

Juliusz Bardach (1914–2010)

Juliusz Bardach, recognised as one of the greatest experts on the Polish state and its legal history as well as the Polish political system, was the author or co-author of popular textbooks, which were used and are still used by successive generations of post-war law students. Who amongst them does not know *Historia państwa i prawa polskiego* (1976) [A history of the Polish state and law] written by Professor Bardach together with Professors Bogusław Leśnodorski and Michał Pietrzak or the monumental 5-volume study edited by him and published under the title *Historia państwa i prawa Polski* (1957–1983) [A history of the Polish state and law (1957–1983)]? For certain each of them should have studied Professor Bardach's individual works: *Historia państwa i prawa Polski do połowy XV wieku* (1957) [A history of the Polish state and law to the mid-15th century], *Historia ustroju i prawa polskiego* (1993) [A history of the Polish political system and law] and *Dzieje Sejmu Polskiego* (also published in 1993 when the author was almost eighty) [A history of the Polish *sejm*]; everyone, not merely lawyers, should read works such as *Themis a Clio, czyli prawo a historia* (2001) [Themis and Clio, or the law and history] – works that are far more than mere textbooks, ones displaying the depth of the professor's research; or those revealing his interest in the history of the Polish Commonwealth (*O dawnej i niedawnej Litwie* of 1988 [On the old and more recent Lithuania], *O Rzeczpospolitej Obojga Narodów* of 1998 [On the

Commonwealth of both nations] or *Statuty litewskie a prawo rzymskie* of 1999 [Lithuanian statutes and Roman Law]); everyone who wishes to know better the circumstances in which famous Poles operated reaches for his *W obiektywie nauki i w lustrze pamięci (o uczonych, pisarzach i politykach XIX i XX wieku)* of 2004 [In the lens of learning and the mirror of memory (on academics, writers and politicians of the 19th and 20th century)]. Each of Prof. Bardach's achievements, with his interest first of all in the history, political system and institutions of the Polish Commonwealth against the European backcloth as well as the history of the Grand Duchy of Lithuania but also – as the erstwhile Antoni Mączak emphasised – in the analysis of customs forgotten yet worthy of attention or former legal terms, and even that of the collective mentality both through the fate of Lithuanian statutes or 'through the literary output of Walerian Meysztowicz or of both Miłosz's,' is characterised by his 'avoidance of the trifling.' For according to the mentioned historian, Prof. Bardach, who produced around 600 publications, is not merely the author of textbooks but also, and possibly above all, 'the master of the brief study, of a carefully chosen topic yet possibly never constituting a contribution'; an author who 'starting off from a monographic problem area, at times one of only local significance, places it within a broad historical and systematic context: the event, the legal act, often man at a near or more distant past serves him as the starting point for considerations on a grand scale,' reflections which constitute evidence of 'a deep rooted academic erudition.'

Professor Bardach research publication activity astounds. Equally impressive is the variety of topics addressed, the insightful analysis of matters belonging to various epochs, including to antiquity, the Middle Ages, the period of Polish partitions and the 2nd Polish Republic, as well as his interest in common problems for both historians and lawyers alike. This would include, for instance, the relationship between law and history, in which – however tempestuous in Central Europe – he was embroiled, in a way similar to the multinational, multicultural and multid denominational tangle of these lands. For the professor had been born on the 3rd of November 1914 in Odessa, far away from Warsaw, where he was to settle permanently. He was born into a Polish Jewish family, the son of Marek, a dentist, and Otylia, as the older brother of Rachel and Janusz (1919–2002), a prisoner of the Soviet Gulag (the author of among other works *Man is Wolf to Man. Surviving the Gulag* of 1998), who as a plastic surgeon emigrated to the United States of America to continue his academic and professional work in Iowa. In 1920 the Bardach family moved to the now independent Poland, where the future professor completed his secondary education at the Nicholas Copernicus Secondary School in Włodzimierz Wołyński, after which he started his degree at the Faculty of Law and the Social Sciences of the Stefan Batory University (USB) in Vilnius,

