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Legal History Research in Belgium (2021)

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1. Introduction

The past year featured many contributions to Belgian legal historical research again. In this contribution,¹ I will focus on newly published books to keep the overview concise. These books have been co-edited or co-authored by Belgian scholars or scholars active in legal history at a Belgian university until at least 2021. Furthermore, in 2021 digital platforms have provided a convenient means to hold or replace – instead of postponing – some physical conferences or events or to organize hybrid ones. The Belgian – Dutch Legal History Days, for instance, had been cancelled in 2020 but has had an online edition at the end of 2021. I will conclude this contribution with an overview of PhD dissertation defenses from the past year.

2. Conferences and Events

On May 10, the Institute for Legal History at Ghent University organized an online edition of the “Rechtshistorische Causerieën”, in which mainly young researchers in (legal) history are encouraged to present their research. This edition included a seminar from Benjamin Robinet, who presented his first book, *La Représentation permanente belge*

¹ This contribution is largely based on the *Rechtshistorische Courant* (the monthly newsletter from the Institute for Legal History at Ghent University) from January to December 2021, as well as on the websites of Belgian universities and of relevant organizations.

auprès de l'Union européenne – Une cheffe d'orchestre à Bruxelles. This book tells us the history of the Permanent Representation of Belgium to the EU from 1957 until 2018.

No more than ten days later, on May 20, another online lecture was organized under the auspices of Standen en Landen, an association promoting the development and diffusion of research on institutional history in Belgium.² On the occasion of the publication of the book that he edited in the same year (more on this book in the next section), Klaas Van Gelder (UGent/UAntwerpen/VUB) discussed several questions regarding the importance of coronation and inauguration rituals in early modern Europa and their subsequent revival in the revolutionary period, together with Helen Watanabe-O'Kelly (University of Oxford) and Petr Mat'á (Österreichische Akademie der Wissenschaften).

On June 17 and 18, the online UGent Doctoral Schools Interdisciplinary Specialist Course “The problem of judgment at the intersection of philosophy and law” took place. In this course, organized by Angela Condello (University of Messina), Emiliano Acosta (VUB/UGent) and Georges Martyn, the concept of “judgment” was explored from a legal and philosophical perspective.

On October 21, a roundtable discussion on the history of international economic law took place, once again online. This event was organized by the Institute for Legal History at Ghent University, in cooperation with the Ghent Rolin-Jaequemyns International Law Institute (GRILI) and with the Contextual Research in Law Research Group (CORE) at Vrije Universiteit Brussel (VUB).

On December 2, Harry Dondorp (VU Amsterdam) gave a lecture in the context of the Leuven Legal History Talks, entitled “*Duplex dominium rei furtivae*. Acquisitive prescription of stolen goods in the civil law tradition.” In this lecture, Dondorp talked about the history of the interpretation of Roman law in the medieval and early modern legal tradition. He specifically addressed how the introduction of Art. 2279 of the Belgian Civil Code, granting owners of stolen goods the right to reclaim their goods within three years, constituted a break with tradition, which granted those owners several decades. As the title suggests, this question was connected to the topic of *duplex dominium* (double ownership).

A few days later, on December 7, another lecture took place under the auspices of the Leuven Legal History Talks, this time by Marcus M. Payk (Helmut Schmidt University in Hamburg). The title of the lecture was “L'établissement d'une paix de droit? The Paris Peace Conference of 1919/1920 and International Law.” Payk elaborated on the ambivalent role of international law in the peace negotiations after World War I, and more specifically, on what was meant by “une paix de droit,” as it was called in 1919. To add further perspective, Payk also situated the Paris Peace Conference within the context of national and international politics.

Last, but not least, the Belgian – Dutch Legal History Days also received an online edition on December 16 and 17. Numerous scholars from several universities in Belgium and the Netherlands presented and discussed their research pertaining to the legal history of the Low Countries. The author of this overview was an active participant in this conference, in which he offered some of the initial insights that have resulted from his

² Standen en Landen, “Presentation and Board”. <https://standenenlanden.blogspot.com/> (accessed: 22.05.2022).

research activities, with a presentation entitled “Het lastbreken als juridisch hangijzer in het vroegmoderne Gent: analyse van een geschil tussen de Gentse vrije en onvrije schippers (ca. 1670–1715).”

