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DOI: 10.14746/cph.2023.2.11

Afterimages of the 20th century's first half: Polish lawyers confronting the shadows of history

Introduction

The past century of Polish history has been marked by a tumultuous array of events, both significant and diverse. Within this timeframe, the Polish political system has undergone numerous transformations, paralleling shifts in the theoretical, philosophical, and cultural underpinnings of its legal framework. The evolution of law has been intricately woven into the fabric of changing political, social, and cultural landscapes. These transformations of legal provisions and of entire systems of law have necessitated the adoption of distinct strategies for navigating and complying with legal norms as well as the adaptation of different methods for applying these laws.¹

As we commence the third decade of the 21st century, political and social changes have become less revolutionary in comparison with the seismic shifts witnessed in the past 100 years. The legal framework and its enforcement have, to a certain extent, become more predictable and less volatile than in the tumultuous 1990s. Nevertheless, the frequent and dramatic changes in legal systems, regulations, and

¹ All historical considerations are based on: C. Brzoza, A.L. Sowa, *Historia Polski 1918–1945*, Kraków 2009; A. Chwałba, *Historia powszechna: 1989–2011*, Warszawa 2015; W. Roszkowski, *Historia Polski 1914–2015*, Warszawa 2017; J. Tyszkiewicz, E. Czapiewski, *Historia powszechna: wiek XX*, Warszawa 2014.

the practice of law over the past eight decades have left an indelible mark on the professional lives of contemporary lawyers. It is evident that many laws established before World War II, during the era of the Polish People's Republic, and during the transformation in the 1990s still wield considerable influence as they continue to shape the legal landscape. Moreover, the philosophy, theory of law, legislative techniques, and legal culture cultivated in the past exert a profound impact on the contemporary legal milieu.

The application of the law extends to all members of society, but it is lawyers who find themselves most profoundly enmeshed in the intricacies of legal practice. Judges, advocates, and legal advisers (also known in Poland as attorneys-at-law) navigate the complexities of the legal system daily, while drawing upon a rich tapestry of past experiences. Lawyers typically focus on the future, being practitioners of the present day. However, there are occasions when they must delve, whether consciously or unwittingly, into the annals of history.

The afterimages of the past century of Polish history – political, cultural, and legal shifts – occasionally emerge in the daily work of contemporary lawyers. These influences vary in their significance but they undoubtedly exist. Primarily, the unconscious influence of the preceding decades manifests itself in the form of a legal culture and framework established many years ago, which is deeply ingrained in the upbringing and education of lawyers, including their professional training rooted in the 1990s and the People's Republic of Poland period. The mere existence of legal statutes from previous eras which are still valid inevitably shapes lawyers' perspectives on the past.

The influence of the past on the present and on the practice of law among Polish lawyers also contains a consciously acknowledged dimension. In the 21st century, significant historical events from the past continue to yield legal consequences that reverberate today, like lingering ghosts from the past. Current jurists remain engaged in cases with historical roots that have not fully faded away yet. Most notably, cases related to the restitution of former Bug River property (Polish: *mienie zabużańskie*), the recovery of former Jewish properties, and compensations for the aftermath of the Holocaust as well as cases associated with the property repercussions of the post-war displacement of the German population (German: *Vertreibung*) persist and continue to engage Polish attorneys. While their importance may be waning with each passing year, these cases still populate the agendas of Polish administrative authorities and courts.

The primary objective of this research, its exploratory aim, is to assess the enduring impact of the events from the first half of the 20th century on the application of law by Polish lawyers. Our main goal is to identify which historical events continue to influence the actions of lawyers in their practice in contemporary times. Concurrently, the present article also intends to elucidate the reasons behind the persistence

of past events in the daily work of Polish advocates and legal advisers, as well as the potential consequences of this phenomenon, framing the objectives in an explanatory context. Prognostic and implementation considerations play a secondary role here as it is presumed that outdated cases are gradually disappearing.

The study commenced with a fundamental question: does the turbulent history of the first half of 20th-century Poland still cast a shadow over the practices of Polish lawyers in the 21st century? If so, which historical events exert an enduring influence on the actions of modern jurists? This inquiry led us to adopt a research methodology rooted in the inductive philosophy of grounded theory,² recognizing that only jurists themselves can unearth the echoes of the past within their current practices. The role of the researcher primarily consisted in active listening. In light of preliminary deliberations, we posited a research hypothesis: the events of the first half of the 20th century have ceased to impact the practices of Polish jurists in the 21st century. Issues commonly associated with the aftermath of World War II and with the pre-war period have largely faded into history, while the vestiges of the People's Republic of Poland have largely dissipated in the new landscape of capitalist Poland. Present-day lawyers primarily look towards the future, and they rarely revisit past cases. Reports in the media of legal proceedings tied to historical events do not necessarily reflect the actual level of involvement of lawyers in these matters.

