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LEGAL HISTORY AS A DIDACTIC AND SCIENTIFIC FIELD IN POLAND. CURRENT STATE AND FUTURE PROSPECTS

Tomasz Kucharski*

Summary: I. *Introduction.* II. *Community of Legal Historians in Poland.* III. *History of Law in Didactics.* IV. *Legal History as a Scientific Field.* V. *Conclusion.* VI. *Bibliography.*

I. Introduction

This chapter is devoted to characterizing the current state and future prospects of legal history in Poland —as a didactic and scientific field, considering organizational issues—. On the one hand, it will be a case study of the specific conditions and circumstances of Poland. On the other hand, it will reflect on the peculiarities of the experience of legal history throughout continental Europe, especially in the so-called "former Eastern Bloc."

Legal history has a great tradition in Poland, and for almost 200 years, it has had relatively favourable conditions for development. Undoubtedly, the study and teaching of the national history of the political system and "judicial" law (criminal and civil) played a considerable role as early as in the period of the so-called "partitions". The territory of the Polish-Lithuanian Commonwealth, which existed under the 1569 union, was divided between Prussia, Austria, and Russia in 1772-1795. These states introduced their own law in the territories they occupied, destroying the original Polish legal tradition within a few decades.

* Nicolaus Copernicus University in Toruń, Poland. ORCID: 0000-0002-5363-7529. Mail: *t_kucharski@umk.pl.*

Polish legal science in the nineteenth century had to focus on studying the existing laws imposed by the partitioning states. However, analysing the old Polish and Lithuanian law was still considered scientifically interesting and important for patriotic reasons. The reborn Polish state after 1918 needed constant references to the traditions from before the partitions, which triggered a more profound scientific interest in old Polish law. The socialist period after 1945 was conducive to the luxuriant development of legal history. Research on the legal system and auxiliary fields of law was hampered by censorship and the repressive policies of the authorities. Legal history, however, was —due to a certain detachment from the current reality— a field considered "safe" and simultaneously aligned with the Marxist concepts of historical dialectics.

From this perspective, it was only the period of political and economic "transition" after the collapse of the socialist regime that proved difficult for legal historians. The luxuriant development of new legislation caused an increase in the importance of the traditional dogmatic science of law. The economic and administrative needs of the state in the context of dynamic legal changes and accession to the European Union promoted the concentration of legal education on learning the law in force at the expense of understanding the historical roots of the law.

II. Community of Legal Historians in Poland

The Polish Ministry of Science assessed that 39 higher education institutions in present-day Poland conduct scientific research in legal sciences. The ministry's data also shows that 30 public universities and 39 non-public (private) schools offer higher legal education.[1] Legal historians —specialists in Roman law and other subjects connected to Polish and European legal heritage, such as the history of state structures, civil and criminal law, and legal doctrines— are employed at all public universities. According to the open sources (especially university websites), the greatest organizational and personnel potential in legal history is visible at the Jagiellonian University in Cracow, which has five units (chairs) dealing directly with the history of law, employing 31 researchers.[2] Warsaw University is not far behind; it has four units and 24 aca-

[1] Available at: *https://www.otouczelnie.pl/artykul/1350/Prawo/uczelnie/niepubliczne* (last accessed: 30 May 24).

[2] Official website: *https://wpia.uj.edu.pl/foreign_students/departments* (last accessed: 30 May 24).

demics specializing in legal history.[3] Among others, the University of Łódź has three units with 22 people engaged in the history of law,[4] the University of Wroclaw has four units with 15 people,[5] the University of Rzeszw has three units with 12 employees,[6] the Maria Skłodowska-Curie University in Lublin has two units with 16 people,[7] the Catholic University of Lublin has two units with 11 employees,[8] Nicolaus Copernicus University in Toruń has two units with ten people,[9] University of Gdańsk has two units with ten people,[10] Adam Mickiewicz University in Poznań has two units with nine people,[11] Cardinal Stefan Wyszyński University in Warsaw has two units with seven people,[12] and University of Białystok has one unit with six people.[13] Three law faculties have departments of legal history combined with legal theory: Radom University has one unit of eight employees, Zielona Góra University has one unit of seven employees, and the University of Warmia and Mazury in Olsztyn has one unit of seven employees.[14]

In the case of some Polish university law faculties employing legal historians, the author of this chapter could not obtain detailed data because of a different internal organizational structure or the lack of up-to-date information on their websites. It was also impossible to collect all the data from private law schools. However, it is possible to estimate that about 300 people in Poland are professionally engaged in researching and teaching in legal history, including retired professors and doctoral students. Thus, this is still a fairly sizable community.

The prospects for the future unfortunately do not look promising due to several unfavourable trends. First, most of the reforms of the curricula

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[3] Official website: *https://wpia.uw.edu.pl/pl/instytuty/instytut-historii-prawa* (last accessed: 30 May 24).

[4] Official website: *https://www.wpia.uni.lodz.pl/#* (last accessed: 30 May 24).

[5] Official website: *https://prawo.uni.wroc.pl/taxonomy/term/87* (last accessed: 30 May 24).

[6] Official website: *https://www.ur.edu.pl/en/colleges-/college-of-social-sciences* (last accessed: 30 May 24).

[7] Official website: *https://www.umcs.pl/en/faculty-of-law-and-administration,2656.htm* (last accessed: 30 May 24).

[8] Official website: *https://www.kul.pl/structure,22175.html* (last accessed: 30 May 24).

[9] Official website: *https://www.law.umk.pl/en/faculty/faculty-units/* (last accessed: 30 May 24).

[10] Official website: *https://en.prawo.ug.edu.pl/faculty/departments* (last accessed: 30 May 24).

[11] Official website: *https://prawo.amu.edu.pl/en/chairs/* (last accessed: 30 May 24).

[12] Official website: *https://wpia.uksw.edu.pl/katedry/* (last accessed: 30 May 24).

[13] Official website: *https://prawo.uwb.edu.pl/en/faculty-structure* (last accessed: 30 May 24).

[14] Official website: *https://inp.uz.zgora.pl/instytut/struktura/katedra-teorii-filozofii-i-historii-prawa/pracownicy* (last accessed: 30 May 24).

of legal studies at Polish universities aim to reduce the catalogue of subjects with a historical profile and the number of teaching hours allocated to them. Various factors are causing this: increasing emphasis on the practical dimension of legal studies, the somewhat irrational aversion to legal history manifested by law specialists, and the poor and anachronistic program and way of teaching historical subjects. This situation results in a reduction of full-time positions for legal historians. Second, Polish universities struggle with an "academic generation gap" among academics. Due to inadequate salaries and poor university funding, young people are only rarely and hesitantly choosing careers in academia. It is evident in highly specialized and challenging research fields, such as legal history (which requires knowledge of legal theory and the rules of interpreting the law and skills in performing archival research and palaeography). Choosing a career in this area requires time and tremendous effort. The problem is deepened by the reduced number of doctoral students, especially at smaller universities and within less popular disciplines (such as legal history).[15] Third, Polish legal historians are a very dispersed community, which makes it difficult to develop domestic and international research cooperation, construct research teams, or undertake joint publishing initiatives.

In responding to the threats and challenges indicated above, a group of legal historians from Cracow, Warsaw, Gdańsk, Poznań, Łodź, Wrocław, and Toruń established the Polish Society for Legal History.[16] According to Polish law, the organization was registered as a social organization (association). The Society intends to play an important role in building research teams, organizing events, obtaining funding, and providing organizational support for valuable community initiatives. It also aims to stimulate debates on issues of the methodology and modern didactics of legal history. So far, the Society has primarily undertaken two important initiatives. First, work has been undertaken on a new synthesis of the History of Polish law, taking into account the latest research achievements. This work is also accompanied by the Society's support of basic research and grant projects that fill gaps in existing research. Second, the Society conducted an extensive didactic survey of legal historians that teach to students. The survey dealt

[15] Official website: *https://serwisy.gazetaprawna.pl/edukacja/artykuly/8090481,nauce-zabraknie-swiezej-krwi-maleje-liczba-doktorantow.html* (last accessed: 30 May 24).

[16] Pilarczyk, Piotr, "Polskie Towarzystwo Historii Prawa", *Czasopismo Prawno-Historyczne*, vol. 74, núm. 1, 2022, pp. 351-352. See a Society webside: *https://pthp.pl/* (e-mail: *legal.history@pthp.pl*, page of the National Register Court: *https://rejestr.io/krs/962010/polskie-towarzystwo-historii-prawa* (last accessed: 30 May 24).

with the individual attitudes of professional legal historians regarding their teaching duties.[17]

III. History of Law in Didactics

1. *Contemporary Position of Legal History in the Curricula*

During the socialist regime after 1945 and the systemic transformation after 1989, the structure of historical subjects in law curricula was introduced. The most important courses were offered on the traditional Roman private law. It was understood in a narrow and limited manner to classical and Justinian institutions, considering the terminology and systematics proposed by the German Pandectist school in the nineteenth century. Besides that, the two crucial courses were taught separately: the history of the Polish political system and Polish law (from the Middle Ages to the twentieth century) and the history of the European political systems and European law (limited to a selection of states: England, France, Germany, Russia, rarely Italy, and Switzerland). The status of a separate "historical" subject in legal education was also given to the history of political and legal doctrines.

