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Belgian legal journals (17th-20th century).

Legal, political and cultural challenges.

Introduction

Sebastiaan Vandenbogaerde

At the end of 2013, the *Centre d'histoire judiciaire* (Université Lille 2), conjointly with the *Instituut voor Rechtsgeschiedenis* (Universiteit Gent) and the *Centre de recherches en histoire du droit et des institutions* (Université Saint-Louis-Bruxelles), organised a workshop on French-Belgian legal periodicals. This resulted in a two-day conference called *European legal periodicals (19th-21st Century). Legal, political and cultural challenges*.

On November 8, 2013, on the first day of the conference, which occurred in Ghent, historians, legal historians and literature scientists discussed Belgium's legal periodicals across the centuries¹. The second day, in Lille, on December 6, 2013, they addressed a rather wide scope of topics on colonial publications². The most important conclusion of the first conference day was that interdisciplinary research can contribute a great deal to the methodology and approaches used to study legal periodicals. Legal historians are not familiar with those methodologies and approaches, whereas historians or literature scholars are not very familiar with the research object. This volume of *Cahiers du centre de recherches en histoire du droit et des institutions* publishes a few of the papers presented at the Ghent conference and tries to kick-start a new discipline in the arts: legal periodical studies as a subdivision of the broader *periodical studies*.

1. Legal periodicals: no need for a definition?

Each cross-century study on periodicals encounters terminological problems. Terms, such as periodical, journal, magazine, publisher, author and editor, have changed since the eighteenth century³. The parts that publishers, authors and editors played were less divided than they are now. Subscriptions, as we know them today, were non-existent. Readers paid only for the paper⁴. If even the basic term periodical is hard to define, what about the difficulty of defining a legal periodical?

¹ Programme available at www.rechtsgeschiedenis.be, tab conferences.

² The conference papers for *Revue et presse coloniales en Europe* will be published in a separate volume of *Clio@Themis*, a special issue *Revue et empires*, forthcoming in 2016. A further step to consolidate European cooperation on this topic consists of a panel, *Legal periodicals, nations and empires*, for the 4th International Conference of the European Society for Periodical Research (ESPRit, www.espr-it.eu) 10-11 September 2015, Stockholm, *Politics and Periodicals*.

³ G. JOHANNES, *De barometer van de smaak. Tijdschriften in Nederland 1770-1830*, The Hague, Sdu uitgevers, 1995, 57-76.

⁴*Ibid.*, 59.

Adequate definitions of what constitutes a legal periodical seem very hard to find. Almost every study approaches this topic differently⁵. Evidently, one can wonder whether a legal periodical can be described and whether it is even desirable to describe it. Jurists seem to have reached some sort of consensus about the titles that qualify as legal journals. It is most important to realise that the character of periodicals – including legal ones – has changed over the centuries⁶. Initially, they had a broad focus, which slowly became more specialised, along with the on-going juridification of society⁷.

Nevertheless, it seems very appropriate to identify a few criteria with which legal periodicals must comply. There are a few general criteria – which are inherent to all periodicals – and a few specific ones, which are applicable only to legal periodicals.

Periodicals are published according to a certain frequency. Literature scholars agree that a publication having only one issue per year cannot be considered a journal⁸.

Specifically, legal periodicals need to be legal, and this can be determined by examining its actors. Do jurists publish it? Are its readers jurists? Also, the content can be legal. Classical legal periodicals contain three sources of law: doctrine, case law and legislation. Of course, one may wonder whether a journal that only publishes legislation qualifies as a legal periodical.

2. Legal periodicals: more than mirrors?

In 2006, Sean Latham (University of Tulsa) and Robert Scholes (Brown University) published their ground-breaking *Rise of periodical studies*, which discussed the emergence of a new discipline in the humanities and humanistic social sciences: periodical studies⁹. Driven by the cultural turn in language and literature departments, recent technological developments, such as digitisation, which have increased the potential number of titles available for research, and debates in academia about the rankings of journals, *periodical studies* are on the frontline of literature science. More than ever, (literature) historians are convinced of the social role that journals, magazines and periodicals play¹⁰. The focus has been mostly on literature titles, which has pushed legal periodicals to the background. A bias viewing the latter as merely a professional magazine with no real policy has caused this lack of interest.

