Digital Methods and Resources in Legal History (DLH2021)

Book of Abstracts

Inhalt

Talks

Rowan Dorin (Stanford University): *Corpus Synodalium*. Medieval Canon Law in the Digital Age

This paper will discuss *Corpus Synodalium*, a new online database of diocesan statutes, provincial canons, and other local ecclesiastical legislation issued in late medieval Europe (c. 1200-c. 1500). At present, the corpus contains more than 1,300 fully searchable texts, many of them transcribed directly from manuscripts or rare early printed editions. The online web interface allows users to explore these texts using a variety of simple analysis tools. In addition, users can export search results to the first-ever digital atlas of medieval European dioceses and ecclesiastical provinces, in order to look for spatial patterns within the text corpus.

The paper will present the development of the database, ongoing challenges, and potential for future work. In particular, it will present three examples of preliminary research findings that show how the systematic analysis of this text corpus challenges conventional legal-historical assumptions about the function and scope of local legislation within the broader framework of late medieval canon law.

Kellen Funk (Columbia Law School): The Making of Modern Law. Digital Computation and the Search for Anglo-American Legal Modernity

Taking up 25,000 treatises from nineteenth-century British and American law, my collaborators and I use digital methods to demonstrate in detail how the discursive categories of Anglo-American law evolved into its modern form. My presentation uses this study to comment on the promising possibilities of digital analysis for legal history more broadly, as well as the challenges to a more widespread adoption of digital-legal techniques.

Karl Härter (Max Planck Institute for Legal History and Legal Theory) and Annemieke Romein (): A Digital Portal to Early Modern Police Ordinances: Database, Resources and Methods of Use

Early modern police ordinances are a diverse masses of „administrative laws" and normativity to establish and maintain the „good order" of societies and states. They are preserved in diverse states and collections: archives, libraries, collections, handwritings, single-leafs, books, modern editions. The pr

Jairo Antonio Melo Flórez (El Colegio de Michoacán): *Glosae digitalibus*. An approach to automatized analysis of marginalia in Modern Era legal sources

This lecture aims to discuss the complexities involved in the construction of a model for the automatized analysis of marginalia in Modern Era legal sources. Marginalia constitute a particular source of information from legal history, which can be analysed by digital methods to find patterns, create visualizations, and even correct mistakes in the original references or transcriptions. The complexity of the marginalia is grounded in characteristics that separate them from the "natural" text, such as the continuous use of abbreviations or the ambiguous references of works. For that reason, the information needs to be parsed with a different approach as with the natural language, creating dictionaries that help the machine to disambiguate when a token refers to a specific author or work. In this presentation, we want to present not a final model, but the challenges involved in the construction of machine-readable data, handling texts with multilingual and archaic languages, disambiguation of non-standardized tokens, and preliminary results in the parsing of unstructured data.

Karl Härter (Max Planck Institute for Legal History and Legal Theory) & Annemieke Romein (Royal Netherlands Academy of Arts and Sciences): A Digital Portal to Early Modern Police Ordinances: Database, Resources and Methods of Use

This lecture gives basic information about early modern police ordinances. These ordinances constitute diverse masses of „administrative laws" and normativity to establish and maintain the „good order" of societies and states. They are dispersed and in diverse states of preservation: archives, libraries, collections, handwritings, single-leafs, books, modern editions. We will report about the Policeyordnungen-project in the 1990s that set up a database and printed repertory and achieved systematic recording and indexing of normative texts and data. We will also demonstrate the use of the online version of the database and report on the current state of database and the transformation into an Online Public Access Portal. But we will also discuss digital methods of analysing and relating the data: how it can be used to find „waves" of the increase/decrease of ordinances in the early modern period and how it can support quantitative analyses and relations of legislation and prosecution/crime rates (Gesetzgebungsintensität und Kriminalitätsraten). Finally, we will discuss ways forward for research on police ordinances: How acquisition of full texts comes within reach, and how this may help to facilitate the classification of subject matters. Comparison with other projects invites a discussion of how new territories and regulatory matters can be accommodated and how "sister" databases can eventually be linked and queried in a federated way.

