Kommunikation durch symbolische Akte

Religiöse Heterogenität und politische Herrschaft in Polen-Litauen

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Crime and Sacred Spaces in Early Modern Poland

In the 1550s and 1560s, when the Protestant Reformation was gaining strength in Poland, the Polish nobles, whose political influence was on the increase at the cost of the royal and, to some extent, ecclesiastical authorities, successfully restricted the jurisdiction of the ecclesiastical courts to deal only with cases involving family law and those concerning the clergy. From then on, the ecclesiastical courts could no longer effectively try cases involving religion, such as heresy, apostasy, blasphemy, and sacrilege. Those cases came under the jurisdiction of secular courts and sometimes under the criminal law in use in Poland,¹ resulting in the close entanglement of secular courts in religious matters. By the seventeenth century, these efforts aimed at preventing church-inspired religious persecution turned the secular courts into de facto enforcers of religious boundaries and, indeed, of Catholic theological concepts. It was now the secular courts that decided what was sacred, what was not, and hence also what was sacrilegious.

In early modern Poland, the delineation of “sacred” space thus transpired not only through the use of language and rituals, and the educational and pastoral efforts of the clergy, but through the courts as well. In Polish courts that tried criminal cases and church robberies were classified as sacrilegium, and in the post-Reformation era, this sacrilegium was increasingly limited to offenses against Catholic churches. By classifying thefts from Catholic churches as sacrilege, while robberies from synagogues, Eastern Orthodox, and Protestant churches as common robberies, the courts, in effect, affirmed the sacredness of Catholic spaces, while denying a similar status to the places of worship of other groups. Trials and public executions, unlike religious and polemical literature, which arguably had a rather small audience, were a spectacle witnessed directly by many. They were imbued with coded meaning, much like religious rituals.

The use of language and rituals in delineating space was shared by both Christians and Jews. Jews “sacralized” their space through language and rituals, distinguishing their space and their kehillah keadoshah (sacred community), from that of non-Jews. But in contrast to Christians, Jews had no executive power, and thus no means to use courts of justice for that purpose. Rabbinic sources exuded anxiety over contacts with idolaters and potential Jewish participation in such worship. The

¹ The process was lengthy, and involved a ban on using the secular arm to execute church verdicts. It culminated in the 1565 constitution banning any summonses of the starostas, the city captains, by clerical courts, if the starostas had refused to execute verdicts from ecclesiastical courts. Volumina Legum: Przedruk Zbioru Praw Staraniem XX. Piłarów w Warszawie Od Roku 1732 Do Roku 1782 Wydanego [Volumina Legum: A Collection of Laws Published by the Efforts of the Fathers Piars in Warsaw from 1732 till 1782], 2nd ed., 10 vols., S.-Peterburg 1859 (reprint 1980), vol. 2, (§ 692) 52. For a discussion of the earlier authority of the church courts, Grodziski, Stanisław: Z Dziejów Staropolskiej Kultury Prawnej [On Ancient Polish Legal Culture], Kraków 2004, 116–123. This was somewhat different in the magistrate courts, which relied on the Constitutio Carolina and the Speculum Saxonicum, both of which considered certain transgressions involving religion.
Mishnah, the first post-biblical code of Jewish law, included a whole tractate on Avodah Zarah (idol worship), and would shape subsequent legal discussions among Jewish legal scholars. For centuries, the rabbis and lay leaders of Jewish communities were anxious with regard to sharing space with gentiles, whether entering their or and letting them enter Jewish space, sacred or not. Jews were prohibited from dwelling in “the houses of the uncircumcised.” And renting houses to and from gentiles raised questions about them introducing idols into these dwellings.

Similarly, restrictions were placed on the proximity of Jewish houses to gentile places of worship. Rabbis were reluctant to allow a Jewish house to be located close to “a house of idols.” Discussing a case in which a shared or nearby wall collapsed, they argued that it was not permissible to rebuild it in ways that would support or strengthen and thus benefit such a “house of idols.” The prohibition was even stronger if the wall was shared with the house devoted to what they considered idol worship, in such case a wall of the Jewish house would directly benefit the gentile place of worship. Rabbis also warned against profiting from the use of stones, or other building materials that had been used in non-Jewish places of worship. This ideal was, however, not always upheld in reality. In 1660, for example, the Jesuit College in Pinsk filed a protest in the court against a certain Hirsz, a local Jew, for stealing bricks from their church and their residency that had been burned by the Cossacks. Hirsz secretly moved some of the bricks saved for the reconstruction of the Jesuit buildings and used it to build, or perhaps rebuild, his house and a brewery. The stolen bricks were apparently recognized by a local Jesuit priest, Jan Trłęski, and the Jesuits demanded thirty złoty in damages.

Jews were also not allowed to help build places where “idols” were placed or worshipped. By the early modern period, rabbis performed legal acrobatics between maintaining the distance and discouraging contact between Jews and gen-


4 See for example the Shulhan Arukh [henceforth, SA], Yoreh De’ah (henceforth, YD) 151.9–10 and commentaries.

5 SA, YD 143.1 and Turei Zahav there.

6 SA, YD 143.1.


8 SA, YD 143.2.
tiles, and avoiding an overly strict interpretation of Christianity as idol worship, which would have had dire economic consequences for the Jews living among Christians.9

Jews sometimes did break these principles in view of the complexity of the legal system in Poland. In 1711, for example, a lawsuit was filed against the Minsk Kahal by the nobleman Jarosz Mackiewicz, an owner of a section of town exempt from municipal taxation and obligations.10 Mackiewicz represented Jews living in his part of the town in court, charging that the kahal, referred to in the court records as “infidel Jews,” “having borrowed money from the most reverend Jesuit fathers of the Minsk monastery to satisfy their needs of whatever kind, have committed themselves to pay interest and to supply bricks and stone for the construction of the church.”11 Mackiewicz was upset that the kahal had forced “his” Jews to contribute money and labor to paying off the interest. He argued that they were not subject to the kahal’s authority because, living in his jurydyka, they were excluded from the municipal jurisdiction. Though Mackiewicz argued his case only on the basis of the violation of his jurydyka’s political jurisdiction, this case clearly had a religious dimension, as well.12 The Jews were indeed contributing to the construction of a Catholic church, a structure that some rabbis still continued to view as batei tiflut (houses of frivolity—a term itself a pun on batei tefillot, houses of prayers),13 or “houses of idols.”14

Just as Jews were not permitted to contribute to “idol worship” or to benefit from it, they were also prohibited from taking pleasure from anything related to it. For example, rabbis prohibited the enjoyment of musical instruments and ornaments used in “idol worship.”15 This prohibition even extended to the shade cast by a “house of idol worship” on a hot sunny day.16 Rabbis also debated the use of ob-

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11 Decree of the Lithuanian Tribunal against the Kahal of Minsk. Court Records, 1711. Translated by Magda TETER. In: http://www.earlymodern.org/citation.php?citKey=64&docKey=e (03/06/2008).