However, during the 1960s, some Belgian jurists saw the potential of researching journals for legal history. Glancing through the pages of successive volumes offers a unique image of how law has

⁵ G. VAN OVERWALLE, *Het Nederlandstalig juridisch tijdschrift in België, Vlaams Jurist Vandaag*, 1988, 13; D. HEIRBAUT, *Law reviews in Belgium (1763-2004)*, in M. STOLLEIS AND T. SIMON (eds.), *Juristische Zeitschriften in Europa*, Frankfurt am Main, Klostermann, 2006, 343; C. VON BAR, *Die Rolle juristischen Zeitschriftenliteratur bei der Harmonisierung des Privatrechts in Europa, Juridica International*, 2010, 5.

⁶ G. JOHANNES, *op. cit.*, 57-76; H. BOTS AND S. LEVIE (eds.), *Periodieken en hun kringen. Een verkenning van tijdschriften en netwerken in de laatste drie eeuwen*, Nijmegen, Uitgeverij Vantilt, 2006, 8.

⁷ On juridification see G. TEUBNER, *Juridification. Concepts, aspects, limits, solutions*, in G. TEUBNER (ed.), *Juridification of social spheres. A comparative analysis in the areas of labor, corporate, antitrust and social welfare law*, Berlin, Walter de Gruyter, 1987, 3-48.

⁸ G. JOHANNES, *ibid.*

⁹ S. LATHAM AND R. SCHOLES, *The rise of periodical studies, PMLA*, vol. 121, n° 2 (March 2006), 517-531.

¹⁰ Today, the literature departments in all universities are blooming and spreading their expertise all over the world. Since the 1960s, there has been an increase in the number of associations that place periodicals in the spotlight, such as the Research Society for Victorian Periodicals (1968), the Research Society for American Periodicals (2004) and the European Society of Periodical Studies (2009).

evolved over a longer period of time¹¹. In a way, they offer a window on law, or they are mirrors or seismographs of law¹². This is based on the belief that periodicals contain more than monographs or textbooks; rather, they reveal the living law¹³. Literature scholars and historians have abandoned the mirror metaphor; rather, they have upgraded periodicals to active participants in society that, among other things, react to each other¹⁴. Instead of mirrors, they are vectors. Without engaging in a semantic discussion, a vector has to be understood according to its most fundamental meaning. Periodicals are spreading or transporting ideas. In various ways, they offer editors and authors the opportunity to spread their message. In doing so, periodicals shape thinking about the law in the broadest way. In addition, this means, almost inherently, that complete neutrality, which is often asserted in an editorial, is revealed to be an illusion. Some legal periodicals in Belgium are notorious for selecting certain case law, and in doing so, imposing a vision of how legal practice should deal with cases¹⁵. Everyone should be aware that legal periodicals are anything but neutral, and that the choices of editorial boards may have a determining impact on legal development. This alone is a reason to plead for a better understanding of the history of legal periodicals, not only in Belgium, but also elsewhere in Europe.

3. State of the art

3.1. Law reviews in the Anglo-Saxon world

Since the 1930s, especially after Fred Rodell's *Goodbye to Law Reviews* (1936), law reviews have been questioned throughout the entire Anglo-Saxon world¹⁶. Legal periodicals, meaning journals not published by students for students, have not received the same level of interest¹⁷. On the

¹¹ J. THEVENET, *Le « Journal des Tribunaux », reflet de son temps, Journal des tribunaux* (hereinafter *JT*), 1960, 228; M. STOLLEIS (ed.), *Juristische Zeitschriften. Die neue Medien des 18.-20. Jahrhunderts*, Frankfurt am Main, Klostermann, 1999; M. STOLLEIS and T. SIMON (eds.), *Juristische Zeitschriften in Europa*, Frankfurt am Main, Klostermann, 2006. 628 p. (Studien zur europäischen Rechtsgeschichte, Band 214); M. LUTS-SOOTAK and M. RISTIKIVI, *Dear reader, Juridica International*, 2010, 1. For instance, on the introduction of human rights in legal practice, S. VANDENBOGAERDE, *They entered without any rumor. Human Rights in the Belgian Legal Periodicals, Göttingen Journal of International Law*, vol. 4, 1 (2012), 271-291; on the evolution of Belgian private law, D. HEIRBAUT, *Vijftig jaar privaatrecht in het Tijdschrift voor Privaatrecht. Er is in die tijd veel veranderd, Tijdschrift voor Privaatrecht* (hereinafter *TPR*), 2014, 1-71.

¹² M. LUTS-SOOTAK AND M. RISTIKIVI, *Dear reader, Juridica International*, 2010-1, 1.