Research methods

The survey results presented herein constitute a segment of a more extensive study examining the Polish justice system and legal services in Poland.³ This legal-historical component of this research was partitioned into two distinct reports: the first one delves into the initial half of the 20th century, while the second one focuses on the People's Republic of Poland and the tumultuous 1990s.⁴ Data collection for the survey spanned a period of time from 7 October 2017 to 22 January 2019, with subsequent finalization taking place between November 2020 and March 2021.

This comprehensive study employed a blend of quantitative and qualitative research methodologies as its foundation. A quantitative-qualitative survey lay at the core of the research. It was conducted by means of a meticulously crafted questionnaire, and it targeted a representative cross-section of Polish advocates and legal

² K. Charmaz, *Constructing Grounded Theory*, Thousand Oaks – London – New Delhi 2014.

³ General reports: S. Lipiec, *Prawnicy – międzynarodowa praktyka [Lawyers – international experience]*, Poznań 2022; idem, *Prawnicy – międzynarodowa praktyka. Materiały dodatkowe [Lawyers – international experience. Supplementary Materials]*, Poznań 2022.

⁴ S. Lipiec, *The impact of the People's Republic of Poland and events at the end of the 20th century on professional activity of contemporary jurists*, "Acta Iuridica Resoviensia" 2022, vol. 36, no. 1.

advisers (attorneys-at-law). This core method was bolstered by the use of structured in-depth interviews (SSI) with representatives from bar association councils across Poland (Polish: *okręgowa rada adwokacka*, ORA; *okręgowa izba radców prawnych*, OIRP).⁵ Moreover, the research findings underwent scrutiny, augmentation, and validation through non-reactive material research. The principal approach in this regard centred on website content analysis and the examination of various statistical materials. The analysis of legal statutes and their application was done by means of the functional method of analysis.⁶

The findings presented in this study were primarily derived from structured in-depth interviews (SSI). These interviews involved 43 participants from the councils of advocates and legal advisers' bar associations representing different regions of Poland. Geographic distribution of the interviewees was fairly uniform, with each council being represented by a single interviewee. The interviews were conducted in person, typically at the headquarters of a given Bar Council. They were recorded, and subsequently transcribed, coded, categorized, and translated into English. Given the congruence between the professions of legal advisers and advocates in the context of this research, the analysis was conducted collectively. The Atlas.ti software was employed for the systematic handling of research materials.⁷ Relevance was the focal point of the interview analysis, underscoring the strictly qualitative nature of this research.

This study is situated within the framework of the sociology of law and legal anthropology, drawing inspiration from the scholarly works of Richard Abel and Adam Podgórecki.⁸ The overarching research methodology, however, draws heavily from grounded theory as articulated by Kathy Charmaz.⁹ The crucial principle here is that the research's content must remain firmly rooted in its course, with the researcher meticulously listening to the testimonies of the interviewees and avoiding the im-

⁵ Krajowa Izba Radców Prawnych, <http://kirp.pl> [access: 3 March 2023]; Naczelna Rada Adwokacka, <http://www.nra.pl> [access: 3 March 2023].

⁶ E.R. Babbie, *Podstawy badań społecznych*, Warszawa 2008, pp. 342–360; C. Frankfort-Nachmias, D. Nachmias, *Metody badawcze w naukach społecznych*, Poznań 2001; D. Kędziński, *Metodologia i paradygmat polskich szczegółowych nauk prawnych*, "Transformacje Prawa Prywatnego" 2018, no. 3, pp. 34–46.

⁷ ATLAS.ti, <https://atlasti.com/> [access: 5 April 2021]; J. Horton, R. Macve, G. Struyven, *Qualitative Research: Experiences in Using Semi-Structured Interviews* [in:] C. Humphrey, B. Lee (eds.), *The Real Life Guide to Accounting Research*, Oxford 2004; M. Nicpoń, R. Marzęcki, *Pogłębiony wywiad indywidualny w badaniach politologicznych* [in:] D. Mikucka-Wójtowicz (ed.), *Przeszłość, teraźniejszość, przyszłość: problemy badawcze młodych politologów*, Kraków 2010, pp. 246–251; I. Przybyłowska, *Wywiad swobodny ze standaryzowaną listą poszukiwanych informacji i możliwości jego zastosowania w badaniach socjologicznych*, "Przegląd Socjologiczny" 1978, no. 30, pp. 62–64.

⁸ R.L. Abel, *Legal profession*, Los Angeles 1981; A. Podgórecki, C.J. Whelan (eds.), *Sociological approaches to law*, New York 1981.

⁹ K. Charmaz, *Constructing Grounded...*

position of personal opinions or preconceived notions. The principal guidelines for conducting these interviews adhered to the methodological recommendations of Steinar Kvale, particularly those concerning qualitative interviews.¹⁰

The current research component primarily concerns the past – the recollections of lawyers concerning historical events. Consequently, it is imperative to view this study through the lens of historical research, aligned with the broader paradigm of oral history. While akin to SSI interviews in its qualitative nature, oral history methodology is distinctive in its temporal orientation towards the past. Guidance for integrating elements of oral history methodology into the current research was drawn from the works of Cynthia Stokes Brown and Donald A. Ritchie.¹¹ The amalgamation of legal, sociological, and historical research methods renders this study multidisciplinary, despite the qualitative interview method being prevalent across various academic disciplines.