13 See Turei Zavah on SA, Orah Hayyim [henceforth OH], 224.2. See also the medieval rabbi Eliezer ben Nathan: Avedah Zarah, 289, Bar Ilan Responsa Project version 16+.

14 DAVID HA-LEVI in his commentary Turei Zavah on SA, OH 154.11 used the expression beit ellim, a house of idols. It is clear that he was not speaking about a theoretical “house of idolatry” but rather referred to Christian churches given that, in a clear reference to his time, he mentioned the “lights called lichter that are in the beit ellim cannot be used in a synagogue.”

15 SA, YD 142.15.

16 SA, YD 142.11 and commentaries.
jects sacred to gentiles. Could Jews use candles known to have been used in “idol worship”? What about the clothes of priests, books, or the vessels used in worship? They agreed that there were different degrees of contact and use. Wax, for example, if used in idol worship itself was not allowed, but if it was given to Jews as a pledge, some rabbis did allow it. There was, however, a strict prohibition on the use of such wax or oil for Jewish ritual purposes for the Sabbath, Hanukkah, or in the synagogue. The Jewish “sacred space” and “sacred time” were to be protected from this type of contamination in this way. With regard to this last point, Rabbi Moses Isserles of Cracow (1520–1572) commented that, just like wax or candles, no part of the cloaks used by priests should be used for making a talit or any other object required for the fulfillment of Jewish commandments.

If Jews were to handle objects used in non-Jewish worship for other than ritual purposes, these objects had to have been “invalidated” through the ritual of bitul (negation). Bitul served as a means of devaluing the “idols’” importance and, as an act of desecration, counteracting their sacredness. The Mishnah itself provided guidelines on how to “nullify” an idol; guidelines that were subsequently expanded and clarified in further codes of Jewish law. The question whether such objects could be profited from, for example when accepted as pledges, was of real relevance. Some argued that just by the fact that that they had been pledged they had lost their “sacredness” and did not require bitul. The Talmud clarified: the pledged object was considered fully “annulled” only if the intention was not to retrieve the pledge; this applied especially if the object was to be smelted.

Although church objects could in theory be accepted as pledges under the above stated conditions, Jews coming in contact with them were often apprehensive, and Jewish councils repeatedly issued prohibitions against accepting church objects as pledges, especially if the objects appear to have been stolen. The Jewish leaders’ concerns largely reflected the threat of potential accusations, not only of handling objects stolen from churches, which was against their charters, but worse, accusations of host desecration.

Unlike the pragmatic concern of the Jewish communal leaders, the rabbis’ main worry in halakhic discussions was to protect Jews from idol worship and not to en-

17 SA, YD 139.9.
18 SA, YD 139.11.
20 SA, YD 139.12.
21 SA, YD 139.13.
22 See for example, SA, YD 139.12; SA, YD 146.
23 Mishnah, Avodah Zarah (henceforth AZ) 4:5, also Babylonian Talmud (henceforth BT) AZ 53a, and Tur and Shulhan Arukh, YD 146.
24 SA, YD 139.12. Damaged “idols” also lost their value and Jews were able to profit from them. SA, YD 146.11. The question of whether a pledge constitutes a bitul is first raised in the Mishnah, AZ 4:5, in which two opinions are given, one for and one against it. It is further discussed in the Babylonian Talmud, BT AZ 53a–b.
25 BT AZ 53a–b.
26 Ibid. and Turei Zahav on SA, YD 146.8.
27 Pinkas ha-medinah, (no. 662) 158, (no. 725) especially 177.
able it. Thus, if certain objects were used solely for idol worship they were entirely prohibited from Jewish use or profit. If they, however, could also be used for other purposes, then Jews could sell or use them. The cloaks of the clergy, for example, were in fact allowed if not used exclusively for religious services. For the same reason, the sixteenth-century Polish rabbi, Benjamin Slonik, allowed Jews to lend clothes to Christians on Christian holidays, even though the Christians wore them to church. But, if it was known that the goods Christians were acquiring from Jews were bought with the intention of “idol worship,” Jews were not allowed to sell them to Christians even if other possible uses existed. Such was the argument that Moses Isserles of Cracow made about water. In a gloss on the section of the Shulcan Arukh dealing with accessories to idolatry, Isserles prohibited Jews from selling water “to an idolator” if it was known that “he wanted to make it into water for baptism” (mayyim le-hatevilah).

Some Jews ignored these rabbinic prohibitions and “profited” from abetting what the rabbis considered to be “idol worship.” In 1639, the masters of Lublin’s Bookbinder Guild filed a protest against a Jew, “Chaim the son of Kopel the Jew,” and his brother, Smul, for binding Christian books, including those used in Christian worship: “rosary books with images, about two large bundles.” Another bookbinder, Stanisław, told the court:

“Just after Christmas, I went to this Jew, Smul, who binds books and I saw a breviary bound in leather and an officium [Catholic prayer book] that he was gilding with gold still in a press. And when I wanted to look at this breviary, he ripped it out of my hands and threw it among other books, and he took the officium and hid it and then cursed me with shameful words.”

