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► **To cite this version:**

Alain Wijffels. The Low Countries. [Luisa Brunori, Olivier Descamps, Xavier Prévost (eds.)] Pour une histoire européenne du droit des affaires : comparaisons méthodologiques et bilans historiographiques (127-175), 2020. <hal-03328340>

HAL Id: hal-03328340

<https://hal.science/hal-03328340v1>

Submitted on 29 Aug 2021

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The Low Countries

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I. Introduction (Part 1) : *Lex mercatoria*, the Atlantis of legal history

Late-twentieth-century bibliographical surveys on legal history in Belgium and the Netherlands¹ suggest an eclipse of scholarship on the history of commercial law. New surveys covering the first decades of the twenty-first century² may point to a revival of Belgian-Dutch legal historical studies dealing with trade and industry. In the meantime, however, historiography has changed. One of the changes may be summarized, in spite of the inevitable over-simplification such a characterisation entails, as a transition from a general grand narrative to new, often still experimental methodological interests, such as the recent trends in comparative legal history.

That is not to say that the narrative threads of the past have completely faded away in current research, or that the former legal historiography was not interested in comparative approaches. It is foremost a question of emphasis. One of the grand narratives of the past in the area of commercial law entailed by any standard a comparative outlook. It was the storyline which described how commercial techniques developed in the Mediterranean world were passed on by Italian merchants to Northern Europe, especially, from the thirteenth century onwards, at Bruges, the main trade and financial hub between North and South, and also a cross between East (Germany) and West (England). By the end of the fifteenth century and during the sixteenth century, the hub shifted from Bruges to Antwerp, which for a few generations became the main commercial and financial centre of North-Western Europe. Commercial techniques of trade and finance introduced from the Mediterranean in Bruges migrated to Antwerp where, with the input of merchants from different other nations, they were further developed. By the end of the sixteenth century, when as a result of the Dutch Rebellion, Antwerp was virtually closed off from the sea, a new shift took place, this time to Amsterdam, which, on a significantly larger scale than had been the case for Bruges and Antwerp, became Europe's main centre of trade. Again, the accumulated commercial know-how in the mechanisms of markets and credit was passed on to Amsterdam, and further adjusted to the needs of international markets during the city's "Golden Age". By that time, the Dutch commercial experience, including its older layers

inherited from the Southern Netherlands and Italy, was shared on an almost global scale in Amsterdam's network of world-markets. Yet, by the end of the seventeenth century, the centre of gravity, pulled by the new balance of economic and political power, was shifting again, this time towards England, evidence of the English growing hegemony in maritime trade and an omen of its later dominance as an industrial and colonial empire. In spite of a different legal environment in England, Dutch commercial practices may nonetheless have been transplanted under various guises in English practices. These, in turn, became normative references in the whole world which, as colonies or self-governing trading places, was doing business with the British. During the twentieth century, as the British Empire disintegrated, the economic and political centre of trade and finance migrated to the other side of the Atlantic, and it appears that less than a century later, the centre is shifting further on towards Asia.

A general narrative of that kind may have played a part in explaining the historical development of specific commercial devices, such as credit instruments and bills of exchange. Until recently, it placed the Low Countries geographically and chronologically as the crucial area and era of "transit" between the pre-modern Mediterranean world and the Atlantic-centred modern Western world. It offered at least a diachronic comparative outlook, and beyond that an incitement to investigate to what extent the practices developed in the successive main hubs were adopted in the trading centres of their networks. One understands how such an approach emphasised on the one hand the need to investigate the *iura propria* of main and secondary trading centres, but on the other hand also created the impression of a growing common or universal commercial law.

Apart from its over-schematic perspective, the narrative has its limitations. It is largely focused on international maritime trade. Although it may be argued that international maritime trade may have been highly influential on trade in general, and that many of the commercial and financial techniques developed by or for sea merchants were eventually regarded as standards for the development of commercial law in general, history of commercial law as a whole cannot be reduced to developments of maritime legal practices and norms.

II. Introduction (Parts 2) : business law's take-over bid on the history of commercial law

The phrase business law is used here as a rough equivalent of the French *droit des affaires*. Possibly, the increasing influence of Anglo-American legal culture on continental European lawyers, particularly those working in the

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broader field of economic law (both private, public and international) has reinforced the (mostly, post-war) tendency among French-speaking lawyers to extend the traditional category of commercial law, essentially understood as a special branch of private law, to a wider range of business interests, for which the term *droit des affaires* appeared more appropriate and perhaps, by new standards of fashion, less shoddy. In a more positive sense, the shift from *droit commercial* to *droit des affaires* may also reflect the lawyers' more acute awareness of the multi-normativity among social and economic actors whose interests are decisive in the interactions around trade and industry. In French legal history, Jean Hilaire's increasing emphasis on *droit des affaires*³ was largely inspired by his thorough acquaintance with historical source-material bringing to light through legal practice – of the courts, of notaries – the “real life” of the law (*la vie du droit*)⁴. That “real life”, however, shows a much more complex interaction of normative models than the traditional legal authorities and their largely outdated hierarchy would suggest.

In Dutch, business law or *droit des affaires* do not translate easily. A *zakenman* is a businessman or *homme d'affaires*, but the term *zakenrecht* refers to the traditional field of property law or *droit des biens*. When not writing in English, but in Dutch – an increasingly rare occurrence among Dutch-speaking lawyers specialising in business law, cynics will say –, the most current terms used for designating the field are the traditional *handelsrecht* (i.e. the standard translation of commercial law, *droit commercial*), or in more recent times *ondernemingsrecht* or *bedrijfsrecht*. The latter two phrases are not quite the equivalent of business law. In French they would translate as *droit des entreprises*, the law of or on business entities, which covers only part of the more complex area of business law. The old term *handelsrecht*, on the other hand, has appeared more apt to adjust to the broader connotations of business law than the French *droit commercial*, and remains therefore a standard term of art, also in legal history (*geschiedenis van het handelsrecht*, as equivalent of both *histoire du droit commercial* and *histoire du droit des affaires*). In any event, the point to highlight is that Dutch-speaking legal historians have in recent times broadened the traditional outlook of *handelsrecht*, taking into account the “real life” of business, trade and industry, and its multi-normative features appearing in practice.