The demographic composition of Polish advocates and legal advisers consists predominantly of males, a characteristic that is mirrored in the survey sample (59% of male participants). Approximately 52% of the survey respondents fell within the age bracket of 30 to 50 years of age, while 40% were aged 51 or older. The research sample is overrepresented by seasoned legal professionals with well-established careers and significant professional experience. Notably, at least 35% of them commenced their legal education or practice during the era of the People's Republic of Poland or during the transformation in the 1990s. Consequently, they possess extensive experience concerning the circumstances faced by lawyers in communist Poland and during the final decade of the 20th century.

Pre-World War II period

The interplay between historical epochs and modern jurisprudence offers a captivating investigation into how the echoes of the past continue to resonate in contemporary legal corridors. As we delved into the pre-World War II period, notably the years preceding 1939, our objective was to unravel its subtle and not-so-subtle implications for present-day legal activities.

During our extensive interactions with legal professionals, an unexpected reverence for the 1930s Polish legal framework emerged. Within the cohort of the 43 interviewed jurists, a discernible group exhibited not just a familiarity but a profound appreciation of this historical era. The depth of their engagement seemed

¹⁰ S. Kvale, S. Brinkmann, *InterViews: Learning the Craft of Qualitative Research Interviewing*, Thousand Oaks – London – New Delhi 2009.

¹¹ C.S. Brown, *Like it was: a complete guide to writing oral history*, New York 1988; D.A. Ritchie (ed.), *The Oxford Handbook of Oral History*, New York 2011.

initially surprising, given the march of time and the evolution of legal standards. Yet, as the conversations matured, it became apparent that such affinities were more ensconced in familial legacies, historical curiosities, and personal anecdotes rather than in present-day legal exigencies. Indeed, a narrative of progressive detachment was the predominant sentiment, suggesting that the legal intricacies of the 1930s had largely faded, becoming vestiges of a bygone era.

Silesia's pre-war legal echoes

However, history, with its undying whispers, occasionally refuses to be silenced. In specific geographical locales, especially in Upper Silesia (German: *Oberschlezien*), the past has found the way to intrude upon the present. Here, legal practitioners occasionally found themselves navigating complex waters, advising clients who hold securities or interests intertwined with pre-war entities. Predominantly, these concerns revolved around German commercial entities, emblematic of the German Reich, operating under the aegis of the German Commercial Code (HGB).¹² There existed a palpable, albeit fleeting, fervour around reviving dormant industrial outposts – mines, factories, and other vestiges of the aftermath of World War II. The legal labyrinth that ensued brought forth a melange of challenges, often culminating in judicial decisions that dampened the initial enthusiasm. Consequently, by the dawn of the 2020s, such undertakings metamorphosed into rarities, with Silesia itself seeing a marked decline.¹³

Pre-war's persistent threads

Parallely, inheritance law retained tenacious threads connecting the present to the pre-World War II epoch. Dealing with estates of individuals hailing from diverse historical territories necessitated nuanced legal acumen. Practitioners grappled with legacies from the Second German Reich, the Weimar Republic, the Austro-Hungarian Empire, and even from the Kingdom of Poland (Russian Empire). The absence of a consolidated civil code within the Second Polish Republic augmented the complexity of the situation, often compelling lawyers to seek refuge in the legal protocols of former annexing powers. While the incidence of such cases is discernibly in decline, they predominantly emerge in historically German-influenced regions

¹² Handelsgesetzbuch in der im Bundesgesetzblatt (23).

¹³ J. Jastrzębski, *Reaktywacja przedwojennych spółek akcyjnych a kolekcjonerski obrót akcjami*, "Przegląd Prawa Handlowego" 2012, no. 1, pp. 16–25; P. Kowalski, *O zaniechanej akcji likwidacji przedwojennych spółek prawa handlowego w Polsce Ludowej*, "Miscellanea Historico-Iuridica" 2014, vol. 12, no. 1, pp. 426–429; A. Moszyńska, Z. Naworski, *Użyteczność historii prawa dla współczesnego wymiaru sprawiedliwości*, "Studia z Dziejów Państwa i Prawa" 2014, vol. XVII, no. 1, pp. 314–321.

and, sporadically, areas with Austro-Hungarian (Galician) imprints.¹⁴ A significant lacuna, however, persists in our understanding of similar legal dynamics in nations such as Ukraine or Lithuania.