This model shaped after the Second World War has survived to the present day in several Polish academic institutions. This can be especially seen at the faculties of law of the University of Łódź,[18] the Maria Skłodowska-Curie University in Lublin,[19] the Cardinal Stefan Wyszyński University,[20] the University of Szczecin (although there is no independent course named history of political and legal doctrines),[21] and also Jagiellonian University in Cracow.[22]

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[17] Tarnowska, Anna and Kucharski, Tomasz, "Konkluzje Raportu Komisji Dydaktyki Polskiego Towarzystwa Historii Prawa. Nowoczesna historia prawa we współczesnej edukacji prawniczej organizacja – teraźniejszość – perspektywy – ruch studencki", *Krakowskie Studia z Historii Państwa i Prawa*, vol. 17, no. 4, 2024.

[18] Official website: *https://www.wpia.uni.lodz.pl/ksztalcenie/kierunki-studiow?tx_invulstructure_invulfieldsofstudies%5Baction%5D=show&tx_invulstructure_invulfieldsofstudies%5Bcontroller%5D=FieldOfStudy&tx_invulstructure_invulfieldsofstudies%5Bfield%5D=363&cHash=5be2a994bb80f7bc720fae2294e363fc* (last accessed: 30 May 24).

[19] Official website: *https://www.umcs.pl/pl/plany-zajec,4074.htm* (last accessed: 30 May 24).

[20] Official website: *https://uksw.edu.pl/kandydaci/znajdz-swoj-kierunek/prawo/* (last accessed: 30 May 24).

[21] Official website: *https://wpia.usz.edu.pl/wp-content/uploads/Plan-studi%C3%B3w-prawo-studia-stac.-23_24.pdf* (last accessed: 30 May 24).

[22] Official website: *https://bip.uj.edu.pl/documents/1384597/153689234/1_23_UJ.WPA_PRA_3_S.pdf* (last accessed: 30 May 24).

In most Polish universities, however, the range of legal historical courses has been transformed in recent years. The direction of these changes manifests itself in two trends. The first boils down to intense criticism of the separate teaching of Polish and European legal history, which leads to the reorganization of the curricula and the formation of two separate courses: "History of Constitutional Law" (in two possible variants: European including the Polish context, or Polish against the European background) and "History of Criminal and Civil Law" (also in Europe including Polish issues, or in Poland against the European background). Model examples of the implementation of such a solution are Nicolaus Copernicus University,[23] as well as the law faculties of the University of Silesia[24] and the Catholic University of Lublin.[25] Similarly, the study program was organized at the Faculty of Law of the University of Białystok (separate courses in public and private law history).[26]

The second trend is expressed in the desire to make legal studies more "practical". This caused a reduction in the number of general subjects and humanities, including limiting their teaching hours and consolidating (combining) them. This is why in the curricula of law studies at the prestigious Faculty of Law at the University of Warsaw, two former courses ("History of the Polish State and Law", and "European History of the State and Law") have been replaced by unified courses entitled "Evolution of State Systems and Legal Institutions".[27] The premise of this course is to familiarise students with the historical foundations of the origins and historical transformations of selected major principles and legal institutions of constitutional, administrative, civil, and criminal law jointly for Poland and the whole of Europe. An analogous solution was also applied at the law faculties

[23] Official website: *https://www.law.umk.pl/panel/wp-content/uploads/Program-studiow_prawo-stacjonarne-studenci-rozpoczynajacy-studia-od-roku-2023-2024.pdf* (last accessed: 30 May 24).

[24] Official website: *https://informator.us.edu.pl/programmes/list/long/PR/07-SMPR12.2019/?_s=1* (last accessed: 30 May 24).

[25] Official website: *https://e.kul.pl/qlprogram.html?ra=1&etap=0&kid=48&op=2* (last accessed: 30 May 24).

[26] Official website: *https://prawo.uwb.edu.pl/download/JFBsOJy8aFxk9MUVISH9sYFZPYWoXI1A6CSIKEQoKc2BNCEFuaQMEKT4wBAY1JD56VVtychd9FykHNwsRCgpzYE0IV3F8UVpkOToDFwZvYHorHDAlRzhFLQ8_AAgKAjR4QxsTIzkWGDILPANQUG9rekNbNSNHIlw2CA8HKkFUc25NFUExLgEALzcwRUhIKyg3AQ1hahchVC0OclRsBQc9PxxlTDI5HBwjNyEULkV8bgRACS8aGjVQKgUiBz4XBz40MxZSdnhEKmllCUhGNmJ4dE0fKipQcw97FiIPOQxDIi4OWgktJRIEKDF4UUBYLDw5WkkmfwwwDXcWNAhsT0w9OwFeQXhpAxpkKQ/prawo-stacjonarne-622afa50e99a8.pdf* (last accessed: 30 May 24).

[27] Official website: *https://wpia.uw.edu.pl/pl/studia/prawo/prawo-studia-stacjonarne* (last accessed: 30 May 24).

of the universities of Gdańsk (unified course entitled "History of Law")[28] and Wrocław (one course entitled "History of State and Law").[29]

At many Polish universities, in addition to the basic courses, legal historians teach various additional elective courses, which is a result of the popular idea that students should be able to shape their own study programs. A valuable example of such a course is the history of the system and organization of public administration (usually called "History of Administration"). This course is aimed primarily at serving civil servant students but is also taught to law students. Several law faculties also offer students some courses on the history of the judiciary, *e. g.*, in Cracow, such a course is entitled "Evolution of the Administration of Justice in Poland against a Comparative Background".

A few law faculties have legal archaeology courses taught by legal historians. These are courses in which students learn about the history of various material objects that have legal significance. These include buildings serving as offices and courts, and artifacts with symbolic significance, such as equipment, symbols of authority, and insignia. Courses of this kind are offered by law faculties in Bydgoszcz, Cracow, Poznań (under the title "Archaeology and Legal Iconography") and Toruń (under the title "Monuments of Polish Legal Culture").[30]

Several universities have decided to launch a course devoted to the regularities of the so-called "historical interpretation" (in particular, the use in legal interpretation of arguments that refer to the significance of the evolutionary directions of a given legal institution and the regularities in its historical transformations). Such courses are offered in particular by the Faculty of Law at the University of Białystok (entitled "History of Law in Legal Argumentation") and Jagiellonian University in Cracow (entitled "Interpretation and Historical Legal Analysis in Practice"). The idea of a comparative lecture on the history of legal cultures is also gaining popularity. Patrick Glenn's groundbreaking concept undoubtedly inspired these courses.[31] Such a course is taught in Gdańsk. Several academic institutions offer

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[28] Official website: *https://prawo.ug.edu.pl/sites/prawo.ug.edu.pl/files/_nodes/strona/87127/files/ps_plan_studiow-2022-2023.pdf* (last accessed: 30 May 24).

[29] Official website: *https://uwr.e-sylabus.pl/SL/Reportsforms/WydrukSylabusa/WydrukSylabusa2.aspx?options=6g3ZvMOW4cKHsb7In7%2BWxQ==* (last accessed: 30 May 24).

[30] Janicka, Danuta, "Materialne dziedzictwo prawne i jego wykorzystanie w edukacji prawniczej. Walory wykładu z polskiej archeologii prawnej", *Krakowskie Studia z Historii Państwa i Prawa*, Crakow, vol. 17, no. 1, 2024, pp. 65-77.

[31] Glenn, Patrick, *Legal traditions of the world. Sustainable diversity in law*, Oxford, Oxford University Press, 2014.

lectures on the historical foundations of the development of the rule of law, including Toruń (entitled "The Rule of Law in a Nutshell") and Cracow.

At individual Polish law faculties, students can find a wide range of small courses of a very specialized nature. These courses are closely related to the scientific interests prevalent in those faculties. The law studies program at Maria Skłodowska Curie University in Lublin is organized this way. Here, students can find, for example, historical courses entitled "Ancient Law and Ancient Reflections on State and Law", "The Idea of Judicial Independence in the Second Polish Republic (1919-1939)", "Great Trials in History", "Judicial Law of the Polish People's Republic," "Law and Courts of the Third German Reich", and "Political Crimes of Twentieth Century –Concepts, People, Events" (lectures are offered in English). On an analogous basis, following courses are offered: "History of Polish Parliamentarism" at Jagiellonian University in Cracow, and "Witches and Others... The History of Procedural Law in Old Poland" at the Nicolaus Copernicus University of Toruń.

2. *Textbooks and Teaching Aids*

The earliest scripts for lectures and syntheses of legal history knowledge were written as early as the nineteenth century.[32] Before 1939, however, teaching aids in the form of professional textbooks and scripts explicitly designed for students began to be published—being something relatively modern for those times—. The erudite scripts about the history of European law written by Stanisław Estreicher (a legal historian from Cracow)[33] and Ignacy Koshembahr-Łyskowski (a Warsaw Romanist) deserve special recognition.[34]

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[32] *E. g.*, Bandtkie, Jan, *Prawo prywatne polskie*, Warsaw, Drukarnia Banku Polskiego, 1851; Burzyński Jerzy, *Polskie prawo prywatne*, Cracow, Drukarnia Uniwersytetu Jagiellońskiego, 1867.