Maciej Mikuła (Jagiellonian University Krakow): IURA. Sources from Laws of the Past

"IURA. Sources from Laws of the Past" is a project aimed not only at facilitating access to sources of law from the past, its purpose is to build a database of critical editions of sources, organized into thematic collections. The project also aims to accelerate work on editing historical and legal sources and to provide a platform for the implementation of tools useful in the research work of legal historians. In "IURA" the basic unit is the source text. It may be a code, a judgment or even only a part of it. For example, within the collection of "Magdeburger Weichbildrecht in Poland" there will be critical editions of manuscripts containing this collection of law, which can be viewed in two ways. The first of them, traditional, is an access to the full edition in a text file. The second method allows, due to the use of extensive indexing, to display only the article needed, for example, concerning city councillors. The search engine takes into account both the content of the texts as well as metadata, including keywords in English and Polish. The instability of Latin, Polish, German and other languages' spelling over the centuries has caused the need to include in the search tool a mechanism that takes into account spelling variants. Units are connected with one another not only in the metadata system, but also through hyperlinks located in the units, e.g. from Articles in a code, to judgments issued on the basis of this code. The text comparison tool allows to automatically indicate differences in texts' variants. Up to ten texts can be compared at the same time.

Cindarella Petz (Bavarian School for Public Policy at Technical University Munich): A mixed methods approach to political judiciary

In this talk, we analyse networks of political judiciary during the autocratic Austrian corporate state with a mixed methods approach that combines historical network research with quantitative and qualitative evaluation. There we work with a dataset of more than 1,800 cases, which were brought to trial in 1935 at both Viennese courts. This dataset originated from a project on political repression of the University of Vienna. We examine the structural forms of political judiciary in these courts and address the following questions: Were biases evident against specific political factions? Can we recognize a systematic or a subjective predisposition of these Viennese courts to convictions? What are the chances and pitfalls of the proposed mixed-methods approach to modeling big data in digital legal history?

Franziska Quaas (University of Hamburg): Analysing formulaic writing of early medieval legal documents based on database-driven digital research infrastructures emerging from a new hybrid-edition of the *formulae*

Within the framework of digital editions, it is now possible to embed the edited texts in larger digital research environments that can be used for the investigation of further

issues. In the case of early medieval legal documents, this includes not only the clarification of the mechanisms of formulaic writing in normative texts, but also the still unanswered question of the exact relationship of early medieval charters and *formulae* to each other. While former research, which had to rely on manual comparisons of selected formulations, had no possibilities to analyse this question comprehensively, a new database-driven digital research infrastructure created in the course of the new edition of the early medieval *formulae* offers the possibility of approaching a solution to this problem. It turns out that earlier positions of research, according to which the scribes of early medieval charters were dependent on the usage of templates such as *formulae*, prove untenable. Instead, a manifold creativity of formulaic writing in early medieval normative texts, exhibiting a higher complexity, can be observed.

Stephen Robertson (George Mason University): Disorder in the Courts. Using Data, Visualizations, and Hypertext to Create a Legal History of the 1935 Harlem 'Riot'

Taking up Amanda Seligman's call to focus on the behavior and targets of the crowds in American race riots rather than their underlying grievances, this project uses digital methods to analyze the disorder in Harlem in 1935 – the purported pivot point between the two patterns of rioting – that center the legal record, and relate it to prosecutions of the acts that occurred during the riot at other times, in order to examine just how out of the ordinary the events of the disorder and their legal sanction was. A focus on events aligns with the legal response to disorder. Although the crime of riot in American jurisdictions derives from the common law offense that emphasizes a group disturbing the peace with violence or force, courts focus on individual participants. Moreover, New York City was one of a number of municipalities whose laws made the city liable for damage by mobs; more than one hundred property owners who suffered losses in the Harlem riot sought compensation through this mechanism. Creating and visualizing data and presenting the analysis using hypertext enables a fine-grained analysis that foregrounds the complexity of the disorder. The foundation for these digital methods is a dataset of events in the riot created from newspaper reports, Magistrates Court docket books, the District Attorney's case files, Probation department case files, and material gathered by the city government investigation of the riot. Creating data from historical sources allows for quantitative analysis not just of events, but also of the sources of information about specific facets of the riot, and for mapping the spatial dimensions of the disorder. To weave together events that spiral out in multiple different directions and change shape over the course of time, the project will present its analysis in a digital form that links narrative, sources and interpretation.