¹³ M. STORME, *Vale. Afscheid van een tijdschrift dat een instelling werd, TPR*, 2014, 5.

¹⁴ C. VERBRUGGEN, *Schrijverschap in de Belgische belle époque. Een sociaal-culturele geschiedenis*, Ghent, Academia Press, 2009, 192.

¹⁵ There are rumours that some editorial boards simply leave out certain cases to avoid offending their readers; S. DE SOMER and C. FORNOVILLE, *Rechtspraakpublicatie anno 2011: historische beschouwingen, hedendaagse bedenkingen en toekomstperspectieven, Rechtskundig Weekblad* (hereinafter *RW*), 2011-12, 207.

¹⁶ FR. RODELL, *Goodbye to Law Reviews, Virginia Law Review*, 1936, 38-45. A peculiarity of law reviews is that students publish them for students; hence, quality does not always seem to persevere. In addition, renowned lawyers or legal scholars seem to be unable to stand criticism of their ideas. Ever since, articles argued on law reviews; A. BROPHY, *Law review's empire. The assessment of law reviews and trends in legal scholarship, Connecticut Law Review* 2006-07, 101-118; J. GAVA, *Law reviews, good for judges, bad for law schools, Melbourne University Law Review*, 2002, 560-576.

¹⁷ C.A. NEWLAND, *Legal periodicals and the United States Supreme Court, Midwest Journal of Political Science*, 1959, 58-74; D. IBBETSON, *Legal periodicals in England 1820-1870, Zeitschrift für Neuere Rechtsgeschichte*, 2006, 175-194.

European continent, the difference between law review and legal periodical is non-existent. This might explain the late start of research regarding the history of legal journals in Europe.

3.2. Legal periodicals on the continent

In 1983, Italian professor and supreme judge Paolo Grossi organised a three-day conference on *La cultura delle riviste giuridiche Italiane*. A year later, he published the papers¹⁸. Grossi wanted to examine whether *legal culture* is reflected in legal journals¹⁹. He suggested several questions to his colleagues, who were asked to discuss the most important titles in their fields of law. The following were amongst these questions: Who were the actors? Are they impartial sources that discuss all of the trends in the legal world, or do they adhere to a certain vision? Is that vision a specific political one? Grossi wished for his initiative to be copied all over Europe. Thus, four years later, Parisian professor André-Jean Arnaud published *La culture des revues juridiques françaises*²⁰. Both works discussed the most important legal periodicals in various legal branches. In Latin America, a similar work followed²¹. The set of questions provided by Grossi did not result in uniform work. Some authors collected legal titles in a database and distilled some general trends, while others confined themselves to one or a small selection of titles. The heterogeneity of their approaches made it more difficult to reach general conclusions about the *culture* of legal journals. Despite these flaws, interest in legal journals was also kindled in the Low Countries, but there, more case studies were published²².

Beginning in the 1990s, German scholars, particularly those connected to the *Max Planck Institut für Europäische Rechtsgeschichte*, engaged in new research. The *Handbuch der Quellen und Literatur der Europäischen neueren Privatrecht Geschichte*, edited by the renowned professor Helmut Coing (1912-2000), was the sound basis for *Gedruckte Quellen der Rechtsprechung in Europe (1800-1945)* in 1992, which provided an overview of the legal periodicals in sixteen European countries²³. Although it was nothing more than an inventory with technical descriptions of the recorded titles, this work has been very valuable for heuristic purposes. Ernst Holthöfer catalogued all of the periodicals from the Benelux countries. Well aware of the shortcomings of

¹⁸ P. GROSSI (ed.), *La cultura delle riviste giuridiche italiane*, Milan, Giuffrè, 1984, 198 p.

¹⁹ Legal culture was not really defined so one can question what the editor aimed for. However, seen the vastness of the subject, it could benefit from not exactly describing what legal culture would be.

²⁰ A.-J. ARNAUD (ed.), *La culture des revues juridiques françaises*, Milan, Giuffrè, 1988, 3.

²¹ V. TAU ANZOATEGUI, *La revista jurídica en la cultura contemporánea*, Buenos Aires, Ediciones Ciudad Argentina, 1997, 398 p.