Stanisław managed to escape. But this was apparently not the first incident. “Two or three weeks earlier,” Stanisław continued, “I had visited Reverend Jan in the Church of the Virgin Mary, for whom I had bound two books before, and Reverend Jan then told me that the Jew, Chaim, had bound an antiphonal, a missal, and a psalter for the [local] nuns.” While this was, no doubt, a case of economic competition, tensions over handling religious objects were present on both sides, tensions that also arose when Jews dealt in stolen church property.

28 In Jewish folk tales there is a story about Rashi’s father, who had a precious pearl that Christians wanted to use as a church ornament. Rashi’s father decided to drop the pearl in the river and lose the revenue rather than contribute to idolatry. YASSIF, Eli: The Hebrew Folktale: History, Genre, Meaning. Bloomington 1999, 326. I thank my colleague Edward Fram for referring me to this book.
29 SA, YD 139.11. S. also Isserles’ gloss prohibiting it if used for “idolatrous” worship.
30 SLONIK, Benjamin: Masa’at Binyamin, no. 86. The Bar-Ilan responsa project has “Ishmaelini” or Muslims as those asking. This is because the project used a censored version of the responsa. In the original edition the word is akum, or “idolaters,” and clearly refers to Christians. Other rabbinic responsa published in the nineteenth century were similarly censored, leading some scholars to misinterpret them.
31 SA, YD 151.1.
33 Ibid., 219r.
34 Ibid.
On the other side of the religious divide between the sacred and the profane—or rather, the sacred and the idolatrous—was the effort to protect the “sanctity” of Jewish spaces. Rabbis emphasized the distinction of synagogues and houses of study from “houses of idolatry.” One seventeenth-century commentator on the Shulhan Arukh, the Polish rabbi, Abraham Gombiner, argued that this “frivolity” could turn a synagogue into a “house of idolatry.”35 And Rabbi David Ha-Levi, the author of Turei Zahav, a commentary on the Shulhan Arukh, argued that synagogues could not be placed in buildings that had an apartment or “something contemptible” above it, for this would be “like idolatry or pollution,” for nothing should come between prayers and heaven. Ha-Levi noted that some rabbis, including Joseph Caro (1488–1572), a kabbalist and halakhist from Safed, had approved of certain “proper” uses for spaces above synagogues. Ha-Levi offered an example from his youth in Cracow, where a beit midrash (study hall) was situated above a synagogue.36

There were also different levels of sacredness within a synagogue itself. The Torah scroll was considered the most sacred object, a fact that was already articulated in the Mishnah, and noticed in the fourth century by none other than John Chrysostom in his virulent homilies against Judaizers.37 Halakhically, everything else shared only in “the sacredness of the synagogue,”38 although according to custom there were in fact different levels of sacredness within a synagogue. The ma‘il ha-torah (Torah mantle), for example, was one of the more sacred objects in the synagogue, even more sacred than the parokhet (a cover for the ark).39

Since decorum and cleanliness of the synagogue were crucial as well, the activities that were entirely prohibited, or at least restricted there, included: bringing animals into the synagogue or house of study; dealing with money, unless it came from virtuous activities to fulfill Jewish mitzvot (commandments);40 and eating and drinking, except for students studying the Torah there full time, who could not afford the time to go outside to look for food, a waste of time that would have been “a negation” of the Torah study. The study of the Torah thus trumped the profanity of eating and drinking.41 Cleanliness, too, was to be maintained, and people entering a synagogue were expected to clean their shoes of mud and their clothes of any dirt.42 Jews were also prohibited from being able to say the prayer Shema Yisrael (Hear, O Israel) in “filthy” places, including toilets and bathhouses, and any other place in

35 Turei Zahav, Magen Avraham on SA, OH 151.1.
36 Ibid., Magen Avraham on SA, OH 151.12 (2).
37 Mishnah, Megillah 3.1, subsequently in SA, OH 154.6, especially the commentary by Moses Isserles there. For John Chrysostom, see sermon 1:5 in Chrysostom, John: Discourses against Judaizing Christians. Washington 1979.
38 SA, OH 154.6, and the commentary by Moses Isserles.
40 Magen Avraham on SA, OH 151.1.
41 SA, OH 151.1.
42 SA, OH 151.9.
which there was excrement or water used for washing feet. Secular matters discussed in the holy tongue were, however, allowed.  

Given the perceived sanctity of the synagogue due to the presence of the Torah scroll, some women in Poland avoided entering it during menstruation, except on the High Holidays. To be sure, this custom was not necessarily sanctioned halakhically, and opinions about it were indeed divided. But the notion that women were impure and imparted impurity due to their bleeding was powerful enough that some sought to avoid polluting what they considered to be “sacred space.”

Like churches, synagogues, despite their holiness, also had monetary value, both inside and outside. Synagogue seats, for example, could be purchased and used as pledges for loans. The Polish rabbi, David Ha-Levi, noted in his commentary on the Shulhan Arukh that there was no longer any specific order of seating in synagogues, “because the seats are now purchased.” Seats were no longer assigned based on status and prestige but rather bought. Indeed, the Council of Lithuania acknowledged plainly that synagogue seats were assets, “movable property,” when it came to the collection of debts.

This arrangement led to a transgression of religious boundaries and challenged the integrity of this sacred space when, for example, ownership of such seats was claimed by Christians to whom debts were owned. This was noted in the privilege granted to the Jews of the Grand Duchy of Lithuania by King August III in 1702. The king “guaranteed” that synagogue seats could be repossessed only after all other belongings had been repossessed first. Once in Christian possession, seats were to be sold as soon as possible by the Christian to “another Jew or Jewess for a just price.” The fact that Jews felt the need for such guarantees to be inscribed in a royal privilege suggests that some synagogue seats might have indeed come into Christian hands. But it could be worse, as in 1684, when the synagogue in Brześć (Brest Litovsk) was sealed by the town’s chamberlain (podkomorzy) when a Jew, Chem Nachmanowicz, failed to pay off his debts. It took the Jewish community’s intervention with Queen Maria Kazimiera to have the synagogue unsealed.

