

# **Advokat, Bürger und Staat : Sozialgeschichte der Rechtsanwälte in Deutschland, Italien und der Schweiz (18. bis 20. Jahrhundert) [Hannes Siegrist]**

Autor(en): **Ledford, Kenneth F.**

Objekttyp: **BookReview**

Zeitschrift: **Traverse : Zeitschrift für Geschichte = Revue d'histoire**

Band (Jahr): **4 (1997)**

Heft 3

PDF erstellt am: **20.09.2024**

## **Nutzungsbedingungen**

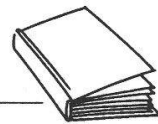
Die ETH-Bibliothek ist Anbieterin der digitalisierten Zeitschriften. Sie besitzt keine Urheberrechte an den Inhalten der Zeitschriften. Die Rechte liegen in der Regel bei den Herausgebern.

Die auf der Plattform e-periodica veröffentlichten Dokumente stehen für nicht-kommerzielle Zwecke in Lehre und Forschung sowie für die private Nutzung frei zur Verfügung. Einzelne Dateien oder Ausdrucke aus diesem Angebot können zusammen mit diesen Nutzungsbedingungen und den korrekten Herkunftsbezeichnungen weitergegeben werden.

Das Veröffentlichen von Bildern in Print- und Online-Publikationen ist nur mit vorheriger Genehmigung der Rechteinhaber erlaubt. Die systematische Speicherung von Teilen des elektronischen Angebots auf anderen Servern bedarf ebenfalls des schriftlichen Einverständnisses der Rechteinhaber.

## **Haftungsausschluss**

Alle Angaben erfolgen ohne Gewähr für Vollständigkeit oder Richtigkeit. Es wird keine Haftung übernommen für Schäden durch die Verwendung von Informationen aus diesem Online-Angebot oder durch das Fehlen von Informationen. Dies gilt auch für Inhalte Dritter, die über dieses Angebot zugänglich sind.



suivre un destin individuel dans ce registre. On trouvera encore pour contribuer à cette clarification une véritable encyclopédie de la Genève des années 1542–1544 dans les notes de bas de page: réseaux familiaux, situations professionnelles, état des poursuites judiciaires, date des naissances, des mariages, des décès, informations concernant la situation extérieure à Genève, renvois aux décisions des magistrats, etc. L'ensemble de l'appareil critique préparé par cette équipe anglophone est rédigé en français: on fera d'autant plus volontiers abstraction des quelques erreurs de grammaire ou de formulation qui se sont glissées ici et là.

La tendance historiographique qui cherche à voir dans ces institutions une contribution à la formation de l'État par le renforcement de ses moyens de contrôle, trouvera dans cette publication des matériaux propres à nuancer ses thèses: la lecture de ce registre révèle combien la discipline ecclésiastique s'exerce encore, durant ces années, dans une perspective plus religieuse que civile, visant particulièrement à préparer la communauté à célébrer ses rituels religieux fondamentaux dans un état de pureté à la fois spirituelle et morale. Au-delà de l'histoire des pratiques religieuses, de la discipline ecclésiastique et du contrôle social, cette source ouvre à nombre d'autres types d'approches: l'étude des procédures et des rituels propres à l'infrajudiciaire, l'histoire de la famille, du mariage, de la sexualité, des cultures alimentaires et des pratiques médicales pour n'en signaler que la diversité. À travers le regard inquisitorial du Consistoire de Genève dans les ménages et les voisinages, c'est ainsi tout un champ d'histoire sociale et culturelle qui se dégage à la vue des historiens.

*Christian Grosse (Genève)*

HANNES SIEGRIST  
**ADVOKAT, BÜRGER UND STAAT  
SOZIALGESCHICHTE DER RECHTS-  
ANWÄLTE IN DEUTSCHLAND,  
ITALIEN UND DER SCHWEIZ  
(18. BIS 20. JAHRHUNDERT)**

VITTORIO KLOSTERMANN, FRANKFURT A. M. 1996,  
2 BÄNDE, 1042 S., DM 360.–

Hannes Siegrist has written a book of breathtaking ambition and scope that will stand as a definitive comparative history of lawyers in private practice across the swathe of central Europe from Aachen to Bari, from Königsberg to Syracuse. Examining private practitioners over a span of 250 years, in what became three nation-states, but considering also 48 territorial states or cantons, and with detailed case studies of the local bar in each of 11 cities, Siegrist aims at, and achieves, nothing less than a transnational history and typology of the structure, culture, and role of the private bar that will frame research and debate about the history of the professions, the *Bürgertum*, and of modern social history in general.