[33] *E. g.*, *Estreicher Stanisław,, Historja prawa karnego i procesu na zachodzie Europy*, Cracow, Towarzystwo Biblioteki Słuchaczów Prawa Uniwersytetu Jagiellońskiego, 1929; *id.*, Rozwój prawa prywatnego na zachodzie Europy, Towarzystwo Biblioteki Słuchaczów Prawa Uniwersytetu Jagiellońskiego 1930, and published after the end of World War II; *id.*, *Rozwój ustroju państw na zachodzie Europy*, Cz. 1-2, Cracow, Towarzystwo Biblioteki Słuchaczów Prawa Uniwersytetu Jagiellońskiego, 1945; *id.*, *Historia prawa zachodnio-europejskiego: źródła*,Cracow, Towarzystwo Biblioteki Słuchaczów Prawa Uniwersytetu Jagiellońskiego, 1947.

[34] Koschembahr-Łyskowski, Ignacy, *Historja prawa na zachodzie Europy*, Warsaw, Towarzystwo Bratnia Pomoc Studentów Uniwersytetu Warszawskiego, 1931.

The foundation for teaching the general (European) history of political systems and laws was laid primarily in the 1950s and 1960s by Karol Koranyi, a prominent legal historian of Jewish origin. During his work at the universities of Toruń and Warsaw, he compiled four volumes of a monumental textbook prepared on the basis of multilingual scientific literature, which the author collected and analysed throughout almost his entire professional life. The result was an erudite and comprehensive textbook reflecting the current state of European science, although it certainly lacked value as a teaching aid for students.[35] It was "overloaded" with detailed, factual information. At the same time, no sufficient attempt was made to put the phenomena and processes occurring in individual countries into a genuinely comparative perspective. The textbook was also written in rather difficult language, and the author faced a significant challenge unifying multilingual terminology. The textbook was also not accessible because of the numerous and unnecessary —but required by socialist censorship— quotes from Marx, Engels, and Lenin. For these reasons, Koranyi's disciple, Zbigniew Zdrójkowski, published a simplified script of his master's work.[36]

Koranyi's *protégés* in Warsaw attempted to make textbooks more accessible to students. Michał Sczaniecki published a textbook entitled "Common History of State and Law".[37] Contrary to the title, it focused mainly on the history of Europe and the United States of America. The author elaborated mostly on the history of constitutional systems, while the history of criminal and civil law was limited to only cursory and general indications of the most important codifications. This gap was filled by Katarzyna Sójka-Zielińska. Her textbook focused mainly on the history of the sources of law and basic legal institutions from ancient times to the twentieth century; and it likewise considered the law of totalitarian states, namely the Third German Reich and the Socialist Republics.[38] To this day, textbooks by Sczaniecki and Sójka-Zielińska are highly regarded and enjoy unflagging popularity among Polish legal historians, as evidenced by their reprintings even after the authors' deaths.

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[35] Koranyi, Karol, *Powszechna historia państwa i prawa*, Warsaw, Państwowe Wydawnictwo Naukowe, 1963-67, t. 1-4.

[36] Zdrojkowski, Zbigniew, *Repetytorium Powszechnej Historii Państwa i Prawa na podstawie wykładów prof. dra Karola Koranyiego*, Toruń, Wydawnictwo Mikołaja Kopernika w Toruniu, cz. 1-3.

[37] The textbook has lived to see 12 editions, the latest being Sczaniecki, Michał, *Powszechna Historia Państwa i Prawa*, Warsaw, Wolters Kluwer Polska, 2022.

[38] The textbook went through 16 editions. See the latest edition at K. Sójka Zielińska, *Historia prawa*, Warsaw, Wolters Kluwer Polska, 2022.

Numerous factors provided the impetus for the publication of new textbooks after 1989. Amongst these factors, it is possible to mention especially the abolition of censorship, the establishment of numerous new publishing houses, and the increase in the number of law schools and law students. Most of the new textbooks cannot be assessed as original, ambitious, and innovative regarding methodology, layout, chronological scope, and geographical considerations. Further, those texts rarely included references to newer, especially foreign, scientific literature.[39]

Only a few of these textbooks reflect an innovative approach to the scope and manner of lecturing and teaching legal history. Worthy of praise is the textbook devoted to the history of criminal and civil law by Andrzej Dziadzio from Cracow.[40] Compared to the classic work by Sójka-Zielińska, Dziadzio paid slightly less attention to the history of sources. Instead, he covered the history of legal institutions, legal doctrines, and "schools" more extensively (i.e., the various theoretical currents determining the discussions on law reform).

More original approaches emerged in political systems or constitutional law history. The textbook by Marek Wąsowicz deserves to be highlighted.[41] That work is probably less comprehensive than others but better emphasizes the regularities of the evolution of rules and institutions without overloading students with "dry" facts. Unique —although highly criticized— is the textbook by Grzegorz Górski (originally co-authored with the prominent legal historian from Toruń, Stanisław Salmonowicz) entitled "History of the Systems of States".[42] The main feature that draws attention to Górski's work is its broader geographical context. As mentioned before in this chapter, most textbooks only analysed the history of Poland, Germany, France, England, Russia, Italy, and the United States of America. Gorski's textbook, on the other hand, presented the history of the political system throughout Europe —especially in Switzerland, the Netherlands, Spain, and Portugal, as well as the Scandinavian and Balkan countries—. The value of some editions of this textbook is the attempt to include the history of the po-

[39] *E. g.*, Maciejewski, Tadeusz, *Historia powszechna ustroju i prawa*, Warsaw, C. H. Beck, 2015.

[40] Dziadzio, Andrzej, *Powszechna historia prawa*, Warsaw, Wydawnictwo Naukowe PWN, 2008.

[41] Wąsowicz, Marek, *Historia ustroju państw zachodu. Zarys wykładu*, Warsaw, Liber, 2011.

[42] Górski, Grzegorz and Salmonowicz, Stanisław, Historia Ustrojów Państwowych, Warsaw, LexisNexis, 2001; Górski, Grzegorz, *Historia ustrojów państwowych*, Wydawnictwo Jagiellońskie, Toruń, 2017.

litical system of Asian countries, including India, China, Japan, and even outreaching to Latin America. The attempt to shape the textbook in this way was met with a rather harsh assessment by the community of Polish legal historians. The reviewers described the textbook as "unnecessary" and criticized its excessive generalizations, lack of linguistic precision, and numerous factual errors.[43] The authors of the textbook acknowledged some errors in their work. However, the authors fervently defended their original concept by stating that limiting legal history lectures to "a mere handful of European countries is «an error»".[44]

Especially noteworthy are two syntheses on the history of state systems and constitutional law by Jan Baszkiewicz[45] and Stanisław Grodziski.[46] These works do not describe the political systems of specific states separately but are an attempt to create a truly comparative account. The authors, of course, accepted the peculiarities of the evolution and development of the individual states of the continent but recognized that they were part of a unified European political and legal tradition. These textbooks were well received in the circle of Polish legal historians, although they have the reputation of being difficult for students to understand.

Concerning the separate teaching of the Polish political system and the history of Polish codification and the institutions of Polish law, the first attempts to compile teaching aids appeared before the Second World War due to the efforts of Stanisław Kutrzeba, an outstanding researcher of old Polish law. He published a textbook on the history of the Polish political system until 1795 (1905), and a pioneering and groundbreaking textbook entitled "History of the Sources of Old Polish Law" (1925, in two volumes).[47] These textbooks are held in high esteem to this day, although many of the interpretations and findings have lost their relevance. As for the textbooks on pre-partitioned old Polish law, Przemyslaw Dąbkowski's study of private

[43] Kubicki, Tomasz and Matuszewski, Jacek, "Uwagi o podręczniku niepotrzebnym. W związku z pracą Grzegorza Górskiego i Stanisława Salmonowicza, Historia Ustrojów Państwowych, 2002, ss. 718", *Czasopismo Prawno-Historyczne*, vol. 55, no. 1, 2003, pp. 397-422.

[44] Salmonowicz, Stanisław, "Odpowiedź recenzentom", *Czasopismo Prawno-Historyczne*, 55/1, 2003, p. 423.

[45] Baszkiewicz, Jan, *Powszechna historia ustrojów państwowych*, Gdańsk, Arche Publishing House, 1998.

[46] Grodziski, Stanisław, *Porównawcza historia ustrojów państwowych*, Cracow, Towarzystwo Autorów i Wydawców Prac Naukowych Universitas ,1998.