3. Books on Legal History

Whoever is under the impression that the coronation of sovereigns merely amounted to the spectacle with no other tangible effects will be convinced otherwise in the edited volume *More than Mere Spectacle: Coronations and Inaugurations in the Habsburg Monarchy during the Eighteenth and Nineteenth Centuries*, edited by Van Gelder (UGent/UAntwerpen/VUB) as mentioned in the previous section. Focusing on the Habsburg monarchy, this work aims to disprove this impression through a series of case studies, treating political, constitutional, legal historical, and cultural aspects.

A multidisciplinary work concerning Belgian constitutional law, *The People versus the Nation. Sovereignty, Civic Participation, and Constitutional Law in Belgium*, was edited by Brecht Deseure (King’s College London), Raf Geenens (KU Leuven), and Stefan Sottiaux (KU Leuven). Taking into account the actual discussions on civil participation in the political sphere, this book addresses the Belgian debate on the constitutionality of direct democracy. Based on the debates that were held during the redaction of the Belgian constitution in 1831, and thus based on the spirit of the text, its thesis poses that the mainstream opinion on this – regarding direct democracy as unconstitutional – is wrong. The book offers insights from multiple fields, such as law, philosophy, history, and politics.

Dante Fedele (CNRS) has authored a new book on the medieval foundations of international law, *The Medieval Foundations of International Law. Baldus de Ubaldis (1327–1400), Doctrine and Practice of the Ius Gentium*. As the title suggests, this work is based on the study of Baldus de Ubaldis, apprentice of the commentator Bartolus de Sassoferrato. Baldus himself has written commentaries on Roman law, canon law and feudal law as well. Fedele elaborately presents to us the doctrine of international law that this medieval scholar has developed.

Dominique Bauer (KU Leuven) and Randall Lesaffer (KU Leuven/Tilburg University) have co-edited a volume on the legal thought of Francisco Suárez (1548–1617), *History, Casuistry and Custom in the Legal Thought of Francisco Suárez (1548–1617). Collected Studies*. This work states that Suárez’s work and ideas have constituted the most important contribution from the School of Salamanca to developing modern-day western law. The collection consists of contributions from numerous authors, exploring both theoretical and practical aspects of Suárez’s work in the legal field.

In an edited volume on the history of the publication of law and of the ways legal knowledge has been disseminated through bookshops and libraries, Sebastiaan Vandenbogaerde (UGent/UAntwerpen/KU Leuven) has contributed a chapter on the editors of Belgian legal reviews, *Des relations amicales au professionnalisme. Les éditeurs des revues juridiques belges (XIX^e–XXI^e siècles)*.

Zooming in on Hugo Grotius (1583–1645), *The Cambridge Companion to Hugo Grotius*, co-edited by Randall Lesaffer (KU Leuven/Tilburg University) and Janne E. Nijman (UvA), delivers insight into the life, writings, and ideas concerning several legal questions of a famous scholar in the legal sphere of the Low Countries. Several authors from different fields, such as literature, history, law, theology, and political sciences, have contributed to this work.

Wim Decock (UC Louvain), Bart Raymaekers (KU Leuven) and Peter Heyrman (KU Leuven) have co-edited a work on neoscholasticism, *Neo-Thomism in Action, Law and Society Reshaped by Neo-Scholastic Philosophy, 1880–1960*. This work consists of contributions from several different disciplines and puts specific emphasis on the legal facets of the Thomistic revival movement, as well as on the Louvain Institute of Philosophy and Faculty of Law.

Finally, Randall Lesaffer contributed a chapter in the edited volume *International Law and Peace Settlements*. His chapter is titled “The Lore and Laws of Peace-Making in Early Modern and Nineteenth-Century European Peace Treaties” and discusses the practice of concluding peace treaties in early modern Europe.

4. PhD Defenses

On September 8, Katrin Vanheule (promoted at KU Leuven, Faculty of Law) was granted her doctoral degree with a thesis on the repression of espionage for the German occupier during World War I. She discussed how the law was not always followed when prosecuting espionage suspects or at the trial stage. Furthermore, judges frequently proved to lack knowledge of the relevant law. Vanheule also addressed the variety of facts that lead to prosecution, observing a shift in focus from espionage during the war to counterespionage after.

On December 21, Jakob Werbrouck (promoted at KU Leuven, Faculty of Law) defended his doctoral thesis, entitled, “Het multidimensionale pensioenbegrip doorheen de Belgische rechtsgeschiedenis.” He studied how the legislator understood pensions in the course of Belgian history. He argued that there have been multiple ways the legislator has understood pensions and that this has been reflected by the resulting pension laws, more specifically in different concepts of “pension” in different laws or, in other words, in a multidimensional character of this concept. Werbrouck aimed to explain why such a multidimensional character has occurred and to analyze the impact this has had on pension laws.