Christoph Schöch (University of Trier): Lost in Beccaria, or: Building and Exploring a Corpus of Eighteenth-Century Editions and Translations of Beccaria's *Dei delitti e delle pene* (1764) in the *MetaLex* project

How do the languages of law evolve over time? It is this question that is at the heart of our interest in Beccaria's work and its translations into different European languages in the last third of the 18th century. These texts are obviously not the only ones that document and make accessible the legal languages of that time. But they lend themselves particularly well to such a questioning because of the many editions that the Milanese thinker's treatise has seen in only a few decades and the speed with which it has spread throughout Europe, from Italy to France, Germany and England, then to Sweden, Poland or Spain. And there is a third reason: the very richness of the themes dealt with by Beccaria. His text does not only refer to criminal law, but also to civil law and procedure, the honour and morals of contemporaries and their relationship to the law. In other words: far from being reduced to a single criticism of the old criminal justice system, it constitutes a kind of European reservoir of legal concepts and languages.

This is the context in which « Les mots du droit. *Dei delitti e delle pene* de Cesare Beccaria et ses traductions en Europe » (*MetaLex*) has recently been launched as a franco-german project. Our first objective is to gather and make available as digital, machine-readable full texts all Eighteenth-century Italian editions of Cesare Beccaria's *Dei delitti e delle pene*, first published in 1764, as well as all Eighteenth-century translations into German, French and English. Our second objective is to annotate this multilingual corpus in such a way that it can be searched for legal concepts, irrespective of their form of expression in the text, across all languages and editions. Our ultimate objective is to use this capability for an investigation into the collective process of European transmission, reception and evolution of the legal concepts described by Beccaria across the words used to convey them. In this way, the project combines research interests and methods from legal history, digital lexicography, Computational Linguistics and Digital Humanities.

Moshe Schorr (University of Haifa): Mapping Rabbinic *Responsa*. Metadata Analysis in Legal History

Whereas the "law of the land" is determined by political sovereignty and its borders, halakhic determinations are made and applied in a far more unstructured, informal, and spontaneous matter. Cultural borders are more salient than political borders, and the flow of knowledge and authority does not hinge on the power of enforcement. We will outline the methodology we are developing to investigate and map the Jewish "oligarchy of letters" in Central and Eastern Europe, especially during the period between the Partition of Poland in the late 18th century and World War I. Our research focuses on two corpora, each of which has its own characteristics, but which together, we hypothesize, can complement one another to provide a robust view of the topography of rabbinic authority and halakhic cultures and subcultures throughout

the era under study. We will focus primarily on rabbinic *responsa*. *Responsa*, originating in a legal system without clearly defined structures, allow a unique view on the emergent structures in the Jewish legal system. We can leverage metadata analysis over thousands of data points to learn more about the system as it was, not merely as it was presented by the legal theories promulgated by the elites. Our talk will discuss some specific findings in the history of *responsa* and *halakhah*, but we will also discuss in length our technical methods and how elements of what we are doing can generalize to the field of legal history as a whole. With the rise of realist and sociological theories of law, the question of emergent order in the legal system is no longer confined to non-state methods. We think our methods and concepts, as well the challenges we face – among which: dealing with Hebrew and other languages not dealt with by the cutting edge of natural language processing research; handling creation of gazetteers and other parsing tools needed to assemble adequate datasets; and achieving synergies between humanities scholarship and computer science – will be of interest to scholars of legal history.

Alice Taylor (King's College London): Introducing the 'dynamic edition' as a model and method for medieval legal history. *Regiam Maiestatem* and 'the community of the realm in Scotland' project.

