kehillah to give notice of termination six months prior to the expiration of the term resulted in automatic retention.[7] The same meeting of the

Va'ad gave the Av Bet Din a modest degree of protection against court action.[8] The record of the Medina's concern about relationships between rabbis and their kehillot is silent for several years thereafter.

Almost fifty years later, the rule of automatic retention was once again mentioned in a takkanah. The Va'ad's intention, to enforce the legislation of 1628, was openly stated.[9] Within a few years, takkanot appeared which prohibited any changes in the conditions of employment during a rav's term of office.[10]

By 1691, the Va'ad took a new turn and began legislating restrictions on rabbinical employment. One who was to be hired as an av bet din and did not have a "תנפס הישוב" had to receive permission from two "גאונים" who were within the Medina. One of them had to be the "מרא דאתרא" who first ordained the prospective av bet din. All "life contracts" had to be approved by a "ראש בית דין".[11] Earlier takkanot prohibited the giving of gifts or loans to the communal officials by either a rav or his relatives.[12] This problem continued, and the same takkanah which moved to restrict eligibility, also stated that anyone who obtained his position through bribery or a loan, "of even a small amount," would not be permitted to take office.[13]

THE LATER YEARS OF THE VA'AD

Later legislation added to the restrictions against newcomers and the protection of incumbents. The takkanot of 1720 required that no rav could be employed if he had not been married for twelve years. He could not be brought into the community while the previous rav was still there. If a rav or av bet din was "driven" from office, the community could not replace him (not even with a "מגיד") until the term of the former rabbi had expired. A rabbi hired to replace someone else before the expiration of his predecessor's term of office could not travel to the town until there had been a meeting of the Va'ad HaMedina; this could mean a delay of up to three years. The same restriction applied to rabbis hired by kehillot where there never had been a rav.[14]

An av bet din had to abide by all the terms of his employment. However, kehillot no longer had the unilateral right to change any of the provisions of a rabbinical contract, even if the contract contained a provision to this effect.[15] In contrast to the local autonomy granted in electing manhigim, the Va'ad decreed that only thirty three people were needed to legally hire a "רב", "חזן" or "שמש."[16]

In an additional move to impose control over the rabbinate, anti-bribery legislation was expanded to include

actions by the community. These included the inheritance of a position by means of "שרוכין" or a promise of succession. Any rabbi who was suspected of participating in such an arrangement could be summoned to a " בית דין הגדול " and would have to clear himself before he was permitted to take office. This takkanah assumes that there was a danger of the rabbi in question trying to bribe the court, and legislates against this eventuality.[17]

Finally, in 1761, the Va'ad attempted to restore a level of rabbinic authority which is unknown to previous takkanot. No appointments to any communal office could be made without the approval of the Av Bet Din, and any appointments that were made while the rabbi was away were void.[18] In any dispute between the Av Bet Din and the kehillah, the rabbi chose the bet din of a principal city which would hear the case.[19] This legislation gave the rabbis an enormous advantage over their kehillot.

ANALYSIS OF THE CHANGE

The Pinkas indicates that there was no serious concern about controlling the rabbinate in the early years of the Lithuanian Council. With the exception of laws preventing bribery and "absentee" rabbis, the Va'ad did not intervene in the relationship between the rav and his kehillah.[20] The occupants of rabbinical office were assumed to be loyal to the halaka and the takkanot.

Within a few years, this assumption was questioned. Specific legislation was required to insure the enforcement of the Lithuanian takkanot hakahal through the rabbis who served the kehillot. As time passed, the Medina sought to restrict rabbinical office to those who had been trained in Lithuania by creating barriers to the hiring of outsiders. Simultaneously, the contractual relationships between rabbis and their communities came under increasingly greater central control. The Medina became the "protector" of incumbents through legislation which prevented kehillot from abruptly replacing their rabbis.