A more specific Dutch (as opposed to Belgian-Flemish) issue is that of the status of commercial law versus civil law. In the old Roman-Dutch law literature, the (mainly, private) law of trade and merchants was part of civil law scholarship. When the Dutch territories became a satellite state of the French Empire, and were eventually annexed by Napoleon (1810), the French codes were introduced, including the *Code de commerce*. After the French occupation,

the programme of a new “national” codification for the United Kingdom of the Netherlands duly envisaged a new commercial code. After Belgian independence, a national commercial code for the Netherlands was enacted in 1838, the same year as a new national civil code. Until the 1870s, the logics of having two separate codifications were by and large acknowledged, though opinions would diverge as to the relationship between commercial law and civil law: for some authors, the commercial code was essentially a special and exceptional derogation to the civil code’s common law, for others, commercial law had its own rationale which justified separate institutions and rules⁵. By the 1870s, discussions within the Dutch lawyers’ professional association increasingly denied the grounds for a separate commercial law and codification. The association’s clear resolution in 1883 for removing systematically a differentiation resulted over the following half century in the lawmaker’s policy of blotting out – in a fragmentary rather than methodical approach – differences between the two branches⁶. After the Second World War, E.M. Meijers started the preliminary work for the new Dutch civil code conceived as a general codification of private law, including issues of commercial law. The Dutch commercial code has since then been further eroded by the progress of the new civil code. Although the distinctions between “merchants” (*kooplieden*) and non-merchants, and between “commercial and non-commercial dealings” (the former designated as *handelsdaden*) have lost much of their original significance⁷, such distinctions may seem to have been resurrected through the development of consumer protection law, which, in the Netherlands as in many other legal systems, pace the continuing *communis opinio* among legal scholars, has nowadays often a better claim than civil law to operate as the common law with regard to contractual relationships involving non-professionals.

Different semantic changes have occurred in Belgium, where the commercial courts going back to the French regime (*Tribunal de commerce*, *Rechtbank van Koophandel*) were converted in 2018 into *tribunaux de l’entreprise* (*ondernemingsrechtbanken*)⁸, a change paralleling the dissolution of the distinction between civil and commercial acts. The Belgian commercial code has been largely replaced and subsumed in a wider conceived code of economic law (*Code de droit économique*, *Wetboek economisch recht*, 2013 ss.)⁹, although some of the areas governed by the commercial code (which already in the nineteenth century had lost much of its systematic purpose) have been (re)codified separately (see especially the *Code des privilèges maritimes déterminés et des dispositions diverses*, *Wetboek van bepaalde voorrechten op zeeschepen en diverse bepalingen*; and *Code des sociétés et des associations*, *Wetboek van Vennootschappen en Verenigingen*¹⁰, 2019, replacing an earlier code of companies of 1999 and the 1921 Act on private partnerships)¹¹. These

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statutory changes and the realignment of various topics formerly considered to be part of a specific and autonomous commercial law are in so far relevant for legal historiography as they change the legal bearings of regulation of trade and industry, and force legal historians to reconsider commercial law as a contingent category of legal systematics from a bygone age.

III. External legal history

General changes in the legal culture on which the theory of legal authorities (*sources du droit, rechtsbronnen*) rests have also affected legal historiography. Until the second half of the twentieth century, the nineteenth-century doctrine recognising primacy or exclusivity of authority to formal enactments could still be felt, albeit in an attenuated form. The primacy of statute law was eroded for several reasons, including the increasingly unsystematic and unstable development of a growing corpus of primary and secondary legislation. For reasons of both equity and legal certainty, case law has been recognised as an essential “source” of law-making in civil law systems. The multiplication and dispersal of statutory and judicial sources has strengthened the practical and theoretical importance of legal literature. Moreover, the law is no longer limited to the legal system of a unitary national state, but increasingly affected by European and international law, and also (as in Belgium) by the law created as a result of devolution to largely self-governing regions. Moreover, non-state actors have acquired more regulatory, at times quasi-statutory, powers, which means that for the last few generations, law students have been trained from the start of their education to deal with a much more complex legal pluralism than the generations before them. As legal historians in Belgium and the Netherlands have usually obtained law degrees, that changing legal culture of authorities has also affected their view and understanding of legal and extra-legal normativity in the past.

The reallocation of the status and use of legal authorities in recent legal culture has also affected customary law. The underpinning ideology of statutory primacy in the nineteenth century also contributed to the eclipse of customary law in legal theory. Yet, in the Netherlands, the nineteenth-century debate about the autonomy of commercial law focused to some extent on the more significant part merchants’ practices played in the development of commercial law, not least in international trade. In Belgium, the twentieth-century statutory regulation of commercial “practices” (*pratiques commerciales, handelspraktijken*) – a phrase which may still reflect the lawmaker’s reluctance to use the word “custom” – acknowledged that the “real life” in the world of business was largely based on the professionals’ own conventions¹². Legal

historians interested in commercial law were thus bound to be more sensitive to the importance of commercial customs.

Moreover, “custom” in a legal context expresses a somewhat reductionist notion of a more complex normativity. Since the Middle Ages, “custom” was used as a term of art in civil and canon law scholarship in order to recognise, but also harness in a legal framework, various forms of social normativity. The result of that domesticating process was customary law. In the Low Countries (as in France), that domestication was further pursued by the official policy of writing down the customs of specific cities and territories. In turn, the result of that further process was to transform a selected part of the normativity in settled texts expressed as rules. The process (which was carried out more effectively in the Southern Netherlands than in the North) considered almost exclusively customs relating to geographically and politically defined bodies, which meant that interregional and international trade customs were discarded from the policy. Cities with strong trade interests would nevertheless include provisions bearing directly on the merchant profession, and if the city was influential in international trade, its officially recorded customary rules could serve as standards well beyond its own city walls. In such cases, as for the Antwerp *costuymen* (of which successive versions were published), the rules written down expressed neither exclusively nor comprehensively local merchant practices.

The courts’ practices have received much more, and more detailed, attention than in the past. This is partly due to the fact that for some (superior) courts, records have been increasingly calendared, and legal historians have been keen to look at those records in order to trace the commercial law “in action”. Before the nineteenth century, it was not standard practice for the courts in the Low Countries to state the reasons of their decisions, historians interested in legal considerations are therefore required to seek additional documentation in the courts’ archives. Counsel’s written arguments have proved a more effective source for understanding legal reasoning in the courts’ practice. On the other hand, other, though often even more selected and manipulated, sources have long been available in print or in more or less widely circulated manuscripts: legal opinions in the form of learned consultations (*consilia*) had also been written and published in the Low Countries since the sixteenth century, and indigenous law reports (*Decisiones*) had been available in print since the beginning of the seventeenth century.

Some authors highlight the disparities and correspondences between the “law in books” (which may refer to legal literature in the broader sense, including practice-orientated legal literature, but also to statute(-book)s and published versions of customs) and the “law in action” (mainly, but not

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exclusively, as pointed out, based on unpublished records). For the old (i.e. pre-nineteenth-century) law, most authors, however, prefer to emphasise the intertwining of different types of legal authorities in trade-related cases. In fifteenth-century and early-modern practice, the interweaving of authorities included a substantial amount of civil law learning, and to such extent, early-modern historiography on commercial law has partly developed as an offshoot of *ius commune* studies.

