

Introduction

This thematic issue of “Zeszyty Naukowe Katolickiego Uniwersytetu Lubelskiego Jana Pawła II” is a result of the XL Human Rights Days, an annual conference with a rich tradition dating back to the early 1980s, organised in the Institute of Sociological Sciences at the John Paul II Catholic University of Lublin. Held on 13–14 December 2023 in cooperation with the Lublin section of the Polish Sociological Association, the conference was entitled “Complete and Crippled Human Rights: On the Concepts of Adam Podgórecki on the 25th Anniversary of His Death.”¹ It served a dual purpose: to honour the legacy of this remarkable scholar,² a founding figure in the International Sociological Association’s Research Committee on Sociology of Law, and to introduce human rights scholars to his pivotal distinction between crippled and complete rights, as well as to stimulate the application of this distinction and other Podgórecki’s sociological contributions to human rights research.³

¹ The programme of the conference is available at https://www.kul.pl/the-xl-days-of-human-rights,art_105240.html.

² See e.g.: J. Kurczewski, *In Memoriam. Adam Podgórecki*, “Studia Socjologiczne” 1998, no. 3, p. 13–17; A. Kojder, *Adam Podgórecki’s “Vita Activa”*, “Polish Sociological Review” 1999, vol. 126, no. 2, p. 323–330; K.A. Ziegert, *Adam Podgórecki’s Sociology of Law: The Invisible Factors of the Functioning of Law Made Visible*, “Law and Society Review” 1977, vol. 12, p. 151–180; J. Kurczewski, *Adam Podgórecki’s Empirical Theory of Law*, “Societas/Communitas” 2013, no. 1, p. 79–97; H. Dębska, *Herezja w prawoznawstwie. Trajektoria polskiej socjologii prawa w XX wieku*, in: *Polskie nauki społeczne w kontekście władzy i zależności międzynarodowych*, ed. T. Zarycki, Wydawnictwa Uniwersytetu Warszawskiego, Warsaw 2022, s. 105–137; K. Motyka, *Leon Petrażycki and Adam Podgórecki: On the Reception of the Psychological Theory of Law in Poland under Communism*, in: *Leon Petrażycki. Law, Emotions, Society*, eds. E. Fittipaldi, A.J. Treviño, Routledge, New York 2023, p. 47–71.

³ The distinction is referred to in a few publications: J. Kurczewski, *The Resurrection of Rights in Poland*, Clarendon Press, Oxford 1993, p. 390; M. Krygier, A. Czarnota, *Rights, Civil Society, and Post-Communist Society*, in: *Western Rights? Post-Communist Application*, ed. A. Sajó, Kluwer Law International 1996, p. 101–137, at 104; M.J. Fariñas Dulce, *Los derechos humanos: desde la perspectiva sociológico-jurídica a la “actitud postmoderna”*, Instituto de Derechos Humanos Bartolomé de las Casas, Universidad Carlos III de Madrid, Madrid 1997, p. 7; K. Dzieniszewska-Naroska, *The Citizens’ Rights and Freedoms in the Legal Understanding of the Small Town’s Inhabitants*, “Prace ISNS” 1999, no. 2: *Sociology of Law: Prof. Adam Podgórecki in Memoriam*, p. 267–295, at 268; R. Oviedo, *Relatos, revueltas y desventuras de la gente entintada del Pacífico Sur*, Universidad de Nari, Departamento de Sociología Observatorio Social, Graficolor, Pasto, Nariño 2009, p. 7–8, <https://sired.udenar.edu.co/370/1/LibroGenteEntintada.pdf> (accessed: 09.09.2024); M. Krygier, *The Rule of Law and ‘the Three Integrations’*, “Hague Journal on the Rule of Law” 2009, vol. 1, no. 1, p. 21–27 at 26; A. Noguera



Podgórecki presented the distinction at the International Congress of Sociology of Law in Bologna in 1988.⁴ He considered it – and the related concept of intuitive law – essential for the sociology of human rights. He wrote:

In order to establish the basis for an adequate sociology of human rights, one must first elaborate two introductory concepts. The first concept is intuitive law. [...] The second concept is of a classificatory nature. It distinguishes: a) crippled and b) complete human rights. In social reality, as a rule, human rights are mainly abstract, meaning that they are pronounced, but not necessarily practiced. Abstract rights become crippled when they do not provide realistic conditions for their own operation. [...] For human rights to be complete, it is crucial not only that written prescripts be in congruence with the respective attitudes of intuitive law, but also that institutional and/or organizational links exist between these two elements.⁵

Podgórecki's distinction was rooted in Polish academic debates on the guarantees of the rule of law and constitutional rights, which often differentiated between formal/legal/institutional guarantees and extralegal/informal/socio-economic guarantees (conditions). These debates included considerations of legal consciousness and political culture,⁶ but none went as far as Podgórecki in dividing rights based on the existence – or the lack – of such guarantees. His approach builds on Leon Petrażycki's concept of intuitive law, even though Podgórecki defines it somewhat differently, considering it synonymous with what has been termed living law, informal law or folk law. His reference to “institutional and/or organizational links” in the context of complete rights, however, remains somewhat underexplained. Strangely enough, he does not incorporate his hypothesis of the three-level operation of the law into this analysis.