A seasoned legal adviser from Walbrzych offered a compelling insight in the course of our conversations:

We often find ourselves in a situation where we need to delve into German law. It happens when we're dealing with inheritance proceedings for someone who lived on what's now Polish territory but before our country regained its independence. You see, back in the 1920s or 1930s, family and inheritance laws varied widely depending on where you lived, your profession, or your religious beliefs. It's not uncommon for a Polish court to determine inheritance rights based on historical foreign laws, like those of Prussia or Austria. So, every now and then, we have to roll up our sleeves and dig into some ancient legal texts.

The vast spectrum of pre-World War II legal concerns might have receded into the historical horizon. Yet, certain domains, with their inherent complexities, ensure that this era retains a semblance of relevance. For legal practitioners, appreciating and adeptly navigating such historical nuances does not constitute a purely scholastic exercise – it remains an essential facet of jurisprudential practice.

Legal shadows of World War II

Commentaries on the repercussions of the Second World War continue unabated in the media. Periodically, they intensify and rekindle the painful events of that period for the society. The majority of Polish society may have the impression that post-German, post-Jewish deportation and nationalization issues remain alive not only in the media but also in the realm of law enforcement, courts, administrative bodies, international tribunals, and in the daily work of lawyers. This perception is often fuelled by politicians who are either actually or allegedly involved in various activities related to these historical issues.¹⁵

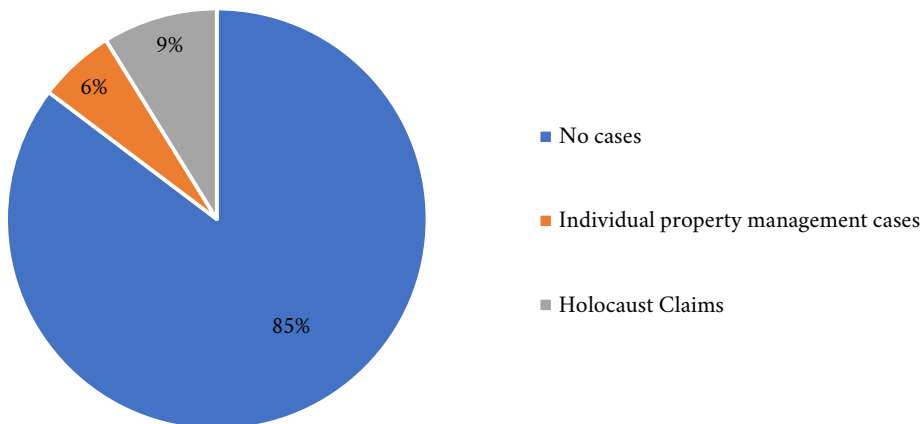
¹⁴ L. Górnicki, *Pogranicza systemów prawnych, w szczególności pozaborowych, w pracach nad kodyfikacjami prawa cywilnego i handlowego w II RP*, "Acta Universitatis Wratislaviensis. Prawo" 2017, no. 324, pp. 129–159; F. Longchamps de Bérier, *Stalność a zmienność szczegółowych regulacji prawa spadkowego Niepodległej*, "Forum Prawnicze" 2018, no. 2, pp. 3–24.

¹⁵ A. Bodnar, *Antysemityzm problemem medialnego dyskursu w Polsce. Rzecznik pyta KRRiT, jak z nim walczy*, <https://bip.brpo.gov.pl/pl/content/antysemityzm-problemem-medialnego-dyskursu-rpo-pyta-krriit-jak-z-nim-walczy> [access: 7 October 2021]; P. Forecki, "Mienie żydowskie" jako figura polskiego dyskursu publicznego, "Środkowoeuropejskie Studia Polityczne" 2015, no. 4, pp. 75–90; J. Kubiak (ed.), *Wysiedlenia i wypędzenia: jakiego pomnika nazistowskich deportacji nam potrzeba?*, Poznań 2019, pp. 13–29, 51–66.

Jewish reparations and property restitution

Today, the most prominent media topics related to World War II concern Jewish reparations for the Holocaust and compensation for Jewish properties annexed by the Third Reich and subsequently taken over by the Polish state, or Jewish properties located in post-war Poland. This remains a sensitive and controversial issue that continues to strain relations between Poland, Israel, and other countries, and it causes discomfort for both Poles and Jews. Despite the passage of 80 years since the end of the war, this subject still periodically resurfaces in the media, in interpersonal discussions, and in diplomatic relations. It is widely reported that the restitution of old Jewish properties remains a crucial political, legal, and court matter. Journalists and politicians often highlight that Polish courts see numerous cases brought forward by the descendants of the Holocaust victims who seek to reclaim various properties in Poland, with the most contentious cases revolving around tenements in Lodz, Krakow, and Warsaw. It is commonly believed that courts in these cities are continuously confronted with such claims from the descendants of the murdered Jews.¹⁶

Chart 1. Jewish cases occurring in the practice of current lawyers
(percentage of interviewed lawyers)



Source: own elaboration.

