

Published as “Foreword,” to Franciszek Longchamps de Brier and Rafael Domingo, eds., *Law and Christianity in Poland: The Legacy of the Great Jurists* (London: Routledge, 2022), ix-xi

### **Abstract**

*This is a brief foreword to the first comprehensive study in English of the interaction of law and Christianity in Poland over the past millennium. The volume offers a score of case studies of major Polish legal thinkers to illustrate several distinct Polish legal ideas and institutions – concerning civil and criminal procedural rights, natural law theory, rule of law, conflict of laws, constitutional monarchy and democracy, separation of powers, and the delicate balance of privileging the majority Roman Catholic Church and protecting various religious and cultural minorities. What has helped to make Polish law so distinctive is its remarkable legal eclecticism, and the ready transplantation and integration by inventive jurists over the centuries of various legal norms and procedures of indigenous legal traditions, European civil law, Anglo-American common law, and Slavic legal systems. What has also helped to make Polish law so distinctive is the pervasive influence of Roman Catholic teachings throughout the second millennium.*

**Keywords:** Poland, Roman Catholicism, natural law theory, law and religion, church-state relations, religious freedom, constitutional monarchy

### **Foreword**

John Witte, Jr.

This volume is another signature title in the book series on “Great Christian Jurists in World History.” This multi-volume series presents the interaction of law and Christianity over the past two millennia, using intellectual biographies of one thousand major legal figures from biblical times until today. Commissioned by the Center for the Study of Law and Religion at Emory University, each volume in this series focuses on a specific country, region, or era and samples the life and work of a score or more of its greatest legal minds over the centuries. These figures include not only civil, common, and canon law jurists and judges but also theologians, philosophers, and leaders of the church, state, society, and the academy. What commends each figure for inclusion in this series are their decisive contributions to legal ideas and institutions, their leadership in major legal reform or resistance movements, and/or their efforts to craft landmark constitutions, treatises, treaties, statutes, canons, or cases. Thus, familiar Christian jurists like Gratian, Grotius, Blackstone, Story, Kuttner, and Scalia appear in this series. But so do Augustine, Isidore, Aquinas, Calvin, Bonhoeffer, Maritain, and Romero. This biographical approach is not intended to deprecate institutional, doctrinal, social, or intellectual histories of law and religion, nor will it devolve into a nostalgic form of

Christian confessional hagiography. It is, instead, designed to offer a simple method and common heuristic to study the interaction of law and Christianity around the world over the past two millennia.

Columbia University Press opened this “Great Christian Jurists” series in 2006–07 with a three-volume work on *Modern Christian Teachings on Law, Politics, and Human Nature*, featuring nearly thirty modern Catholic, Protestant, and Orthodox Christian figures. Cambridge University Press has published new titles on great Christian jurists and legal collections in the first millennium, as well as in English, Spanish, French, Lowlands, and American history. Routledge has taken up the Italian, Nordic, Welsh, Russian, and Latin American stories; Mohr Siebeck the German story; and Federation Press the Australian story. Forthcoming titles will cover great Christian jurists in the history of Scotland, Ireland, Austria, Switzerland, Greece, and, eventually, various countries and regions in Eastern Europe, Central Eurasia, the Middle East, Eastern, Western, and Southern Africa, the Pacific Rim, and Southeast Asia.

In the present volume, two leading Catholic jurists and legal historians, Professor Franciszek Longchamps de Brier (Jagiellonian University) and Professor Rafael Domingo (Emory University/University of Navarra) have combined their talents and networks to create a brilliant new account of *Law and Christianity in Poland: The Legacy of the Great Jurists*. The volume features fresh, crisp essays commissioned from a score of leading experts on Polish law and religion, almost all of them Polish academics. The authors of these chapters have made these historical Polish jurists vividly present to us by translating their texts, terms, and ideas into accessible and authoritative forms for Anglophone readers.

Twenty-one great legal, religious, and political figures in Polish history come to life in these pages. A fine editorial introduction sets these figures within the millennium-long tumultuous and sometimes tragic political and religious history of Poland. The collection begins with several medieval legal figures, including Bishop Vincentius, the twelfth-century father of Polish culture, language, and law. It also includes the powerful fourteenth-century Queen Jadwiga, whose pioneering work in support of church and state, and of religious and legal education led to her later canonization. Later leaders of church and state also come in for close analysis. Notable is sixteenth-century Queen Anna Jagiellon, a devout Catholic who strengthened Poland’s longstanding policy of granting freedom to all peaceable Catholics, Orthodox Christians, Protestants, and Jews. Her pioneering efforts were echoed and elaborated by several later Polish jurists and churchmen over the centuries, notably Cardinal Stefan Wyszyński, a modern champion of religious freedom during the communist period as well as an exemplary Catholic pastor, canonist, and hierarch.