Siegrist's book operates on three levels. On one level, it is a book about the legal profession and about the various processes of its professionalization in different locales. Siegrist's earlier theoretical essays on professions and professionalization have already established him as one of the most acute thinkers in advancing beyond stagnated conceptions of the two phenomena both in sociology and history. The massive scope of this work allows him to develop his theory further, fleshing out a typology of three kinds, or ideal types, of professionalization. Between 1700 and 1850, a "professionalization from above", led to the establishment of an *Amtsprofession* in the two largest German kingdoms of Prussia and Bavaria and in the northern Italian Habsburg Kingdom of Lombardy-Vene-

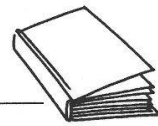
tia. This kind of professionalization, alien to sociological theories focussed solely upon Anglo-American developments, took place under social and political circumstances characterized by weak or non-existent traditions and institutions of guild self-government by lawyers. There emerged a strongly state-determined system of higher education including legal curricula, and a strongly-organized state conception of the administration of justice. Private practitioners played a more or less important role in that conception, but on the terms set by the sovereign of the state, in the era in question absolutist or neo-absolutist monarchs. "Professionalization from above" of lawyers took place under social and political conditions of "high stateness" (68 f.), resulting in a legal profession whose administration was less autonomous than heteronomous. State regulatory control of the legal profession extended even to relations between advocate and client, by means such as a schedule for fees, and even in Prussia to the widespread belief that private legal profession was either a public office or so like one as to be indistinguishable.

The Italian states south of Lombardy-Venetia represented a second type of professionalization, "moderated professionalization from above". In the Duchy of Tuscany and the city of Florence, and even in the normally-denigrated Kingdom of the Two Sicilies and the city of Naples, the degree of "stateness" in social and political relations was lower, permitting social elites to retain important powers of co-determination of the shape and governance of social institutions like the legal profession. Social elites managed to thwart state efforts to effect a professionalization from above. Siegrist conceptualizes this intermediate ideal type as a compromise between the state and social elites, which retained for lawyers a higher

degree of influence on the education of new lawyers and a greater scope of professional self-government and self-administration of professional discipline.

The third variant ideal type of professionalization Siegrist calls a bourgeois or "bürgerliche" professionalization. Taking place under conditions of low "stateness", it characterized the various cantons of Switzerland, where the absence of a highly-formalized concept of law and legal system meant that legal representation was late to emerge as a full-time occupation, resulting in an underdevelopment of professional identity and autonomy. Urban and patrician elites moved in and out of legal representation, which meant that once law began to be formalized and legal representation to acquire a formal educational path and credentialling process, it rested in Switzerland upon a foundation of social independence, and lawyers could create in an autonomous fashion many conditions of their professional existence. Autonomy from the state, however, did not mean full professional self-determination, for the strong rooting of the legal profession in the ruling bourgeois elite made for a different heteronomy, as lawyers found themselves subject to the legal goals of the elites, to the demand of the market, and to the private needs of their citizen-clients (168). *None* of these three types of professionalization conformed to sociological normative notions previously developed, and Siegrist's book is a corrective and a breakthrough both for history and social theory.

On a second level, Siegrist's book is about the emergence of the *Bürgerertum* and *bürgerliche Gesellschaft* in the regions under study. Professional history is embedded in this larger social history, to the extent that it structures the periodization of the book. Part I (35–169) concentrates on the period from 1700 to 1850, as



Germany, Italy, and Switzerland experienced the political and social changes from *ancien régime* to the revolutionary era. With the French Revolution, the “pre-national” state received a challenge from the awakened national consciousness and ambitions of the middle classes in all three “states”. Regarding the legal profession, middle class ambitions focussed upon unifying legal systems and systems of professional governance as a means to foster national unification. Thus the second epoch in professional history, Parts III, IV, and V (355–751) concerns “The Search for Freedom and Order: Transitions in the Era of Liberalism and National Unification” from 1870 to 1930. Passage of national laws reforming and governing the legal professions, in Italy in 1874 and in Germany in 1878 (and in Switzerland not at all), stands as an assertion of the political and social power of the *Bürgertum* and its ideology of liberalism as against high degrees of “stateness”. As Siegrist traces the history of the reform and professionalization of the private legal profession, he *is* tracing the history of the *Bürgertum* and its relations to the state in Germany, Italy, and Switzerland.