¹⁶ G. Taylor, *Sześć mitów o restytucji mienia żydowskiego*, "Rzeczpospolita" 31 May 2019; S. Tyska, *Restytucja mienia i pamięć zbiorowa w Polsce i w Czechach po 1989 roku*, "Normy, Dewiacje i Kontrola Społeczna" 2012, no. 13, pp. 217–235; S. Werner, *Restytucja mienia żydowskiego w aspekcie prawnym w Europie ze szczególnym uwzględnieniem Polski i Krakowa w latach 1945–2014*, Kraków 2018.

However, the legal reality differs significantly from popular opinion and media reports. Polish advocates and legal advisers overwhelmingly refute the notion that Jewish cases related to the last world war are common in their legal practices. In fact, 86% of the interviewed jurists across Poland assert that Jews are not actively pursuing property restitutions or Holocaust compensation in Poland in the 21st century. This topic has largely faded from legal practice and court proceedings. Jews occasionally approach lawyers, but their concerns typically pertain to current affairs, such as family and economic matters. Almost no one initiates cases related to old Jewish properties.

The situation is somewhat different when it comes to cases involving the recovery of tenement houses in Lodz, Warsaw, and Kraków. In these three major prewar centres of Polish Jews, there is a higher prevalence of legal disputes related to properties. Nevertheless, lawyers note that property recovery cases in these cities were concluded to a large extent a decade ago. Presently, the heirs of Jewish property owners seek control over the tenements or to profit from renting the premises. Establishing the rightful heirs is extremely difficult, rendering inheritance cases nearly futile. Today, agreements are being forged between the heirs of former Jewish owners, Polish property owners, and local governments. These agreements generally aim to allow Jews to derive benefits, such as rental income, from properties already owned by contemporary entities.

Polish legal practitioners are convinced that only a handful of lawyers in these three Polish cities handle Jewish property cases. These lawyers often inherit cases from retired attorneys, or they occasionally serve as temporary administrators of properties, curators of inheritances, court supervisors, or trustees of heirs. Individually, Jews rarely come to Poland to personally reclaim tenements or reside there. Cooperation with Israeli citizens often occurs remotely. Recovering the tenements of their grandparents holds little significance for most Jews. Such situations are handled by a small number of lawyers, and they are limited to the aforementioned three Polish cities. Moreover, they are decreasing in frequency every year, and such cases rarely go to court.

The media and political reality do not always align with the perspectives of lawyers, public officials, and judges. One point which is shared by the media and lawyers' opinions concerns the complex nature of cooperation with Jews coming to Poland. Polish advocates and legal advisers emphasize that working with Jewish clients is challenging due to the shadow of the Holocaust that looms over virtually every case. While specific Holocaust-related claims are rare, these cases are often entangled with broader Jewish historical experiences. This issue continues to put a strain on relations between Poles and Jews, sometimes even during court hearings. This attitude permeates their portrayal in the media and the political landscape of Polish-Jewish relations, making mutual cooperation more challenging.

A Krakow lawyer describes it in the following manner:

Israeli clients can be quite challenging because they often bring up the topic of Poland's responsibility for the Holocaust. It's as if an unpaid fine in Poland was somehow connected with Auschwitz. You have to tread carefully in these conversations. Israeli clients have a unique sensitivity to matters of judicial justice. I remember a case where a Polish court actually ordered me to provide death certificates from Auschwitz, and presenting them to the client required a lot of finesse. It's not the court's malice or lack of empathy; it's just bureaucratic procedure. And then there was this recent dispute with a client from the USA. His father passed away in Treblinka where there are no daily records of who died when. He got understandably frustrated. Some clients are deeply sensitive when it comes to historical issues.

At present, the media's spotlight, with respect to World War II and the Jewish issue, illuminates two primary areas: Jewish reparations for the Holocaust and compensations for the Jewish properties. Many of these properties were either taken by the Polish State or, in situations where Jewish assets were situated in post-war Poland and had no identifiable legal successors, they were acquired by the state, various entities, or individuals. This remains a thorny and divisive topic, which is constantly testing the waters between Poland, Israel, and other nations, creating discord between Poles and Jews. Despite the fact that eight decades have elapsed since the war, this remains a recurring issue which finds its way into the media, personal discussions, and diplomatic dialogues. There's a recurring narrative which suggests that these old Jewish properties are an issue of political and legal significance.