where, under the guidance of Prof. Stefan Ehrenkreutz (who was to be the last rector of the university before its closure by the authorities of the Lithuanian Republic after the taking of Vilnius in 1940), he carried out research chiefly at the Institute of Lithuanian Legal History. While studying he also attended the seminars given by Henryk Łowmiański – the Slavist and medieval scholar, at the time an assistant professor of USB (he was later to describe his relations with him in a collection of articles *Profesor Henryk Łowmiański. Życie i dzieło* of 1995 [Professor Henryk Łowmiański. Life and Work]) as well as those of the law theorist and Sovietologist Wiktor Sukiennicki (these took place at the Vilnius Academic Eastern European Research Institute). Clearly moved he would recall also Prof. Waław Komarnicki's lectures in Constitutional Law as well those in Civil Law given by Eugeniusz Wałkowski, previously a professor at tsarist universities, and in particular the meetings with Jan Adamus, with whom he conducted debates on the history of law, and primarily about the history of the Polish-Lithuanian Union.

While still a student the Professor was connected with the academic Union of Independent Socialist Youth, and on coming of age in 1935 he joined the Polish Socialist Party (PPS). Shortly after finishing his degree in 1938, and just before the outbreak of the World War II (for this was at the end of the year), he edited the Vilnius edition of *Robotnik* [The Worker], the main press organ of the Polish Socialist Party (PPS), while carrying out academic research chiefly into the history of law in the Grand Duchy of Lithuania. The outbreak of war found him in Vilnius, which was taken initially by the Soviet and then the Lithuanian army. When his wife, parents and sister were killed in German-occupied Włodzimierz in 1942, he joined the 1st Polish Army, becoming an officer of the 'educational division' (political education). He was soon to reach the rank of colonel. He was to reach Berlin with the forces of General Zygmunt Berling 1943–1945. As an officer, one attached to the Propaganda Section of the Chief Political Board connected with the newly Soviet Army installed authorities within the Polish territories, he initially wrote reports on soldier behaviour in Soviet and Polish occupied territories in 1945, while from the beginning of 1946 until 1948 he was to be the military attaché at the Polish embassy in Moscow.

Following his return to Poland, and after the Congress of the United PPS and Polish Workers' Party, Bardach in 1948, himself a former member of the PPS, joined the ranks of the United Polish Workers' Party, a membership he was to retain until the very end of the party's existence i.e., until 1990. Still in army ranks in 1948 he had his Ph.D. defence at the Jagiellonian University in Cracow on the basis of a thesis written while still in Vilnius – *Adopcja w prawie litewskim XV i XVI wieku* (printed: Vilnius 1938) [Adoption in Lithuanian Law of the 15th and 16th century]. Therefore this first academic degree

he was to obtain in Cracow, a city – as he admitted in his jubilee address to mark 60 years of academic work – that was close to him because it was here he obtained his doctorate and because ‘it was the old capital of the Kingdom.’ At the time he was closely associated with one of the best known Cracow academics, a specialist in the field of Canon Law and the History of Polish Law, Prof. Adam Vetulani, with whom – as he recalled – he was to be united ‘later by many years of close cooperation.’ Vetulani was not only a member of the commission (together with Professors Jan Gwiazdomorski and Michał Patkaniowski) that conducted his doctorate examination, which was to end successfully with a unanimous decision to bestow him with ‘the title of doctor in legal sciences in the field of the history of Polish political systems and law,’ but also the dean of the Jagiellonian University’s Faculty of Law, who signed the certification announcing that ‘Colonel Bardach Juliusz of Odessa on the basis of the academic work entitled *Adopcja w prawie litewskim XV i XVI wieku* as well as passing a rigorous examination was elevated on this day to the rank of doctor of law of the Jagiellonian University.’ Profesor Vetulani was also to be the supervisor of J. Bardach’s doctoral programme: ‘I had great satisfaction,’ he wrote in previously unpublished memories given to the author of this text by the professor’s wife, Wanda Sudnik-Bardach, ‘that I had become a doctor of the oldest Polish university and at the same time of its oldest faculty, and all the more so given that my supervisor was – as was said later still – “The Great Mr. Adam.”’ Józef Bardach was aware of the peculiarity in the link between him and Vetulani, given that he noted that his supervisor was chiefly:

[...] a specialist in Canon Law, a subject that after the war – together with the closure of the Faculty of Theology – was removed from the degree programmes at state universities. As a canonist he was connected for obvious reasons with Church teachings. The professor could not be therefore a pupil of the then political authorities. I did not hide from the professor my pre-war affiliation to the leftwing PPS and declaration of support for science of Marxist methodology. I could therefore have turned out to be an unpleasant acquisition in his school. This did not worry the professor however. Though not a convinced adherent of this methodology he valued it as one useful in historical research.