²² G. VAN OVERWALLE, *Het Nederlandstalig juridisch tijdschrift in België: een analyse, Vlaams Jurist Vandaag* 1988, 12-27; G.C.J.J. VAN DEN BERGH and C.J.H. JANSEN, *De 'Regtsgeleerde in Spectatoriale vertogen': het eerste Nederlandse juridische tijdschrift, Nederlands Juristenblad* 1987, 1181-1185; G.C.J.J. VAN DEN BERGH and C.J.H. JANSEN, *De wording van het juridische tijdschrift: Drie Nederlandse pogingen uit de Franse tijd, Tijdschrift voor Rechtsgeschiedenis/The Legal History Review* (hereinafter TRG) 1988, 341-354; G.C.J.J. VAN DEN BERGH and C.J.H. JANSEN, *Het tijdschrift als tijdspiegel. Een verkenning van anderhalve eeuw Themis en Rechtsgeleerd Magazijn, Rechtsgeleerd Magazijn Themis: tijdschrift voor publiek- en privaatrecht* 1989, 247-270; G.C.J.J. VAN DEN BERGH and C.J.H. JANSEN, *Het juridische tijdschrift gevestigd; Den Tex en van Hall's 'Bijdragen tot Regtsgeleerdheid en wetgeving' (1826-1838)*, TRG, 1993, 97-118; V. CARRÉ, *Le Journal des Tribunaux d'Edmond Picard (1881-1899). Approche d'un journal judiciaire au dix-neuvième siècle*, unpublished master's thesis, Brussels, Université Libre de Bruxelles, Faculté de Philosophie et Lettres, 1986, VII + 142 p.; R. LESAFFER, *Le Journal des Tribunaux (1904-1914). De Belgisch-Nederlandse betrekkingen vanuit het standpunt van de Belgische nationalistes*, in F. STEVENS and D. VAN DEN AUWEELE, *Handelingen van de XIe Belgisch-Nederlandse rechtshistorische dagen*, Louvain, K.U. Leuven Afdeling Romeins Recht en Rechtsgeschiedenis Faculteit der Rechtsgeleerdheid, 1992, 107-139.

²³ F. RANIERI (ed.), *Gedruckte Quellen der Rechtsprechung in Europa (1800-1945)*, Frankfurt am Main, Klostermann, 1992, 2 vol., 964 p.

this inventory, a year later, he published a synoptic work, although he did not frame the journals in their historical background²⁴.

Frankfurt remained the centre of periodical research, as a few years later, professor Michael Stolleis, together with his German colleagues, examined the history of German legal journals, which he labelled the “neue Medien des 18.-20. Jahrhunderts”²⁵. A logical step to the European level followed in 2004, when professor Stolleis invited experts from several European countries to discuss the national legal periodicals. The book mentioned that “das Thema der juristischen Zeitschriften damit bei weitem nicht erschöpft ist, aber wir meinen, die damit gegebenen Impulse sollten ausreichen, um detailliertere Studien anzuregen”²⁶. A few national studies followed this call for more detailed case studies²⁷.

In 2007, Katharina Saleski published her doctoral thesis, *Theorie und Praxis des Rechts im Spiegel der frühen Zürcher und Schweizer juristischen Zeitschriften*, on Swiss legal periodicals²⁸. To reconstruct the *legal culture*, Saleski selected four titles published between 1833 and 1874 in Zurich, the legal centre at that time, and the three main on-going titles. She looked at how legal journals functioned and the role they played in the development of legislation, case law and politics. She concluded that Swiss legal periodicals had contributed to the formation of the law. On the one hand, by publishing case law, they brought legal certainty. On the other hand, they tried to bridge the gap between scholarship and legal practice. The question is whether the same can be said about Belgium’s legal periodicals. Like Switzerland, Belgium is a federal state that is confronted with several language communities. Unfortunately, Saleski focused on German legal periodicals and did not report on any possible linguistic problems.

In 2011, Monika Krupar published *Tschechische juristische Zeitschriften des 19. und 20. Jahrhunderts*, which was primarily intended to reconstruct the political and historical development of Bohemia up to 1918²⁹. Her research was based on a limited number of journals, all published in Prague, which was a centre of nationalist culture during the nineteenth century. Jurists and their periodicals played an important role in disseminating Czech national feeling by publishing in the Czech language. At that time, German was an elite language, whereas the local population used Czech. Editors referred to the country’s rich past, hoping that Czech national feeling, and eventually, independence - which arrived in 1918 - would emerge. In this way, a parallel with the Belgian situation, with a differentiation between French and Dutch, can be easily drawn. Krupar concluded that the periodicals were initially modelled on German examples.