Germans, post-war expulsions, and property rights

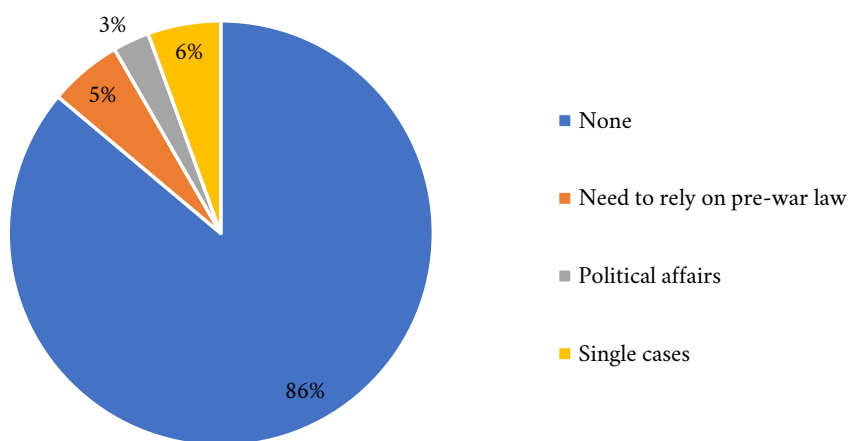
Occasionally, media outlets are abuzz with the news of Germans, former property owners in Silesia and pre-war Prussia, seeking restitution. This is sometimes entwined with discussions on compensation and post-war displacements (German: *Vertreibung*). Countering this, some Polish politicians demand war reparations. The topic of restitution of post-German assets remains salient in Opole, Silesia, and it surfaces in other parts of the "Recovered Territories" (Polish: *Ziemie Odzyskane*). There are whispers in the media about a plethora of heirs from Silesia or Prussia appealing for property restitution or compensation. Sometimes, the narrative suggests former owners or heirs are in litigation against contemporary Polish owners who acquired post-German assets postwar.¹⁷

¹⁷ R. Grzeszczak, *Problematyka roszczeń majątkowych w stosunkach polsko-niemieckich* [in:] W. Czaplinski (ed.), *Problemy prawne w stosunkach polsko-niemieckich u progu XXI wieku*, Warszawa 2009, pp. 131–169; *Niemieckie roszczenia wobec Polski. Zapadł ważny wyrok NSA*, <https://www.money.pl/gospodarka/wiadomosci/artykul/niemieckie-rozszczenia-wobec-polski-zapadl,122,0,1893498.html> [access: 7 October 2021].

Conversations with Polish legal consultants reveal a contrasting reality: attempts to reclaim properties left behind in Poland are virtually non-existent, and this applies to heirs as well. Lawyers underline that individuals challenging current legal titles or aiming to retrieve pre-war estates are a rarity. Even in regions like Opole, Silesia or former East Prussia, such endeavours are scarcely observed. Many Germans recognise their historical responsibility concerning to the war and this renounce any expectations of compensations. They typically regard their properties in modern-day Poland as reparation for the damage Poland incurred during the war. Regardless of the legality of the property transition, most believe these assets should stay with the Polish people. Legal circles confirm the absence of ongoing litigation regarding such estates, and Germans rarely consult Polish legal experts about reacquiring former properties.

However, some informants cautiously mention past whispers of Germans attempting to reclaim family estates. Particularly, lawyers from Gdańsk, Wałbrzych, Opole, Katowice, Olsztyn, and Wrocław have caught wind of such endeavours. A handful of legal experts in these areas do offer counsel to Germans in disputes over property restitution or compensation. Yet, according to the regional bar' council members, these specialists deal with sporadic, unique German cases – most of which do not reach the courts. Legal engagements predominantly revolve around consultations. Legal complexities, coupled with a pervasive sense of historical accountability, deter most Germans from seeking legal redress. In other regions, cases concerning post-German properties virtually do not occur.

Chart 2. Post-German cases occurring in the practice of current lawyers
(percentage of interviewed lawyers)



Source: own elaboration.

In a landscape where 86% of the interviewed lawyers have not encountered such cases and their sole source of exposure to the matter has occurred through media accounts, the issue at hand remains predominantly niche. For over a decade, it has resided at the periphery of legal discourse, with no discernible German inclination to reclaim former properties. The anticipation among legal practitioners in this field remains almost absent. German property-related concerns are rooted in past occurrences, dating back two decades or involving isolated instances of assertive German intervention. The portrayal of these matters in the media is frequently marred by inaccuracies and sensationalism. Presently, this information is disseminated primarily for its sensational and political value. According to legal professionals familiar with the Opole region, a legal adviser from Walbrzych, and other advocates from Opole and Wrocław, the current state of German-Polish relations can be characterized as follows:

Politics plays a big role here. The Germans, they are quite cautious, really cautious. From my personal conversations, I can tell you that on that side, where the German border used to be until 1945, no one will openly admit it. An old buddy of mine, a former dean from Opole, once told me that even in Opole and the surrounding region, the Germans are not pushing to reclaim family property. He said, 'Piotr, there are not many issues that would draw the Germans in. They understand politics and are well aware of their historical responsibility. Even German lawyers who have left Poland and settled there, along with those who are Germans through and through, prominent names in academia, tread very cautiously when it comes to German-owned property in Poland. They fear another political tragedy or scandal.

There are hardly any claims from heirs of factories. Some compensation cases for German-owned properties left behind do exist, but they are typically older cases from the beginning of the 20th century or even older. Nowadays, everything is pretty much settled. At this point, I cannot see any other avenues for cooperation with the Germans.