Comparatively less attention has been given to the history of modern commercial law, although new generations of legal historians are catching up fast and have started studying nineteenth- and twentieth-century legal developments. In the Netherlands, the vast project of publishing the sources of the early-nineteenth century codification in different areas of the law has focused on the concepts and projects of codes worked out by commissions during the regimes of the Batavic Republic and Commonwealth¹³. Initially, the intention of the lawmaker had been to prepare a general codification of private law, in which some topics particularly relevant for trade would be included. Only in 1808 (by which time Lewis-Napoleon was ruling the kingdom of Holland) the authorities decided to follow the French example and to introduce a separate commercial code, a project soon overtaken by the annexation of the kingdom and the introduction of the imperial Napoleonic codes¹⁴. The previous *travaux préparatoires* of the Dutch commissions are nonetheless relevant for commercial history. The original plan to include rules applicable to merchants in the civil code means that those pre-enactment sources are to some extent relevant for commercial law, especially the parts on persons and corporations, obligations and contracts¹⁵, property and sureties¹⁶. The part on contracts would also have included separate sections on maritime insurance law. The documents relating to the preliminary drafting of those sections have been published in a separate volume.

Some transitory historical interest for modern commercial history was displayed in the course of the bicentenary commemoration of the Napoleonic codification, in particular in Belgium in 2007, when the bicentenary of the *Code de commerce* was commemorated. In the light of the discussions on a new codification of economic law, the studies produced on that occasion had often the ring of a last vigil¹⁷.

IV. Internal history

Four features of recent and current historiography may be briefly discussed: (A) the persistent interest for legal categories traditionally associated with commercial law; (B) the focus on particular laws as a basis for a

“bottom-up” approach and comparative studies; (C) the history of commercial law in the context of the theme “law and religion”; and (D) historical interest for multi-normativity in the world of business beyond legal categorisation.

A. *The traditional legal categories of commercial law revisited*

Two recent textbooks specialise at least partly on commercial and business law: one by D. De ruysscher on commercial and economic law (2014)¹⁸, the other by D. Heirbaut on social, economic and tax law (*ed. pr.* 2009, 2nd edn. 2019)¹⁹. The first draws a general history of commercial and economic law in a political context and the changing boundaries of the merchants’ legal status in jurisprudence, and has distinct chapters on the history of bankruptcy and company law, in both cases with a special attention for the development of public governance’s interest on such issues. As in his general textbook on legal history, De ruysscher also emphasises the growing ascendancy of Anglo-American law in modern times. Heirbaut’s textbook is more focused on Belgian developments in modern times, but includes concise outlooks on the previous historical developments. He also provides for the part on economic law a general outline, in which he, too, uses the continuing tension and dialectics between state interests and free market as a thread, and provides short chapters on corporations and companies, bankruptcy, negotiable instruments, banking, the stock-exchange, market and consumer law, insurance law. His is one of the very few general outlines which includes a distinct survey of the history of tax law, a topic which during the 1980s and 1990s temporarily gained some momentum in the Netherlands.

Over the past few generations, student numbers in Ancient and Medieval history in Belgium and the Netherlands have dropped significantly. At the same time, Medieval legal historiography has lost some of the prominent position it still held half a century ago. Conversely, students in modern history have become a large majority in history departments. However, so far, modern legal historiography, especially for the twentieth century, still remains to a large extent uncharted territory. Over the last half century, early-modern times have probably attracted the most attention from new generations of Belgian and Dutch legal historians. That increased attention may partially be explained by the wish to expand legal-historical research to legal practice, for which primary source-material from the early-modern period has become more accessible – and often comparatively more manageable than the serial archives of legal practice in modern times. Moreover, the fault-line between late-Medieval early-modern centuries has faded, whereas the transition from the late-eighteenth century to the nineteenth

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century remains, if only in the apprehension of formal legal authorities, far less smooth to handle.

Themes particularly linked to merchant law and having attracted more specific attention from legal historians have been, predictably, those which (until recently) have been associated with the notions of corporations and companies (including stock-markets), negotiable instruments and credit, (maritime) insurance²⁰.

In spite of the deconstruction of commercial law codification in modern times and the reallocation of commercial law issues in various ways (reintegration in a general private law, re-consolidation with codifications of economic law, business corporate law etc.), the legal specificity of commercial topics has not been lost in legal history. There may even be some irony and paradox in the fact that the much maligned categories of “merchant” (*koopman, commerçant*) and “commercial acts” (*daden van koophandel, actes de commerce*) as bygone tests for determining the issues to be governed by a particular commercial law seem in current legal historiography often to operate as signposts for focusing research on mercantile law.

Nevertheless, current historiography also endeavours to integrate merchants’ dealings in the broader field of civil law. A good recent example is the doctoral dissertation of W. Druwé, *Transregional Normativity in Learned Legal Practice. Loans and credit in Consilia and Decisiones in the Northern and Southern Low Countries (c. 1500-1680)* (2018). The dissertation is based on a comprehensive analysis of Belgian and Dutch sixteenth- and seventeenth-century printed *consilia* and *decisiones*. In that massive corpus of legal literature Druwé has selected and analysed the sections dealing with money loans and interest; the sale of annuities; the assignment of bonds and claims (including bills of exchange); partnerships, representation and sea loans; monetary fluctuations and debts. Except perhaps for the partnerships and sea loans, these topics may not exclusively relate to merchants and financiers, but as the source-material makes clear, most of those topics were relevant for merchant interests. Druwé’s analysis points out to extensive use, by practitioners and consultants, to *ius commune* authorities, but also to particular laws, some of which (notably the Antwerp *Impressae*) were references well beyond their locus of origin, and (more occasionally) to non-legal norms. The customs applicable amongst merchants also played an important part in their business relations. The widely shared legal culture and normative framework notwithstanding, Druwé also observed (even though his source material belongs by and large to civil law scholarship) differences between North and South, but also between the individual provinces of the United Provinces and the Habsburg Netherlands²¹.

B. The focus on particular laws

The avoidance of any emphasis on a “universal” law merchant, the more sustained interest for comparative studies and the appeal of early-modern records have all contributed to some fundamental research into local and regional sources. The dissertations by D. De ruysscher and B. Van Hofstraeten on Antwerp law (and in the latter’s work, its reception in Gelderland) have proved of fundamental importance for a better insight in the development and influence of sixteenth- and early seventeenth century Antwerp law, especially with regard to merchants and merchant practice.