In the later years, the Va'ad HaMedina centralized control of the rabbinate. Attempts to impose stability indicate that the legislators on the "national" level could no longer depend on popular support in the kehillot. By protecting incumbent rabbis, the Va'ad insured their loyality to centralized policy as opposed to the will of the local community.

The record indicates a growing rift between the kehillot and the central authorities. Proximity of both time and place raises the possibility of a connection between the centralization of control by the Va'ad and the appearance of Hasidism as an organized anti-establishment movement. Although beyond the scope of this thesis, this question is

worthy of thorough investigation.

Chapter Six

LOCAL CONDITIONS AND HALAKIC CHANGE

Thus far, this thesis has examined the structure and authority of the governmental system which created halaka for Lithuanian Jewry during the time of the Va'ad Medinat Lita. This chapter will survey some of the takkanot which demostrate that the Va'ad both revised and extended the halaka in response to conditions within Lithuania.

EDUCATION

The popular image of East European Jewry is that of a Jewish community devoted to Talmud Torah. It is assumed that the Jews gladly supported schools which produced students and scholars well versed in Jewish law and tradition. The evidence suggests that this effort was not, however, without its problems.

Several takkanot were enacted to encourage Talmud Torah. Among them were admonitions directed to the leaders of the kehillot and the local rabbis, requiring them to actively seek support for the Bet Midrash, a Yeshiva and the students.[1] The Va'ad was also concerned with the number of students being educated, and encouraged the local rabbis to seek students from within their own town.

The quality of education was also a "national" concern. Takkanah No. 959 says: "The trustees are to make sure that at least one chapter of Mishnah is studied in the Bet Midrash each day." A number of takkanot complain of the fact that students were not "remembering" their lessons. The Rabbi is mandated to test the youngsters periodically so that he can properly supervise their education. From one such regulation we learn that "review" of the Torah was most important, however, Rashi need not be reviewed.[2]

SHABBAT OBSERVANCE

It is often assumed communal pressure prevented wide-spread violation of the most basic Shabbat prohibitions. The Pinkas indicates that local conditions could have the opposite effect, even in seventeenth-century Eastern Europe. The Va'ad was concerned with Shabbat observance in places where Saturday was a regular market day. The local Bet Din was commanded to warn the community against "חלול שבת." Transgressors were to be publicly denounced. Jews who engaged in agriculture were to receive written instructions from the Av Bet Din. These instructions were to include notice of the "100 zloty fine and other punishments" for violations of the Shabbat.[3] Saloon-keepers were given the opportunity to "transfer" their property to non-Jews for Shabbat if their business required that they be opened on Saturday.[4]

The needs of gentile employers were also a problem. A Jew who worked for a non-Jew "several days per week" was required to switch his work-days so that he did not work on Shabbat. If the Jew was a servant who was on his employer's property at all times, he was to consult the Av Bet Din and, as we have seen before, receive a special " סידור " instructing him on Shabbat observance.[5]

INTERACTION WITH NON-JEWS

Violations of Shabbat were not the only problem caused by interaction with non-Jews. Because the Jews of Lithuania were considered as one by the host society, trouble caused by one Jew could place the entire community in jeopardy. The Va'ad repeatedly acted to control and limit both social and commercial interaction.

We find the expected admonitions against Jews taking cases to the "secular" courts. This was extended to say that a Jew was prohibited from going to a non-Jewish court or accepting a job from a gentile unless the manhigim of his community granted him permission to do so. The Va'ad admonished the leaders of the kehillot to exercise extreme caution and closely supervise these matters.[6] A prior takkanah attempted to prevent this question from arising by limiting commercial transactions between Jews and non-Jews in other jurisdictions.[7]

Because of the nature of the Lithuanian economy, the Jews found that they could profit by borrowing money from the non-Jewish community. In contrast to the usual role of moneylender, Lithuanian Jews both individually and communally, accepted loans from non-Jews. The money was invested or lent out again at higher interest. This practice was fraught with dangers, and the Va'ad moved to protect the Jewish community by restricting individual activity in this area and limiting communal responsibility.