What is more, the author of the recollections shows that A. Vetulani ‘as a former soldier of the Polish Army in the west, had the right to feel dislike towards a representative of the *people’s* army and this being all the more the case given that he knew of my role in its political-education division and later as an attaché in Moscow.’ In emphasising the importance of the position held by the Cracow academic, he adds that ‘through taking on the function of supervisor for my Ph.D. [he] displayed his optimism, understanding all of which was worthy of the greatest respect. And this he combined – or so it appeared to me – from the very beginning with a kindness to my person,

admittedly hidden on his part through a usually sarcastic and at times even malicious sense of humour' (from unpublished memories).

Presumably shortly after gaining his Ph.D. Bardach joined the Marxist Association of Historians, called into being in 1948 at the Second Congress of Polish Historians, which was 'to liberate Polish historiography from the shackles of traditionalism and eliminate ideological backwardness in the historical sector.' He tried, as he admitted in his unpublished notes, to leave the army already in March 1945 as a result of the atmosphere that was developing there and in order to take up academic work. He was to have been helped in this by Prof. Bolesław Wilanowski, who was setting up at the time the State University in Łódź and who had wanted to employ him before he had even obtained his Ph.D. 'Unfortunately,' as J. Bardach admitted, 'the military authorities reply was a negative one, as my presence in the army was seen as essential. And so I was to stay in the army for a long time yet – until July 1950.' Already before this date J. Bardach, dismissed from the army on the basis of the view that 'he possessed rightist PPS views,' and that he had even expressed himself 'hostilely in relation to the Soviet Union,' had conducted classes at the Warsaw Academy of the General Staff, with which the following anecdote of 1948 is associated, one which appeared in unpublished memoirs:

I used to come to the classes in civvies, which was to shortly meet with a strong reaction on the part of the head of the unit, Gen. Berling, who gave me a clear order to come in uniform after all. Anyway, when I arrived for the first time at the designated lecture room it turned out that it was locked. I asked one of the students waiting in front of it to call for the janitor with the keys. When he came I asked him to open the door. He looked at me askew and said 'I'll open the door when the professor comes.' At which I informed him: 'The professor's already here.' Hearing from the queue: 'But where?' I replied pointing a finger at myself: 'Right here!' He looked at me in disbelief yet opened the door. I therefore went in and headed for the lectern. And here I heard to my surprise a histrionic whisper: 'Please get down smartly and be seated. There'll be a right carry on when the professor arrives.' So I once again assured him that it was I who was the lecturer. Then, already most irritated, he stated: 'Don't you try it on! I have been a janitor now for 30 years and I know what a professor looks like!' The exchange was interrupted by a student in uniform of the rank of major. He said to the janitor: 'Sir, this is a colonel not simply a professor!' And this worked. Even though the janitor was not totally convinced the authority lent by a uniform was nevertheless to triumph.

Only in 1950 did J. Bardach start to have lectures at the Faculty of Law and here not in Łódź but at the University of Warsaw. And then not as a military man but as a teacher and researcher employed at a civilian institution of tertiary education, where two years later he was entrusted to co-organise the Institute of the History of the State and Law, taking the position of director in the said in 1954 (served until 1968), and as the head of the Department of History and Polish Law. J. Bardach was not only to tighten cooperation with

the Cracow centre but equally to help Prof. Vetulani. We shall again refer to the unpublished memoirs in order to show the difficulties faced during this period in all academic centres, and more broadly within the entire academic community, Cracow's included.