Van Hofstraeten’s monograph²² does not deal specifically with merchant law, but with the written version of Antwerp customary law of 1608 (“*Consuetudines compilatae*”), its influence on the written version of the municipal law of Gelderland (1620) and the correlation between those drafts with contemporary legal science. Van Hofstraeten found that maritime and insurance law was comparatively less influenced by Roman law principles and doctrines, but he discovered evidence that for those issues, professional merchants had been lobbying with some success, ensuring that new provisions were included in the 1608 version of the Antwerp “custom”. De ruysscher’s dissertation²³ is a systematic study of Antwerp law on commercial issues, largely based on unpublished records from the later sixteenth century until the beginning of the eighteenth century. It considers the successive versions of the Antwerp ‘customs’ and their various sources and backgrounds. Those *costuymen* (literally: customary laws) were not customary law in the general sense, but compilations based on a heterogeneous array of sources, some which would qualify as customs and practices in the conventional sense, while others include statutory law and civil law. Not all the compilations appear to have enjoyed the same authority: the so-called *Impressae* of 1582, although issued during the Calvinist regime, continued afterwards to play a major part, whereas the extensive 1608 compilation appears to have been less influential, and mainly on specific issues. Moreover, seventeenth-century judicial enquiries among professionals (*turbenonderzoek*) could occasionally establish merchant practices which went against the written compilations, and were given effect by the Antwerp court. De ruysscher’s work also offers a wide-ranging view of the Antwerp forensic practice, largely concentrated in the main municipal court, which was not a specialised commercial jurisdiction, but where judges (especially those of a special chamber) had an extensive expertise in merchants’ practices. For the late sixteenth-century, De ruysscher’s analysis shows how the municipal law relied on legal scholarship, mostly, it appears, on traditional legal literature. Merchants’ practice could prevail

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in the courts, at least in some areas: with regard to litigation on insurances, De ruysscher noted that insurance policies could be implemented even when they were contrary to the municipal law or to the prince's statutes. The picture of this dense monograph, easily the most important contribution to the history of commercial law in the Low Countries published over half a century, is at first a fragmented view. Different authorities could influence different issues differently: in many areas the law of obligations, for example, the general civil law rules also applicable to non-merchants governed relations; in some cases, a general contract, such as sale, could conversely become so strongly associated with merchants' dealings, that it became commonly referred to as a "commercial" contract. For other merchant issues, the municipal law provided rules which departed from the general civil law (e.g. bills of exchange, debentures, marine insurances). Furthermore, maritime insurance was governed by practices which departed from the common written "customary" laws. Within the wider range of operations in which merchants were involved in the course of their business, specific topic-related rules from various origins were applicable according to the subject-matter. In that sense, however, commercial law, which through legal science *De mercatura* was emerging as a category in its own right, followed a general trend in early-modern legal methods from the late-sixteenth century onwards. Beyond that fragmentation and new categorisation, an echo of the old grand narrative may be perceived in the references to the assimilation of Southern (Mediterranean) commercial techniques were recycled in the Antwerp market place, and how the result and consolidation of that assimilation in turn facilitated its reception in the Amsterdam market place during the seventeenth century.

How research on particular laws, especially in the field of trade and business, cannot entirely avoid transcending its particular setting cannot be more adequately illustrated than by G. Rossi's Cambridge dissertation published as *Insurance in Elizabethan England. The London code* (2016). Neither the main object of the book, expressed in its title, nor its author belong strictly speaking to the historiography of the Low Countries, but the monograph is nevertheless a major contribution to the Low Countries' – and beyond that, to Western European – commercial law history²⁴. Rossi's study was to some extent triggered by the survival of the Corsini archives, which provides rare first-hand documentation on sixteenth-century London commercial practices, since the bulk of mercantile records was destroyed in the Great Fire. Rossi was thus able to retrieve insurance policies documenting legal practice providing practical contextual sources of the London Insurance Code of the 1580s. Rossi identified the Ordinances of the Spanish Consulate in Bruges (1570), which were themselves strongly influenced by the 1538 Ordinances of Burgos, as a

main source of the London Code, though with significant shifts in the balance of interests in favour of the insurers. The Bruges Ordinances had been issued to meet the demands of the Spanish merchant community in Antwerp who sought greater security on insurance controversies. As Rossi explains in his monograph, the network of influences was of course much more complex, including direct and indirect transfers of techniques and practices from Italian trading centres to both England and the Low Countries. In his general conclusion, the author candidly acknowledges that in analysing the primary sources of practice (especially insurance policies) and compilations of a normative character, he purposely eluded the *lex mercatoria* issue. In his final paragraphs, he suggests that the phrase might at this stage of the state of art better be replaced by *consuetudines mercatoriae*, and it seems that by *consuetudines*, he refers primarily to practices upstream of written-down versions of customs or *costuymen*. This dovetails perfectly with the work of Van Hofstraeten and De ruysscher on the Antwerp customs, showing how, within the sphere of what conventional legal historiography labels as “customary law”, there is in fact a whole complex spectrum of multi-normativity.

C. Law and Religion

The renewed interest in historical and legal-historical research for the theme of “law and religion” has also proved relevant for the history of business practice and business law. One of the most innovative studies in legal history this century has been W. Decock’s dissertation *Theologians and Contract Law. The Moral Transformation of the Ius Commune (ca. 1500-1650)*, published in 2013²⁵. Decock shows in his award-winning monograph how early-modern moral theologians (not least Jesuits) redeveloped from their own field of scholarship a new blueprint for contract law, ultimately aimed (not unlike canon law’s original purpose) at the *forum conscientiae* so as to provide the Christian with the necessary guidelines for ensuring the salvation of his soul. As with contract law in general at the time, Decock’s work does not focus in particular on merchants and their contracts. Specific references to merchants’ needs and practices occur relatively infrequently in the whole of the book. The issue known as that of the “Merchant of Rhodos” (viz. the legitimacy of a merchant’s use of more accurate and reliable intelligence on future market-prices) comes closest to specific merchant law, but the entire doctrine on the freedom, formation and binding character of contracts was in fact directly relevant to all business people who were concerned to operate within what was permissible in law but also what was required to avoid sin. The issue reflects the broader theme of the struggle which was

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being waged at the time as the “Great Game”: on the one hand, the post-Reformation Roman-Catholic Church experienced a decline of its influence in the *forum externum* even in polities which had remained in the Catholic camp, and one of its strategies to recover the lost ground consisted in re-asserting its claims on the *forum internum*. The strategy was not only, as Decock has shown in a separate analysis of Thomás de Mercados’ work²⁶, in competition with secular authorities, but it could also strengthen obedience in conscience to the ruler’s policies expressed in statutory law. On the other hand, the moral theologians’ claims on the vast province of conscience was also part of the theologians’ attempts to strengthen their stakes in public governance, where their position was challenged by, among others, civil lawyers. Merchants were affected on all counts by those conflicts of interests: their standing as businessmen depended to some degree on their reputation for avoiding “sinful” dealings, whereas rulers had always been keen to assert their authority in public economic and commercial governance. The practical dimension of the moral theologians’ far-stretching involvement in contract law is also documented in the way they addressed, whether in their scholarly works or in the course of professional consultancy, specific issues merchants were confronted with. Decock has thus shown the close association between L. Lessius and the merchant community in Antwerp on a range of specific issues where a tension was perceived between the needs of commercial expediency and religious-ethical requirements²⁷.