The manhigim of a kehillah could confiscate the property of a Jew who was indebted to a non-Jew if the debt or leasehold was "against the interests of the community."[8] A later takkanah took more drastic measures. A Jew who had become indebted to a non-Jew without prior approval of the communal officials, and had caused the Jewish community to become responsible for his loan, was expelled from the community and lost his right of settlement. Furthermore, if he was jailed for non-payment, the Jewish community would not give "even one pruta" to gain his release.[9]

A Jew found drinking in "בתי גויים" was disgraced and publically denounced.[10] Women were not permitted to do business in non-Jewish houses unless accompanied by both their husbands and a servant, or a trustworthy married man and a servant. If she had to send one of them for something,

the servant was to be sent, and her husband or the married man was to stay with her. Violators of this takkanah were judged " במשפט דת העוברת

על דת יהודית ."[11] Late takkanot banning women peddlers restated this prohibition claiming that this practice caused violations of "marriages, Shabbat and the Holy Days." Women violating this ban could not do business, get married, or have their sons circumcised. Their husbands could take their property, and could call upon the bet din and others to help them do so. A husband who did not prevent his wife from doing business in non-Jewish houses could be punished for her transgressions.[12]

KOSHER SLAUGHTER

Shohtim were simply not trusted. Each had to receive a certificate from an av bet din or well known rabbi (ראש בית דין). Slaughterers were placed under the direct supervison of the heads of the community and had to answer the summons of any communal official at once. Originally the Va'ad required that Shohtim be tested annually; however, after a few years, this supervision was increased, and the shohet had to appear for instruction once each week.[13]

MARRIAGE

The premium that was placed on marriage is clearly

in evidence in the Pinkas. The prospect of a marriage being delayed or cancelled because of the inability of the bride's father to raise the dowry which had been agreed to in the marriage terms, caused the Va'ad to pass legislation which compelled the relatives of a prospective bride to contribute to her dowry.[14]

We have already seen that eligibility for communal or rabbinic office was based, in part, on the number of years that a man was married. Teachers (מלמדים) were expected to be married. If they moved from their hometown to accept employment and were not accompanied by their wives, they had to obtain a certificate from the Av Bet Din of their home community. This certificate had to attest to the fact that the teacher had left town with his wife's knowledge and permission. If the document was not produced within six months, the teacher was forced to return to his home community.[15]

Marriages could not take place without parental consent when the bridegroom was under eighteen. If such a wedding did take place, it was considered a "mitzvah" for the court to annul the marriage without need of a get.[16]

The question of "תפקעת קדושין" is interesting in that the Va'ad based its authority to void marriages on earlier halaka, and contradicted the expected Ashkenazi

practice. Although the Talmud recognizes rabbinical authority in both creating and dissolving marriages, later halaka required a get to "free" the woman even when only the basic requirements of kiddushin, i.e., exchange of property before witnesses, had taken place. However, the requirements for a valid marriage, which could be dissolved only by a get, could be legislated through takkanot hakahal. A community could, therefore, enact laws which allowed for the annulment of kiddushin without a get by imposing requirements over and above the basic halakic prescriptions.[17] Indeed, the Va'ad made such requirements. For example, a wedding had to take place in the presence of a minyan.[18]

The unusual aspect of this takkanah is that there was a clear trend toward requiring gittin regardless of the provisions of communal legislation. Isserles, the halakic authority for European Jews, required a get regardless of local rules.[19] By assuming the power to annul marriages that were not performed in accordance with takkanot hakahal through judicial action rather than a get, the Va'ad returned to an older practice which contradicted the supposed norm of its own time and place.

