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**Oleg VYNARCHYK**

Lviv Polytechnic National University,  
Educational and Research Institute of Law,  
Psychology and Innovative Education,  
Assistant of the Administrative and  
Informational Law Department, Ph.D. in Law,  
Assistant to a Judge of the Lviv Court of Appeal  
oleh.p.vynarchyk@lpnu.ua  
ORCID: 0000-0002-7303-0070

## **THE SCHOLARLY WORK AND SIGNIFICANCE OF THE SCIENTIFIC CONTRIBUTION OF JULIUSZ MAKAREWICZ: A DISTINGUISHED 20TH-CENTURY SCHOLAR AND CO-AUTHOR OF POLAND’S 1932 CRIMINAL CODE**

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This scientific article is devoted to Juliusz Makarewicz, a distinguished 20th-century scholar and professor at Jan Kazimierz University (today Ivan Franko National University of Lviv). Having been elected vice-chairman by secret ballot at the first meeting of the Section for the Codification of Criminal Law on November 12, 1919, held at the Supreme Court, J. Makarewicz became one of the driving forces behind the entire process of codifying criminal legislation in interwar Poland.

Among the central issues he addressed were the introduction of capital punishment in the Code, the forms of deprivation of liberty (hard labor, imprisonment and detention). A particularly lively debate – joined by J. Makarewicz and other commission members – concerned the classification of criminal acts. While Makarewicz, citing sound arguments, advocated maintaining a dual division, part of the commission favored a threefold classification of crimes. The latter approach ultimately prevailed; however, as a compromise, a special interpretation was adopted, under which crimes and offenses were grouped into one category and misdemeanors into another.

The work of the Codification Commission was not limited solely to the draft prepared by the Lviv professor, as there were five versions of the Code. Nevertheless, J. Makarewicz’s work served as the main reference point for the Commission’s activities. In particular, his draft articles, together with expert opinions, had already become the subject of discussion within the Commission as early as 1922.

Special attention should be given to the scholar’s position regarding certain types of penalties. He argued, for instance, that it was not the legislator’s duty to determine the method of calculating fines as an alternative punishment, since such a penalty depends not only on the offender’s guilt but also on his financial capacity. In his view, the law should set the maximum amount of a fine separately for crimes and separately for misdemeanors.

The article also provides a partial chronological analysis of J. Makarewicz’s professional and academic activity, as well as his concepts and views. Particular attention is given to the peculiarities of his teaching activity during the occupation periods.



**In conclusion, the article affirms that there are sufficient grounds to support the claim that modern scholars, especially Polish researchers, are fully justified in recognizing the important role of the “Lviv School of Law” of the interwar period in the codification processes of the Polish state and its high (indeed, exemplary) legal standard.**

**For this reason, the Polish Criminal Code of 1932 is closely associated with J. Makarewicz, who is often referred to as its father.**

**Keywords: J. Makarewicz, interwar period, occupation regimes, Jan Kazimierz University, Codification Commission, punishment, capital punishment.**

**Formulation of the problem.** The development of Ukrainian legal scholarship and education, including at the Faculty of Law of Lviv University, is closely intertwined with the history of the Western Ukrainian lands [1, p. 64].

Following the First World War, with the military aggression and active support of the Entente countries, the Western Ukrainian People's Republic (WUPR) was destroyed and the Western Ukrainian territories – most notably Eastern Galicia, and later Western Volhynia – were incorporated into Poland. The legal status of Ukrainians as well as other national minorities, was defined both by international treaties and domestic legislation.

On September 11, 1922, the Council of Ministers approved and submitted to the Sejm a draft statute for Galicia. On September 26, 1922, the statute was adopted by majority vote under the title “Law on the Principles of General Voivodeship Self-Government, in particular for the Lviv, Ternopil, and Stanislaw Voivodeships” [2, pp. 89–94]. The law comprised three sections: “General Provisions,” “Special Provisions Concerning the Lviv, Ternopil, and Stanislaw Voivodeships,” and “Final Provisions.” The second section dealt specifically with matters of education.

Nevertheless, the law was never implemented. Its provisions proved to be declarative and functioned instead as a tactical maneuver, dictated by Polish diplomacy, aimed at securing the recognition by Western states of the eastern borders of the Second Polish Republic.