Among W. Decock’s PhD students, P. Astorri has recently defended his dissertation on *Lutheran Theology and Contract Law in Early Modern Germany (Ca. 1520-1720)*²⁸; another dissertation in progress will analyse Conrad Summenhart’s *Opus septipertitum de contractibus*, as an intermediate stage of scholarship between Medieval doctrines and the Spanish theologians-jurists’ reliance on the *forum internum* on issues of annuities and loans. In both cases, credit operations and the reward of capital were issues which required striking a balance between the demands of business efficiency and norms of justice and morals shaped by established Christian doctrine.

D. Beyond legal categorisation: some current research projects

Both legal historians and historians in other fields are currently participating in research projects which tend to look at (mostly, early-modern) mercantile practice without being bound by pre-existing legal categories. Such research, needless to say, relies strongly on the practice of the various historical actors involved (merchants, adventurers, legal professionals, local authorities, state actors...).

One such project is directed by B. van Hofstraeten : *What's in a Name? Challenging Early Modern Ideal-Types of Private Partnerships in the Low Countries (17th-18th Centuries)* (University of Maastricht and NWO). The aim of the project is to check, from agreements recorded in notaries' archives in Antwerp, Amsterdam and Liège, how partnerships were formed. The project's methodology is empirical, i.e. it does not seek to recognise *a priori* established classes of partnerships, but will trace through specific agreements how and with what purpose partnership agreements were made. The needs of business and entrepreneurs are assessed through the contractual partnership practice²⁹.

D. De ruysscher's ERC funded project *Analysing coherence in law through legal scholarship. Collateral rights and insolvency in the early modern era* (University of Tilburg)³⁰, which has a strong general theoretical vantage point focusing on collateral rights, i.e. rights facilitating expropriation of the assets of debtors in case of their default. Beyond what the main title of the project may suggest, the research will consider the interaction between scholarship and other actors, including those from commercial practice. Over the past decade, De ruysscher has also led and participated to a series of research projects (including PhD and/or post-doctoral research projects) closely associated with the history of business law. In Belgium (at the universities of Brussels [VUB] and Antwerp), FWO-funded projects have included *Cataloguing Customs of Trade: Looking Behind the Labels (Amsterdam and Lyons, 1700-1730)*³¹, is a characteristic approach aimed at finding out how, towards the end of the *Ancien Régime*, the variegated sources of legal and judicial practice may provide an insight in what rules merchants considered to be normative in their own professional playing-field, regardless of the law enshrined in statute-books or compilations of rules styled as "customs". *Bringing Company Back to the Future: Commercial Partnerships between Flexibility and Asset Shielding (17-18th, and 21 Century)*³², in which the non-corporate figure of partnership in early-modern Belgian law was studied as a construct which could ensure an adequate protection of business ventures, and, as the title of the project suggests, could prove relevant in assessing the potential for present-day ventures outside the restrictive legal categorisation of Belgian company law established since the nineteenth century. A follow-up project was that on *Cracking the code of legal personality: closely held business ventures and the legal appraisal of their actions (Belgium, nineteenth century)*³³. Here, the focus was, during the nineteenth century, when Belgian corporate law did establish a framework for long-term collective and complex commercial ventures, on ventures which eluded the framework of companies, such as *de facto* associations and non-corporate partnerships: again, a project looking at legal practice so as to consider business practice beyond the statutory (and doctrinal)

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categorization of corporate business. Nineteenth-century business law, much neglected in earlier Belgian legal historiography, has been the topic of another FWO project carried out in Brussels: *Bringing creditors to the negotiating table. Reconsidering the law on indebtedness and economic failure in early nineteenth-century Belgium (1808-1850)*³⁴. Again, legal practice is to inform how, beyond the Napoleonic code of 1807, negotiation strategies were used to strike a balance between the interests of failing debtors and their creditors. Beyond the legal categorization of the bankruptcy law “in the books”, the project was aimed at tracing the nuances of commercial insolvency law “in action”. Likewise, the project *Competing Corporations, Brokering Rules: Marine Insurance in France and Belgium (1815-1860)* (FWO-VUB)³⁵ takes an empirical viewpoint (based on records of notaries, chambers of commerce, commercial courts, insurance companies *et al.*) in order to trace the rule-making process in Antwerp, Brussels and Paris by the economic and professional actors directly involved in maritime insurance. A degree of convergence in standard insurance terms was achieved by the interaction and coordination of the insurance business actors, outside the law-making framework of state actors. In a joint project with the University of Ghent, *Litigation strategies and the law of commerce in later medieval Bruges*, a business perspective of merchants is adopted to approach litigation in a complex jurisdictional field, possibly allowing for some leeway to “forum shopping”³⁶. [Late-Medieval and sixteenth-century practice in Bruges and Antwerp – and related litigation before the local courts and the Great Council of Mechlin – is studied from a primarily economic history viewpoint at the University of Exeter in order to assess costs and risks strategies in maritime trade and insurance: *Maritime averages and normative practice in the Southern Low Countries (15th-16th centuries)*]³⁷.

L. Sicking holds the Dutch chair of history of international law in Amsterdam (VU), for which he has developed several projects related to maritime history, his particular area of expertise. As the recipient of the Descartes-Huygens Award of the Dutch Royal Academy, he was able to launch a series of international conferences in France and the Netherlands, mostly on conflict management and resolution in maritime disputes. The proceedings of some of these conferences will be published. They cover a wide area of maritime relations during the Medieval and early-modern periods, comparing *inter alia* conflict management in the Mediterranean and the Atlantic, while another conference was dedicated to Northern Europe, covering the North Atlantic, the North Sea and the Baltic Sea. Warfare and trade, often intertwined, are the main topics in the conferences’ papers. The cycle reflected the shift from the concept of conflict resolution to conflict management, which is particularly

relevant in business relations, because economic and trade relations often entail structural long-term conflicts of interests, which cannot be “resolved” by a one-time decision or agreement. Therefore, in order to prevent the worst and most violent disruptions caused by such conflicts, interim measures and proceedings were often developed as devices of conflict management. In that sense, conflict management has to some extent complemented and replaced the notion of conflict resolution. The historiographical shift has also contributed to view, paradoxically, the emergence of a more forceful and compulsory system of (state) courts from the late Middle Ages onwards as a form of “alternative dispute resolution” aimed at restricting or outlawing private forms of justice and revenge. What the conferences also brought to the fore was that the shift from conflict resolution to conflict management necessitates a reconsideration (and broadening) of the concept of conflict itself. The conferences, which drew more historians than legal historians, have also contributed to reappraise conventional legal categories in other ways: although it has for a long time been admitted that the strict legal distinction between privateering and piracy could be blurred, there are nowadays increasingly arguments for stating that not only were activities of peaceful trade, violent privateering and piracy not mutually exclusive, but all actors could be viewed as legitimate. At least in Northern Europe and before early-modern times, there may be a case to view the use of the terms pirate and piracy as not entailing necessarily a criminal behaviour. Similarly, it seems that in some coast areas, practices of raiding and wrecking trading ships were regarded as a regular form of “business as usual”, at any rate not a violation of the coast population’s prevailing normativity. Conventional legal categorisation may not be adequate for understanding the actions of such social groups, nor the reactions of other social groups and, at different levels of governance, public authorities.