The research activity of the Estonian University of Tartu is remarkable. Members of the legal history department have organised a number of conferences on legal periodicals, which resulted

²⁴ E. HOLTHÖFER, *Beiträge zur Justizgeschichte der Niederlande, Belgiens und Luxemburgs im 19. und 20. Jahrhundert*, Frankfurt am Main, Klostermann, 1993, 315 p.

²⁵ M. STOLLEIS (ed.), *Juristische Zeitschriften. Die neue Medien des 18.-20. Jahrhunderts*, Frankfurt am Main, Klostermann, 1999, 710 p.

²⁶ M. STOLLEIS and T. SIMON (eds.), *Juristische Zeitschriften in Europa*, 13.

²⁷ D. IBBETSON, *Legal periodicals in England 1820-1870*, *Zeitschrift Neuere Rechtsgeschichte*, 2006, 175-194; B. DÖLEMAYER, *Entstehung und Funktion von juristischen Zeitschriften und Entscheidungssammlungen (Deutschland und Österreich)*, *Zeitschrift Neuere Rechtsgeschichte*, 2006, 195-208.

²⁸ K. SALESKI, *Theorie und Praxis des Rechts. Im Spiegel der frühen Zürcher und Schweizer juristischen Zeitschriften*, Zürich, Schulthess Juristische Medien, 2007, 469 p.

²⁹ M. KRUPAR, *Tschechische juristische Zeitschriften des 19. und 20. Jahrhunderts*, Berlin, Duncker & Humblot, 2011, 328 p.

in a special issue of the journal *Juridica International*³⁰. Further, the research on legal periodicals in Poland must be mentioned³¹ and an overall study on Belgium has been finished recently³². In France, publications are ready to be published³³. Derived from those national histories, the field of colonial legal periodicals questions the role these titles and their editors played in implementing a new legal system in colonies in Belgium and France³⁴. Also other specialist titles, such as criminologist and penal law, which appeared in large numbers at the end of the nineteenth century and early twentieth century all over Europe, have been studied³⁵.

3.3. Legal periodicals in Belgium

Researchers who examine Belgian legal periodicals can use several tools, including bibliographic reference works. At the end of the nineteenth century, the well-known Brussels lawyer Edmond Picard (1836-1924)³⁶ and his good friend, publisher Ferdinand Larcier (1852-1889)³⁷, collected all Belgian legal publications for the period 1814-1889. This bibliography, which provided a full list of the journals available to Belgian lawyers at that time, allows modern researchers to retrace supposedly lost periodicals. A few years later, an addendum was published. Then, it was not until after World War II that Charles Van Reepingen (1903-1966)³⁸, the post-war editor of the *Journal des Tribunaux* commenced the annual publication of the *Recueil Annuel de Jurisprudence Belge*

³⁰ *Juridica International*, 2010/1. Prof. M. Luts-Sootak and Dr. M. Ristikivi, together with their colleagues Prof. Dr. D. Michalsen (Oslo University) and Prof. Dr. K. Modeér (University Lund), organised an international conference on 'Political transformations in law journals' (Oslo 7-8 June 2012). The programme can be found at <http://www.jus.uio.no/english/research/areas/law-history/events/2012/law-journals-2012.html>. A publication is forthcoming.

³¹ S. MILEWSKI and A. REDZIK, *Themis i Pheme. Czasopiśmiennictwo prawnicze w Polsce do 1939 roku*. Warsaw, Wydawnictwo Iskry, 2011, 658 p.

³² S. VANDENBOGAERDE, *Vectoren van het recht. Geschiedenis van de Belgische juridische tijdschriften*, unpublished doctoral thesis, Faculty of Law, Universiteit Gent, 2014, 405 p.

³³ F. AUDREN and N. HAKIM (eds.), *Les revues juridiques aux XIXe-XXe siècles*, Paris, Editions « La mémoire du droit », 2015 (forthcoming).

³⁴ F. RENUCCI, *La Revue algérienne, tunisienne et marocaine de législation et de jurisprudence (1885-1916). Une identité singulière?*, in J.-P. BRAS (ed.), *Faire l'histoire du droit colonial cinquante après l'Indépendance de l'Algérie*, Paris, Karthala, 2015; F. RENUCCI, *La Revue algérienne et après? Naissance et développement des grandes revues de droit colonial (1885-1914)*, in F. AUDREN and N. HAKIM (eds.), *Les revues juridiques aux XIXe-XXe siècles*, Paris, Editions «La mémoire du droit», 2015 (forthcoming); N. TOUSIGNANT, in this volume of *Cahiers*.