[47] Kutrzeba, Stanisław, *Historja źródeł dawnego prawa polskiego*, vol. 1-2, Lwów - Warsaw - Cracow, Zakład Narodowy im. Ossolińskich, 1925.

law[48] and Jozef Rafacz's and Juliusz Makrewicz's works on criminal law deserve to be mentioned.[49]

In the 1960s, under the editorship of the eminent Warsaw legal historian Juliusz Bardach, a synthesis was created. That opus, in five comprehensive volumes, covered an assessment of the whole history of the system and judicial law of Poland from the beginnings of statehood (conventionally 966) until 1939.[50] Eminent specialists took up the role of volumes' editors: Juliusz Bardach, Zdzisław Kaczmarczyk, Bogusław Leśnodorski, Monika Senkowska-Gluck, Konstanty Grzybowski, and Franciszek Ryszka, while significant historians of law undertook the elaboration of individual parts of the material from the majority of law faculties in Poland. On the occasion of its writing, efforts were made to conduct extensive scientific research to clarify questionable issues. Ultimately, novel methodological approaches and original interpretations were also proposed. Despite the imposed narrative in the Marxist spirit, the work is still considered extremely valuable and exemplary today. After the collapse of the system of "real" socialism, two recognized scholars, namely Adam Lityński and Marian Kallas, published a separate textbook on the history of the Polish People's Republic law from 1945 to 1989.[51] The authors themselves aimed to elaborate the sixth volume of the synthesis by Bardach and his cooperators.

The classic five-volume textbook (altogether several thousand pages) was not initially suitable as an aid for students. Three prominent legal historians from Warsaw —Juliusz Bardach, Bogusław Leśnodorski, and Michał Pietrzak— published an abridged one-volume version intended to serve as a typical academic textbook.[52] Despite including some anachronisms, this

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[48] Dąbkowski, Przemysław, *Prawo prywatne polskie*, Cracow, Drukarnia Uniwersytetu Jagiellońskiego, 1910-1911, t. 1-2.

[49] Rafacz, Józef, *Dawne polskie prawo karne: część ogólna*, Warsaw, Skład Główny w Księgarniach Gebethnera i Wolfa, 1932; Makarewicz Juliusz, *Polskie prawo karne polski przedrozbiorowej*, Lwów-Warsaw, 1919.

[50] Bardach, Juliusz (ed.), *Historia Państwa i Prawa Polski*, t. I *Do połowy XV wieku*, Warsaw, Państwowe Wydawnictwo Naukowe, 1957; Kaczamrczyk, Zdzisław and Leśnodorski, Bogusław (eds.), *Historia Państwa i Prawa Polski*, t. II Od połowy XV wieku do r, 1795, Warsaw, Państwowe Wydawnictwo Naukowe, 1957; Bardach, Juliusz and Senkowska-Gluck, Monika (eds.), *Historia Ustroju i Prawa Polski*, vol. III od rozbiorów do uwłaszczenia, Warsaw, Państwowe Wydawnictwo Naukowe, 1981; Grzybowski, Konstanty (eds.), *Historia Państwa i Prawa Polski*, vol. IV *Od uwłaszczenia do odrodzenia Państwa*, Warsaw, Państwowe Wydawnictwo Naukowe, 1982; Ryszka Franciszek (ed.), *Historia Państwa i Prawa Polski 1918-1939*, cz. I-II, Warsaw, Państwowe Wydawnictwo Naukowe, 1962-1968.

[51] Kallas, Marian and Lityński, Adam, *Historia ustroju i prawa Polski Ludowej*, Warsaw, LexisNexis, 2003; Lityński, Adam, *Historia prawa Polski Ludowej*, Warsaw, LexisNexis, 2013.

[52] Bardach, Juliusz *et al*., *Historia ustroju i prawa polskiego*, Warsaw, LexisNexis, 2009.

textbook is still being reprinted and serves as a basic teaching aid at many law faculties in Poland.

Textbooks have emerged in the past 30 years, aiming at a more profound paradigm shift in teaching legal history in Poland. An example of such an attempt is the textbook by Artur Korobowicz and Wojciech Witkowski, which, in the openly expressed assumption of the authors, was explicitly created to increase didactic interest in the history of the Polish lands under partition in the nineteenth century.[53] An inspiring textbook was written by legal historians from Poznań: Ewa Borkowska-Bagieńska, Krzysztof Krasowski, Bogdan Lesiński, and Jerzy Walachowicz. That latter work removed unnecessary details from the lectures, provided an apparent order of the presented matters, and was an exciting attempt to formulate original, fresh, and balanced assessments of the analysed problems.[54]

At the dawn of the twenty-first century, a prominent legal historian from Krakow —Stanisław Płaza— published an exceptionally ambitious attempt to synthesize Polish law against the European background.[55] The success of this three-volume textbook is the detailed and original wrap-up of codifications, principles, and institutions of Polish criminal and civil law, taking into account the general development trends of European law and the inclusion of extensive bibliographic guidance on Polish and foreign scientific literature. Another Cracow scholar of great academic achievement —Wacław Uruszczak— presented another proposal for an innovative textbook.[56] His take on a lecture on the history of the political system of Poland in 1795 was based on the assumption that the course was to play a propaedeutic and introductory role for modern constitutional law. In this context, Uruszczak formulated the bold concept of describing the system of the pre-modern state from the perspective of abstract constitutional principles known to modern constitutional law. He supplemented the views established in science with his own findings over many years of source research. Some aspects of this textbook are sometimes subject to criticism. Still, its overall reception was generally positive, especially regarding its originality, argumentation quality, and scientific accuracy. It is only a pity that the au-

[53] Korobowicz, Artur and Witkowski, Wojciech, *Historia ustroju i prawa polskiego (1772-1918)*, Warsaw, Wolters Kluwer Polska, 2017 (six editions).

[54] Borkowska-Bagieńska *et al.*, *Historia Państwa i prawa Polski. Zarys wykładu*, Poznań, Ars Boni et Aequi, 1994.

[55] S. Plaza, *Historia prawa w Polsce na tle porównawczym*, cz. I-IV, Cracow, Księgarnia Akademicka, 2002-2003.

[56] Uruszczak, Wacław, *Historia Państwa i Prawa Polskiego 966-1795*, Warsaw, Wolter Kluwers, 2021.

thor did not develop a textbook along similar lines covering the nineteenth and twentieth centuries.

The first textbook in English on the history of the Polish political system and law was published in 2016. The work is entitled "The History of Polish Legal System from the 10th to the 20th Century," and its author is the late Gdansk-based legal historian Tadeusz Maciejewski.[57] This textbook contains a lot of simplifications and does not always represent the current state of scientific research. In addition, the problem of translating Polish legal terminology into English is evident in its pages. Maciejewski's effort and courage, however, deserve high praise.

Finally, it is worth mentioning that several (quite good) repertories have been published in the Polish market, containing synthetic summaries of lectures, along with tables, charts, and examinations on legal history.[58]

3. *Other Teaching Materials*

Legal education in Central and Eastern Europe is based mainly on one-sided lectures presenting students with content —generally given in textbooks like those discussed— which they must master by memory. Such a way of teaching characterizes not only legal history but also other legal subjects. This approach is widely criticized and results in demands for reforms of study programs, especially by strengthening the role of classes with active student participation. The idea is that teachers should reduce the use of the one-sided lecture method to an absolute minimum. Instead, classes should allow students to discuss, solve problems, and interpret historical source materials. For such active courses to be feasible, teachers must develop lesson plans, selections of texts, and other materials, including cases to be analysed, and other assignments.

The situation regarding published collections of sources for legal history classes looks at first glance quite positive in Poland. Nevertheless, the preparation requires considerable effort, is not profitable financially, and does not translate into achieving scientific degrees. After the Second World

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[57] Maciejewski, Tadeusz, *The History of Polish Legal System from the 10th to the 20th century*, Warsaw, C. H. Beck, 2016.

[58] Krzyżanowski, Lech, *Historia ustroju i prawa w Polsce*, Bielsko-Biała, Wydawnictwo OD NOWA, 2013; Bieda, Justyna, Wiśniewska Dorota, *Niezbędnik studenta I roku. Repetitorium egzaminacyjny z historii państwa i prawa polskiego*, Wydawnictwo Uniwersytetu Łódzkiego, Łódź 2013; Lipska-Toumi, Marzena, *Historia ustroju Polski do 1939 roku–ćwiczenia*, Wydawnictwo, C. H. Beck, Warsaw, 2014.