Conflict management is also the core concept of a NWO-funded research project led by J. Wubs-Mrozewicz (University of Amsterdam), *Managing Multi-Level Conflicts in Commercial Cities in Northern Europe (c. 1350-1570)*³⁸. The project will look at merchants’ networks, mainly operating from Hanseatic cities, and on the expertise of the actors of conflict management, whether through formal (e.g. court-based) institutions or more informal interaction of individuals, interest groups and authorities at different levels of the polity. Here again, the approach is empirical, based on municipal and mercantile records, and not bound by legal or judicial categories, even though these are part of the broader picture of conflict management.

While the history of the pre-modern companies has been pursued (and even given some boost on the occasion of the anniversary of four hundred years since the VOC’s foundation), and some fundamental normative sources

continue to be prepared for publication (as in the case of the *West-Indisch Plakkaatboek*), that historiography, which goes well beyond the limits of what can be envisaged in a brief survey of historiography on business law, has been strongly affected by the international trends in colonial history (including history of colonial law) and the emphasis on globalisation. C. Anthunes, holder of the chair in History of Global Economic Networks, has directed and co-directed a number of projects which contain some essential contributions for a better understanding of international economic governance and the attempts at regulating (and circumventing the regulations of) international trade. The “global” approach requires furthermore that the historical field is not defined by conventionally represented networks, but rather, that it has to be expanded to reconstructing “the networks of networks” in international trade.

V. Conclusion: historians of business law at the crossroads of comparative legal history

While the reports on Belgian and Dutch research on legal history published in 1980 by P. Nève and in 2004 by L. Winkel did not have a separate section on commercial law, new instalments of the research since 2000 justify a distinct discussion on the history of commercial law – or perhaps under a differently phrased heading. W. Druwé’s latest report on Belgian legal history research from 2004 until 2018 includes a section on the “history of economic law” which refers mainly to works on commercial legal history. The parallel report for the period 2003-2018 in the Netherlands, again by L. Winkel, characteristically omits any specific section on commercial or economic legal history; however, the section on private law includes several references to publications, particularly doctoral dissertations, which are specifically related to trade and business. Current trends in Belgium confirm that an increasing number of doctoral research projects in (legal) history deal with issues of commercial and economic governance³⁹.

No doubt the paucity of information on history of commercial law during the latter part of the twentieth century was partly due to the somewhat ambivalent identity of commercial law in the Netherlands vis-à-vis the common civil law’s status in private law, while in Belgium, the fragmentation of commercial law hindered its status as a scholarly coherent discipline. By the beginning of the twenty-first century, the assertion of the New Civil code in the Netherlands and, in Belgium, the reallocation of commercial law categories in a new codified taxonomy have paved the way for new orientations of legal history studies in the field of economic and commercial activities. The distinctiveness of trade and business in the economic governance ensures that such areas

play a major part in legal education and scholarship, and retain therefore the attention of new generations of legal historians. Moreover, the past few decades have seen, in particular in areas of economic governance, a growing opening of legal thinking to various forms of legal and non-legal normativity. Such developments have facilitated the broadening of legal-historical studies in such fields, and attracted a more sustained attention from historians interested in the history of trade and industry, colonial and economic history, to name but a few specialisms. In such a period of transition at a rapid pace, any attempt at the historiography of historiography incurs the risk of falling prey to a “catch-22” situation, as pointing out the pitfalls of earlier historiography does not guarantee immunity against falling oneself into the trappings of present-day concepts, biases and fashions with regard to “business law”.

Some trends nevertheless appear to offer safe guidelines on current orientations. First, history of business law is not pre-determined by conventional legal categories, even though some of these categories, especially when one retraces one’s steps to the era before the codifications, remain useful tools. Business and management studies are more likely to express concerns, interests and strategies of which more or less equivalent counterparts may be recognized in the past, or the archeology of which may point out which avenues have proved successful in developing new devices, which appear to have led to dead ends. In the second place, the shackles of an excessive legistic approach have now been abandoned and there is generally, among lawyers and social scientists, a recognition of multi-normativity and of different tiers of norm-producing social groups and institutions. Thirdly, the comparative approach is now strengthened by the first two trends just mentioned: even comparative legal history is no longer confined to seek supposedly corresponding legal rules and concepts in different legal systems, but is more interested in the merchants’ use of specific techniques in different environments, and how interaction may have fostered the reception, assimilation and transformation of such techniques in different trade centres. Fourthly, legal historiography is now unconceivable without wide-scale research in the source-material of mercantile and legal practice. Records documenting practice are also some of the most effective evidence for assessing the diversity of norms in a particular environment. Micro-history and macro-history combine here in order to appreciate critically any generalization which may be inferred from either approach.

VI. Further reading

In contrast to the approach advocated in this report, the selected bibliography hereafter refers mostly to legal-historical studies in a more narrow

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sense. Studies on broader or related historical topics have mostly been left out. Many of these can easily be traced through the bibliographies of the better dissertations and monographs mentioned in the following list. I have not been able to find or read all the studies mentioned hereafter, but obviously relevant studies discussed and referred to in the reliable scholarly literature I have read are nonetheless included in the list. The issue of the status of commercial law vis-à-vis private law in general (or civil law as the common law governing private persons and their dealings) is also disregarded in so far as the list does not include literature on general private law or its sources. Without aiming to be comprehensive, the list hereafter contains mostly literature published since the 1970s, but occasionally, older publications are also mentioned.

For bibliographical references and historiographical surveys, see the following publications, which mention additional bibliographical tools of reference:

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The bibliographies included in the main recent dissertations and monographs offer a wealth of further references, both ancient and modern, and well beyond the specific field of (commercial) legal history, as they include the necessary historiography on law in general and also the general historiography on economic and commercial history.

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¹ J. GILISSEN *et al.* (eds.), *Bibliographie de l'histoire du droit des provinces belges*, s.l. [Bruxelles], 1965 [= 1986]; NÈVE, P.L., « Niederländische und Belgische rechtshistorische Literatur », *Zeitschrift für neuere Rechtsgeschichte* 2 (1980), p. 66-81; see also L. WINKEL, « Niederländische und Belgische rechtshistorische Literatur 1980-2002 », *Zeitschrift für neuere Rechtsgeschichte* 26 (2004), p. 84-101.