A similar case, though apparently not pertaining to debts, occurred in 1676 in the diocese of Luck. The keys to an Orthodox church were confiscated by a local judge and the case was appealed to the Royal Tribunal in Lublin. The local priest

43 SA, OH 85.2.
45 It was still men who purchased and owned seats in women’s sections. Fram, My Dear Daughter, 64.
46 SA OH 140.5, Turei Zehav on Moses Isserles’ gloss there.
47 Pinkas ha-medinah, (no. 173), 39.
49 Ibid., 240–241.
continued to perform religious services, but the local judge, apparently a Catholic, tried to stop him, shouting:

"who permitted you to perform these cursed services [...] in Ruthenian [...] Go with your Christ to Istanbul; that’s where it’s proper for you to perform your worship, not here, so you will not spread it further."

The Eastern Orthodox clerics ran to the local Carmelites for help in restraining the judge, but to no avail, as the Carmelites sided with the judge instead.52 And thus, reality, as it were, came into conflict with ideals of the sacred.


does not require consecration to be deemed sacred, no Catholic church could be considered sacred without the rituals of consecration performed by local bishops.53 Christian writers struggled for centuries to outline the differences between their places of worship and those of others. The New Testament already reflects the increasing "otherization" of the synagogue, with the use of phrases such as "their synagogue" or "the synagogue of the Jews."54 In his Epistle to the Corinthians, Paul is the first to use the term ecclesia, a church, when he speaks of ecclesia dei, the church of God.55 This new terminology was used by the early Church Fathers to distinguish more clearly between Christian, Jewish, and pagan places of worship – between the ecclesia, the "synagogue," and the templum.56 For centuries, the synagoga and the ecclesia remained symbols of the theological tensions between Jews and Christians.

Perhaps the most inflammatory phrase from the New Testament that entered the Christian vocabulary and which was used largely out of context by later Christian writers and polemicists is "the synagogue of Satan," which, in the second century, John of Patmos used in his Book of Revelations to describe "those who say that they are Jews but are not, but are a synagogue of Satan."57 The association between Satan and demons can also be seen two centuries later in John Chrysostom's homilies against the Judaizers,58 part of his effort to "de-sacralize" Jews and their synagogues. For John Chrysostom, they represented competition for worshippers.

51 Ibid., 146.
52 Ibid.
53 For a summary of questions concerning consecration of churches, as well as their desecrations and violations see GULCZYNSKI, John Tehophilus: The Desecration and Violation of Churches: An Historical Synopsis and Commentary, Washington D. C. 1942.
55 1 Cor. 11:22.
56 E.g. GULCZYNSKI, The Desecration and Violation of Churches, 4.
58 CHRYSOSTOM, Discourses against Judaizing Christians. – CHRYSOSTOM/MAXWELL, Chrysostom's Homilies against Jews.
and an impediment to the spread of Christianity. In sermon 3 of his first homily, he told the following story:

"Three days ago – believe me, I am not lying – I saw a free woman of good bearing, modest, and a believer. A brutal, unfeeling man, reputed to be a Christian (for I would not call a person who would dare to do such a thing a sincere Christian) was forcing her to enter the shrine of the Hebrews and to swear there an oath about some matters under dispute with him. She came up to me and asked for help; she begged me to prevent this lawless violence – for it was forbidden to her, who had shared in the divine mysteries, to enter that place. I was fired with indignation, I became angry, I rose up, I refused to let her be dragged into that transgression, I snatched her from the hands of her abductor. I asked him if he were a Christian, and he said he was. Then I set upon him vigorously, charging him with lack of feeling and the worst stupidity; I told him he was no better off than a mule if he, who professed to worship Christ, would drag someone off to the dens of the Jews who had crucified him. I talked to him a long time, drawing my lesson from the Holy Gospels; I told him first that it was altogether forbidden to swear and that it was wrong to impose the necessity of swearing on anyone. I then told him that he must not subject a baptized believer to this necessity. In fact, he must not force even an unbaptized person to swear an oath. After I talked with him at great length and had driven the folly of his error from his soul, I asked him why he rejected the Church and dragged the woman to the place where the Hebrews assembled. He answered that many people had told him that oaths sworn there were more to be feared." 59

The man clearly saw synagogues as sacred places with a particular status in communicating with God. This perception of Jewish spaces and rituals by Christians was not limited to this particular place. Around 300, the Synod of Elvira (Iberia), prohibited Christians from asking Jews to bless their fields. 60 Such popular perceptions of Jews and Judaism evidently irked church leaders, who, like John Chrysostom, found them threatening. John Chrysostom called synagogues dens of “robbers and cheats,” and assured, in contrast, that “our churches are not like that.” 61 Exasperated at the faith placed in synagogues by Christians, he said:

"Since there are some who think of the synagogue as a holy place, I must say a few words to them. Why do you reverence that place? Must you not despece it, hold it in abomination, run away from it? They answer that the Law and the books of the prophets are kept there." 62

The Jewish books were significant. After all, Christians claimed that prophecies about Christ were found in the Jewish Scriptures. Chrysostom fought back:

"What is this? Will any place where these books are be a holy place? By no means! This is the reason above all others why I hate the synagogue and abhor it. They have the prophets but not believe them; they read the sacred writings but reject their witness—and this is a mark of men guilty of the greatest outrage." 63

He then implored Christians, “therefore, to flee the gatherings and holy places of the Jews. Let no man venerate the synagogue because of the holy books; let him hate and avoid it because the Jews outrage and maltreat the holy ones, because they

61 Sermon 1:4 – Chrysostom, Discourses against Judaizing Christians, 15.
62 Sermon 1:5. – Chrysostom, Discourses against Judaizing Christians, 18–19.
63 Ibid.
refuse to believe their words, because they accuse them of the ultimate impiety."  