War, Jakub Sawicki undertook the first attempts to develop a publication with a collection of sources for courses on the history of the political system and law in the 1950s.[59] His work set a certain standard applicable to publications of this kind. In the post-1989 period, more comprehensive sets of source materials were collected and published by Michał Sczaniecki; Sławomir Godek and Magdalena Wilczek Karczewska; Andrzej Gulczyński; Bogdan Leśinski; Jerzy Walachowicz and Jacek Wiewiorowski; Marian Ptak and Marek Kinster; Stanisław Rogowski; Arkadiusz Bereza; Anna Fermus-Bobowiec; Grzegorz Smyk; and Wieslaw Tekely and Wojciech Witkowski.[60] Despite the significant differences in the selection of specific sources, these publications were quite similar. They mainly contained excerpts from the most important historical legal monuments —Constitutions, codes, other laws, and legal acts— of a pioneering or, in some sense, groundbreaking nature. The importance of these publications was all the greater because, as a rule, they were compiled with great editorial care. However, they had some significant shortcomings. First, they treated court decisions and other pleadings concerning historical cases somewhat too marginally (of precedential or, on the contrary, typical importance). Materials of this kind appeared sporadically in source collections, and it is not easy to establish the criteria by which they were selected. In addition, they also omitted the doctrinal writings of legal scholars, discussing historically important legal problems, which allow students to use historical examples to train their skills in sublime legal reasoning. Separately, the indicated collections of sources were not accompanied by a broader scholarly elaboration, such as by adding an explanation of the social or political context. They did not contain supporting methodical guidelines for students or teachers, and they did not formulate lesson plans or a set of methodological prompts.

An exception to the above is found in the work published by the researchers Andrzej Dziadzio and Dorota Malec from Jagiellonian Univer-

[59] Sawicki, Jerzy (ed.), *Wybór tekstów źródłowych z historii państwa i prawa polskiego*, Warsaw, Państwowe Wydawnictwo naukowe, 1952-1953, t. 1-2.

[60] Sczaniecki, Michał, *Wybór źródeł do historii państwa i prawa w dobie nowożytnej*, Warsaw, Liber, 1996; Godek, Sławomir and Wilczek-Karczewska, Magdalena (eds.), *Historia ustroju i prawa w Polsce do 1772/1795. Wybór źródeł*, Warsaw, Wydawnictwo Naukowe PWN, 2006; Gulczyński, Andrzej *et al*. (eds.), *Historia państwa i prawa. Wybór tekstów źródłowych*, Poznań, Ars Boni et Aequi, 1995; Ptak, Marian and Kinster, Marek (eds.), *Powszechna historia państwa i prawa. Wybór tekstów źródłowych*, Wrocław, Wydawnictwo UWr, 1999; Rogowski, Stanisław (ed.), *Historia ustroju i prawa w Polsce 1918-1989. Wybór źródeł*, Warsaw, Wydawnictwo Naukowe PWN, 2006; Bereza, Arkadiusz *et al*. (eds.), *Powszechna Historia ustroju. Wybór źródeł*, Warsaw, Wydawnictwo Naukowe PWN, 2015.

sity in Cracow.[61] Their collection was more diverse and did not include lesson plans, supporting questions, or case studies. It considered excerpts from commentaries (and other legal writings), and court decisions. Above all, however, the layout of this collection is interesting. Its authors prioritized individual legal institutions. The sources were also selected to illustrate the successive development stages of the historical institutions and mechanisms of criminal and civil processes.

Publishing other education aids for conducting interactive classes with students is less popular among Polish legal historians. This primarily refers to collections of case studies that need to be "solved" in the light of historical sources of law, considering the historical and social context. In particular, such materials have been published by Rafal Golat, Anna Rosner, Anna Karabowicz, Marek Stus, and Marek Żurek.[62] Numerous materials of this kind have been published for Roman law courses due to the specificity of this subject.[63]

Finally, it is worth pointing out that the preliminary results of a survey conducted by the Polish Society for Legal History indicated that most Polish legal historians do not use ready-made collections of sources or case studies but prepare such materials independently by themselves. The respondents indicated this is a significant barrier to preparing valuable legal history courses for students.

4. *Directions of Legal Education Reforms vs. Legal History*

A major problem for Polish legal historians is the reluctance that some specialists in positive law have towards legal history. They consider legal history and other non-dogmatic courses unnecessary for future law practitioners. The question remains: how should legal historians defend their courses from those types of accusations? This topic was addressed in Poland for the first time more than a century ago by the famous legal historian

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[61] Dziadzio, Andrzej and Malec, Dorota (eds.), *Historia prawa. Proces i wymiar sprawiedliwości w świetle źródeł*, Cracow, Księgarnia Akademicka, 2000.

[62] Golat, Rafał (ed.), *Historia państwa i prawa Polski*, Warsaw, C. H. Beck, 2015; Rosner, Anna, *Historia ustroju i prawa polskiego: testy i kazusy*, Warsaw, LexisNexis, 2010.

Karabowicz, Anna *et al*. (eds.), *Historia prawa w Polsce i w Europie*, Cracow, Kantor Wydawniczy Zakamycze, 2004; Stus, Marek, *Powszechna historia państwa i prawa. Testy*, Warsaw Wolters Kluwer Business, 2012.

[63] Bojarski, Władysław *et al*., *Verba iuris: reguły i kazusy prawa rzymskiego, Toruń, Towarzystwo Naukowe Organizacji i Kierownictwa*, "Dom Organizatora", 2007.

Oswald Balzer.[64] Right after the First World War, he led extensive polemics explaining the role of legal history and the need for a "theoretical" model of legal studies. Under the impression of Balzer's theses, the community of Polish legal historians believes until this day that legal history is the basis of a "truly university" legal education, which means that by understanding legal history, legal graduates will be shaped as sensitive humanists who deeply understand and consciously interpret the law. Legal historical courses are supposed to be a shield protecting lawyers from becoming despised, narrow-minded "practitioners" who mindlessly apply even irrational and unjust laws.[65]

This viewpoint is obviously noble, but highly unrealistic. First, legal history is generally taught at the beginning of the legal studies. Consequently, it cannot achieve ambitious educational goals and mainly serves as a simple propaedeutic of law. Second, the dispute between the proponents of the "theoretical" and "professional" model of studying law has long become obsolete. Reformers of legal education point out that studies should strive for the harmonious perception of comprehensive theoretical knowledge, confronted and supplemented with the acquisition of practical skills, including independent problem-solving and argumentation (during classes, allowing students to actively participate in discussions and problem-solving exercises). Therefore, the need to convey more social and political contexts of the law, constitutional values, and social skills is not controversial.[66] The problem is that most Polish lawyers do not believe that legal history courses are the correct answer to those needs. The teaching of legal history in Poland has traditionally focused, unfortunately, exclusively on the transmission of theoretical knowledge, mainly from the history of the sources of law. Thus, without fundamental changes, it does not provide an opportunity to implement the assumptions of modern legal education. As mentioned above, sources are rarely used while working with students, partially due to insufficient teaching aids.

The presence of legal history today is criticized not only by specialists in binding law but also by legal sociologists, philosophers, and specialists in

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[64] See especially, Balzer, Oswald, "W sprawie reformy nauki prawa w uniwersytetach polskich", *Przegląd Prawa i Administracji*, Lwów, 1919; *id.*, *Nauka uniwersytecka a kolejność studjów prawniczych*, Wrocław, Zaklad Narodowy im Ossolińskich, 1921.

[65] Wołodkiewicz, Włodzimierz, "Nauczanie prawa czy przepisów prawnych", *Czasopismo Prawno-Historyczne*, Poznań, vol. 67, núm. 1, 2015, ; Zakrzewski, Andrzej, "Czemu ma obecnie służyć historia prawa, co jej grozi?", *Miscellanea Historico-Iuridica*, Białystok, 2011, 10.

[66] Zomerski, Wojciech, *W kierunku demokratycznej nauki prawa. Dogmatyka – edukacja – postpolityczność*, Warsaw: Wydawnictwo Naukowe Scholar, 2023, pp. 227-281; Galędek, Michał, "Refleksje na temat roli historii prawa w edukacji prawniczej", *Dobre praktyki w nauczaniu na studiach prawniczych*, Gdańsk, Wydawnictwo Uniwersytetu Gdańskiego, 2021.

economics and political science. They believe they can better fulfil the role of broadening students' horizons and forming an understanding of the essence of law as a social phenomenon. This opinion is not without its merits. It seems necessary for Polish legal historians to thoroughly reform the concepts, goals, and methods of teaching legal history. The amount of factual information required from students should be reduced. Instead, teaching should focus more on working with sources, including precedent historical court decisions and key past disputes waged by prominent jurists.[67]

IV. Legal History as a Scientific Field

1. *Currents and Research Trends*

An attempt to describe the entire output of Polish legal history of the last few decades is clearly beyond the scope of this chapter. Such a complete account would be overwhelming and of little interest. Therefore, the author of this chapter presents a few valuable and promising directions of research conducted by Polish legal historians. Due to space limitations, research on classical Roman law and the history of legal doctrines will be omitted.

Most Polish legal historians naturally conduct research on the history of native law. A unique role is occupied by the studies on the organization of state authorities during the Polish-Lithuanian Union (1569–1795). A survey of the nobility's parliamentary system —the central General "Sejm" and the local assemblies (the land "sejmiks")— is critical. Those issues are also recognized in European historiography because of the stereotypical chaotic course of Polish-Lithuanian Sejm deliberations and the use of the liberum veto —a radical version of unanimity— whereby the opposition of a single deputy could not only block the adoption of a particular bill but also break (nullify) the functioning of the entire assembly, which, under the influence of such a veto, had to disperse fruitlessly.