² L. WINKEL, « Literatur zur neueren Rechtsgeschichte in den Niederlanden 2003-2019 », *Zeitschrift für neuere Rechtsgeschichte* 41 (2019), p. 299-306 ; W. DRUWÉ, « Belgische rechtshistorische Literatur seit 2004. Ein Überblick », *Zeitschrift für neuere Rechtsgeschichte* 41 (2019), p. 121-134 ; D. HEIRBAUT, « Legal History in Belgium », *Clio@Themis* 1 (2009), www.cliothemis.com/Clio-Themis-numero-1, mentions E. Holthöfer's contributions to H. Coing's *Handbuch*, but focuses otherwise on the institutional context of Belgian legal historiography.

³ One may refer here to just two major works from J. Hilaire's rich bibliography: J. HILAIRE, *Introduction historique au droit commercial*, Paris, PUF, 1986 ; J. HILAIRE, *Le droit, les affaires et l'histoire*, Paris, Economica, 1995.

⁴ J. HILAIRE, *La vie du droit : coutumes et droit écrit*, Paris, PUF, 1994.

⁵ A special issue of the journal *Pro Memoria* in 2020 includes a handful of entries on jurists from the Low Countries who have written on commercial law. The entries on T. M. C. Asser and W. L. P. A. Molengraaff illustrate the ambivalence of the debate. The former made a remarkable U-turn in his later career, having argued in his inaugural lecture the specificity of commercial law, but he became an advocate of extending the realm of civil law to commercial matters. The latter was a strong supporter of a unified private law, but nonetheless built an impressive oeuvre focused specifically on commercial law issues and subjects – though as a rule not severed from general civil law scholarship. By contrast, the Belgian authors included for the nineteenth and twentieth centuries (*viz.* L. Fredericq and J. Ronse) were uncompromisingly *commercialistes*, but that specificity should be nuanced: in their age, Belgian lawyers were still overwhelmingly educated on the basis of civil law as a “general grammar” of (private) law in general. (It should be noted that the special issue here referred to only takes into account Belgian and Dutch authors who have written landmark works in Dutch, without any aim to be comprehensive: a glaring omission in the field of commercial law, for example, is Johannes Phoosen's book on bills of exchange).

⁶ R. J. Q. KLOMP, *Opkomst en ondergang van het handelsrecht. Over de aard en de positie van het handelsrecht – in het bijzonder in verhouding tot het burgerlijk recht – Nederland in de negentiende en twintigste eeuw*, Nijmegen, Ars Aequi Libri, 1998.

⁷ These tendencies were already clearly visible among Dutch legal scholars before the Second World War, and came partly to fruition during the post-war era, when some of the same scholars reached prominence, see for example R. P. CLEVERINGA, « Handelsdaden en kooplieden exeunt ! », *Nederlandsch Juristenblad* (1933), p. 29-38 ; W. F. LICHTENAUER, « Burgerlijk en handelsrecht », *Rechtskundige opstellen op 2 november 1935 door oud-leerlingen aangeboden aan Prof. Mr. E.M. Meijers*, Zwolle, Tjeenk Willink, 1935, p. 337-365. For a post-war legal-historical appraisal: O. MOORMAN VAN KAPPEN, « Van scheiding naar hernieuwde eenheid. Een vertroostende overdenking aan het sterfbed van ons honderdvijftigjarige Wetboek van Koophandel », J. M. M. MAEIJER *et al.*, *150 jaar Wetboek van Koophandel. Het verleden en de toekomst*, Deventer, Kluwer, 1989, p. 7-19.

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⁸ Act 15 April 2018 (*Wet houdende hervorming van het ondernemingsrecht; Loi portant réforme du droit des entreprises*). See also earlier the Act 26 March 2014 (*Wet tot wijziging van het Gerechtelijk Wetboek en de wet van 2 augustus 2002 betreffende de bestrijding van de betalingsachterstand bij handelstransacties met het oog op de toekenning van bevoegdheid aan de natuurlijke rechter in diverse materies; Loi modifiant le Code judiciaire et la loi du 2 août 2002 concernant la lutte contre le retard de paiement dans les transactions commerciales en vue d'attribuer dans diverses matières la compétence au juge naturel*). All Belgian enactments to be consulted on <http://www.ejustice.just.fgov.be> (regretfully, the German titles of recent Belgian enactments will not be mentioned in the present contributions).

⁹ Act 28 February 2013 (*Wetboek economisch recht ; Code de droit économique*).

¹⁰ See the “code within the code”: WETBOEK VAN KOOPHANDEL BOEK II - Wetboek van bepaalde voorrechten op zeeschepen en diverse bepalingen]; CODE DE COMMERCE LIVRE II - Code des privilèges maritimes déterminés et des dispositions diverses. See also the Navigation Code (8 May 2019): *Belgisch Scheepvaartwetboek; Code belge de la Navigation* (E. Van Hooydonk, « De herziening van het Belgisch zeerecht », *Nieuw Juridisch Weekblad* 174 (2008), p. 2-19).

¹¹ Enactment of 23 March 2019: *Wetboek van vennootschappen en verenigingen; Code des sociétés et des associations*.

¹² A few milestones are the Act 14 July 1971 (abolished in 1991): *Wet op de handelspraktijken; Loi sur les pratiques du commerce*. Act 14 July 1991 (abolished in 2010): *Wet betreffende de handelspraktijken en de voorlichting en bescherming van de consument; Loi sur les pratiques du commerce et sur l'information et la protection du consommateur*. Act 6 April 2010: *Wet betreffende marktpraktijken en consumentenbescherming; Loi relative aux pratiques du marché et à la protection du consommateur*. The increasing emphasis on consumer protection may be seen as a further departure from “customary” normativity.

¹³ See in particular H. C. GALL, *Bronnen van de Nederlandse codificatie sinds 1798*, III, *Personen- en familierecht 1798-1820, met een bijlage: rechtspersonen 1798-1820* [door Frédérique M. HUSSSEN-DE GROOT], Leiden, Walburg Pers, 1981, and C. VAN NIEVELT, *Bronnen van de Nederlandse codificatie van het zee- en assurantierecht 1798-1822*, Leiden, New Rhine Publ., 1978.

¹⁴ During the ephemeral Kingdom of Holland, ruled by the emperor's brother Lewis-Napoleon, a distinct codification of commercial law was prepared by the Dutch jurist J. van der Linden; by the time it had been drafted (1809), the incorporation of the kingdom in the French Empire was looming, and in 1810 the French codes (including the *Code de commerce*) were imposed in the wake of the annexation ; J. OOSTERHUIS, « Regstgeleerd, radicaal en koopmans handboek – 1806. Joannes van der Linden (1756-1835) », *Juristen die schreven en bleven. Nederlandstalige rechtsgeleerde klassiekers [= Pro Memoria. Bijdragen tot de rechtsgeschiedenis der Nederlanden* 21 (2019)], G. MARTYN, L. BERKVENNS, P. BROOD (eds.), Hilversum, Verloren, 2020, p. 84-88.