Fernández, *Derechos fundamentales y normativa sobre inmigración en el marco de la Unión Europea*, “Revista Universitaria Europea” 2012, no. 17, p. 75–88, at 84, <http://www.revistarue.eu/RUE/102012.pdf> (accessed: 09.09.2024); A. Jacqmin, *When Human Claims Become Rights. The Case of the Right to Truth over “Desaparecidos”*, “Oñati Socio-Legal Series” 2017, vol. 7, no. 6, p. 1247–1272, at 1250, <https://opo.iisj.net/index.php/osls/article/view/866/1048> (accessed: 09.09.2024).

⁴ A. Podgórecki, *Toward a Sociology of Human Rights*, in: *Laws and Rights. Proceedings of the International Congress of Sociology of Law for the Ninth Centenary of The University of Bologna (May 30 – June 3, 1988)*, ed. V. Ferrari, Giuffrè, Milano 1991, p. 417–432, included as a chapter *Human Rights Revolution* in his *A Sociological Theory of Law*, Giuffrè, Milano 1991.

⁵ Ibidem, p. 101–103.

⁶ See e.g.: H. Suchocka, *Rodzaje konstytucyjnych gwarancji praworządności w europejskich państwach socjalistycznych*, “Ruch Prawniczy, Ekonomiczny i Socjologiczny” 1974, no. 2, p. 55–70, at 57; B. Banaszak, A. Preisner, *Prawo konstytucyjne. Wprowadzenie*, Wydawnictwo Uniwersytetu Wrocławskiego, Wrocław 1993, p. 104.

This issue of the journal provides space for a more detailed discussion of Podgórecki's sociological ideas on complete and crippled rights. Several articles delve into these topics, offering both theoretical explorations and contemporary applications.

These are preceded by two letters addressed to the conference participants. The first is by Professor Mirosława Grabowska of the University of Warsaw, President of the Polish Sociological Association and a former student of Podgórecki. The second is by Professor Emeritus Maria Łoś-Podgórecka of the University of Ottawa, who was first his student, then collaborator, and eventually his wife.

The authors of the articles featured in this issue are connected in various ways to Adam Podgórecki and his intellectual legacy. Several of them, including Mavis Maclean, Jacek Kurczewski, Małgorzata Fuszara, Stefka Naoumowa, and Agata Fijalkowski, had the privilege of knowing Podgórecki personally, most of them since the 1970s. Naoumowa and Kurczewski earned their doctorates under his supervision and collaborated with him on research projects. Others, while not having met Podgórecki in person, have engaged deeply with his sociological contributions. Michael D. Kennedy's work included the review of *Polish Society*, one of the latest of Podgórecki's books,⁷ while Janine Wedel has explored, adopted and disseminated his concept of "dirty togetherness" in her studies on corruption and informal networks.⁸ Agata Przylepa-Lewak wrote the only doctoral dissertation on Podgórecki's sociology of law published to date, offering an in-depth exploration of his theories.⁹ Bartosz Pilitowski has drawn on Podgórecki's work in his research on the right to a fair trial.¹⁰ Paweł Orzechowski co-authored a continuation of Podgórecki's research on attitudes towards law and earned his doctorate under Jacek Kurczewski; thus one could say that he is a "scholarly grandson" of Podgórecki. Finally, I myself have published several works on Professor Podgórecki's place in the socio-legal Petrażyckian tradition¹¹ – having had the honour and pleasure of exchanging correspondence

⁷ M.D. Kennedy, *Book Review: Adam Podgórecki, Polish Society*, "Contemporary Sociology" 1995, vol. 24, no. 2, p. 222–223.

⁸ See e.g.: G.W. Creed, J.R. Wedel, *Second Thoughts from the Second World: Interpreting Aid in Post-Communist Eastern Europe*, "Human Organization" 1997, vol. 56, no. 3, p. 253–264; J.R. Wedel, *Shadow Governing: What the Neocon Core Reveals about Power and Influence in America*, in: C. Shore, S. Wright, D. Però, *Policy Worlds: Anthropology and the Analysis of Contemporary Power*, Berghahn Books, New York 2011, p. 151–168.

⁹ A. Przylepa-Lewak, *Wkład Adama Podgóreckiego w powstanie i rozwój socjologii prawa*, Wydawnictwo UMCS, Lublin 2020.