The interwar period was rich and eventful, having a profound impact on the formation of criminal law doctrine as well as on educational institutions and the activities of the contemporary scholarly elite.

In the field of education, beginning on August 16, 1919, a ban was introduced preventing Ukrainian youth from studying at Lviv universities unless they accepted Polish citizenship and had completed military service in the Polish army.

During just a few years of occupation, from 1923 to 1926, 1,377 primary schools in Western Ukraine were closed and approximately 3,000 teachers were dismissed. Hundreds of thousands of children were deprived of any education. A significant part of the population of Western Ukraine remained illiterate, with illiteracy particularly high among women.

For this reason, the study of the occupation regimes remains highly relevant, especially in light of the educational and scholarly processes that unfolded, particularly at Jan Kazimierz University (now Ivan Franko National University of Lviv). These events radically transformed higher education, shaped the teaching and scholarly activity of professors, and dramatically altered the lives of the intelligentsia.

**Analysis of the study of the problem.** In Polish historiography, as early as 1989, a special study was published on Polish scholars in 1939-1945, in which the authors provided a detailed analysis of the number of victims among university staff during the war and occupations [3].

The issues of the development of Polish education and the academic process at Lviv University under Soviet and Nazi occupations has been addressed in monographs by E. Trela-Mazur and B. Gralak [4].

Brief biographical sketches of professors and accounts of their fates during the war are summarized in J. Draus's comprehensive work on the history of Jan Kazimierz University in Lviv [5].

Particular attention should be drawn to the specialized studies on the history of the Faculties of Medicine and Law at Lviv University during the occupation period, conducted by Z. Albert [6] and A. Redzik.



In Ukrainian historiography, however, there remains a notable lack of thorough research on the situation of faculty and student communities, as well as on the activities of Lviv University during the war and under occupation regimes.

**The purpose of the article.** In light of this, the aim of the present article is to develop and elaborate material related to this issue through the examination of archival sources and contemporary scholarly interpretations, while also considering the perspectives and generalizations of historians.

**Presentation of the material.** Among the distinguished scholars who contributed to the development of criminal law, many have left behind remarkable biographies. Yet few can be said to have had such a profound and lasting impact on the evolution of criminal law in the interwar Polish state, on the doctrine of European criminal law more broadly and on the modern higher education system of Ukraine as did Juliusz Makarewicz.

As both a historical figure and a scholar, J. Makarewicz has for nearly a century remained the ‘subject’ of sustained interest within the international academic community (Polish, Ukrainian, and others). This research, however, has been complicated by the disruptive contexts of the war and interwar periods, by the vast number of archival materials still unavailable for general access, and by the complex realities of historical everyday life.

In particular, in contemporary Poland, a considerable number of works have been devoted to J. Makarewicz, who, in addition to his academic achievements, also served as a senator in the parliament of the Second Polish Republic. Significant studies on his life and international legal activities have been done by Andrzej Zoll, although Zoll’s analysis covers J. Makarewicz’s academic trajectory only up to 1939. This leaves unexplored the fact that during the 1940s J. Makarewicz not only continued his scholarly work but also endured political repression.

The Department of Criminal Law at the John Paul II Catholic University of Lublin, under the leadership of Professor Alicja Grześkowiak, has published a collective work entitled “Prawo karne w poglądach Profesora Juliusza Makarewicza” (“Criminal Law in the Views of Professor Juliusz Makarewicz”), which may be regarded as a kind of philosophical treatise.

In Ukraine, there is as yet no monographic study devoted to the scholarly legacy of Professor J. Makarewicz. Nonetheless, it is important to acknowledge the first biographical-style publication by V. K. Hryshchuk [8, p. 554], as well as his joint article with V. I. Hlovatskyi, “Juliusz Makarewicz and Certain Issues of the Codification of Criminal Legislation in Poland, 1919–1939”. In this article, the authors devote particular attention to J. Makarewicz’s activities in the Codification Commission [9, pp. 73–85].