³⁵ L. LACCHE and M. STRONATI (eds.), *Una tribuna per le scienze criminali. La 'cultura' delle Riviste nel dibattito penalistico tra Otto e Novecento*, Macerata, Edizioni università di Macerata 2012, 295 p.

³⁶ Picard is well known for his legal publications, such as the encyclopaedia, *Pandectes belges*, and the most successful journal in Belgian history: *Journal des Tribunaux*. Although he was a phenomenal legal scholar and attorney, anti-Semitism overshadowed his career: B. COPPEIN, *Dromen van een nieuwe samenleving. Intellectuele biografie van Edmond Picard*, Brussels, Larcier, 2011, 440 p.; P. ARON and C. VANDERPELEN-DIAGRE, *Edmond Picard. Un bourgeois socialiste belge à la fin du dix-neuvième siècle*, Brussels, Musées royaux des Beaux-Arts de Belgique, 2013, 340 p.; W. VAN EECKHOUTTE and B. MAES (eds), *Genius, grandeur & gêne. Het Fin de Siècle rond het Justitiepaleis te Brussel en de controversiële figuur van Edmond Picard/La Fin de Siècle autour du Palais de Justice de Bruxelles et le personnage d'Edmond Picard*, Ghent, Knops, 2014, 250 p.

³⁷ On the history of publishers: P. JANSSENS (ed.), *Fiscaal recht geboekstaafd. Geschiedenis van het belastingsrecht van perkament tot databank*, Brussels, Fiscale Hogeschool, 1995, 49-50; *Madame Veuve Ferdinand Larcier, JT*, 1926, 145-146.

³⁸ Charles Van Reepingen studied law at the Université libre de Bruxelles and became an attorney at the Brussels bar, where he had a great career. In the 1950s, he became a professor at Louvain University and at the *Faculté internationale de droit comparé* in Strasbourg. Van Reepingen was renowned for his work on a new Procedural Code in Belgium: A. FETTWEIS, *La pensée juridique du bâtonnier Charles Van Reepingen et le projet du Code Judiciaire, JT*, 1966, 278.

(now *Permanent Overzicht van Juridische Tijdschriften/Recueil permanent des revues juridiques*), which, in the 1980s, was followed by a Dutch counterpart, *Tijdschrift voor Rechtsdocumentatie*. Both reference journals laid the foundation for all kinds of electronic databases.

In addition to the compilation of bibliographies, editors often tended to commemorate the establishment of their periodicals. For instance, the *Tijdschrift voor Privaatrecht* and the *Journal des Tribunaux* systematically celebrated each lustrum. These editorial contributions are often short and are not always objective. Other legal titles were less attentive to their own history. The monumental *Rechtskundig Weekblad* devoted only a few pages to its history on its twenty-fifth and seventy-fifth anniversaries³⁹. Sometimes, editorial boards contacted experts to write a commemorative article, such as the *Tijdschrift voor Notarissen*, which celebrated its three-quarters of a century of existence in 2012⁴⁰. The same occurred at the fifty-year anniversary of *Tijdschrift voor Privaatrecht*⁴¹. Some journals attracted attention simply because of their outspoken prestige and infamy. In Belgium, this seems to have been the case for the *Journal des Tribunaux*⁴², among other things, because of its famous founder, the aforementioned Edmond Picard. At the end of the nineteenth century, he moved into the world of politics, academics, the judiciary and fine arts⁴³.

These specific studies outnumber the general studies, and if there are any, they are rather limited. Geertrui Van Overwalle published, on the twenty-fifth anniversary of *Tijdschrift voor Privaatrecht*, a modest analysis of the legal journals published in Dutch in Belgium⁴⁴. She discussed the (official) publication of legislation, case law, legal doctrine and reference journals, but did not reach any major conclusions. Her article is of great interest, because, until that date, the list had been published only in a footnote. Almost twenty years later, the first decent legal historical research was conducted⁴⁵. In 2006, *Juristische Zeitschriften in Europa* appeared, which assembled the papers of the aforementioned seminar, which had been held two years earlier at the Frankfurt *Max Planck Institut für Europäische Rechtsgeschichte*. Ghent legal historian Dirk Heirbaut briefly sketched the history of Belgium's legal journals. He did not conclude on a positive note, but stated that all of the periodicals followed the French model, not really specifying what this model was, except that it served practical matters. Consequently, the author deemed Belgium's legal periodicals to be "an example of the failure of legal scholarship in the country"⁴⁶. Bluntly, no one

³⁹ A. VAN OEVELEN, *Vijfenzeventig jaar Rechtskundig Weekblad*, RW, 2011-12, 1-6.

