

From mirror to vector. An impossible step ?

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Sebastiaan Vandenbogaerde : Sebastiaan Vandenbogaerde graduated in 2006 in history and four years later he obtained a master's degree in Law. In the same year he became a researcher at the Department of Jurisprudence and Legal History where he worked on a FWO-project on Belgium's legal periodicals. In September 2014, he successfully defended his dissertation "Vectors of law. History of Belgium's legal periodicals". He posited that legal periodicals are not only mirrors but also vectors of law. Vector must be seen as a 'distributor' of ideas about law and justice. The editors, who often responded to social and legal developments, played a significant role.

Today he is doctor-assistant at the Law Faculty where his focus lays on legal journals as creators of nations. His hypothesis is that these journals contributed to the development of national law in nation states and also filled the role as 'colonizers'. He also works on the administrative aspects - within both international and national law - of the German occupation in both world wars.

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A lecture regarding all of the papers enables us to draw some general conclusions. In the first place, it has become clear that legal periodicals definitely mirror legal history, and that this occurs in two ways : internally and externally.

It occurs internally, in that, by studying their content, significant evolutions in the law can be placed in chronological order. This strategy enables researchers to retrace changes in legislation, case law and legal scholarship by literally turning the pages of each issue. Each issue illustrates a moment : When all of the issues are lined up, they show the film of law in Belgium. But this strategy also unveils the external legal history of Belgium's legal periodicals. The issues affecting Belgium's linguistic problems are culturally and politically coloured.

By focusing on the external factors that determine their roots, their zenith and (in certain cases) their downfall, all contributions show that legal periodical publications cannot be untied from their ideological, political and socio-economic background. For instance, remarkably, legal periodicals revealed that the United Kingdom of the Netherlands ultimately did not seem to be very united. During the nineteenth century, nationalism played an important role in the production of Belgium's legal periodicals. Belgium was an economic world player, at the expense of a poor proletariat that demanded social legislation. In addition, King Leopold II improved his personal prestige, but also that of his kingdom, by annexing Congo. The editorial board of the rebellious *Journal des Tribunaux* maintained both ideas : a better social legislation and a colonial superpower. During that very same period, specialised titles - here, addressing social and colonial law - illustrate the importance of both. At first, the scope of all legal titles was broad, but during the nineteenth century, specialisation rose, which resulted in clustering. Several periodicals appeared almost simultaneously when a new branch on the legal tree was thriving. A complete list, in chronological order, reveals fields in full development and also gives an impression of the 'fittest' amongst the journals. It also shows how a

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small group of editors monopolised a certain domain. Fairly rapidly, this oligarchy turned into a de facto monopoly, in which the 'fittest' gained the largest share of the market.

Another type of clustering involves affiliations between certain legal periodicals. Although it has not really been researched, the connections between editorial boards can be retraced. For instance, the co-operators of the *Journal des Tribunaux* appeared in periodicals on colonial law. Nevertheless, more research, using different methods, is needed to unveil those links.

Despite one's assumptions, the editorial boards actually did not always seem to be as 'innovative' as they would have liked to be. Journals react to evolutions in society, and sometimes, they simply react to each other, because new journals believe that they will do a better job than the older generation of journals. The 'rebellious' *Journal des Tribunaux* copied large parts of the programme of the failed *La Belgique Judiciaire*, with the goal of bringing law closer to the people. This idea was not new, as *La Belgique Judiciaire* borrowed it from the 1825 French *Gazette des Tribunaux*. The vulgarisation of legal matters was more inconsequential than one may imagine.