For John Chrysostom there was nothing redeeming about synagogues, they possessed no holiness, and were just like pagan shrines. Being forced to acknowledge that the Jewish scriptures indeed had to be considered holy, the bishop sought to sharpen his argument:

“That you may know that the sacred books do not make a place holy but that the purpose of those who frequent a place does make it profane [...] Although the books have their own holiness, they do not give a share of it to the place because those who frequent the place are defiled. You must apply the same argument to the synagogue. Even if there is no idol there, still demons do inhabit the place. And I say this not only about the synagogue here in town but about the one in Daphne as well; for at Daphne, you have a more wicked place of perdition, which they call Matrona’s. I have heard that many of the faithful go up there and sleep beside the place. But heaven forbid that I call these people faithful. For to me the shrine of Matrona and the temple of Apollo are equally profane [...] So the godlessness of the Jews and the pagans is on a par. But the Jews practice a deceit which is more dangerous. In their synagogue stands an invisible altar of deceit on which they sacrifice not sheep and calves but the souls of men.”

The pattern begun in John Chrysostom’s homilies delivered in Antioch in 386 and 387, in which the synagogue became, for Christians, a synonym for impiety, persisted in early modern Polish church rhetoric, as well. In early modern Poland, the word “synagogue” became a slur referring to all non-Catholic places of worship – Jewish synagogues, Protestant, and Greek and Eastern Orthodox churches. These were places where “the souls of men,” as Polish Catholics argued, were sacrificed, not saved. One anonymous preacher, complaining about the Catholics’ lack of decorum in churches, marshaled examples of all the non-Catholics, usually considered by Catholics as impious, or infidels, to highlight the bad behavior of his flock. He cried that “a Turk” who entered a Catholic church “would rather believe that he was in a place of games, comedies, and laughter, and not in a place of religious worship. Muscovite churches [cerkwie], Lutheran ones [zbory], Turkish mosques, and Jewish synagogues are not profaned as much as are our churches with the Most Holy Sacrament inside them.”

The juxtaposition of the “most holy sacrament” and mosques and synagogues was stark. While Catholic churches were seen as sacred spaces, Catholics were said to behave in a manner worse than Turks, “Muscovites,” Lutherans, and Jews, thus offending the “Most Holy Sacrament.” Linguistically, too, the preacher used four different terms to describe each non-Catholic place of worship, distinguishing them from the only term ever used to describe a Catholic church, the building, the same

64 Ibid.
65 Sermon 1:6. CHRYSTOSTOM, Discourses against Judaizing Christians, 21–23.
66 For example, in Przemysł, court records frequently referred to Eastern Orthodox churches as synagoga ruthenica. Archiwum Państwowe w Przemyślu. Akta miasta Przemyśla [State Archives in Przemyśl. Files of the city of Przemyśl] 507, 94 and 132. Jesuit reports often refer to Protestant churches as synagoga Lutherana, or synagoga Calvinistica. See, e.g., Archivum Romanum Societatis Jesu (ARSJ), Pol. 51 I, 250v. Also, TETER, Jews and Heretics, 107–113.
word that signified the Church, as the “body of Christianity,” or ecclésia. Though these terms were sometimes used descriptively by the respective religious groups themselves, the terms would come to have more insidious consequences. The distinction between them was indeed not only semantic, but lingered in law and justice, since the courts came to decide which spaces were sacred and which were not. After the Reformation, Catholic Church officials, and, increasingly the secular courts, deemed only Catholic churches to be sacred because, for them, God was present only there.

Sacrilege and Robbery

In their discussion of permissiveness with regard to the objects used by non-Jews in their religious observance, rabbis understood the distinction between different levels of sacredness within churches. Much like in synagogues, where the Torah Scroll was considered most sacred, non-liturgical objects in Christian churches were not considered as sacred as those used during liturgy. A chalice, a paten, or a monstrance, used in religious services and in direct contact with the eucharistic wafer and wine would have been more sacred than, for example, an antependium, a candelabrum, or even a chalice stored in a sacristy. Although church robberies were most frequently tried and punished at the stake as “sacrilege”, ideas about different levels of sacredness within a church sometimes did affect the outcome of the trial.

In 1559, a certain Stanisław entered the church of St. Nicolas “because it was not locked.” He squeezed through the bars and entered the area of the sanctuary restricted to laity. He broke into the tabernaculum and stole “the pyx with the sacrament and a chrism with another tin box.” After he left the church, he went toward the Vistula river, sat on its bank and took out the “pyx with the sacrament, and having opened the pyx, he found a gilded silver skull inside and he hid it and after that he opened a small bag and took out the sacrament with pincers [sczypcamy] and he put it in his mouth and ate it, tossing the bag into the river.” He then took out the chrismatory and broke it into pieces and hid them, while taking the pyx into town, where, having “bumped into a Jew, he sold the tin in which the sacrament had been to the Jew, together with the skull and a knob from the chrism for twenty groszy, and the he sold the cross to a housewife for six groszy.” During the interrogation, Stanisław also confessed to robbing some noblemen and “a synagogue of the Jews in Lublin, from which he stole two silver knobs and a silk curtain.” He also stole a charity box from a synagogue in Wiślicz. For his crimes, Stanisław was burned at the stake, “according to divine judgment.”

68 Archiwum Państwowe w Krakowie (ul. Sienna). Akta miasta Krakowa [State Archives in Cracow (Sienna St.). Files of the city of Cracow] 864, 93.
69 Ibid.
70 Ibid.
71 Ibid.
72 Ibid., 94.
73 Pol. sęd boży. Ibid., 95.
Some fifteen years later, in Poznań, a certain Helias Parzygelny, had stolen some antependia and tablecloths from a number of churches. He then sold them to Jewish men and women, usually disassembling them first, as he did with one antependium, separating the velvet layer from the linen underlayer. He then sold the velvet to a Jewish woman and used the black linen to line his jacket and sew a bag for himself. He was subsequently hanged as a common thief.74

In another case, a Christian man was charged with the robbery of a church in Poznań in 1596. During his interrogation, he claimed that he had been accidentally locked in the church. He initially insisted that he had not done anything wrong, but was in the church just “looking at the paintings.” In the end, however, he confessed

to stealing a few tablecloths from the altar and some other textiles. He was only flogged and expelled from the city.\textsuperscript{75} And a year later a Christian woman, Regina, stole three pieces of damask from the Church of St. Wojciech, a tablecloth from a church on the island of Ostrów Tumski, and some black cloth from the Jesuit church. She too was only flogged and expelled from the city.\textsuperscript{76}