⁴⁰ S. VANDENBOGAERDE, *Geschiedenis van het Tijdschrift voor Notarissen (1937-2012)*, in K. HENDRICKX and S. VANDENBOGAERDE (eds.), *Gestaan en gelegen. Taal en Notariaat, 75 jaar Tijdschrift voor Notarissen*, Bruges, Die Keure, 2013, 7-29.

⁴¹ S. VANDENBOGAERDE, *Vijftig jaar grensoverschrijdende rechtswetenschap: het Tijdschrift voor Privaatrecht (1964-2014)*, TPR, 2014, 69-111.

⁴² V. CARRE, *Le Journal des Tribunaux d'Edmond Picard (1881-1899). Approche d'un journal judiciaire au dix-neuvième siècle*, unpublished master's thesis, Brussels, Université Libre de Bruxelles, Faculté de Philosophie et Lettres, 1986, VII + 142 p.; R. LESAFFER, *Le Journal des Tribunaux (1904 - 1914). De Belgisch-Nederlandse betrekkingen vanuit het standpunt van de Belgische nationalist*, in F. STEVENS and D. VAN DEN AUWEELE, *Handelingen van de XIe Belgisch-Nederlandse rechtshistorische dagen*, Louvain, K.U. Leuven Afdeling Romeins Recht en Rechtsgeschiedenis Faculteit der Rechtsgeleerdheid, 1992, 107-139.

⁴³ B. COPPEIN, *Le droit qu'une partie de la nation n'a pas. Edmond Picard en de vermaatschappelijking van het recht in België tijdens het fin de siècle*, in *Belgisch Tijdschrift voor Filologie en Geschiedenis*, 2008, 375-409.

⁴⁴ G. VAN OVERWALLE, *Het Nederlandstalig juridisch tijdschrift in België: een analyse, Vlaams Jurist Vandaag*, 1988, 12-27.

⁴⁵ D. HEIRBAUT, *Law reviews in Belgium (1763-2004): instruments of legal practice and linguistic conflicts*, in M. STOLLEIS and T. SIMON (eds.), *Juristische Zeitschriften in Europa*, Frankfurt am Main, Klostermann, 2006, 343-367.

⁴⁶ *Ibid.*, 367.

considered those findings⁴⁷. It was not until 2014 that there was a general study on Belgium's legal periodicals.

4. Belgium's legal periodicals: responsive instruments of editors⁴⁸

Belgium's most influential titles proved they were more connected to each other than one would suspect. They – or, more accurately, their editors – responded to certain evolutions in society or in the legal world. When *La Belgique Judiciaire* – the mother of all legal periodicals in Belgium – was established in 1842, it sought to do something about the hegemony of French titles in the country. Its nationalist vision voiced a need that was felt by Belgian legal practitioners to have their own title. In its wake, specialised titles followed, which again, was a reaction to the generality of *La Belgique Judiciaire*. When the latter literally became fossilised, because the founding editors grew older, a new initiative encouraged Belgium's nationalism.⁴⁹ The *Journal des Tribunaux* (1881-today) was established when Belgium turned fifty, and the country was overwhelmed by a new wave of patriotism. King Leopold II had transformed Belgium almost single-handedly into an important international player, both economically and politically. He used Congo as an important resource market, and the wealth reflected itself in Brussels, which became, with its new palace of Justice, the centre of the legal world. This optimism was reflected in the *Journal des Tribunaux*. It is notable that the network underlying this journal initiated periodicals on colonial law. In that very same era, another cluster developed. Dutch-speaking jurists profiled themselves as guides for the oppressed Flemish people, who were not accepted by the Belgian government in their own language. This resulted in several legal periodicals paving the way for the most important Dutch title: the *Rechtskundig Weekblad*. The latter was established in 1931 as part of a full linguistic war. It sought to be the Dutch counterpart of the *Journal des Tribunaux* and, during its first years, it was formally a copy. Once the Dutch legal periodical was settled in Belgium, it was able to pursue new goals: legal science in Dutch. In this context, we see that, first, the *Revue Critique de Jurisprudence belge* (1947) was established, and in 1964, the Dutch *Tijdschrift voor Privaatrecht* was founded as a reaction⁵⁰. This brief history demonstrates that Belgium's legal periodicals must be understood in connection with each other and in connection with broader Belgian history.