Traditional historians from that "school" derived from Władysław Czapliński efforts, mainly studying the history of individual Sejms convened and held in specific years, focusing on parliamentary political games. Legal historians proposed a different approach, involving the analysis of the procedural functioning of the Sejm over a longer period. This research direction was set by the works of Wacław Uruszczak, Henryk Olszewski, and

[67] The author of this chapter advocated for relevant changes elsewhere. See, for example, Kucharski, Tomasz, *The purpose(s) for teaching legal history in contemporary Poland. Current situation and future perspectives* (forthcoming).

Ryszard Łaszewski.[68] This trend was continued and developed by the younger generation of legal historians, especially Izabela Lewandowska-Malec (referring to the concept of deliberative democracy),[69] Anna Karabowicz,[70] Tomasz Kucharski,[71] and some political historians. A significant advantage of this entire stream of research is the focus on the procedure and work of the Polish-Lithuanian proto-parliament, not only from the perspective of the legal provisions, but also of practice, reconstructed based on private "minutes" of the sessions —"diaries—". Polish research on the history of the parliamentary system from before 1795 is slowly becoming the subject of comparative studies.[72]

Thanks to the eminent Cracow legal historian Stanisław Grodziski, a new critical edition of the collection of laws passed by the General Sejm was compiled. So far, this edition —entitled "Volumina Constittutionum"— has been brought to 1668.[73]

The study of local assemblies —sejmiks— likewise owes a great deal to the science of legal history. Today, these studies are dominated by traditional historians, and the results of their work are not only invaluable monographs and scientific articles,[74] but also impressive source editions (including collections of resolutions and other documents from the activities of these assemblies).[75] However, legal historians were the pioneers of the study of sejmiks after the

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[68] Uruszczak Wacław, *Sejm walny koronny w latach 1506-1540*, Warsaw, Państwowe Wydawnictwo Naukowe, 1981; Olszewski, Henryk, *Sejm w dawnej Rzeczypospolitej: ustrój i idee*, vol. 1-2. *Studia i rozprawy*, Poznań, "Printer", 2002; Łaszewski, Ryszard, *Sejm Polski w latach 1764-1793: studium historyczno-prawne*, Warsaw – Poznań, Państwowe Wydawnictwo Naukowe, 1973.

[69] Lewandowska-Malec, Izabella, *Sejm walny koronny Rzeczypospolitej Obojga Narodów i jego dorobek ustawodawczy (1587-1632)*, Cracow, Księgarnia Akademicka, 2009; Lewandowska-Malec, Izabella, *Communis consensus - unanimus consensus: sejm walny Rzeczypospolitej Obojga Narodów w latach 1586-1668*, Cracow, Księgarnia Akademicka, 2021.

[70] Karabowicz, Anna, *Prawodawstwo sejmowe i królewskie za panowania Stefana Batorego (1576-1586)*, Warsaw, Wydawnictwo Sejmowe, 2022.

[71] Kucharski, Tomasz, *Sejmy elekcyjne w Rzeczypospolitej Obojga Narodów 1632-1733*, Warsaw, Wydawnictwo Sejmowe, 2021.

[72] See the project "Recovering Parliamentary Culture", available at: *https://intellectualhistory.web.ox.ac.uk/recovering-europes-parliamentary-culture-1500-1700*.

[73] Grodziski, Stanisław *et al.* (eds.), *Volumina Constitutionum*, Warsaw, Wydawnictwo Sejmowe, 1997-2017, vol. 1-4.

[74] *E. g.*, Zwierzykowski, Michał, *Samorząd sejmikowy województw poznańskiego i kaliskiego w latach 1696–1732*, Poznań, Wydawnictwo UAM, 2010; Kozyrski, Robert, *Sejmik szlachecki ziemi chełmskiej 1648-1717*, Lublin, Towarzystwo Naukowe Katolickiego Uniwersytetu Lubelskiego, 2006.

[75] Summarized by Łopatecki, Karol, "Edycje źródłowe akt sejmikowych: przeszłość – teraźniejszość – przyszłość", *Miscellanea Historico-Iuridica*, Białystok, 14/2, 2015, pp. 9-43.

Second World War. Key works in this area were published by Adam Lityński on the Province of Lesser Poland, Stanisław Płaza on the Province of Greater Poland,[76] Zbigniew Naworski on the Province of Royal Prussia,[77] Andrzej Zakrzewski on the Grand Duchy of Lithuania,[78] and Waldemar Bednaruk on the Lublin district.[79]

Polish legal historians have significantly contributed in recent years to studying the nobility's justice system in the Polish-Lithuanian Commonwealth. Works on this topic were published by, amongst others, Waldemar Bednaruk on the highest appellate court —the Crown Tribunal, Zbigniew Naworski on noble courts in the province of Royal Prussia, Adam Moniuszko on the noble land courts in the province of Mazovia, Jan Jerzy Sowa on the military courts, and Piotr Pilarczyk on the treasury judiciary—.[80] All these works comprehensively illustrate the judiciary's complex organizational structure between the sixteenth and eighteenth centuries. These works are profoundly practical, focusing on a comprehensive evaluation of the surviving material depicting the activities of these courts, especially court books and records.

Research on the so-called "German Law" in cities in Poland before 1795 deserves a separate mention. Polish cities in the Middle Ages were established thanks to foreign —especially German— colonists. Settling in Poland, they brought with them not only their own language and customs but also their law. Even cities founded with the participation of Polish settlers were often given "German Law" as qualitatively better. This law functioned in Poland in a few varieties as it was modelled on the particular law

[76] Lityński, Adam, *Szlachecki samorząd gospodarczy w Małopolsce (1606-1717)*, Katowice, 1974.

[77] Naworski, Zbigniew, *Sejmik generalny Prus Królewskich 1569-1772.Organizacja i funkcjonowanie na tle zgromadzeń stanowych prowincji*, Toruń, 1992.

[78] Zakrzewski, Andrzej, *Sejmiki Wielkiego Księstwa Litewskiego XVI-XVIII w.: ustrój i funkcjonowanie - sejmik trocki*, Warsaw, "Liber", 2000.

[79] Bednaruk, Waldemar, *Sejmiki lubelskie w okresie stanisławowskim (1764-1794)*, Lublin, Wydawnictwo Katolickiego Uniwersytetu Lubelskiego, 2011.

[80] Bednaruk, *Waldemar, Trybunał Koronny: szlachecki sąd najwyższy w latach 1578-1794*, Lublin, Towarzystwo Naukowe Katolickiego Uniwersytetu Lubelskiego, 2008; *Naworski, Zbigniew, Szlachecki wymiar sprawiedliwości w Prusach Królewskich (1454-1772): organizacja i funkcjonowanie*, Toruń, Wydawnictwo Uniwersytetu Mikołaja Kopernika, 2004; Moniuszko, Adam, *Mazowieckie Sądy Ziemskie (1588-1648): organizacja - funkcjonowanie – postępowanie*, Warsaw: Campidoglio 2013; Sowa, Jan Jerzy, *Wojskowa Temida. Dyscyplina i sądownictwo wojskowe w Koronie w dobie wojen tureckich w drugiej połowie XVII wieku*, Białystok, Wydawnictwo Uniwersytetu w Białymstoku, 2021; Pilarczyk, Piotr, *Sądownictwo Komisji Skarbu Wielkiego Księstwa Litewskiego w sprawach skarbowych (1765-1794). Studium historyczno-prawne*, Wydawnictwo Poznańskiego Towarzystwa Przyjaciół Nauk, Poznań, 2019.

of certain "mother" cities from Germany, especially Lübeck, Magdeburg, Chelmno, and Środa in Silesia.

Polish post-Second World War legal historians researched Poland's main legal sources of "German Law." Zygfryd Rymaszewski analysed the so-called "Saxon Mirror," Maciej Mikula looked at the "Magdeburg Weichbild," and Tadeusz Maciejewski worked on the resolutions of the Council of the city of Danzig.[81] Amongst others, Krystyna Kamińska researched the creation of towns under Magdeburg law, Witold Maisel worked on the judiciary and criminal law of the city of Poznań, Edwin Rozenkranz analysed the Lübeck law in Polish Pomeranian cities, and Zbigniew Zdrójkowski and Danuta Janicka looked at the Chełmno law in the towns of Royal Prussia.[82]

Legal historians have devoted numerous works to analysing the practice of applying "German Law" in Polish municipal courts based on court books. Marian Mikołajczyk analysed criminal and procedural law in Lesser Poland, and Piotr Kitowski devoted a solid study to inheritance under Chełmno law.[83]

Another direction in the research carried out by Polish legal historians is to be seen in studies on the history of Polish and European constitutionalism from the late eighteenth to the first half of the twentieth century. During the People's Republic of Poland period, groundbreaking works were written by Bogusław Leśnodorski on the Polish Constitution of 3 May 1791, Władysław Sobociński on the constitutional system and the legal system of the Duchy of Warsaw of 1807, and Andrzej Ajnenkiel on the Polish constitutionalism of the interwar period.[84] In the twenty-first century, research on the history of constitutional law is more comparative and international.