The Va'ad took extraordinary measures against immigrants in order to prevent bigamy and violations of the halakic impediments to marriage. A "stranger" could not be married or even write " ס"אזן" until he had been investigated

to determine that he did not "have a wife elsewhere." Couples who were "unknown" had to be investigated prior to "קדושין" to be sure that there was no "impediment" to the marriage. The stated reason for this regulation was the protection of the "כהונה." Small children coming from "Ashkenaz" were interviewed and their parentage recorded in the town's pinkas to guard against violation of the forbidden degrees of consanguinity.[20]

The takkanot which required investigation prior to marriage are a departure from the normally lenient halakic attitude which presumed persons were "permitted" to marry (חזקת כשרות) unless there were witnesses to testify to the contrary. The takkanot's reference to the "כהונה" draws our attention to Siftai Kohain No. 21 on Shulhan Aruch, Yoreh Deah 268, which deals specifically with the problem of a woman whose background is unknown and whether her statement that she is permitted to marry a Kohain is to be believed (i.e., she is not to be investigated). On this matter, the halaka established the presumption which allowed communities to take the stranger at his or her word. It is this legal presumption which the Va'ad saw fit to reverse.[21]

This halakic change is testimony to the mobility of the Jews in this time period (c. 1628). These restrictions to marriage combated the break up of families and gave the kehillot an opportunity to investigate newcomers. The

provision for recording the lineage of children who appeared in Lithuania without their parents may be seen in the same light, with one additional consideration. Years later such children would have been unable to marry if it were not for the "testimony" of the town records which satisfied the investigation of their family history.

COURT PROCEDURE

The accepted halakic practice was to have the defendant in a civil case choose the venue of the trial.[22] However, a statement found in the Pinkas indicates that claimants were being denied the opportunity to present their cases before the courts by the practice of defendants moving suits from one court to another "until the plaintiff's strength gave out. . ." Therefore, the Va'ad changed this procedural rule, and required the defendant to appear in the court of the plaintiff's choosing. Furthermore, if the defendant was found at a fair, the case could be tried immediately and by whatever court happened to be in session.[23]

PRIVATE OBSERVANCE

It is generally understood that takkanot hakahal were concerned with the maintenance of the community, and not ritual practice or private observance. The takkanot of the Lithuanian Va'ad are not an exception. The vast majority of

the legislation deals with communal matters. However, the Va'ad did enter into several areas of ritual and private observance. This is a significant variation from the expected concerns of a va'ad hamedina.

The Va'ad produced legislation which brought the officials of its kehillot into the role of supervisors of the laws of Niddah. The trustees were to see that poor women were provided with two white garments, probably undergarments, so that they would know when they ceased menstruating. The garments were paid for by the charitable funds of the kehillah. This takkanah sought to enforce the halaka of "white days" (ימי לבון), a period which clarified whether a woman could go to the mikveh. In this regard, the leaders of the "עמי הארץ" came under special supervision and were to be given special instruction in the laws of Niddah. Again, the distribution of written instructions is mandated.[23]

Two other areas in which the Va'ad regulated private ritual observance are noteworthy. It became involved in the supervision of shatnez by requiring the inspection and certification of garments by local rabbinic authorities.[25] The Va'ad prohibited couples from taking in a single male border unless some other Jew was present, at all times, to "chaperone" the wife.[26]

THE SYNAGOGUE

The rabbis of the Lithuanian Va'ad attempted to prevent the expression of ideas, other than those they approved, in the synagogues. Noone was permitted to give a public sermon (לדרוש ברבים), without the permission of both the Av Bet Din and the council of a Principal Community. In order to enforce this rule in the outlying settlements, anyone preaching there had to have this permission in the form of a written document. Violators were subject to a fine equivalent to 75 zlotys.[27]