¹⁰ S. Burdziej, B. Pilitowski, K. Guzik, *Fairness at Trial: The Impact of Procedural Justice and Other Experiential Factors on Criminal Defendants' Perceptions of Court Legitimacy in Poland*, "Law & Social Inquiry" 2019, vol. 44, no. 2, p. 359–390, at 373.

¹¹ See n. 2, above.

with him over several years and finally meeting him in person during his visit to Poland shortly before his death in 1998.

The article that opens our collection is an essay by Mavis Maclean – an eminent British socio-legal scholar, founding member of the Oxford Centre for Socio-Legal Studies, and former Director of the International Institute on Sociology of Law in Oñati, a place truly dear to Adam Podgórecki. Professor Maclean has been in touch with Warsaw sociologists of law for over 40 years and was awarded the ISA RCSL Adam Podgórecki Prize. In her essay, she notes that Polish scholars' relations with Oxford University's Faculty of Law date back to 1944–1947 when – let's add – the Polish Law Faculty operated within the University. This is commemorated by a brass plaque still proudly hanging on the wall in the Oxford Faculty of Law Board Room.¹² In the first part of the essay, Mavis Maclean recalls her first meeting with Adam Podgórecki and credits him with initiating a discussion around the rule of law in the Oxford Centre for Socio-Legal Studies. In the second part of the essay, she reflects critically on the rule of law in the United Kingdom and – from this perspective – presents the former UK Government's policy towards illegal immigrants from Rwanda.

The article by Michael D. Kennedy, Professor of Sociology and International and Public Affairs at Brown University, whose scholarly connection to Poland has been an important element of his academic profile, marked by four decades of collaboration and close ties with Polish sociologists,¹³ begins by considering Podgórecki's place in American sociology¹⁴ and his own review of Podgórecki's *Polish Society*. He then reflects on law, human rights, justice, and love “in Podgórecki's light and Petrażycki's shade.” This intellectual lineage serves as a prism through which Professor Kennedy discusses Russia's invasion of Ukraine and the enduring conflict in Israel and Palestine.

In the next article, Bartosz Pilitowski, the President of the Board of the Court Watch Poland Foundation, draws on Podgórecki's theory of human rights, as well as on the works of Leon Petrażycki and Lawrence M. Friedman and focuses on the obstacles to implementing the right to a fair trial in Poland. Pilitowski categorises them into three areas: legal regulations, institutional conditions, and legal culture, with a particular emphasis on judicial culture, which he considers

¹² The plaque reads: “*Facultas iuridica Polonorum in Universitate Oxoniensi. From 1944–1947 The University was honoured to be party to the creation of The Polish Faculty of Law situated at Oriel College [.] 266 students were awarded degrees.*”

¹³ See: *Czy można być szczęśliwym profesorem? O przywództwie akademickim rozmawiają Michael D. Kennedy, Anna Giza-Poleszczuk i Michał Łuczewski*, “*Stan Rzeczy*” 2021, no. 1 (20), p. 263–282.

¹⁴ Cf. his article: *Poland in the American Sociological Imagination*, “*Polish Sociological Review*” 2004, no. 4, p. 361–383; see also: A. Sulek, “*To America!*” *Polish Sociologists in the United States after 1956 and the Development of Empirical Sociology in Poland*, “*East European Politics and Societies*” 2010, vol. 24, no. 3, p. 327–335.

the most persistent barrier to the realisation of this right. The article offers a vital contribution to the understanding how institutional and cultural factors shape access to justice in contemporary Poland.

The author of the next article is Stefka Naoumowa, Professor Emeritus at the Institute of Legal Sciences of the Bulgarian Academy of Sciences and a leading Bulgarian sociologist of law. After a brief reminiscence of Adam Podgórecki, under whose guidance she wrote her doctoral thesis in the sociology of law on legal consciousness (the first thesis on this area of study in her country), Professor Naoumowa presents the place of this phenomenon in the sociology of law of her master, the contexts in which he analysed it, and selected results of his and her own research in this area.

Dr Agata Fijalkowski, Reader at the Leeds Beckett University, who has been familiar with Polish socio-legal thought for years and has authored several important works on Polish law,¹⁵ begins her article by recalling her first meeting with Podgórecki in the mid-1990s at the International Institute for the Sociology of Law in Oñati, where, during an informal lunch, he reflected on the role that cooking schools had played under the authoritarian regime of General Franco, describing them as “pockets of democracy.” A. Fijalkowski connects this idea to similar spaces in Albania, and through the lenses of Podgórecki’s theory of totalitarian law, as well as the experience and testimony of the main protagonist of the article, Musine Kokalari, a writer and dissident, she examines totalitarianism in communist Albania.