Other crimes committed along with sacrilege sometimes influenced the outcome of trials, with the punishments reflecting more the broader crime pattern than just sacrilege, which merited, according to the law of the land, burning at the stake as punishment. In 1562, a certain Wojtek from Poznań was executed in Cracow by being broken on the wheel, a punishment reserved for violent robbers.\textsuperscript{77} Among his confessed crimes were: breaking into St. Florian Church and stealing the chrismatory and a lid to a silver box from the altar, and “three pipes from the candelabrum, which hangs in the middle of the church” of the Holy Trinity, which he sold to a Jewish woman, whose name he could not remember.\textsuperscript{78} He also confessed to stealing “a tin [pyx] with the sacrament” from the Church of St. Stephen in Cracow. After taking it from the altar, he “went with it to the Church of the Virgin Mary and took the sacrament out and placed it in the pews”. Having abandoned the hosts in the pews, he left the church and “bumped into a Jew, but he does not know what the Jew is called and he sold him the pyx for one and a half thalers and he bought himself galligaskins, which he is still wearing, and three shirts.”\textsuperscript{79}

For these crimes Wojtek might have been sentenced to burn but instead he was broken on the wheel. Perhaps this was because Wojtek also confessed to many other crimes, such as robbing shops in Cracow, stealing from burghers in Poznań, as well as robbing many of his employers, including the bishop of Piotrków, for whom he worked in the kitchen, and from whom he stole pants, among other things. Or perhaps, it was his treatment of the hosts, which unlike Stanisław, three years earlier, Wojtek took to a church.\textsuperscript{80} The court left no explicit statement why Wojtek was sentenced to breaking on the wheel. And though Wojtek’s other crimes may

\textsuperscript{75} Ibid., I Liber Maleficorum 640 (1588–1600), 129v.–130r.
\textsuperscript{76} Ibid., 167r.–168r. and 170r.–v. See also the case of a certain Bartholomeus Tyncel, accused of robbing a church in 1629 in Poznań. Archiwum Państwowe w Poznań. Akta miasta Poznania, I Acta iudicii criminalis 400 (1627–1629), 1047, 1051–1052. About the case of a certain Konarski who robbed a church in Wieliczka in 1661 and was caught bringing the stolen church objects into Cracow by the customs officer, see, Archiwum Państwowe w Krakowie (Wawel). Castronia Cracoviensia 480, 98–100. See also, the case of Jan Chrzanowski who was tried in 1627 in Lublin for robbing numerous churches of their antependia, tablecloths, and occasionally precious stones and corals as well. Chrzanowski was burned at the stake just outside the city. Archiwum Państwowe w Lublinie. Akta miasta Lublina, Acta maleficorum 141, 85–95. On the differences between Lublin and Poznań, see KAMLER, Marcin: Kary za Przestępstwa Pospolite w Dużych Miastach Polski w Drugiej Połowie XVI i Pierwszej Połowie XVII Wieku [Punishment for Common Crimes in Big Cities in Poland during the Second Half of the Sixteenth and the Second Half of the Seventeenth Century]. In: Kwartalnik Historyczny 101/3 (1994), 35.
\textsuperscript{77} Archiwum Państwowe w Krakowie (ul. Sienna), Akta miasta Krakowa 864, 132–139.
\textsuperscript{78} Ibid., 132.
\textsuperscript{79} Ibid., 133.
\textsuperscript{80} Ibid., 136.
have influenced the outcome, justice in early modern Poland was arbitrary and often depended on local factors.

While most thefts and robberies were punished by death, the courts were eager to determine appropriately how to classify crimes and what type of punishment to assign. \(^{81}\) In cases of common theft, the court officials often asked if the accused had stolen from churches. As was the case with a certain seventeenth-century thief tried in Lublin, who had confessed to stealing but asked by the court "if he robbed churches," he responded, almost with pride, "in our guild, [we] don't rob churches, [we] only cut money pouches." \(^{82}\)

Just as the courts were aware of the various levels of "sanctity" of objects and spaces with which they were dealing, so were, it seems, the robbers themselves. Or perhaps, at least those accused were aware of the court's objectives and tailored their testimonies accordingly. In 1592, for example, a thief in Poznań broke into a church in Poznań, but emphasized that he did not take the host. \(^{83}\) He was nonetheless burned at the stake. And in 1691, a certain Joannes Peplenski was accused before the court of Wiśnicz of stealing a pyx from a church. \(^{84}\) Intending to rob the church, "he was frightened," he said, and, he took pains to emphasize that the pyx contained no hosts. \(^{85}\) It is unclear what happened to him, there is only a note that the decree was executed by the court in Nowy Sącz. \(^{86}\)


83 Archiwum Państwowe w Poznaniu. Akta miasta Poznania, Liber Maleficorum 640 (1588–1600), 44r–45r.

84 Archiwum Państwowe w Krakowie, IT 2059: Wiśnicz, 36–38.

85 Ibid., 37.

86 Ibid., 38.
More explicit examples come from Cracow. In 1671, a certain Gregorius Janicki was arrested due to “certain things stolen by him from the church in the village of Dąbrówka.”Gregorius, wanting to steal the pyx from the altar, “broke the tabernaculum and, having cut a piece [of cloth] from the tablecloth on the altar, took out the pyx containing the most holy sacrament through this tablecloth and spilled the hosts out of the tabernaculum and walked away with [the pyx] toward the door.” His effort not to touch the pyx showed an understanding of, and reverence for, the sanctity of the object, even as he coveted it and violated the sanctuary.

Similarly, twenty years later, in 1691, two brothers Andreas and Paulus Olszowski, and their companion, Lucas Babski, were accused of sacrilege committed in the Church of St. Stephen in Cracow. During his interrogation Babski told the court of his robbing the church, while underscoring his reverence for the holy objects used for the Eucharist. Like many church robbers, Babski slipped up to the choir area after a Sunday mass and waited for the church to be locked, upon which he came back down and headed straight for the altar. Using a key, he opened the tabernaculum and removed the pyx “in which there were hosts, which I did not touch, and only took the lid of the pyx [but] not with my bare hand but through a tablecloth with which the altar was covered.” He then noticed that the sacristy was open, went inside, and took four patens that were covering chalices. After taking the objects, he returned to hide in the choir until the church reopened, whereupon he left to visit Andreas and Paulus Olszowski. The two brothers were, apparently, frightened when he showed them his bounty. After Babski was captured, the two brothers were tried as accomplices but their punishment was limited to flogging. Babski, by contrast, was sentenced to death, first by decapitation and then burning at the stake.