This paper introduces a new model for editing medieval legal texts, called the 'dynamic edition', being developed by the AHRC-funded project 'The community of the realm in Scotland, 1249-1424: history, law and charters in a recreated kingdom'. The 'dynamic edition' aims to represent the extent of textual movement a particular medieval legal work might have experienced across its entire manuscript tradition. Legal works offer many examples of this kind of movement as they often survive in multiple manuscript copies and the text within these copies often changes quite dramatically according to time and space. The project is developing its model by using the fourteenth-century Scottish legal tractate *Regiam Maiestatem* as a case study, which survives in multiple manuscript copies with many significant variant readings. This paper will introduce the concepts key to their model of the dynamic edition, what software it is developing, how the concepts are employed within the model, how the 'dynamics' in the work will be visualised, and what the project plans to do in the future.

Marlene Weck (University of Freiburg): Digital Methods for a Narrative Analysis of Historical Narratives in the Archives of the ICTY

The project to be presented is a methodological (mixed-methods) approach in the context of my PhD project "Erzählte Geschichte vor dem Jugoslawientribunal. Eine narratologische Analyse der Gerichtsprotokolle des Internationalen Strafgerichtshof für das ehemalige Jugoslawien". In my PhD project, I investigate the International Criminal Tribunal for the former Yugoslavia (ICTY) as a historiographic actor and explore its narration and categorization of the violent acts and hostile events that occurred during the Yugoslav wars in the 1990s. The aim is to learn about the ways in

which the terminology of International Law – put into practice by the ICTY – has influenced historiography and vice versa. I understand my project as being located within the field of Digital Humanities since its sources are only existing in digital form and my methods include the use of digital analysing tools and machine learning.

Posters

Ehlers, Caspar (Max Planck Institute for Legal History and Legal Theory): Digitizing the Middle Ages - New Approaches in History & Archaeology

At the Max Planck Institute for Legal History and Legal Theory, medieval legal history is of course also pursued. From the nature of this subject arises the necessity to include all possible sources available. According to the classical methodology of the historical sciences, these include intentional written traditions and unintentional remains and artefacts that have come down to us. Specific problems are associated with both genres.

One of the unique features of the research field 'Religious and Secular Legal Cultures in the European Middle Ages', coordinated by Caspar Ehlers and situated in the Department 'Historical Regimes of Normativity' (mpilhlt), is the high degree of integration that flows into the development of the shared research approach, which includes all types of sources in the sense mentioned above. This leads to two further conclusions.

On the one hand, the 'traditional' collection of indications from and about the past must be intensively pursued, and on the other hand, the modern possibilities must be evaluated with which the immensely growing number of data can be mastered. Above all, because these come from the most diverse fields, it is of decisive importance to develop interdisciplinary parameters that combine written and non-written evidence in such a way that a comprehensive evaluation that is reliable for a comparison can be carried out as well as possible.

Various research projects and research cooperations are located in this research field. One of them is "Law and Mission", another "The Textuality of Law in the 9th Century". The most sustainable cooperation is currently the one with the research centre "Kaiserpfalz Ingelheim" under the title "Legal History and Archaeology", but there are also those with other institutes, such as the one for Evolutionary Anthropology in Leipzig, or the historians in Saxony-Anhalt on the royal residences in this federal state. The recently published anthology "Rechtsräume. Historische und archäologische Annäherungen, ed. Caspar Ehlers und Holger Grewe. (Studien zur europäischen Rechtsgeschichte 323 / Rechtsräume 4) Frankfurt am Main 2020" is a first example of international and interdisciplinary cooperation of this kind of mpilhlt.

On the poster, the research project "Law and Mission" is briefly described in the upper text box. In the middle, there are two corresponding illustrations from the anthology "Rechtsräume", surrounded by the four most important factors of the interdisciplinary approach. At the end of the presentation there is a characterisation of "Big Data" and a bibliographical reference to the anthology "Rechtsräume".

Kotlyar, Ilya (Ghent University): Regulae Iuris On-Line: Digital Implementation of the Medieval Dialectical Method

The project, funded by FWO and hosted by Ghent University, is aiming to create a database of Latin regulae iuris and brocarda, used by the jurists of the medieval Ius Commune. Although the legal status of regulae and brocarda was a bit controversial in the Middle Ages, their necessity and importance were predetermined by the dialectical method, which dominated not only law, but all spheres of science. The database created by the project will allow us to put the medieval dialectical method on a digital footing and implement it even to the greater effect than it was implemented in the Middle Ages, as we do not have the technological limitations of the medieval jurists. The database will be published on-line in the form of a website, to which the legal scholars around the world will be able to contribute. This will allow the legal historians to understand the logic behind the legal reasoning of the medieval jurists. It will also be an invaluable resource for the general public, interested in the origin and evolution of this or that traditional legal maxim.