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[81] Rymaszewski, Zygfryd, *Łacińskie teksty Landrechtu Zwierciadła Saskiego w Polsce. Versio Wratislaviensis, versio Sandomiriensis,* Łódź, 1975; *id.*, *Łacińskie teksty Landrechtu Zwierciadła Saskiego w Polsce. Jaskier —tekst główny i noty marginesowe*, Łódź, 1985; Mikuła, Maciej, *Prawo miejskie magdeburskie (Ius municipale Magdeburgense) w Polsce XIV— pocz. XVI w.: studiów z ewolucji i adaptacji prawa,* Cracow, Wydawnictwo Uniwersytetu Jagiellońskiego, 2018.

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[83] Mikołajczyk, Marian, *Proces kryminalny w miastach Małopolski XVI-XVIII wieku*, Katowice, Wydawnictwo Uniwersytetu Śląskiego, 2013; Kitowski, Piotr, *Sukcesja spadkowa w mniejszych miastach województwa pomorskiego w II połowie XVII i XVIII wieku: studium prawno-historyczne*, Warsaw, Wydawnictwo Neriton, 2015.

[84] Especially: Leśnodorski, Bogusław, *Dzieło sejmu czteroletniego: 1788-1792: studium historyczno-prawne*, Wrocław, Wydawnictwo Zakładu Narodowego im. Ossolińskich, 1951, Sobo-

Anna Tarnowska worked on the Constitution of 3 May against the background of early constitutionalism in Europe within the framework of the international project "Reconsidering Constitutional Formation" under Ulrike Müßig from the University of Passau. Tarnowska is also the author of numerous studies on the German and European constitutionalism of the nineteenth century.[85] Michal Galędek published multiple studies on the constitutional system of the Kingdom of Poland dependent on Czarist Russia after the Congress of Vienna (1815-1830), Maciej Rakowski worked on the formation of executive power and the rules of government accountability in Europe in the nineteenth century, and Dawid Michalski researched the history of constitutionalism in Finland in the twentieth century.[86]

A great number of works were devoted to the administrative and judicial system and organization in the nineteenth century. These include, amongst others, works by Wojciech Witkowski, Marek Krzymkowski, Artur Górak, and Grzegorz Smyk. The Interwar period was explored by Michal Gałędek, Andrzej Gulczyński, Anna Tarnowska, and Jacek Wałdoch. All these efforts are derived from the study of the constitutional system.[87]

Further academic efforts can be mentioned. For example, Polish courts during the interwar period were addressed in multiple works by

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[85] Official website: *https://www.reconfort.uni-passau.de/en/project/project/*.

[86] Gałędek, Michał, *Koncepcje i projekty nowego ustroju administracji dla przyszłego Królestwa Polskiego: studium z dziejów myśli administracyjnej*, Gdańsk, Wydawnictwo Arche 2017; Rakowski, Maciej, System parlamentarno-gabinetowy do I wojny światowej, Warsaw, Wydawnictwo Sejmowe, 2016; *id.*, *The Second World War and the Political-System Status of European Monarchs*, "Studia Iuridica Lublinensia", Lublin, vol. 29, núm. 4, 2020, pp. 251-278; Michalski, Dawid, *Ustrój polityczno-prawny Finland i jego funkcjonowanie w latach 1917-2000. Studium prawno-historyczno-porównawcze*, Warsaw, C. H. Beck, 2021.

[87] *E. g.*, Witkowski, Wojciech, *Komisja Rządowa Sprawiedliwości w Królestwie Polskim: 1815-1876*, Lublin, Wydawnictwo Uniwersytetu Marii Curie-Skłodowskiej, 1986; Krzymkowski, Marek, *Rada Stanu Księstwa Warszawskiego*, Poznań, Ars Boni et Aequi, 2011, Górak, Artur, *Rosyjska kancelaria akt spraw w urzędach Lubelskiej Gubernialnej Administracji Ogólnej w latach 1867-1918*, Lublin, Wydawnictwo Uniwersytetu Marii Curie-Skłodowskiej, 2008; Smyk, Grzegorz, *Administracja publiczna Królestwa Polskiego w latach 1864-1915*, Lublin, Wydawnictwo Uniwersytetu Marii Curie-Skłodowskiej, 2011.

See in particular Gałędek, Michał, *Ustrój administracji ogólnej na Wileńszczyźnie w okresie międzywojennym*, Gdańsk, Wydawnictwo Historyczne Tabularium, 2012; Gulczyński, Andrzej, *Ministerstwo byłej Dzielnicy Pruskiej: (1919-1922)*, Poznań, Poznańskie Towarzystwo Przyjaciół Nauk, 1995; Tarnowska, Anna, *Z dziejów unifikacji administracji II Rzeczypospolitej: rola przepisów pruskich*, Toruń, Wydawnictwo Naukowe Uniwersytetu Mikołaja Kopernika, 2012; Waldoch, Jacek, *Zarząd komisaryczny w wielkich miastach II Rzeczypospolitej: studium historyczno-prawne*, Gdańsk, Wydawnictwo Uniwersytetu Gdańskiego, 2020.

Małgorzata Materniak-Pawłowska.[88] The judiciary in the Polish territories occupied by the Nazi German Third Reich was analysed by Andrzej Wrzyszcz, Konrad Graczyk, and Hubert Mielnik. The history of the Polish administrative judiciary was studied in depth by Wojciech Witkowski and Dorota Malec.[89]

Several works on self-government and the legal professions deserve separate mention. Lech Krzyżanowski and Grzegorz Ławnikowicz studied judges in the Interwar period, Małgorzata Materniak-Pawłowska and Michał Gałędek looked at the self-government of attorneys, and Dorota Malec devoted attention to notaries.[90]

Polish legal historians have produced excellent research in recent years on the development of criminal law in the nineteenth and twentieth centuries. The forerunner of Polish research on criminal law in the era of codified law was Stanisław Salmonowicz, the author of the excellent monograph on criminal law in the eighteenth and nineteenth centuries.[91] Salmonowicz's protégé, Danuta Janicka, continued this research.[92] In recent years, many works have focused on the practical application of criminal law in the twentieth century, especially those by Jakob Maziarz, Karol Siemaszko, and Pi-

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[88] Materniak-Pawłowska, Małgorzata, *Ustrój sądownictwa powszechnego w II Rzeczypospolitej*, Poznań, Wydawnictwo Uniwersytetu Adama Mickiewicza, 2003.

[89] Wrzyszcz, Andrzej, *Okupacyjne sądownictwo niemieckie w Generalnym Gubernatorstwie 1939-1945: organizacja i funkcjonowanie*, Lublin, Wydawnictwo Uniwersytetu Marii Curie-Skłodowskiej, 2008; Graczyk, Konrad, *Sondergericht Kattowitz: Sąd Specjalny w Katowicach 1939-1945*, Warsaw, Instytut Pamięci Narodowej, 2020; Mielnik, Hubert, *Sądownictwo polskie (nieniemieckie) w dystrykcie lubelskim Generalnego Gubernatorstwa w latach 1939-1944*, Lublin, Wydawnictwo Uniwersytetu Marii Curie Skłodowskiej, 2020; Witkowski, Wojciech, *Sądownictwo administracyjne w Księstwie Warszawskim i Królestwie Polskim 1807-1867*, Warsaw - Łódź, Państwowe Wydawnictwo Naukowe, 1984; Malec, Dorota, *Najwyższy Trybunał Administracyjny 1922-1939 w świetle własnego orzecznictwa*, Cracow, Wydawnictwo Naukowe PWN, 1999.

[90] Krzyżanowski, Lech, *Sędziowie w II Rzeczypospolitej. Okręgi apelacyjne: krakowski i katowicki*, Katowice, Wydawnictwo Uniwersytetu Śląskiego, 2011, Ławnikowicz, Grzegorz, *Idea niezawisłości sędziowskiej w porządku prawnym i myśli prawniczej Drugiej Rzeczypospolitej*, Toruń, Wydawnictwo Adam Marszałek, 2009; Materniak-Pawłowska, Małgorzata, *Adwokatura II Rzeczypospolitej: prawno-ustrojowe zagadnienia*, Poznań, Wydawnictwo Naukowe Uniwersytetu Adama Mickiewicza, 2009; Galędek Michał *et al.*, *Momenty zwrotne w dziejach polskiej Adwokatury*, Gdańsk, Arche, 2023; Malec, Dorota, *Notariat Drugiej Rzeczypospolitej*, Cracow, Wydawnictwo Uniwersytetu Jagiellońskiego, 2002.

[91] Salmonowicz, Stanisław, *Prawo karne oświeconego absolutyzmu: z dziejów kodyfikacji karnych przełomu XVIII/XIX w.*, Poznań, Państwowe Wydawnictwo Naukowe, 1966.

