

# Rechtsgeschichte Legal History

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**Thomas Duve\***

## Editorial

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\* Max-Planck-Institut für Rechtsgeschichte und Rechtslehre, Frankfurt am Main, [sekduve@lhlt.mpg.de](mailto:sekduve@lhlt.mpg.de)

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Thomas Duve

## Editorial

The 2021 issue of *Rechtsgeschichte – Legal History* is the first to be published by the »Max Planck Institute for Legal History and Legal Theory« (mpilhl). The two changes to the name that the Institute carried for over half a century – the addition of »legal theory« and the deletion of »European« – reflect the expansion of our research areas over the last decade. That our research no longer focuses on »European« legal history, but rather explores the legal history of Europe in a global-historical context or as the history of European integration has been very visible in the contributions to this journal since 2010.

Legal theory, too, had already been part of various endeavours undertaken at the Institute in the past. With the appointment of Marietta Auer as the third director of the Max Planck Institute on 1 September 2020, however, the Max Planck Society created an additional research department dedicated to »Multidisciplinary Theory of Law«, which joins the existing two legal-historical departments. In her contribution to the *Research* section of this issue, Marietta Auer gives an insight into the research programme with which she has come to Frankfurt. We – the directors of the legal-historical departments »European and Comparative Legal History« (Stefan Vogenauer) and »Historical Regimes of Normativity« (Thomas Duve), the heads of our research groups and all members of staff – consider the addition of this third department a crucial decision regarding the Institute's future course. Above all, we are confident that it will also intellectually strengthen legal history. What is true for the Institute and the discipline also applies to this journal, whose board of editors Marietta Auer has now joined: Welcome!

How much the discipline of legal history needs a theoretically reflected methodology is the subject of the second *Research* article in this issue. Under the title »Legal history as the history of normative knowledge?«, deliberately ending in a question mark, the article attempts to outline a methodology of legal history beyond the categories of modernity (Thomas Duve). It demonstrates to what extent a legal history oriented towards the condition of law after modernity must also build on the patient reconstruction of historical knowledges of normativity. An impressive example of

such fundamental research in legal history is the third contribution to the *Research* section: Wolfram Brandes' review of the work on Byzantine studies conducted at the Institute over more than four decades, initiated by Dieter Simon. Thanks to many years of funding from the Göttingen Academy of Sciences and Humanities, Wolfram Brandes was able to continue this research until 2020.

Two of the three *Focus* sections in this issue also arise from research projects carried out in the legal-historical departments at the Institute. The one on »Early Modern Books in Motion and the Production of Normative Knowledge«, edited by Manuela Bragagnolo, is connected to her work on legal history and media history, particularly of the *Iberian worlds*, in the department »Historical Regimes of Normativity«. For this issue's series of images, Michael Widener of the Lillian Goldman Law Library at Yale University has assembled a short history of legal books, with his contribution to the *Marginalia* providing context and commentary.

The second *Focus* section, edited by Sigfrido Ramírez Pérez and Stefan Vogenauer, is dedicated to the method of oral history, which is used in the department »European and Comparative Legal History« above all in the context of research on European integration. The third *Focus* presents five contributions originally presented at the *XXVth Forum of Young Legal Historians* in Brussels in June 2019. The organisers of the conference, Wouter De Rycke, Cornelis Marinus 't Veld, Maxime Jottrand, Romain Landmeters and Stephanie Plaschaert, also provided the introduction to this section.

This year's *Debate* focuses on a book that raised high expectations already in advance of publication: Martti Koskenniemi's over 1000-page long *To the Uttermost Parts of the Earth*. Though the work starts with the proviso that it does not represent a history of international law, it will, as the introduction to the section makes clear, inevitably be read as such. Thirteen colleagues from different disciplines and academic cultures have contributed their impressions on first reading the book, and the section ends with a response by Martti Koskenniemi. After the as always sizeable *Critique* section,

including a large number of reviews written by researchers at the Institute, a further *Marginalia* contribution on the interrelationships between forms of trade, law and architecture by Johannes W. Flume completes this year's issue.

The topics assembled in the journal poignantly demonstrate how much Michael Stolleis will be missed. Not only was he a director of this Institute and for many years the editor of this journal. As can only be hinted at in our obituary, he was, among many other things, a pioneer of the history of international law; he was among the first to explore the connection between images, architecture and law; he closely followed European integration and included it in his history of public law; and, last but not least, questions of legal-historical method were always a special concern of his. Less widely known might be that the contributions to the *XXVth Forum of Young Legal Historians* in 2019 published in this issue would probably not have been held without the foundations laid by him. In 1992, using the funds of the Gottfried Wilhelm

Leibniz Prize that he had been awarded the year before, Michael Stolleis invited young legal historians from East and West Germany to Frankfurt for a first discussion with the aim of bringing the discipline together after the fall of the Wall. This initiative soon turned into an institution: the »Forum junger Rechtshistoriker« met for the first time in Halle in 1995, took place in Berlin in 1996, and in Graz in 1997 called itself the »Europäisches Forum junger Rechtshistorikerinnen und Rechtshistoriker«. Some years later – earlier than the Max Planck Institute – it dropped the qualifier »European«. Today, the Forum has become a meeting of young legal historians from all over the world. Michael Stolleis would have been pleased to hold in his hands this issue with the contributions to the 25th anniversary conference and the many other spotlights on the rich and diverse history of law from Byzantium to Brussels.–