Blanca Sáenz de Santa María Gómez-Mampaso (Universidad Pontificia Comillas de Madrid): Digital resources for the study of Spanish Law during the 19th Century. The formation of a database of judicial jurisprudence of the Spanish Supreme Court until the promulgation of the Civil Code in 1889.

The analysis of sources for the study of Spanish Law in 19th Century presents many advantages in relation to previous periods, mainly due to the number of printed sources available and because the typography used is quite similar to the one we use today. However, one of its drawbacks, especially in relation to legal sources, is that the volume of information increased exponentially throughout the century because of the establishment of one of the constituent principles of the liberal regime in the countries belonging to the Civil Law System: the publicity of the law.

During this century, the bases of current archival and documentation techniques began to be laid in order to make consulting published legal sources easier, but the forms of cataloguing at that time were not always the most effective for retrieving the information. Today, many of these sources have been digitized and published openly, but the way for searching for information have not changed substantially since the 19th century. In other words, we have exchanged the physical format for the virtual one, but the form of consultation has hardly evolved. It is necessary to begin developing new tools, based on a deep knowledge of the past, which in this case will be provided by the legal historians, with the support of experts in documentation and new technologies. This will improve the method of consultation and open the door to new research.

In this sense, at the *Universidad Ponti®cia Comillas de Madrid*, we have been working for three years on the formation of a database on historical judicial jurisprudence — fundamentally in civil matters — of the Spanish Supreme Court in the 19th century, on the basis of the judicial jurisprudence reports that were carried out in the period,

especially those formed by José María Pantoja for the famous *Revista General de Legislación y Jurisprudencia*.

Anna Shadrova (Humboldt University of Berlin) & Alexander Tischbirek (Humboldt University of Berlin): A corpus of Federal Constitutional Court decisions

The *Leibniz Linguistic Research into Constitutional Law* (L.L.Con) project presents as a resource a German Federal Constitutional Court corpus containing all roughly 3,200 decisions published in the official compendium (*Amtliche Sammlung*) between 1951 and 2017 and another roughly 3,000 chamber decisions from the years 1997-2017. The corpus will be made publicly available in 2020 and contains a number of linguistic and meta-linguistic as well as law-specific annotations such as parts of text or tagged references to fundamental rights. A model and implementation in a graph-database is currently under construction.

Complete and future work in the project aims at learning more about the development of the register and form of a Constitutional Court decision in terms of the types of legal figures used (such as the now common proportionality assessment), as well as the application (and applicability) of text mining, topic modeling and machine learning techniques for the automatic and semi-automatic extraction of relevant aspects of the Court's work. Our research is informed by a synthesis of quantitative and qualitative approaches, which allows for a deeper and more subject-specific modeling than purely surface-based quantification while at the same time requiring methodological rigor and clarity in terms of the operationalization of concepts and quantification of results. This in our view points to a way forward through the challenges of overwhelmingly large data in traditionally more qualitatively researched areas without losing the depth provided by hermeneutic and dialectic approaches.

Fredrik Thomasson (Uppsala University): Swedish Caribbean Colonial (Archival) Justice in Digital Times