[92] Janicka, Danuta, *Nauka o winie i karze w dziejach klasycznej szkoły prawa karnego w Niemczech w 1 połowie XIX wieku*, Toruń, Wydaw. Uniwersytetu Mikołaja Kopernika, 1998.

otr Fiedorczyk.[93] Jozef Koredczuk devoted a separate book to analysing the work on the Polish Code of Criminal Procedure of 1928.[94]

Research on civil law in the nineteenth and twentieth centuries reached a spectacular scale in recent years. Extensive research has been undertaken on adopting the French civil code of 1804 in Polish territories and its amendments in the so-called Kingdom of Poland. Works by Anna Klimaszewska on commercial law and Zbigniew Filipiak on property law are especially worth mentioning.[95] Some publications on French law in Poland were based on practical research of court jurisprudence and notarial records, *e. g.*, Piotr Pomianowski on divorce and Dorota Wiśniewska on marital contracts.[96] Some works in this area are cross-sectional, such as those by Andrzej Gulczyński on the child's name or those by Anna Stawarska-Rippel on the court's initiative in the twentieth-century codifications of civil procedure.[97]

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[93] Maziarz, Jakob, *Sądy przysięgłych w II Rzeczypospolitej w praktyce Sądu Okręgowego w Cracowie*, Warsaw, Wolters Kluwer Polska, 2017; Siemaszko, Karol, *Wymiar sprawiedliwości w sprawach karnych na tzw. ziemiach odzyskanych w świetle orzecznictwa sądów okręgowych w Zielonej Górze i Głogowie z siedzibą w Nowej Soli w latach 1945-1950*, Bydgoszcz Wydawnictwo Uniwersytetu Kazimierza Wielkiego, 2022; Fiedorczyk, Piotr, *Komisja Specjalna Do Walki Z Nadużyciami i Szkodnictwem Gospodarczym 1945-1954. Studium Historycznoprawne*, Białystok, Temida 2, 2002.

[94] Koredczuk, Józef, *Wpływ nurtu socjologicznego na kształt polskiego prawa karnego procesowego w okresie międzywojennym*, Wrocław, Wydawnictwo Uniwersytetu Wrocławskiego, 2007.

[95] Klimaszewska, Anna, *Code de Commerce – Francuski kodeks handlowy z 1807 roki*, Arche Publishing House, 2011; Gałędek, Michał and Klimaszewska, Anna, "A controversial transplant? Debate over the adaptation of the Napoleonic Code on the Polish territories in the early 19th century", *Journal of Civil Law Studies*, vol. 11, núm. 2; Filipiak, Zbigniew, *Prawo własności nieruchomości w działalności legislacyjnej Księstwa Warszawskiego i Królestwa Kongresowego (1807-1830)*, Toruń, Wydawnictwo Uniwersytetu Mikołaja Kopernika w Toruniu, 2020.

[96] Pomianowski, Piotr, *Napoleonic divorce law in Poland (1808-1852)*, Leiden, The Netherlands; Boston, Brill, 2022; Wiśniewska, Dorota, "Postanawiają, iż co do majątku, jaki obecnie posiadają i w przyszłości mieć mogą...": intercyzy w małżeńskim prawie majątkowym Królestwa Polskiego na przykładzie Łodzi (1841-1875), Łódź, Wydawnictwo Uniwersytetu Łódzkiego, 2012.

[97] Gulczyński, Andrzej, *Nazwisko dziecka. Ewolucja ukazywania relacji rodzinnoprawnych*, Poznań, Wydawnictwo Naukowe UAM, 2010; Stawarska-Rippel, Anna, *Elementy prywatne i publiczne w procesie cywilnym w świetle prac kodyfikacyjnych w Polsce (1918-1964): studium historycznoprawne*, Katowice, Wydawnictwo Uniwersytetu Śląskiego, 2015.

Dolata, Tomasz, *Prawo własności intelektualnej w Królestwie Polskim (1815–1915)*, Wrocław, Wydawnictwo Uniwersytetu Wrocławskiego, 2017; Górnicki, Leonard, *Prawo cywilne w pracach Komisji Kodyfikacyjnej Rzeczypospolitej Polskiej w latach 1919-1939*, Wrocław, "Kolonia Limited", 2000; Jastrzębski, Robert, *Wpływ siły nabywczej pieniądza na wykonanie zobowiązań prywatno-prawnych w II Rzeczypospolitej*, Warsaw, Wolters Kluwer Polska, 2009; Stus, Marek, *Małżeńskie umowy majątkowe w świetle Cracowskiej praktyki notarialnej (1918-1946)*, Cracow, Księgarnia Aka-

Intensive research was carried out on civil law during the Interwar period. Interesting studies were written by Leonard Górnicki on the codification commission, Robert Jastrzębski on legislation on the monetary valorisation of obligations, Zdzislaw Zarzycki on divorce, Marek Stus on matrimonial property contracts, and Tomasz Dolata on copyright law. Codifications after the Second World War were analysed by Piotr Fiedorczyk on matrimonial law, Anna Moszyńska on inheritance law, and Anna Machnikowska on property law.[98]

2. *Historical and Legal Journals*

Papers written by legal historians are quite reluctantly received by journals dedicated to the dogmatics of law, similarly to papers in the fields of philosophy or sociology of law. However, a group of journals is devoted exclusively to the history of the system and of the law. The oldest journal —and arguably still the most prestigious— is "Czasopismo Prawno-Historyczne," a journal that published two issues per year and that was founded in Poznań by Zygmunt Wojciechowski in 1948. The profile of this journal is very broad, publishing articles and reviews on Roman law, the history of law and legal doctrines, as well as on political and social history and philosophy of law. In recent years, the journal has rarely published texts in languages other than Polish.[99]

"Krakowskie Studia z Historii Państwa i Prawa" is a much younger journal founded in 2004 by Wacław Uruszczak. It publishes papers in Polish and English language, some written by researchers from outside Poland, including researchers mainly from countries of Central and Eastern Europe.[100]

Legal historians from the University of Białystok have edited the "Miscellanea Historico-Iuridica" journal since 2003. The journal is open to ar-

demicka, 2017; Zarzycki, Zdzisław, *Rozwód w świetle aktu sadu okręgowego w Cracowie w latach 1918-1945. Studium historyczno-prawne*, Cracow, Księgarnia Akademicka, 2010.

[98] Fiedorczyk, Piotr, *Unifikacja i kodyfikacja prawa rodzinnego w Polsce (1945-1964)*, Białystok, Wydawnictwo Uniwersytetu w Białymstoku, 2014; Moszyńska, Anna, *Geneza prawa spadkowego w polskim kodeksie cywilnym z 1964 roku*, Toruń, Wydawnictwo Naukowe Uniwersytetu Mikołaja Kopernika w Toruniu, 2019; Machnikowska, Anna, *Prawo własności w Polsce w latach 1944-1981. Studium historycznoprawne*, Gdańsk, Wydawnictwo Uniwersytetu Gdańskiego, 2010.

[99] Official website: *https://pressto.amu.edu.pl/index.php/cph* (last accessed: 30 May 24).

[100] Official website: *https://ejournals.eu/en/journal/kshpp/volumes-and-issues* (last accessed: 30 May 24).

ticles by legal historians and traditional historians, including those from outside Poland.[101]

A final journal with a typically legal historical profile worth mentioning is "Studia z Dziejów Państwa i Prawa Polskiego". This forum is published by the Faculty of Law of the University of Łódź. According to its title, it focuses exclusively on the historical evolution of indigenous Polish legal sources and institutions.[102]

The journals mentioned above have attained an excellent scientific level. Their existence and strong position have positive consequences, allowing the publication of cutting-edge research and interesting scientific debates and polemics. At the same time, however, their existence and strong position have alienated legal historians from other fields of legal studies. Most often, legal historians do not even explore publication with journals that have a typically "legal" profile, having the convenient opportunity to use their own legal-historical publication channels. At the same time, journals dealing with the dogmatics of positive law are indeed rarely interested in accepting texts written by legal historians.

V. Conclusion

The science and teaching of law in the modern world are subject to rapid and dynamic changes. By force, these changes can and will influence legal history. The situation in that field is quite challenging. A significant part of the legal community considers legal history an unimportant scientific field and an unnecessary part of the curriculum. There is an apparent tendency to reduce the number of full-time positions for specialists in legal history and to reduce the number of hours of teaching history courses for lawyers.

This is not a hopeless status, however. Legal historians still have research units in most law faculties of state universities, and there are some mandatory legal history courses within the law curricula. The community of legal historians is also very active in the field of research. Legal history journals have solid reputations, the articles and books published are based on valuable research, and a large number of Polish legal historians receive funding via grants from Polish and foreign institutions.

The community of Polish legal historians —and to some extent of all continental Europe— faces significant challenges. The teaching of legal his-

[101] Official website: *https://miscellanea.uwb.edu.pl/about* (last accessed: 30 May 24).

[102] Official website: *https://szd.ka.edu.pl/about-us/* (last accessed: 30 May 24).

tory must be reformed. It cannot be a set of monotonous and uninteresting courses consisting of memorizing the names and dates of historical codifications. The teaching of legal history should teach how to work with sources and how to solve legal problems using examples of past dilemmas. In the academic sphere, the efforts of Polish legal historians should be internationalized to a greater extent. It is paramount that Polish legal historians establish permanent cooperation with foreign researchers and engage in comparative projects.

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