In a third sense, Siegrist sets out to write, and accomplishes nothing less than, a contribution to a truly synthetic history of society, *Gesellschaftsgeschichte*. Moving from the pre-national to the national state, on levels of city, region, and state, he moves from the macrohistory of his theory to a microhistory of lawyers in their ecological location in two ways. First, he studies “generations” of lawyers: those in practice around 1840, who saw the culmination of the three types of professionalization of the pre-national state; those in practice in 1870, as the moving forces behind the national consolidation of the structure and practice of the legal profession; and those in practice in 1900, the first generation to have come to maturity

under the new “modern” shape of the profession. Second, he devotes Parts VI and VII (753–924) to a detailed ecological study of lawyers in eleven cities, exploring every aspect of their existence. Social origin and recruitment, social origins of spouses, geographic origins of lawyers, nuanced notions of status and sources of prestige, confessional patterns of recruitment and practice, private life both in the private sphere of family and the public sphere of associational and political life; all of these draw Siegrist’s scrutiny and reveal the multiplicity of ways that lawyers interacted with their local surroundings and with larger affairs of their day. No aspect of lawyers’ lives escapes Siegrist’s methodical and thorough study, so that we know far more now about the everyday lives of lawyers in Germany, Italy, and Switzerland than many social theorists ever imagined. The overall result is a complete picture of the professional and private lives that lawyers structured for themselves, within constraints presented by state and society, and with the awareness that lawyers, as possessors of high degrees of cultural, social, political, and economic capital, could and did play an important role in reshaping and redefining those constraints.

This vast and imposing book is not immune from criticism. While it is indisputable, in fact a truism, that the absolutist and neo-absolutist bureaucratic centralized states of Germany (especially Prussia) and the Habsburg lands shaped the legal profession in ways distinct from locales with stronger traditions of local particularity, recent work on the power of the *non*-centralized state calls into question the sharpness of the “high stateness – low stateness” distinction. Even the archetypally “low stateness” nation of the United States has been shown by William J. Novak (*The People’s Welfare: Law and Regulation in Nineteenth-Century Ame-*

rica, Chapel Hill 1996) to have had a very high degree of governmental activism and regulation of economy and society, albeit through mechanisms such as local government regulations and ordinances and common law judicial decisions. Swiss and south Italian differences thus may rest more strongly on factors other than the degree of "stateness" of their central-governments.

Further, the rabbit-warren of directions and particularities into which Siegrist's ambitions draw him in his effort to achieve a truly transnational (post-national?) history of the legal profession tend to make his work less accessible. The very bulk of his imposing two-volume study, combined with its necessarily attendant high cost, ensure that only the very determined and already-knowledgeable will make the effort to inspect the jewels that he has uncovered. The absence of an index, in such a huge and costly volume, is also an inexplicable impediment to quick consultation of particular sections. While some of his theoretical edifice has been circulated in essays, many would hope that some abridged version of this work, vastly more affordable, which maintains its principal strengths of stressing local, regional, and national differentiation over a broad time span, will soon appear.

Siegrist's magisterial comparative study of the legal profession in Germany, Italy, and Switzerland, is a master example of theoretically-informed history that remains sensitive to local particularities and their interplay with large social, economic, and political forces. Siegrist's grasp of the range and diversity of the development of the European private bar not only advances the theory of the professions but is a model of transnational synthetic history.

## SOCIÉTÉ VAUDOISE D'HISTOIRE ET D'ARCHÉOLOGIE **LIMITE NON-FRONTIÈRE: ASPECTS DU CINÉMA DANS LE CANTON DE VAUD**

REVUE HISTORIQUE VAUDOISE, LAUSANNE, 1996  
(INDEX À PARAÎTRE EN 1997).

Après le numéro spécial du *Musée neuchâtelois* publié à l'occasion du centenaire du cinématographe, c'est au tour de la *RHV* de se lancer dans un essai d'histoire locale du cinéma, cette fois sur le territoire vaudois. Réalisé grâce aux efforts de l'association CINOPTIKA, l'ouvrage se divise en trois parties: études, sources et filmographie. Après une dédicace en hommage au professeur Rémy Pithon, l'un des précurseurs des études «histoire et cinéma», qui a pris récemment sa retraite, la revue s'ouvre sur une introduction où les auteurs justifient le titre qu'ils ont choisi: *Limite non-frontière*. L'appellation est commode puisqu'elle permet de rassembler sous une même étiquette toute étude englobant de près ou de loin le cinéma et le canton de Vaud, que ce soit par le biais de la production, de la réalisation ou de la distribution. La période considérée concerne surtout l'entre-deux-guerres, période de prédilection des auteurs.

André Chaperon évoque, à travers les écrits de Frédéric-Philippe Amiguet, la mise en place d'une critique cinématographique au début des années 20 dans la lignée de Delluc en France.

L'article de Rémy Pithon sur *La vocation d'André Carel* (1925) est un modèle de méthodologie à l'usage des historiens qui se trouvent confrontés à l'analyse filmique. Comme d'autres auteurs (Jaques, Stürner), il insiste sur la nécessité d'un questionnement philologique du matériel avant d'entreprendre une étude.

Gianni Haver étudie les répercussions du cinéma sur les institutions politiques et