It was ultimately the secular courts that weighed in and determined, sometimes rather arbitrarily, the level of sacredness of stolen objects, and hence the charges as well. While textiles could not have had any direct liturgical purpose, the chalices, monstrances, and pyxes could. The tendency, with some exceptions, was to charge, try, and execute criminals for sacrilege when they robbed Catholic churches. This was indeed the case in 1592, when a man was tried in Poznań for numerous church robberies and stealing silver objects directly from the altars, among them chalices, crosses, and other liturgical items. He would then sell his goods to “a young Jew.” He was burned at the stake for sacrilege. So too were a certain Jan, Wojtek, and

87 Archiwum Państwowe w Krakowie (Wawel). Castrensia Cracoviensia 1102, 78–81.
88 Ibid., 80.
90 Ibid., 5b.
91 Ibid., 6a.
92 Ibid., 15.
93 Archiwum Państwowe w Poznaniu. Akta miasta Poznania, I Liber Maleficorum 640 (1588–1600), 44r.–45r. See also the case of a certain Albertus in 1597 in Poznań who stole “a tin box in which the holy sacrament lay.” Ibid., 174v.–176v.
Krzysztof burned in 1580, for robbing a church in Cracow and stealing liturgical objects.94

The nature of the space defined the crime in many ways. In 1640, a certain Sebastian Zublowski was tried in Lublin for a number of thefts, including a monstrance, two chalices, and two silver patens. Although the court noted that they were stolen from a church in Konopnica, a town between Cracow and Lublin, Zublowski insisted that they were stolen from the parish house not the church itself. During his interrogation, he claimed that he was looking for money, but as he did not find any, he decided to take the ritual objects instead. He also admitted to stealing clothes from various people. In the end, he was sentenced to death but not by burning as a sacrilegus would have merited.95

Two years later, in 1642 the court in Lublin tried a certain Andreas Rytwiński accused of a “most atrocious crime of sacrilege” committed in “a sacrosanct place” to the “dishonor of God.”96 Andreas was accused and tried for robbing the parish church in Lublin. He confessed with the words:

“I plead guilty to this robbery and for stealing things yesterday when the church was locked at noon, because I stole into the church during the high mass [and hid in the] pews and took silver from three altars, that is from the Grand Altar, from the chapel of St. Barbara, and from a third altar.”97

The court asked a lot of questions about how he reached the altars, how he knew about the silver “since the altars are covered,” whether anyone told him to steal, and finally if he committed other crimes. Perhaps thinking that this would give him a lighter sentence, he denied everything beyond the theft from the said church. No one, he insisted, had persuaded him to commit “this sacrilege,” in fact he “did not know what drove him to steal from the church.”98 He had never stolen anything before, Andreas repeatedly insisted.99 Given these denials and Andreas’ confessions before, during, and after torture, the court sentenced him to being burned alive. His sole crime of stealing “from a sacrosanct place” was considered “the most atrocious sacrilege” and led him to the stake.100 At least for the court in Lublin the singularity of the crime and the place from which Andreas had stolen the silver determined the punishment.

The distinction between space and objects formed part of the defense of a certain Ryczko Senczyk, accused of various robberies, especially during a plague, be-

95 Archiwum Państwowe w Lublinie. Akta miasta Lublina, Acta maleficorum 142, 82–85. See also the case of a certain Bartholomeus Brzesc in Lublin in 1638 for stealing liturgical objects from a parish house in the village of Markuszowice and selling them to Jews. He was sentenced to burn at the stake, but his sentence was commuted to decapitation and a post-mortem burning at the stake. Ibid., Acta maleficorum 141, 439v.–442r.
96 Ibid., Acta maleficorum 142, 131r.–v.
97 Ibid., 131v.
98 Ibid., 132v.
99 Ibid., 131v. and 133.
100 Ibid., 133v.–134v.
fore the court in the town of Wiśnicz in 1664. During his interrogation, he was asked about what he had stolen during the plague in a small town of Bardejów, now in Slovakia. He said that the burghers had taken all their precious possessions to a nearby church in Złotna, and so he and his companions broke into the church and stole them. The court wanted a clarification, asking “what they had taken from this church in Złotna.” Ryczko Senczyk responded emphatically: “City clothes, silver, money, they did not take any church objects, only secular [miejskie].” He later added that they also robbed “Lutheran and Hungarian churches,” and eventually, he and his companions pleaded to die “in holy Catholic faith.” In Ryczko’s case the court agreed that their crimes were indeed secular, the objects were not liturgical, not even belonging to clergy, even if stolen from a church, and the other confessed robberies were from apparently non-Catholic churches, as “Lutheran and Hungarian” were understood to be. Ryczko Senczyk and his companions were sentenced to death by live quartering, but the sentence was then commuted to decapitation and subsequent quartering.

Synagogues and Protestant Churches as Non-Sacred Spaces

As Ryczko Senczyk’s case suggests, the theft of objects from spaces used for religious purposes by non-Catholics was not considered a sacrilegium. They were treated the same way as common thefts and robberies, as these spaces were not considered sacred by the courts. This should come as no surprise, given that even a sacristy in a Catholic church was treated by courts differently than the interior of the church itself. Such different treatment of thefts from these spaces influenced attitudes toward Catholicism and the Catholic churches, as the criminals’ own statements suggest. Whether or not they actually showed reverence to the host when robbing churches, the fact that these assurances were apparently made suggests at least an understanding of the weight that the mistreatment of the host and the sanctuaries in Catholic churches would have.