The Va'ad initially limited the number of "ניגונים" that could be added to a service. The hazan was not permitted to add more than three songs between the Shaharit and Musaf services. On Hanuka, Rosh Hodesh, or if there had been a Brit Milah at the synagogue, a fourth song was permitted. Under no circumstances could a "ניגון" be added prior to Kriat Sh'ma or in "ברכו של שחרית."[28] A later takkanah states that no changes (other than ניגונים), may be made in the "מנהגי תפלות."[29]

These takkanot, which attempt to limit, change and "standardize" the liturgy, are another example of the centralization of authority in the Jewish community of Lithuania. The Va'ad's legislation against "unauthorized" preachers is evidence that there was opposition to the Va'ad's authority. Recalling the restrictions on the

employment of rabbis, the specific mention of "ג'גונ'ם", a "hasidic" liturgical innovation, again raises the question of a connection between the rise of hasidism and the actions of the Va'ad HaMedina.

CONCLUSION

This study of the Pinkas Medinat Lita has presented evidence which allows us to reach several conclusions about the halakic style of the Jewish communities of Lithuania in the time period of the Va'ad Kehillot Rashiot d'Medinat Lita (1623-1764). We have seen evidence of the Medina's system of government in relation to the government of the Grand Duchy of Lithuania, a view of halaka as dynamic and subject to change, the relative authority of the Codes and the takkanot, and the position of the rabbinate vis a vis halakic decisions. Finally, during the course of this work several other questions worthy of future study have presented themselves.

It is not surprising that the system of government established by the Jewish community of Seventeenth and Eighteenth Century Lithuania was modeled after the patterns of government then current in Eastern Europe. As we have seen, the officers of the kehillot were elected. However, the right to vote was limited to those who could make a substantial financial contribution to the community. This reflects the "Nobles' Commonwealth" wherein the king was chosen through an election, but the electors were all persons of rank or wealth.

The boundaries of the Kehillot Rashiot were generally coterminous with the regions recognized by the

monarchy and nobility. The jurisdiction of the Medina was set following the Union of Lublin which established the Polish/Lithuanian frontier. In the formation of the Lithuanian Va'ad, the Jews followed the national borders which were recognized by the host society. Here the Jews followed the practice, sanctioned by Rashba, of organizing themselves along the lines of the governments by which they were taxed.

We have seen evidence proving that, at least until 1763, the decision makers of the Jewish community in Lithuania understood the halaka to be a dynamic body of law. Previously established halakot were changed to meet the needs of Lithuanian Jewry. We saw a change in the qualifications for communal office which permitted the election of manhigim who were disqualified under both the "normative" halaka and earlier Lithuanian takkanot. The presumption of "kashrut" for marriage was voided and replaced with a requirement that "strangers" be investigated before they could legally contract a marriage. In civil cases, the long standing right of the defendant to choose the venue of the suit was reversed and the choice of courts given to the plaintiff.

The texts of the takkanot just mentioned demonstrate that Lithuanian Jewry under the Va'ad HaMedina took notice of the halaka as expressed by the Codes. They did not, however, see the Codes as a final authority. It was

within the power of the Va'ad to legislate substantial changes and expand the scope of kehillah legislation ". . .according to the needs of the time, because all times are not the same."

We have also seen that the rabbinate served at the pleasure of the leaders of the community, as employees and communal functionaries. The rabbis were not the final arbiters of halaka. Although the tradition of the "distinguished person" was observed, the rabbinate did not have a decisive role in the passage of the takkanot. This was in the hands of the laity. Rabbinical courts were limited to " דינים שבממון", while all other matters were heard by lay-judges.

In conclusion, through this study several other questions about the development of halaka and Jewish history in Eastern Europe have come to mind. We have already mentioned the possible connection between several of the takkanot found in the Pinkas and the Hasidic movement. The relationship between the increasingly restrictive takkanot enacted in the later years of the Va'ad and the anti-establishment stance of Hasidism should be fully explored.