Journals are on the crossroads of several actors, including their editors, authors, publishers and readers. It is striking that the founders of legal periodicals often have noble intentions, as they believe that the existing journals are insufficient, and that only their initiative can fill the gap. Yet they are not entirely altruistic. Journals are a way to promote themselves within their environment. Bourdieu described this as *symbolic capital*, something that all people ultimately seek. Heading a journal offers a certain prestige and authority.⁵¹ Nevertheless, this job is not to be underestimated, as it is a relentless struggle to meet deadlines and fill issues with interesting information. Not surprisingly, many journals can be called literally “the journal of...”, as many

⁴⁷ B. COPPEIN, *Dromen van een nieuwe samenleving*, 61-62; *id.*, *Mirror of changing law: the Journal des Tribunaux in the fin de siècle*, in V. DRAGANOVA, S. KROLL, H. LANDERER, U. MEYER (eds.), *Inszenierung des Rechts. Law on Stage*, Munich, Martin Meidenbauer, 2011, 155-175.

⁴⁸ S. VANDENBOGAERDE, *Vectoren van het recht*, 350-352.

⁴⁹ S. VANDENBOGAERDE, *Exegi monumentum. La Belgique Judiciaire (1842-1939)*, *Tijdschrift voor Tijdschriftstudies* 31, 2012, 54-55.

⁵⁰ S. VANDENBOGAERDE, *Vijftig jaar grensoverschrijdende rechtswetenschap : het Tijdschrift voor Privaatrecht (1964-2014)*, *TPR*, 2014, 69-111.

⁵¹ P. BOURDIEU, *La distinction. Critique sociale du jugement*, Paris, Minit, 1979, 670 p.

founding fathers suffer from what psychologists call the founder's syndrome or founderitis. The original editor-in-chief sees hard times and leaves his child to others, with all its consequences.

The strong commitment of the founder-editor inflicts a form of nepotism, which is defined in sociology and historiography as *social reproduction*, and leads to so-called editorial dynasties. Most of the time, the editor appoints his own successor, whom he believes is worthy to head the journal and to maintain its (initial) goals. In practice, the editor recruits his companions in his own personal-professional environment, where family ties and friendships are very important.

We formulated a hypothesis on the role of legal journals in the creation of a specific legal culture, which is connected to State-building. From our perspective, legal journals participate in the definition and the dissemination of a legal culture. Especially when a study is delimited to the Belgian experience, historians are confronted with a very tight microcosm, highly intertwined, but limited in size, due to the availability of trained jurists on the market. Untangling this web means paying attention to successive generations of jurists trained in French, in Brussels, Ghent, Louvain and Liège, who were active practitioners, as lawyers, magistrates and civil servants. The selection of case studies collected in this issue tends to translate this hypothesis. It justifies the rather large chronological framework and the thematic diversity. At first glance, colonial legal journals do not appear to be connected to Belgian social law journals. The two case studies devoted to the *Journal des Tribunaux* document the pre-eminence of the weekly publication, transforming the journal as a milestone, either as a franchise or as an opponent.

Perceived as a paragon of Brussels high society, animated by strong personalities who successively and successfully (re)defined the scope of the journal, the *Journal des Tribunaux* became a brand and a benchmark in Belgian legal culture, or perhaps in a French-speaking subculture, if the Belgian qualification is contested or if it is less appropriated today than it was in 1890, 1920 or 1950.

In such a small world, the circulation of scientific debates on crucial legal topics could also participate in political discussions, fuelling parliamentary debates and, rarely, influencing legislative decision-making procedures or judiciary activities through case law publication and annotations. This could express the pragmatic aspect of legal journals, as tools for life-long learning instruments, especially in new legal territories, such as colonial and social law. As training offered in universities or their equivalents might not be fully adapted to daily practice, legal journals spread technical information.

Legal journals contribute to the creation of a national legal order, which progressively differentiates itself from its neighbours' legacies (French, German and Dutch models) in the logic of State-building. At the same time, they also assist in the management of a legal legacy in order to transform and adapt it to new situations. In that sense, the great originality and inventiveness of the editors of legal journals who were active in Belgium translates the mix of traditions and cultures, the capacity to imagine new legal categories in order to sort out emerging issues. Due to the long-lasting tradition of multilingual habits and to the geographical position of Brussels and Belgium at the heart of Western Europe, it should not be a surprise to find Belgian representatives at the forefront in fields of legal specialisation.