We had one instance involving a tenement house, which belonged to an Austrian. He encountered difficulties because the decree concerning abandoned and former German properties specifically targeted Germans, not other nationalities. These were unique cases. In this situation, things were relatively straightforward – it essentially involved Polish land allocation, followed by agrarian reform, and then the church asserting its claim on these lands. Somewhere along the line, they recalled it. However, it was a solitary case that concluded quite some time ago. Currently, I have not heard of any other instances involving post-German estates.

“Mienie zabużańskie”: A historical relic

The narrative concerning the Polish properties beyond the Bug River, referred to as “mienie zabużańskie,” once held a prominent place in media discussions. While

the topic has historically held some significance, recent trends suggest a shift. Legal authorities in Poland point out that the frequency of cases associated with these properties has diminished over time. As the original proprietors have mostly passed away, the subsequent generations display a subdued interest in their ancestral properties.¹⁸

By the culmination of the 20th century, the fervour associated with these properties witnessed a marked decline. Despite the fact that the 2005 legislation had addressed the issue of compensation for these properties and had subsequently ignited a brief resurgence of interest in the topic, the situation altered by 2015.¹⁹ This changing dynamic was aptly summarised by a Wrocław-based lawyer, who commented in the following manner:

There are no cases involving people from beyond the Bug River, or if there are, they are few and far between. The law regarding foreign property has been extended numerous times, and honestly, I am not even sure if it is still being extended. We did have a fair share of such cases, but that was ages ago. Those who had been eligible for compensation already received it. The generation that had the necessary paperwork and a vested interest in these matters has slowly faded away, and their children have with no grounds or documents to pursue these claims. Occasionally, we do come across trace cases, but it is nothing like what you would find in Krakow or Warsaw. The legal landscape there is entirely different. In Krakow, things were handled cleanly and transparently; I know a lawyer, Marcin Kosioriewicz, who handled these cases, and they were all above board. Sure, there were a few scams involving generations long gone, but nothing as scandalous as what went down in Warsaw. Lands from the East and compensation for those lands – well, that is more our territory, the western lands stretching from Szczecin to Wrocław. Krakow, on the other hand, is steeped in different historical narratives, and Warsaw has its own unique stories.

Polish property claims in the East

When proceeding from the issue of the domestic lands to the territories which are now situated in countries like Ukraine, Lithuania and Belarus, the narrative remains consistent but with added complexities. Notably, Poles possess a palpable sentiment: reclaiming familial estates located within the borders of these nations is

¹⁸ J. Forystek, *Nowe krzywdy Zabuzan: aktualne problemy orzecznictwa*, "Palestra" 2020, no. 7–8, pp. 129–147; J. Wittlin, *Aktualne zagadnienia legislacyjne i orzecznicze dotyczące mienia zabużańskiego*, "Krytyka Prawa" 2014, vol. 6, no. 1, pp. 481–495; idem, *Mienie zabużańskie: realizacja prawa do rekompensaty*, Warszawa 2019, pp. 233–293.

¹⁹ *Sprawy zabużańskie*, <https://www.gov.pl/web/mswia/sprawy-zabuzanskie> [access: 28 September 2023]; ustawa z dnia 8 lipca 2005 r. o realizacji prawa do rekompensaty z tytułu pozostawienia nieruchomości poza obecnymi granicami Rzeczypospolitej Polskiej (Dz.U. 2017, poz. 2097) [Act of 8 July 2005 on the Exercise of the Right to Compensation for Property Left outside the Present Borders of the Republic of Poland (Journal of Laws, 2017, item 2097)].

not a tangible prospect. The complex legal structures of these states, combined with the modest valuation of the properties, act as deterrents for Poles. Consequently, the rich history of Polish estates in Ruthenia and Lithuania appears to have concluded its story.

Corroborating this, interviewees were unanimous in their insights: the broader Polish community does not harbour genuine aspirations of laying claim to properties in these countries. To date, there is a conspicuous absence of Polish legal representatives engaging in property restitution cases, and collaboration with Ukrainians on such subjects remains elusive.

The legal resonance of World War II

While analysing the profound ramifications of World War II and its ensuing repercussions, a marked decline in their prominence within the modern legal sphere becomes apparent. Issues of historical significance, such as the nationalisation of Warsaw real estate under the Bierut Decree and the endeavours of property commissions in major urban locations, increasingly find their place within the confines of political and media debates rather than in actual legal actions²⁰. It is crucial to note that even though these topics occasionally re-emerge in collective consciousness, their significance within the legal community wanes. Experienced jurists point out that, since 2015, such subjects seldom hold a central place in legal deliberations.

Within the broader canvas of legal practices, matters associated with World War II and the period that followed are slowly but surely being consigned to historical archives. The current legal landscape infrequently addresses these once-dominant issues. As we delve deeper into the third decade of the 21st century, the gap between present legal concerns and those of the past widens. The prevailing sentiment among legal practitioners suggests that revisiting the tumultuous legal disputes of the first part of 20th century has become increasingly redundant. It is widely acknowledged that the narratives promulgated by the media and various political factions might not always align with the actualities of the law. Even though some legal issues still hark back to the 20th century, they arise infrequently and are resolved with expediency.