A study should also be undertaken which will compare the developments in Lithuania with the contemporary approach to halaka in Western Europe. In light of the

ability of communities to change halaka, as described in this study, we must ask why a reform movement was necessary to effect change in Germany. Such a work would also shed light on the social changes which engendered the rise of "reform" in Western Europe. A study of Eastern European halakic developments in the years following 1763 would increase our understanding of the nature of halaka in the time period just after the elimination of communal autonomy in Europe.

There is more work to be done on the Pinkas. It deserves examination in all of its aspects and in light of the other records of European Jewry. Copies of the Pinkas are rare and generally found in poor condition. It should be preserved and made accessible through translation. Then all could take advantage of the treasure trove of information and insight into our people's sojourn in Eastern Europe which is to be found in the Pinkas Va'ad Kehillot Rashiot d'Medinat Lita.

NOTES

INTRODUCTION

1. Simeon Dubnow, Ed. Pinkas Medinat Lita, Verlag "Ajanoth" G.m.b.H., Berlin-Charolottenburg, 1925, see editor's introduction. (hereafter PML)

2. Menachem Elon, HaMishpat HaIvri, 2nd Edition, Magnes Press, Jerusalem, 1978, pp. 662-3.

Chapter One

HISTORICAL BACKGROUND

1. Simeon Dubnow, History of the Jews in Russia and Poland, Trans. I. Friedlaender, Jewish Publication Society, Philadelphia, 1916, p. 39ff.

2. Dubnow, History of the Jews, p. 41.

3. Solomon Grayzel, A History of the Jews, 2nd Edition, Jewish Publication Society, Philadelphia, 1968, p. 449.

4. Salo W. Baron, A Social and Religious History of the Jews, Vol. XVII, Columbia U. Press/Jewish Publication Society, New York/Philadelphia, 1980, p. 4.

5. Dubnow, History of the Jews, p. 51.

6. Baron, p. 5.

7. Dubnow, History of the Jews, p. 72.

8. Baron, p. 27.

9. Ibid.

10. Dubnow, History of the Jews, pp. 73, 105.

11. Ibid., p. 83.

12. Baron, p. 30.

13. PML No. 124.

14. Robert M. Seltzer, Jewish People, Jewish Thought: The Jewish Experience in History, Macmillan, New York, 1980, p. 485.

15. Dubnow, History of the Jews, p. 88.

16. Baron, p. 4.

17. Seltzer, p. 483-4.

Chapter Two

THE HALAKIC AUTHORITY OF KEHILLAH LEGISLATION

1. Menachem Elon, The Principles of Jewish Law, Encyclopaedia Judaica, Keter Publishing, Jerusalem, 1975, p. 18.

2. See Chapter One.

3. Elon, HaMishpat HaIvri, p. 560.

4. ____, Principles of Jewish Law, pp. 19, 21.

5. Tosefet Yom Tov, ad loc.

6. Elon, Principles of Jewish Law, pp. 20, 21.

7. Rashi, ad loc.; also, Mishneh Torah 4:13.

8. Rashi, ad loc.

9. Mishnah Pesahim 4:1-5.

10. Elon, Principles of Jewish Law, p. 657.

11. Ibid. pp. 659, 660.

12. Elon, HaMishpat HaIvri, p. 561.

13. Ibid. pp. 580ff.

14. Babylonian Talmud, Gittin 36b; Shekalim 3a; Yevamot 89b.

15. Elon, HaMishpat HaIvri, pp. 415ff.

16. Babylonian Talmud, Yevamot 90b; Sanhedrin 46a.

17. Elon, HaMishpat HaIvri, pp. 421ff; especially n. 94.

18. Ibid. pp. 396, 569ff.

19. Ibid. pp. 560, 564.

20. Encyclopaedia Judaica, II:305-308.

21. Solomon ibn Adret, Collected Responsa, Schreiber edition, New York, 1967, 5:126.

22. Ibid. 1:729.

23. Ibid. 4:185.

24. Chapter One, p. 6.

25. ibn Adret, 3:411.

