

Summary

My PhD dissertation deals with legal regulations pertaining to the phenomenon of bigamy in the interwar period in Poland. The thesis discusses legal rules binding in Poland from the moment the country regained independence until the decree harmonizing matrimonial laws in the Polish territories entered into force.

Bigamy should be understood as violation of the marriage bond by abusing the forms of matrimony. Bigamy as an institution functioned both in civil law and in criminal law. According to civil law as well as canon law it constituted an impediment to marriage, whereas in criminal law it met the criteria of a prohibited act, thus fitting the definition of a crime.

From the perspective of civil law, marriage being a relationship between a woman and a man was a contract of immense public significance. It constituted a major pillar on which the entire construction of the society and the state was rested and therefore the regulations and sanctions pertaining to the institution of marriage were aimed at protecting both the individual and public interest. The legislator defined mutual relations between the spouses as well as their duties regarding their children, regulated the form and manner of entering into marriage and the conditions for admissibility of divorce, and specified jurisdiction in marriage cases. Those issues would be decisive for the nature of a given marriage law. The core of marriage was the continuity of conjugal life whose aim was mutual support and having and raising children. Without doubt, the Polish State guarded monogamy within marriage, hence penalizing the phenomenon of re-marrying in the conditions of a previous marriage remaining in effect. The legal classification of a given act as a crime made it essential that factual circumstances should be considered in preference to legal ones.

It needs to be indicated that the origins of independent Poland were associated with a mosaic of laws within both the civil and criminal law which resulted from the heritage of the legal systems of the invading powers, being not so much alien laws but Polish interlocal ones. The legal regimes binding in Poland had different origins and thus divergent judicial sources and systems. In practice, this resulted in major dilemmas at the levels of adjective law and substantive law including the evidential force of public and private documents or jurisdiction of adjudicating courts. Having inherited foreign legislations and treating them as its own, Poland at the same time lacked regulations with regard to conflict between concurring acts and laws, which gave rise to a postulate

that such rules, contributing to the solution of the gravest dilemmas of the judicial system of the period, should be established instantly.

The principle of the continuity of law was meant to maintain law and order in the revived Polish State, therefore the only regulations abolished were the ones of antidemocratic and anti-Polish character and the ones remaining in conflict with the March Constitution. The operation of a number of legal systems in one country caused confusion which gave rise to a postulate that common law should be unified as quickly as possible. Over the years codification attempts were made to create an own, unified and fully independent legal order, that was why adopting invader-country codes as the foundation for the codification works was rejected. Interference of the Church in marriage issues would seriously impede amendment of the marriage law. This led to a situation wherein the codes of invader countries were in effect on the Polish territory in full or in part temporarily or sometimes throughout the interwar period. This was the case with matrimonial law. Another obstacle to the attempts at unifying the regulations was the outbreak of World War II which suspended codification works until 1945. In consequence, it was not until 1946 that one universal matrimonial law was effective on the whole territory of the Second Polish Republic.

The chaos was further exacerbated by the Church disrespecting the rulings contained in the state legislation. Above all, it failed to comply with the regulations pertaining to the jurisdiction of ecclesiastical courts. From the Church's point of view, it was bound solely by religious regulations which were often inconsistent with state laws. Under such circumstances, many a time would ecclesiastical courts pass judgements violating the jurisdiction of state legislation. As ordained by the Supreme Court in 1926, those would not take any civil effect while remaining legitimate religious law. An individual who obtained a divorce by a verdict of an ecclesiastical court or, in the case of Catholics, by a decree nullifying the marriage could legally enter into next marriage. In practice, the former marriage was still in effect from the perspective of civil law, whereas the second marriage needed to be taken into account by a common court in cases within inheritance law or with regard to both wives making pension claims. This was due to the fact that a civil court lacked competence to declare invalidity of a canonical marriage. Furthermore, ecclesiastical consistories were exclusively accountable to religious authorities and thus could not be held liable for violating state jurisdiction. The result was inability to completely rule out an anomaly known to the doctrine as 'legal bigamy'.