As most contributions focus on the mirroring aspect of legal periodicals, one may wonder whether the hypothesis that legal periodicals are a vector of law can be maintained. It is my belief that it can be. First, we need to understand a vector not according to its purely mathematical meaning ; rather, we must reduce it to its original epistemology : a spreader or indicator of ideas. Periodicals, irrespective of their genre, are founded to create additional value in a certain field in society. Editors try, through the means of a journal, to communicate with their readership and to disseminate ideas about how the law should evolve. They point in a certain direction - also a vector - of legal development. A study of their opening statements, which are often published in the first issue, provides us with a glimpse of how (a certain field of) law is perceived and the direction in which it should evolve. The publication of periodicals, as an endeavour, demands the congeniality and loyalty of the editors towards each other. The lack of archival material seems to indicate that editors rarely took notes about their decision making, or if they did, there does not seem have been any interest in saving them. Thus, investigations into the decision making of editorial boards will always remain a difficult, if not impossible, task. Nevertheless, it might be interesting to know what was not published. Focusing on the actors, instead of a taking descriptive approach toward what was published, can tackle this problem to a large degree. Scrutinising the editors, authors, publishers and readers, in their context, can indicate the course of certain journals. But it can also offer other perspectives.

The methodologies that are applied in literature sciences and history can help to take the study of legal periodicals to a higher level. Editors, but also other actors affecting legal periodicals, such as authors and publishers, move within certain networks. Social Network Analysis - often mistaken for prosopography - has proven to be very helpful in understanding not only intra-periodical networks but also extra-periodical ones. For example, the editors and authors of the *Journal des Tribunaux* collaborated with journals on colonial law, but also journals on literature such as *L'Art Moderne*. Mapping this network could illustrate how Belgium's legal world was connected to the country's artistic sphere. At this very moment, a complete database of all of the actors involved in producing legal periodicals is missing, but such a database could prove to be very useful in unravelling all of those networks. A possible blank spot is their readership. Lists of subscribers are seldom available ; the same can be said about catalogues of private collections, which would provide a unique image of the legal periodicals used by professionals¹.

Another method that is often used in literature science is discourse analysis, which considers the impact of socio-political developments on language usage². To date, Belgium's legal periodicals have not been embedded in a digital environment. The cost of scanning and OCR-ing all of the volumes is very high, but it would provide significant help in furthering legal history. Another issue is the power of publishing houses to protect online databases, while demanding a yearly fee to access it, as well as a subscription to a particular title in order to access old issues.

A more quantitative approach could also reveal the network that is included within a periodical. Counting the cases published within a certain timeframe not only can illustrate the importance of a specific court in certain legal matters, it can also imply close relations between the ruling magistrate or the pleading attorney and the editorial board. A bibliometric approach, which involves counting a journal's pages and determining whether the volumes became thicker, could illustrate the growing juridification of a society³. Last but not least, all over Europe databases on journals but also on legal actors, such as magistrates, are being brought online⁴. Combining most - if not all - data, allows researchers to sketch a complete image of history.

These methods are only a few of the possible approaches, and they illustrate that *legal periodical studies* comprise a valuable and very viable branch in social sciences, similar to history, literature scholarship and legal history.

Notes

1 M.H. HOEFLICH, *Legal publishing in antebellum America*, New York, Cambridge University Press, 2010, 208 p.

2 N. FAIRCLOUGH, *Critical Discourse Analysis : The Critical Study of Language*, London, Longman, 2010 (2nd ed.), 608 p.

3 On juridification : B. DEBAENST, *A study on juridification : the case of industrial accidents in nineteenth century Belgium*, in *Tijdschrift voor Rechtsgeschiedenis* 81 (2013), 247-273.

4 The most important in Europe are the databases by the Max Planck Institute from Frankfurt. The most important initiative was taken by the Frankfurt Max Planck Institute for Legal History. Between 2002 and 2006, a project on the 'Digitization of legal periodicals (1800-1918)' brought seventy-five titles together. Later, older periodicals were also scanned and brought online. For more information and a link to databases : http://www.rg.mpg.de/bibliothek/zeitschriften_1703-1830 and http://www.rg.mpg.de/bibliothek/zeitschriften_1800-1918. On legal actors for instance are there databases on Belgian magistrates, <http://www.bejust.be/tools/prosopography-belgian-magistrates-1795-1960>; also in France there has been a similar initiative : http://tristan.u-bourgogne.fr/Ancop/WEB/Pages_web/accueil.html.

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