26. Elon, HaMishpat HaIvri, p. 629.

Chapter Three

STRUCTURE OF THE VA'AD HAMEDINA AND THE KEHILLOT

1. For example, see PML No. 916 which restricts the hiring of an Av Bet Din in communities where there was none prior to the date of takkanah.

2. PML No. 218.

3. For example, PML No. 105; Re:taxation see No. 733.

4. PML No. 210.

5. PML No. 124.

6. PML No. 444.

7. For example, PML No. 653.

8. PML No. 15.

9. PML No. 103.

10. PML Nos. 211, 252, 300.

11. PML Nos. 44, 45.

12. PML Nos. 113, 114.

13. PML No. 845.

14. For example, PML No. 932.

15. PML Nos. 21, 546.

16. PML No. 13.

17. PML No. 116; Re:coinage see PML Pg 431.

18. PML No. 732.

19. PML No. 931.

20. PML No. 619.

21. PML No. 227.

22. PML No. 153.

23. PML No. 132.

24. PML Nos. 113, 114.

25. PML No. 744.

26. PML No. 63.

Chapter Four

LEADERSHIP

1. PML Nos. 22, 23.

2. PML No. 846.

3. See PML No. 984 for Manhigay Tovay Halr.

4. For example, PML Nos. 760, 761.

5. The term "rosh" is also used.

6. "Dayyan" must be married for 30 years, "Rosh" for 15, see PML No. 971.

7. PML No. 63.

8. See below, pp. 47-48.

9. Mishnah Sanhedrin 3:3; Mishneh Torah, Hilchot Aidut Chapter 10.

10. Shulhan Aruch Hoshen Mishpat 37:22; and end of Mapa, ad loc.

11. PML No. 984.

12. PML No. 208.

13. PML No. 168.

14. "Dina d'malchuta dina." See PML No. 124.

15. PML No. 325.

16. 30 grush = 1 zloty; See PML Page 341.

17. PML No. 899.

18. PML Nos. 487, 912.

19. PML Nos. 125, 171.

20. Elon, HaMishpat HaIvri, p. 598.

21. See end of Mapa on Shulhan Aruch Hoshen Mishpat 37:19; Shulhan Aruch Hoshen Mishpat 37:22; and Mapa, ad loc.

22. ibn Adret, 6:7.