When Sweden took possession of the Antilles island Saint Barthélemy in 1785, it became a slaving nation. Sweden had abolished servitude in the fourteenth century and there was no experience of managing a slavery society. The Swedish black population, both free and enslaved – though never reaching the proportions of the sugar islands – was still around 70 % of the inhabitants during the early decades of Swedish rule. Swedish slavery was abolished in 1847 and the island was sold to France in 1878 after almost a century of Swedish presence in the Caribbean. This Swedish colonial past is still not well known and not much researched. One of the several reasons for the lack of research is that the Swedish governmental archive was left on the island after Sweden sold the island to France. This archive, which only has a French name – *Le fonds suédois de Saint Barthélemy* – is now held at the French national archives' colonial division, *Archives nationales d◎outre◎mer* (ANOM) in Aix-en-Provence (c. 300,000 manuscript pages). The archive is impossible to consult – hors

communication – because of its conservation state after being inadequately housed in the Caribbean for almost two centuries. It has never been ordered by archivists or historians and is in a state of profound disorder. A project to digitize the archive at ANOM and this work was accomplished in 2017. In 2018 I was awarded a grant from *Vetenskapsrådet* (The Swedish Research Council) to pursue the work with the digitized archive and to integrate *Le fonds suédois de Saint Barthélemy* with the smaller Saint Barthélemy holdings in *Riksarkivet* (The Swedish National Archives). Though divided between two countries these holdings are effectively parts of the same "archive". The reconstituted digitally ordered archive will be published on-line.

Marjam Trautmann (Academy of Sciences and Literature, Mainz) & Amelie Tscheu (Academy of Sciences and Literature, Mainz): The "Hans Kelsen Werke" (HKW), a hybrid legal edition

Since March 2006, the Hans Kelsen Research Centre has been producing the historical-critical edition of the works of the important Austrian legal theorist Hans Kelsen. With its inclusion in the programme of the Academy of Sciences and Literature | Mainz in 2018, a further office for the digital component of the edition was established in Frankfurt am Main. In our poster, we present the extent to which established Digital Humanities workflows and standards are used for the "Hans Kelsen Werke".

Florenz Volkaert (Ghent University): Embedding free trade. The regulation of international trade in Belgium (1860-1865). Commercial treaties, professionalization and power

In the 1860s, a European-wide network of free trade agreements was created. Given the absence of a developed legal profession specialized in international economic law, vernacular legal and economic arguments abounded to (de)legitimise both free trade and protectionism. These argumentative practices are explored through the lens of various sources: archival material (diplomatic practice), digitalized newspapers and doctrinal treatises on international law. These sources are coded to construct a database in order to visualise competing discourse coalitions through the use of digital *discourse network analysis*. This poster will discuss the methods used for collection of the material as well as the challenges encountered in construction of the database.

Jörg Wettlaufer (Academy of Sciences and Humanities at Göttingen, and Göttingen University): Explaining the social use of shaming punishments cross-culturally. The shamestudies.de platform as digital resource and analytical tool in legal history

In recent years, a debate about the influence of church law on the development of public penal law in the European high and late Middle Ages has shed some light on the strong interconnections between theological discussion about penance and the

practical execution of law in this period. It has become clear that secular penal law borrowed in many ways from ecclesiastical law, and that the emergence of some 'new' forms of punishment, for instance the institution of the pillory in the second half of the 12th century, can only be understood in this context.

In order to investigate this topic in a comparative and interdisciplinary perspective, an internet platform for data analysis and presentation has been created and published in 2007. The *www.shamestudies.de* platform was established as a mostly database-driven website to facilitate and enable this research project on the social usage of shame in different cultural contexts, namely Western Europe and East Asia. The basic goal is to collect primary and secondary source material, to encode the data for quantitative analysis and provide easy access to the content of the collection. On the analytical level, different types of punishments have been collected and encoded for date, place, offence, punishments, execution/executioner of the punishment, source type and context. The project integrates quantitative digital with qualitative hermeneutical methods. Over the years, several improvements and releases have been necessary to meet the requirements of new research questions and the developing infrastructure (relaunch 2017). Since 2007, over 25 presentations, articles and books have been published, drawing on the results provided by the platform and the collected material.

Roundtable

Benedetta Albani (Max Planck Institute for European Legal History), Jo Guldi (Southern Methodist University), Michael Kaiser (Max Weber Foundation), n.n: Perspectives on the Digital Turn in Law and Legal History

The concluding roundtable will discuss key elements that could be discerned during the conference's presentations and eventual remaining gaps that may have surfaced. In a general perspective, it will try to assess the current role of digital methods and resources in legal history – their facilitating as well as their inhibiting or simplifying aspects –, but also the role they could and should play in the expected further development of the discipline.