Most of the other Polish figures put in the dock for investigation were major jurists and legal reformers of church and/or state. Included are studies of several jurists from the fourteenth to the nineteenth centuries -- Stanisław of Skarbimierz, Paweł Włodkowic, Mikołaj Zalasowski, Teodor Ostrowski, and Antoni Zygmunt Helcel – who together made major contributions to Polish public, private, penal, and procedural law

as well as to international law, natural law theory, and the laws of war. Several case studies take up the leading jurists who helped Poland negotiate the seismic shifts in its identity, population, and geography during the last two tumultuous centuries. These include Leopold Caro, who sought a religious via media between communism and liberalism; Leon Petrażycki, a pioneer of women’s rights; and two great codifiers of modern Polish law: Juliusz Makarewicz and Roman Longchamps de Bériet. Included as well are studies of a quintet of major twentieth-century jurists – Zygmunt Ziemiński, Irena Malinowska-Kwiatkowska, Henryk Kupiszewski, Andrzej Stelmachowski, and Remigiusz Sobański -- who helped Poland survive the brutality of Nazism and Communism and helped the Polish people navigate to its current status as a vibrant state in modern Europe and a distinct bastion of Roman Catholicism in a region dominated by Protestantism, Orthodoxy, and post-Christian ideology.

Almost all of the “great Christian jurists” included for study herein will be new to non-specialists in the English-speaking world. Two exceptional Polish figures are much better known, but readers may be surprised to see them counted among “great Christian jurists.” The first figure is Nicolaus Copernicus, the famous astronomer and polymath, who proved that the sun, not the earth, is at the center of the universe. What is less known today is that Copernicus was also an exceptional jurist in his day, who made an enduring contribution to the reform of the Polish church’s canon law as well as to economic law and monetary theory. The second figure is Cardinal Karol Józef Wojtyła, who led the Polish church and people in their political resistance to communism. Wojtyła is far better known to the world as Pope John Paul II. From 1978 to 2005, he led the global Catholic Church in its transformative embrace of religious freedom, human rights, and democratization for all, as well as in promulgating the 1983 *Code of Canon Law* and the 1990 *Code of Canons of the Eastern Churches* that still governs much of the global Catholic world.

Readers of these chapters will learn a great deal about the power, prescience, and pervasiveness of several distinct Polish legal ideas and institutions – concerning civil and criminal procedural rights, natural law theory, rule of law, conflict of laws, constitutional monarchy and democracy, separation of powers, and the delicate balance of privileging the majority Roman Catholic Church and protecting various religious and cultural minorities. What has helped to make Polish law so distinctive is its remarkable legal eclecticism, and the ready transplantation and integration by inventive jurists over the centuries of various legal norms and procedures of indigenous legal traditions, European civil law, Anglo-American common law, and Russian and other Slavic legal systems. What has also helped to make Polish law so distinctive is the pervasive influence of Catholic teachings throughout the second millennium. Time and again, major historical legal figures brought to novel legal expression several fundamental Christian values -- faith, hope, love, solidarity, inclusion, forgiveness, reconciliation, hospitality, charity, and respect for human dignity. It is no accident that it was late medieval Poland that opened wide its borders and communities to the many thousands of Jews who were driven from Western European lands during the shameful scourge of inquisition and pogrom. And it is no accident that Poland today has again opened its

hearts and homes to hundreds of thousands of neighboring Ukrainians who are fleeing the brutal Russian genocide.

It has been a joy for me to work with Franciszek Longchamps de Bériér and Rafael Domingo and the wonderful group of scholars who contributed to this volume. Professor Longchamps de Bériér is new to this “Great Christian Jurists in World History” series and having seen him in action my colleagues and I now covet further contributions from his learned pen and wide ken. Professor Domingo has been a stalwart in leading and editing several volumes on great Christian jurists in Spain, France, Italy, and Latin America, having earlier prepared a massive four-volume collection in Spanish on *Juristas universales*. On behalf of my colleagues in the Center for the Study of Law and Religion, allow me to express my profound gratitude to these two distinguished editors.

This volume was made possible by the generous support of the McDonald Agape Foundation. The editors join me in extending our deep gratitude to the Foundation President, Peter McDonald, and its board members for their continued generous support of our Center’s work on law and Christianity. I also join the editors in their kind acknowledgments and thanks to the many colleagues at Jagiellonian University and at Emory University who contributed so generously to this project and volume. We all give abundant thanks to our Law and Religion Center’s Senior Editor, Dr. Gary S. Hauk, who again applied his brilliant editorial skills in polishing and pruning all of these chapters.

It is a delight to publish this volume and several others in the distinguished Law and Religion series edited by one of the world’s preeminent scholars of law and religion, Professor Norman Doe. Professor Doe and his many colleagues in the Cardiff Centre for Law and Religion have been vital trans-Atlantic allies with the Emory Center for the Study of Law and Religion. On behalf of the Center, I extend thanks for their leadership in this expanding global field of interdisciplinary legal study, and for their partnership with us in publishing this and parallel volumes on law and Christianity. Finally, I express warm thanks to Alison Kirk and her colleagues at Routledge for taking on this volume and applying their usual standards of excellence in their editing, production, and marketing.