Few cases exist of theft from Protestant churches, and information about them comes mostly from passing references to such crimes, or to looting during outbreaks of religious violence. Thefts from Eastern Orthodox churches and from synagogues are mentioned frequently, but not as frequently as thefts from Catholic churches. One can only speculate why this was the case. For one thing, it might be the sheer number of Catholic churches in comparison with other places of worship, at least in the territories of the Polish Crown, this might be different in the eastern part of the state. For another, this might indicate access to, and knowledge of, the space itself. For example, Christians would have had limited access to synagogues

102 Ibid., 281.
103 Ibid., 282f.
104 Ibid., 284.
unless they were hired as Sabbath helpers. And Protestant churches might not have had much ornamentation and liturgical objects worth stealing.

The different treatment of these spaces by the courts can be seen in a case of a Christian man, Jan Malczewski, who was tried in Lublin in 1676. He was beheaded for stealing money, priestly garments, and other precious items, including a silver cross, from an Eastern Orthodox church. Though he confessed to other crimes as well, the court record lacks expressions such as “sacrilege” or “sacrilegious hands” found in cases of robberies of Catholic churches. Other cases from Przemyśl, Wiśnicz, and Sanok seem to confirm this pattern of the courts excluding non-Catholic spaces from the realm of sacred spaces, and punishing the accused as simple thieves.

In 1593, Paweł Swostak of Sobolów was brought before the castle court in Sanok, accused of breaking into the synagogue in a small town of Rymanów in southern Poland. The crime was not considered sacrilegious. While no verdict has been preserved, the short court notice records that “having forgotten the fear of God, he broke into the Jewish synagogue in Rymanów, thus breaking the Ten Commandments there. He took movable things, that is: a silver cup, a silver tablet, three towels, and a silver hand, which he sold to a Jewish woman in Sanok.” For the court it was a theft of “moveable property,” a violation of one of “God’s commandments,” but not a sacrilege. Among the cases tried in Sanok, only one was classified as sacrilege: a raid in 1605 on a Catholic church, in which a priest was murdered.

A few decades later, on October 22, 1638, Jacob Andzlik and Samuel Maykowic, leaders of the Jewish community in Wiśnicz, brought a case against one Jacob Baldo, accusing him of robbing the local synagogue. The court record reveals a choreographed linguistic and legal dance around the definitions of sacred boundaries. The court’s preamble notes that this case was theft, not sacrilege; so too, the Jews’ statement, as recorded in court proceedings, states that the crime was against “God’s commandment,” but not sacrilegious, for “human possessions” had been stolen. The Jewish leaders attached a list of stolen property, which included ornamental cloths, silver, wax, and money. Their statement may have, of course, been redacted by the court officials or altered in its tone and rhetoric – not an uncommon practice in courts that did not record verbatim deposions. Jacob Baldo admitted

106 On Christian helpers, see, KATZ, Goi Shel Shabat (The “Shabbes Goy”), passim.
110 Ibid., 108.
111 Ibid., (no. 106) 153–156.
112 Acta Maleficorum Wisniciae, ed. by URUSZCZAK/DWORNICKA, 66.
113 Ibid., 66–67.
114 See, for example, the host desecration trial in Sochaczew. Archivio Segreto Vaticano, Ar-
to robbing the synagogue – it had taken him three hours, he said.\textsuperscript{115} He also acknowledged stealing from other places. Still, the court did not sentence him to death, but ruled, in highly charged religious rhetoric, that he was to be led outside the city to a pillory and flogged, his ears cut off, and he was to be banished from the city forever; all this, the court record states, so that “the perfidious and hated nation of Jews may not rejoice in the ruin of Christians, to whom they are perpetual enemies.”\textsuperscript{116} The court’s verdict should not, however, be dismissed as simply siding with Christians against Jews.

A few months later, in June 1639, the same court heard another case brought by a Jew, Isaac Andzlik, “an infidel citizen of Wiśnicz,” against the “wicked thieves” (\textit{maleficos fures}), Albert Gargulia and Stanisław Kaczmarczyk, for robbing the Jew’s house on a Friday night, by digging a hole and entering a space where spices and other merchandise were stored. Gargulia considered himself a professional thief; he even had an “apprentice.” The court sentenced Gargulia and Kaczmarczyk to death “so that such crimes and evil deeds may not spread.” Gargulia, as the instigator of the crime, was to be hanged, and Kaczmarczyk, as an accomplice and participant, was to be decapitated. Gargulia requested to die by sword, a more respectable form of punishment; his plea highlighting the public symbolism and the highly theatrical nature of executions. Gargulia also retracted accusations against Kaczmarczyk and implored the court not to execute his companion. In response, the court commuted Gargulia’s death sentence to decapitation, while sparing Kaczmarczyk’s life and sentencing him to flogging, the amputation of his ears, and expulsion from town, just like Jacob Baldo.\textsuperscript{117}

These two cases of thefts from synagogues illustrate that the courts treated thefts from non-Catholic “sacred spaces” rather consciously as crimes against property, full aware of the religious issues involved.

Conclusions

Justice in early modern Poland was arbitrary. With the failure to codify law and thus no formal legal codes to refer to, the local context, the make-up of the court, the competence of court officials, timing, and other currently unknown circumstances often influenced court decisions.\textsuperscript{118} Though similar types of crime were

\bibitem{Arcis4352} Arcis AA 4352.
\bibitem{Ibid} Ibid., 70.
\bibitem{Ibid2} Ibid., 70–74.

\textsuperscript{115} Acta Maleficorum Wisnicae, ed. by \textsc{Uruszczak/Dwornicka}, 68.
\textsuperscript{116} Ibid., 70.
\textsuperscript{117} Ibid., 70–74.
sometimes treated differently, religious considerations played a role in how crimes were legally classified, tried, and judged. The public nature of the executions of the time openly manifested the values the courts espoused and was aimed at sending a message to the broader society. By classifying the robberies of Catholic churches as sacrilege and executing criminals convicted of robbing Catholic churches differently from those convicted of robbing other spaces, the courts sent an unmistakable message, reminding observers which religion was truly sacred. Gradually, and perhaps unwittingly, the secular criminal courts of early modern Poland became enforcers of Catholic religious values and shapers of religious boundaries.