The forging of contact with Professor A. Vetulani at the time – wrote Bardach – developed when from July 1950 I found myself out of the army and in constant, and with time friendly, academic cooperation. With the end of the 1940s Prof. A. Vetulani and Prof. J. Gwiazdomorski found themselves amongst those lecturers of the Jagiellonian University whom the political authorities – represented officially by the deputy minister for education and science Eugenia Krassowska – had decided to move to Wrocław with the formal reasoning that the matter concerned the strengthening of staff at what was a reborn Polish university. The real reasons – more or less covert – for the resettlement of the professors from Cracow boiled down to the accusation of their 'improper' class origin, political affiliation or orientation, chiefly as a result of their earlier support for S. Mikołajczyk's Polish People's Party, and in the case of A. Vetulani – also due to his academic orientation, that is his earlier research into Canon Law. Intervention with the political authorities was necessary – Bardach admitted. In the case of Prof. J. Gwiazdomorski, Prof. Jan Wasilkowski offered his support, a man who enjoyed at the time – and later as well – a strong political position. I took it upon myself to stand in defence of my supervisor. Eventually it was possible to keep Prof. A. Vetulani at the Jagiellonian University, and this thanks to the help of the then head of the Education Section of the Central Committee of the Polish United Workers' Party, known to me from Vilnius, Kazimierz Petruszewicz. Unfortunately, however, Prof. J. Gwiazdomorski had to move for a few years to Wrocław, even if only commuting there from Cracow. I never did afterwards ever manage to find out from Prof. J. Wasilkowski, why his ('undertaken', as he himself said) intervention was to be ineffective.

In 1955 J. Bardach became an associate professor, while in 1960 he obtained a full professorship, working at Warsaw University; active from the very inception both at the Polish Academy of Sciences (PAN), first at the Department, and then the Institute of Legal Sciences, in which he headed the historical-legal section. In 1962 he transferred, together with the Department of the History of the State and Law, to the Institute of History at PAN, finding support in the form of its director Prof. Tadeusz Manteuffel. He was to head this department right up until its closure and the transfer of its staff to other sections of the Institute of History in 1968. The events of March 1968 meant that Prof. Bardach stopped being an employee of PAN, remaining only a professor of the University of Warsaw. In recalling the period prior to March 1968, chiefly though the first half of the fifties when J. Bardach started his academic career, Prof. Henryk Olszewski wrote that '[he] achieved an academic and moral authority in times that were bad, difficult and hostile, times which constantly took away from many their reason, peace and optimism'; despite these circumstances and working conditions, Prof. Bardach

[...] was able to preserve these subjects, nay, infect other with them. Polish legal historical circles owe to his sense of responsibility, his gift for forward thinking, flexibility in deed and his ability to forge wise compromises, as well as to his knowledge of people and favourable disposition towards them, that they [Polish historians of Law] emerged from the years of Stalinist totalitarianism without great losses, that no valuable issue lay idly in a drawer, that within them there was maintained personal substance and guaranteed conditions for future development. (*Recollections on Juliusz Bardach...*, p. 160)

Beside this evaluation, however, formulated after all by an eminent representative of historical law circles, we may note the words of Prof. Bardach himself. In a speech given to mark 60 years of academic work he admitted that he perceived in his life and not only during the dramatic pre-March period, 'various sometimes intersecting currents. I succumbed to the overwhelming pressures of the epochs (in the plural), in which my generation had to live through, and although we have at times the accusation to make to each other of the sin of conformism, I tried after all to neutralise – as far as possible – the negative effects or omissions, to which silence should be included.' Yet despite this admission Prof. Bardach (who was informed on, as is known today, to the secret police) was considered, and not only by Prof. Olszewski, to be in the ranks of those academic humanists who – in spite of the 'external conditions' lying heavily 'particularly on the humanistic and social sciences subjected to the greatest ideological pressure,' have acted so that 'the Polish humanities as a whole was able, though also adopting external compromises, to preserve a continuity in its attitudes, approaches and research techniques, as well as a group of teachers educating the young and lighting the way for them with their own example.' Professor Mączak in the laudation to mark 60 years of professional activity, citing Aleksander Gieysztor's opinion that Bardach enjoyed 'within the milieu of the historical sciences the position of a wise research and social authority,' added that 'He continues the tradition of those eminent Polish scholars who, having contributed to research into the past the legal method and exactness of thought, were to become the teachers of generations of historians and the joint creators of the countenance of the history of our state, society and culture.' Hence Prof. Bardach was not only one of those who tried in difficult conditions to protect the Polish humanities, but one of those who jointly created the dominate image today, following the end of the communist regime, of Polish state, cultural and social history.

