Krakowskie Studia z Historii Państwa i Prawa
2024; 17 (4), s. 539–542
doi:10.4467/20844131KS.24.042.21026
https://ejournals.eu/czasopismo/kshpp

Karol Dąbrowski
https:/orcid.org/0000-0002-4513-3873
Maria Curie-Skłodowska University in Lublin

Korporowicz, Łukasz Jan, ed. Teaching Legal History – History of Legal Teaching (Acta Universitatis Lodziensis, Folia Iuridica *99 [2022]) (pp. 192, ISSN 0208-6069; e-ISSN 2450-2782)*

Keywords: legal education, legal history

Volume 99 of the *Acta Universitatis Lodziensis*, *Folia Iuridica* journal was dedicated to the history of teaching law in general, the history of teaching Roman law, and the history of law and research methods in legal history. The authors of the fifteen texts included therein (13 articles and 2 reviews) did not address the issue of "how to teach legal history" but prepared a collection of interesting contributions regarding university legal education. References to various fields of law, many legal cultures (England, Austria, Australia, Belgium, Japan, Poland, USA, Wales), different historical periods (antiquity, the Enlightenment, 19th century), and even fragmentary situations (teaching legal history in a camp for internees during the Second World War) can be found there.

David Barker presented an interesting overview of the beginnings and organizational evolution of legal education in Australia. Frederik Dhondt introduced the profile of the Belgian scholar John Glissen, including his life story, activities as a prosecutor during the trials of collaborators after the Second World War, involvement in solving the problems of bilingualism in Belgian university life, public activity, international scientific contacts, research spectrum, and teaching. From the perspective of key issues, it is important to note three topics addressed by Glissen: comparative introduction to legal systems, review of legal sources, and discussion of the institutions of private law. Tomoyoshi Hayashi justified the place of Roman law in legal education in Japan, referring to the Meiji era and the adoption of models from English, French, and German law

in Japanese legal system. Richard W. Ireland discussed the development of legal history as a subject of teaching in England and Wales. He also pointed out the paradox of dealing with legal history in the culture of precedent, for which by definition the past is present. He described the relatively recent interest of academics in the history of English and Welsh law, as a determinant of the distinctiveness of this component of the United Kingdom. He pointed out the importance of digitization of sources for the development of legal history as a discipline, but also the risk associated with the commercialization of universities, which eliminates historical-legal subjects from study programs. Kathryn Birks Harvey emphasized the importance of research on the correlation between racial and gender discrimination in American law schools in her review of Meera E. Deo's book *Unequal Profession: Race and Gender in Legal Academia*.

Łukasz Jan Korporowicz wrote about how in 18th century England Thomas Bever introduced comparative legal topics into his lectures. This English lawyer, who was pioneering for his time, taught the history of state systems and addressed the issue of the history of the Polish political system, from tribal times to the reign of Stanisław August Poniatowski (1764–1795), which he evaluated positively.

Lena Fijałkowska took up the difficult topic of decoding the training of Mesopotamian scribes, who operated in a "rich and diverse culture, with clear rules and often surprisingly complicated institutions." They were responsible for recording contracts, such as marriage, adoption, sale of real estate, slaves, land lease, surety, and even date palm cultivation. They learned legal codes, legal formulas, drafting contract templates, and analyzed case studies. If we were to travel back in time and compare the skills of an ancient scribe with a contemporary law graduate, particularly in terms of drafting contract templates, it could be revealed that law graduates from Polish law schools, in the era of "testomania," are not prepared to leave the university walls in the realities of the 21st century.

The theme of Roman law was started by Philipp Klausberger, who put flesh on the teaching of law in the 2nd century based on the delicts of Gaius' *Institutes*, which includes issues of responsibility, harm, and fault. A constructive conclusion about the timeless nature of Roman law rules and their usefulness for the didactics of contemporary civil law can be drawn from his reflections. I believe that students would better understand the Polish Civil Code if they were taught the institutions of civil law with reference to the *Institutes* of Gaius.

Grzegorz Nancka wrote about the discussions held by the Roman law scholars in Lviv on the methods of interpreting Roman law and moving away from the pandectist approach to legal studies. Paul du Plessis presented the ways in which Roman legal scholars derived abstract legal constructs from concrete life examples. He pointed out two trends in the teaching of Roman law: studying it for its own sake or updating Roman law by studying it in connection with contemporary civil law.

Dorota Wiśniewska wrote about who, where, and when taught Polish legal history in the Congress Kingdom of Poland. Izabela Leraczyk took up a narrow research problem within the history of teaching legal history, but one that is interesting for the history of the Polish nation. She analyzed academic scripts prepared during university courses for Polish soldiers interned in Switzerland during the Second World War.

Michał Gałędek pointed out the differences between historical legal comparison and comparative legal history, discussed the specifics of diachronic comparative analysis. He

demonstrated the potential of comparative studies on Polish law through examples such as the influence of Roman law on the legal culture of pre-partitioning Poland, the reception of the Napoleonic Commercial Code, and attempts at codifying the law.

The editor of the volume – Korporowicz – in his closing review of Russell Sandberg's monograph *Subversive Legal History. A Manifesto for the Future of Legal Education*, following its author, noted that legal history has the potential to force law students to question commonly accepted truths about the law. In fact, legal history shows that the world of law is not black and white. The role of the legal historian is to falsify established theories and expose myths present in the law. The past was not always worse, perhaps even better, when we consider the unjust, irrational, ineffective, and dehumanized contemporary justice system.

The presented volume does not contain specific didactic guidelines on how to teach the history of law in the 19th century that we could use in our syllabi, but it provides interesting cognitive information and prompts reflection on how the history of law and Roman law were taught in the past. Such topics are worth discussing because it is not necessarily guaranteed that historical-legal subjects will maintain their place in legal education. At the Faculty of Law and Administration at Maria Curie-Skłodowska University in Lublin, they constitute a part of propaedeutic courses, along with an introduction to legal studies, logic, Roman law, and political-legal doctrines. They precede the teaching of dogmatic subjects. Therefore, it would be valuable to discuss the purpose, specificity, and above all the distinctiveness of historical-legal subjects. It is possible to imagine that instead of a general legal history class, students would be introduced to the Napoleonic Code in a historical introduction to civil law, and separate classes in the history of law would be replaced by introductions to history for individual dogmatics. A solution could be teaching not in a chronological approach with a division into the history of Polish law and a general history of law, but familiarizing students with the genesis of legal institutions. In this way, a student who will participate in labor law classes in later years will learn in the first year of study about the origin and evolution of the employment contract. Similarly, limited liability companies or specific institutions of civil law. I deliberately do not refer to courses or modules, let alone mention educational outcomes. For me, they are only transitional forms, for which the content of education is always the reference point. The pertinent question is what the place of the history of political systems in legal education is, and whether it would be possible to extract political system issues into a pool of monographic lectures.

Students should be familiar with the mechanisms that have occurred in the past, which will facilitate their understanding of the current shape of individual elements of the legal system. Therefore, as I repeat during scientific meetings, it is easier to remember the definition of economic activity if its evolution from the industrial regulations of the 19th century is shown. The intended learning outcomes can be successfully achieved without encyclopedism. The difficulty lies in conducting lectures that are interesting for students, do not repeat the textbook, are not overly general, and at the same time consider the latest literature on the subject.

The question about the future of teaching legal history is also a question about the ability to change the way we look at legal history as a niche discipline of science. A well-understood pragmatism and viewing legal history as a facilitator for legal doctrine, rather than unnecessary ballast, justifies, in my opinion, its place in the professional model of legal education.