Conclusions

The first 50 years of 20th century bore witness to momentous events, many of which left indelible and often negative marks on Polish history. Some of these con-

²⁰ K. Osajda, *Nacjonalizacja i reprivatyzacja*, Warszawa 2009; M. Pytlewska-Smółka, *Restytucja mienia objętego działaniem tzw. dekretu Bieruta z 26 października 1945 r. w świetle działań Komisji do spraw reprivatyzacji nieruchomości warszawskich*, "Radca Prawny. Zeszyty Naukowe" 2018, no. 3, pp. 62–81.

sequences continue to shape the lives of individuals and the experiences of groups. The present article explores the unique perspective of jurists, those outsiders tasked with interpreting the past through the lens of legal expertise. Jurists neither pass judgment on past events nor delve into historical explorations; their role is to extract practical implications from these events for the future. This process is inherently subjective, driven by the needs of their clients or the broader public interest. Consequently, their perspective on historical events is selective, guided by specific legal considerations and objectives.

Due to the aforementioned reasons, lawyers do not always grasp the full magnitude of 20th-century events. Their focus tends to be narrow, concentrating solely on tangible legal repercussions affecting specific individuals and entities. Consequently, their engagement with the past is specific and highly selective. Jurists primarily discuss events from the past that hold significant legal relevance for their daily practice, often omitting numerous significant events that lie beyond their direct purview. Thus, their portrayal of the 20th century may appear limited, technical, and professional, rather than comprehensive and historical. It is the perspective of lawyers, not of professional historians.

Currently, lawyers have largely ceased to work on cases related to the first part of 20th century. This shift has occurred due to various factors such as the passage of time, the passing away of potential litigants, legal reforms, shifting borders, changing regimes, and the expiration of statutes of limitations. Citizens and businesses have become disinterested in revisiting historical grievances. This trend is particularly noticeable among Germans who do not anticipate revisiting pre-war matters. Poles have grown weary of dwelling on the wartime past or the era of People's Poland. After years of intense discourse among politicians, journalists, media, and historians, people have reached a point of saturation. Consequently, most individuals prefer not to assert their rights through legal channels, but rather to look ahead and work towards the future, viewing the revisiting of past events as a formidable challenge, which is rarely undertaken.

Even the most contentious issues of the previous century have faded into oblivion in the 21st century. While the media and the political circles continue to grapple with the problems stemming from World War II or the era of the People's Republic of Poland, these topics are scarcely discussed in Polish courts or law offices. It is exceedingly rare for individuals of Polish, German, or Jewish descent to seek redress for their grandparents' experiences. Isolated cases that do arise are seized upon by the media and politicians and are subsequently publicized, however, this is more of an exception than a rule. Conflicts which originated during the 20th century have largely become consigned to history books, and people, including lawyers, are generally uninterested in reopening these chapters. The involvement of lawyers in resolving the problems of the 20th century was essentially concluded with the turn

of the millennium. Today, if the 20th century continues to exert any influence, it is primarily in the context of inheritance cases.

The reality portrayed by the media and politics does not align with empirical reality. In practice, once 20 years have passed since an event with legal implications, the collective memory of it and the potential for legal action tend to wane. With each passing year beyond the close of the 20th century, the likelihood of widespread efforts to revisit the past diminishes. Lawyers do not anticipate nor desire a revival of such issues. Engaging with the past no longer yields substantial material benefits for them; it is instead labour – intensive and complex. Moreover, junior lawyers often struggle to relate to earlier eras and are disinclined to engage with them. Presently, older cases should find resolution not in courts, prosecutors' offices, the Institute of National Remembrance,²¹ or law firms but in educational settings and collaboration with psychologists. The events of the first half of 20th century have ceased to exist in the active domain of lawyers. May this significant and sombre chapter remain closed to the legal profession.

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AFTERIMAGES OF THE 20TH CENTURY'S FIRST HALF: POLISH LAWYERS CONFRONTING THE SHADOWS OF HISTORY

Abstract

By employing the lens of the sociology of law, this research analyzes how the historical events in the first half of the 20th century have influenced the shape of contemporary Polish legal practise. By utilising qualitative in-depth interviews, insights were gathered from seasoned Polish legal professionals, many of whom had embarked on their careers in the period of People's Republic of Poland or during the transformation in the 1990s. Their testimonies not only shed light on the evolution of the way lawyers' work but they also emphasize the intricate interplay between societal structures and the application of law today and in the past. The study reveals an inextricable link between the socio-political context of the past and the present-day legal framework, ethics, and lawyers' practice, thus highlighting the necessity of integrating the perspective of the sociology of law in modern legal practice.

Key words: lawyers, oral history, modern legal practice, legal memory, sociology of law