Acclaimed both within Poland and abroad, Prof. Bardach was not only a board member of two important French societies – the Société Jean Bodin and the Société d'Histoire du Droit – and two Italian societies – the Rome based Accademia Nazionale dei Lincei (from 1974) and the Accademia Mediterranea delle Scienze in Catania (from 1982) – as equally the honorary deputy chairman of the international commission Anciens Pays et Assemblées

d'Etats et du Parlamentarisme and an honorary member of an analogical Belgian commission, but also the head of the Slavonic Studies Commission of the International Committee of Historical Studies (for the years 1980–1985). He was the supervisor of 11 Ph.D. students, the author of many reviews for doctoral and post-doctoral degrees, equally for employees of the Jagiellonian University, a professor of Warsaw University, a member of the Council of the Institute of the History of Law as well as the Council of the Faculty of Law and Administration at Warsaw University, from 1983 a corresponding member, and from 1989 an actual member of the Polish Academy of Sciences (a member of three committees of the faculty of Social Sciences: the Committee of Historical Sciences, the Committee of Legal Sciences and the Committee of Political Sciences), an honorary member of the Polish Historical Society and ordinary member of the Warsaw Academic Society, and also a member of the board at the journal *Przegląd Wschodni* [The Eastern Review], a recipient of the Alfred Jurzykowski Foundation Prize in New York in 1983 for the entirety of his work on the history of political systems and the law in Poland and Central-Eastern Europe. J. Bardach received honorary doctorates from three universities (the University of Łódź in 1995, Warsaw University in 1996, in this instance obtaining the symbolic 'hundredth' such diploma from the start of the university senate's bestowal of titles in 1921, and a commemorative book *Parlament, prawo, ludzie. Studia ofiarowane Profesorowi Juliuszowi Bardachowi w sześćdziesięciolecie pracy twórczej* [Parliament, the law, people. Studies dedicated to Professor Juliusz Bardach on the sixtieth anniversary of his work], as well as from the University of Vilnius in 1997), in 2002 he was awarded by the Polish President the Grand Cross of the Order of *Polonia Restituta* for his 'exceptional service to academia and teaching and for professional achievements', and in 2006 the Officer's Cross of the Order of 'Services to Lithuania' by the president of the Lithuanian Republic (in 2013 the Institute of the Grand Duchy of Lithuania in Kaunas set up a prize in his name, which can be given to the authors of the best MA and Ph.D. works on the 'state, legal and cultural legacy of the Grand Duchy of Lithuania in the 19th–20th century or analysing problems connected with the history of at least two countries of the lands of the Grand Duchy of Lithuania: Belarus, Lithuania, Poland and Ukraine').

Professor J. Bardach died after a long and serious illness on the 26th of January 2010 in Warsaw at the age of 96: 'to the end – as H. Olszewski wrote in his recollections of the deceased – present in the milieu of Polish humanists, participating in their work, meeting with students and sharing experiences', and signing in 2008, two years before his death, 'List 44' in the defence of the post-doctoral degree as an academic level, in which we find words corresponding to those of earlier concerns: 'we do not wish for the humanities

faculties of the best Polish institutions of higher education to fall prey to any political milieu whatsoever. For we consider the defence of Polish culture from such a threat to be our professional and civic duty.' He was not buried in Cracow but at the Military Cemetery at the Powązki Cemetery in Warsaw, though he had a special link to Cracow, which he recalled at the already mentioned sixtieth Jubilee celebrations of his work: 'Next to Vilnius I take Cracow as the second city, the centre of which is the University. It creates a unique atmosphere particularly for those who have connected their lives with work at it.' The Jagiellonian University, constituting the centre of Cracow, pays homage to a professor who was connected for almost the whole of his life with learning, who devoted himself to it, who gained his Ph.D. at the University, one renewed 50 years later (in 1998), and who left numerous friends and pupils grateful for his many important texts.

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