In the next article, Agata Przylepa-Lewak, Assistant Professor at Maria Curie-Skłodowska University in Lublin, examines Podgórecki’s notion of social oppression, a phenomenon he both studied and experienced as a man and a scholar in Poland under communism.¹⁶ It is worth noting that the relationship between human rights and social oppression is, of course, negative, as expressed, among others, in the American Declaration of Independence and the French Declaration of the Rights of Man and Citizen, which in Article 2, among the natural and imprescriptible rights of man, after liberty, property, and security, lists “resistance to oppression”. A. Przylepa-Lewak presents Podgórecki’s views on the essence of social oppression, methods of its study, its various forms, its ties to law, and its implications for human rights.

The article by Jacek Kurczewski, Małgorzata Fuszara, and Paweł Orzechowski, of the Department of Sociology and Anthropology of Custom and Law, Institute of Applied Social Sciences at the University of Warsaw, contributes

¹⁵ E.g. *From Old Times to New Europe: The Polish Struggle for Democracy and Constitutionalism*, Ashgate, Aldershot 2010; *Politics, Law, and Justice in People’s Poland: the Fieldorf File*, “Slavic Review” 2014, vol. 73, no. 1, p. 85–107.

¹⁶ See: D. Wicenty, *The Experience of Oppression and the Price of Nonconformity: A Brief Biography of Adam Podgórecki*, “Studies in East European Thought” 2018, vol. 70, no. 1, p. 61–81.

to the long-standing tradition of socio-legal research on public opinion and attitudes towards compliance with the law established by Podgórecki. The authors discuss the results of their own research on this issue, conducted in 2023, and compare them with the results of research carried out by Podgórecki in 1964. A distinctive feature of their analysis is the inclusion of the natural law/legal positivism divide. This collaborative work exemplifies the continuity and evolution of Podgórecki's intellectual legacy across generations.

The author of the article closing our collection is Janine R. Wedel, an anthropologist and Professor at George Mason University, recognised for her work on corruption, informal networks, and governance. For over 30 years, Professor Wedel has engaged with Polish academia. In her article, she revisits Adam Podgórecki's concept of "dirty togetherness", which described the informal networks that helped individuals navigate shortages in communist Poland. She explores how these networks evolved, influencing market and democratic institutions, and argues that this phenomenon has taken on global significance, now manifesting as "weaponised corruption", a tool for strategic, geopolitical ends, threatening democracy.

Two more people ought to be highlighted in this short Introduction. The first is the late Professor Kazimierz Frieske, first a student and later a collaborator of Adam Podgórecki. He delivered the opening paper at the XL Human Rights Days on Podgórecki's global ethics, but – very sadly – he passed away in February this year, joining two of his colleagues and disciples of Podgórecki: Andrzej Kojder and Jerzy Kwaśniewski. The second is also a person who is no longer alive, my mentor, Professor Hanna Waśkiewicz. She deserves to be mentioned not only because it was she who initiated and organised Human Rights Days for the first 10 years, but also because, although she was a philosopher of law, not a sociologist, she was one of the first to call for sociological research on human rights, in 1986, and outlined the research problems in this area.¹⁷ Therefore, on the twentieth anniversary of A. Podgórecki's death, and the twentieth anniversary of H. Waśkiewicz's death, we dedicated the XXIX Human Rights Days entitled "Human Rights in Sociological Perspective" to their memory.¹⁸

There is yet another, very important feature that Adam Podgórecki shared with Hanna Waśkiewicz: character. He displayed intellectual integrity, honesty and fidelity to his scholarly and ideological beliefs – which was not common in the oppressive world of science in Poland under communism, especially in legal sciences, but also in sociology.

¹⁷ H. Waśkiewicz, *Some Remarks on the Necessity of Sociological Study of Some Aspects Human Rights Problems*, in: *Niedzica Castle Papers on Rights and Duties*, ed. J. Kurczewski, University of Warsaw, Institute of Social Prevention and Resocialisation, Sociology of Custom and Law Unit, Warsaw 1987, p. 36–45.

¹⁸ See: https://www.kul.pl/xxxvi-dni-praw-czlowieka,art_83863.html.

This is a further reason to hope that the XL Human Rights Days and this collection of articles will be followed in Poland and abroad by similar scholarly enterprises in 2025, the year of the 100th anniversary of the birth of this fascinating scholar – “the recognised father”¹⁹ of Polish sociology of law.

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¹⁹ Cf. A. Podgórecki, *The Unrecognized Father of Sociology of Law: Leon Petrażycki. Reflections Based on Jan Gorecki's Sociology and Jurisprudence of Leon Petrażycki*, “Law & Society Review” 1980, vol. 15, no. 1, p. 183–202.