¹⁵ Y. DE GREUTER-VREEBURG, *Verbintenissenrecht 1798-1814* [Bronnen van de Nederlandse codificatie sinds 1798, 9], Arnhem, Stichting tot uitgaaf der bronnen van het oud-vaderlandse recht, 2002.

¹⁶ M. J. E. G. VAN GESSEL-DE ROO, *Zakenrecht 1798-1820* [Bronnen van de Nederlandse Codificatie sinds 1798, 7], Zutphen, Walburg Pers, 1991.

¹⁷ J. P. BUYLE, W. DERIJCKE, J. EMBRECHTS, I. VEROUGSTRAETE (eds.), *Bicentenaire du Code de commerce, Tweehonderd jaar Wetboek van Koophandel*, Brussels, Larcier, 2007, p. 192-213 ; G. MARTYN, D. HEIRBAUT (eds.), *Tweehonderd jaar Wetboek van koophandel, Bicentenaire du*

Code de commerce, Brussels, Wetenschappelijk Comité voor rechtsgeschiedenis, 2009. Some of the individual contributions in those volumes are mentioned hereafter under “further reading”.

¹⁸ D. DE RUYSSCHER, *Gedisciplineerde vrijheid. Een geschiedenis van het handels- en economisch recht*, Antwerpen-Apeldoorn, Maklu, 2014.

¹⁹ D. HEIRBAUT, *Een beknopte geschiedenis van het sociaal, het economisch en het fiscaal recht in België*, Gent, Academia Press, 2019 (2nd edn.); D. HEIRBAUT, « Een pleidooi voor meer geschiedenis van het economisch recht in België », *Pro Memorie. Bijdragen tot de rechtsgeschiedenis der Nederlanden* 12 (2010), p. 207-217.

²⁰ For the Netherlands, it may be useful to see the survey of doctoral dissertations mentioned for the period 2003-2018 in L. WINKEL, « Literatur zur neueren Rechtsgeschichte in den Niederlanden 2003-2019 », *Zeitschrift für neuere Rechtsgeschichte* 41 (2019), p. 299-306, at p. 301-302. The author’s claim that Professor J. M. de Jongh, who wrote his doctoral dissertation on a legal-historical topic (*Tussen societas en universitas: de beursvennootschap en haar aandeelhouders in historisch perspectief*, Rotterdam, Erasmus Universiteit Rotterdam, 2019), holds a chair of history of commercial law (p. 302, Fn. 20), may be wishful thinking. On Professor’s de Jongh’s page of the Rotterdam website, the chair is styled as one in “Company Law, with special attention to its historical development”, which is probably the best legal history as an academic subject may hope for today in Dutch universities. Winkel also suggests that the doctorate was obtained at the Free University of Amsterdam, whereas the same webpage and the published version of the dissertation mention the Erasmus School of Law at Rotterdam University.

²¹ W. DRUWÉ, *Transregional Normativity in Learned Legal Practice. Loans and Credit in Consilia and Decisiones in the Northern and Southern Low Countries (c. 1500-1680)*, Diss. Leuven, 2018 (published as *Loans and Credit in Consilia and Decisiones in the Low Countries (c. 1500-1680)* [Legal History Library 33], Leiden., Brill-Nijhoff, 2020).

²² B. VAN HOFSTRAETEN, *Juridisch humanisme en costumiere acculturatie. Inhouds- en vormbepalende factoren van de Antwerpse Consuetudines Compilatae (1608) en het Gelderse Land- en Stadsrecht (1620)*, Diss. Maastricht, 2008 (published under the same title: Maastricht, Maastricht Universitaire Pers, 2008).

²³ D. DE RUYSSCHER, “*Naer het Romeinsch recht alsmede den stiel mercantiel*”. *Handel en recht in de Antwerpse rechtbank (16^{de}-17^{de} eeuw)*, Kortrijk-Heule, UGA, 2009.

²⁴ G. ROSSI, *Insurance in Elizabethan England: The London Code*, Cambridge, Cambridge University Press, 2016.

²⁵ W. DECOCK, *Theologians and Contract Law. The Moral Transformation of the Ius Commune (ca. 1500-1650)*, Leyden, Brill, 2013.

²⁶ W. DECOCK, « Collaborative Legal Pluralism. Confessors as Law Enforcers in Mercado’s Advice on Economic Governance (1571) », *Rechtsgeschiede. Zeitschrift des Max-Planck Instituts für europäische Rechtsgeschichte* (2017), p. 103-114.

²⁷ Among the many studies in which Decock has dealt with Lessius’s involvement in merchant practice, see (e.g.) W. DECOCK, « In Defense of Commercial Capitalism: Lessius, Partnerships and the Contractus Trinus », B. VAN HOFSTRAETE, W. DECOCK (eds.), *Companies and Company Law in Late Medieval and Early Modern Europe*, Leuven &c., Peeters, 2016, p. 55-90.

²⁸ P. ASTORRI, *Lutheran Theology and Contract in Early Modern Germany (ca. 1520-1720)*, Diss. Leuven, 2018 (published version: *Lutheran Theology and Contract in Early Modern Germany (ca. 1520-1720)* [Law and Religion in the Early-Modern Period/Recht und Religion in der frühen Neuzeit 1] Leiden, Brill, 2019).

²⁹ <https://www.nwo.nl/en/research-and-results/research-projects/i/46/26746.html>

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- ³⁰ <https://cordis.europa.eu/project/id/714759/fr>
- ³¹ [https://cris.vub.be/en/projects/cataloguing-customs-of-trade-looking-behind-the-labels-amsterdam-and-lyon17001730\(ac05db2e-5406-4f81-8e74-4164d589b06b\).html](https://cris.vub.be/en/projects/cataloguing-customs-of-trade-looking-behind-the-labels-amsterdam-and-lyon17001730(ac05db2e-5406-4f81-8e74-4164d589b06b).html)
- ³² <https://www.vub.be/CORE/research/index.shtml>
- ³³ <https://www.vub.be/CORE/research/index.shtml>
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- ³⁶ <https://researchportal.be/en/project/litigation-strategies-and-law-commerce-later-medieval-bruges>
- ³⁷ <http://humanities.exeter.ac.uk/history/research/centres/maritime/research/avetransrisk/datasets/>
- ³⁸ <https://www.uva.nl/profiel/m/r/j.j.wubs-mrozewicz/j.j.wubs-mrozewicz.html?cb>
- ³⁹ Apart from those already mentioned, other examples are: *Bilateral investment treaties during the Cold War Era* (Ghent); *Institutional economics and courts: late-medieval Bruges* (Ghent); *Creation of a free trade network in the second half of the nineteenth century, legal aspects* (Ghent); *Debt or sin? The repayment of debts by early-modern Catholic jurists and moral theologians* (with a special emphasis on K. Summenhart) (Leuven).