23. PML No. 229.

24. PML Nos. 592, 593; For earlier rule see PML No. 135.

25. PML No. 805.

Chapter Five

THE RABBINATE UNDER THE VA'AD HAMEDINA

1. Re: Education, See PML No. 141; Kashrut, See PML Nos. 143, 255, 359; Shabbat, See PML Nos. 137, 261.

2. For example, PML Nos. 106, 107.

3. PML No. 207.

4. PML No. 141.

5. Greater restrictions applied to court actions brought against the Av Bet Din of a Principal City, See PML No. 48.

6. PML Nos. 210, 251.

7. PML No. 171.

8. PML No. 168.

9. PML No. 721.

10. PML Nos. 751, 789.

11. PML No. 882.

12. PML No. 839, 840.

13. PML No. 882.

14. PML Nos. 914, 915, 916.

15. PML No. 918.

16. PML No. 919.

17. PML No. 913.

18. PML No. 978.

19. PML No. 1021.

20. See above, and PML No. 564.

Chapter Six

LOCAL CONDITIONS AND HALAKIC CHANGE

1. For example, PML Nos. 588, 589, 590.

2. PML No. 352.

3. PML Nos. 136, 137.

4. PML No. 358.

5. PML No. 261.

6. PML No. 165.

7. PML No. 8.

8. PML No. 26.

9. PML No. 163.

10. PML No. 134.

11. PML No. 133.

12. PML Nos. 947, 1005.

13. PML Nos. 255, 359.

14. PML No. 366.

15. PML Nos. 71, 260.

16. PML Nos. 32, 430.

17. Elon, HaMishpat HaIvri, pp. 686-689; ibn Adret 1:1185.

18. PML No. 43.

19. Elon, HaMishpat HaIvri, pp. 705-706.

20. PML Nos. 104, 361.

21. PML No. 21; Siftai Kohain on Shulhan Aruch Yoreh Deah 268; See also Shulhan Aruch Even HaAzer Chapter 2.

22. Shulhan Aruch Hoshen Mishpat 14:1; Mapa ad loc.

23. PML No. 861.

24. PML Nos. 139, 357.

25. PML No. 139.

26. PML No. 259.

27. PML No. 130.

28. PML No. 62.

29. PML No. 612.

BIBLIOGRAPHY

Abramovitch, Stanley, "Solomon ben Abraham Adret (ibn Adret)," Encyclopaedia Judaica, Vol. 2, Keter Publishing, Jerusalem, 1974.

Am Hasefer, יהדות ליטא, 3 vols., Tel Aviv, 1959.

Babylonian Talmud, Grunwald edition, Jerusalem.

Baron, Salo Wittmayer, A Social and Religious History of the Jews, Vol. XVII, Columbia Univ. Press/Jewish Publication Society, New York/Philadelphia, 1980.

Dubnow, Simeon M., History of the Jews in Russia and Poland, Trans. I. Friedlaender, Jewish Publication Society, Philadelphia, 1916.

_____, Ed., פנקס מדינת ליטא, Verlag "Ajanoth" G.m.b.H., Berlin-Charlottenburg, 1925.

Elon, Menachem, המשפט העברי, 2nd edition, Magnes Press, Jerusalem, 1978.

_____, Ed., The Principles of Jewish Law, Encyclopaedia Judaica, Keter Publishing, Jerusalem, 1975.

Graetz, Heinrich, History of the Jews, Vols. IV,V, Jewish Publication Society, Philadelphia, 1894/95.

Grayzel, Solomon, A History of the Jews, 2nd edition, Jewish Publication Society, Philadelphia. 1968.

Halperin, Israel, יהודים ויהדות במזרחי אירופה, Magnes Press, Jerusalem, 1968.

_____, Ed., פנקס ועד ארבע ארצות, Central Press, Jerusalem, 1945.

_____, Ed., תוספות ומלואים לפנקס מדינת ליטא, reprinted from "Horeb," Vol. II, Bloch Publishing, Jerusalem, 1936.

ibn Adret, Solomon, Collected Responsa, Schreiber edition, New York, 1967.

Kramer, Marcus, unpublished thesis, "Chazaka as a Juridical Principle in the Talmud," Jewish Institute of Religion, New York, 1930.

Lew, Myer S., The Jews of Poland, pub. E. Goldston, London, 1944.

Maimonides, Moses, Mishneh Torah, Books Export Enterprises, Israel.

Mishnah, Friedman edition, New York.

Rubinstein, Avraham, "Hasidism," Encyclopaedia Judaica, Vol. 7, Keter Publishing, Jerusalem, 1974.

Seltzer, Robert M., Jewish People, Jewish Thought: The Jewish Experience in History, Macmillan, New York, 1980.

Shulhan Aruch, Torah Education Center, Zichron Yaakov.

Spier, Arthur, The Comprehensive Hebrew Calendar, Behrman House, New York, 1952.

Tepfer, John J., unpublished thesis, "The Synagogue in Poland During the Period of the Kingdom," Jewish Institute of Religion, New York, 1927.

Weinryb, Bernard D., The Jews of Poland, A Social and Economic History of the Jewish Community in Poland from 1100-1800, Jewish Publication Society, Philadelphia, 1982.

Ydit, Meir, unpublised thesis, "Trends in the Development of Religious Tradition Prior to Modern Reform Judaism, Hebrew Union College-Jewish Institute of Religion, New York, 1964.