In another work, “Professor Juliusz Makarewicz – a Promoter of the Codification of Criminal Legislation in Poland, 1919–1932”, co-authors V. K. Hryshchuk and V. I. Hlovatskyi describe the step-by-step preparation of the criminal code, including discussions on the system (types) of punishments.

To a certain extent, all stages of the scholar’s life are outlined in O. Lypytchuk’s work, “Juliusz Makarewicz – an Outstanding Representative of the Lviv School of Criminal Law” [10].

At the same time, there is an objective need for a focused study of the scientific and professional life of J. Makarewicz. In this context, particular attention should be given to his daily teaching and scientific activities at Lviv University.

To analyze this issue in the context of the scholar’s contributions, it is necessary first to clarify the biography of J. Makarewicz, which undoubtedly influenced the formation of his personality and his philosophical-legal concepts.

However, it is impossible to summarize and analyze the entirety of J. Makarewicz’s scholarly potential and output in a single publication, as the material is extensive and, by its nature, merits an independent research study. Therefore, this publication focuses primarily on the years of J. Makarewicz’s life and his professional activities that are directly connected with contemporary Ukraine and Lviv National University.



It is known that Juliusz Makarewicz was born in 1872 in Sambir (now Ukraine, a district center in Lviv region). He completed his secondary education at the gymnasiums in Tarnów and Kraków. In 1893, he graduated from the Faculty of Law and Administration at Jagiellonian University, where in 1894 he received a Doctor of Law degree. At the same time, he began practical work at the Krajowy Court in Kraków. Later, he pursued further studies at universities in Germany (Halle, Berlin) and France (Paris). Since 1897 he worked as an assistant professor of Austrian criminal law at Jagiellonian University.

Since 1901 J. Makarewicz was a member of the examination commission for judicial service candidates and since 1904, a member of the commission responsible for judicial examinations. He was also a member of the International Sociological Institute in Paris, the International Criminal Law Association (Brussels-Berlin) and the legal commission of the Academy of Sciences in Kraków.

Since 1907 J. Makarewicz worked as a professor of criminal law at Lviv University, which remained central to his subsequent academic and pedagogical career.

Over nineteen years, he headed the Department of Criminal Law, held the position of a Dean (1909–1910) and Vice-Dean at the Faculty of Law (1910–1911).

In 1928 he became a full member of the Polish Academy of Sciences in Kraków and in 1933, he was elected an honorary member of the American Academy of Arts and Sciences in Boston.

In 1937 he received an honorary doctorate in law from Lviv University and in 1938 he was elected a full member of the Polish Academy of Sciences in Kraków. Between 1925 and 1935, at the height of his popularity, J. Makarewicz was elected a senator in the Sejm, joining the parliamentary opposition to Józef Piłsudski's regime [10, pp. 48–50].

After the restoration of Poland, with the aim of unifying and codifying the law, a Codification Commission was established in 1919, in which Juliusz Makarewicz took a direct and active role. The scholar demonstrated a profound understanding of the criminal-political characteristics of contemporary criminal law and its practical application.

Among the issues J. Makarewicz considered the most pressing were those related to punishment as both an institution and a legal construct. He devoted considerable attention to this topic in his research, believing that punishment was the most important, and often the only, means of combating crime.

Following the adoption of the 1932 criminal code, these approaches – particularly in relation to the nature of specific punishments and their application by the courts – were repeatedly discussed within judicial and professional circles. The conclusions of these discussions emphasized that the concept of “template” cases had effectively disappeared, as judges were now required to individualize the facts in each case, a task previously handled by the legislator. This change, stemming from the generality of the code's provisions and the wide range of criminal sanctions, consequently made the judicial process more complex.

As a result of the persistent codification efforts, by 1919–1920, J. Makarewicz's personal draft of the general part of the criminal code was printed [11].

In 1918 the academic legal community initiated discussions on the reform of legal studies. The Faculty of Law at Jan Kazimierz University (now Ivan Franko National University of Lviv) played a central role in these debates, largely due to J. Makarewicz's original ideas, which were endorsed by the faculty council [12].

The Faculty of Law at Jan Kazimierz University, one of the university's five faculties, had the largest student body, an excellent academic reputation which was the merit of the teaching staff. Law students accounted for nearly 50 percent of all university students.

Despite this, access to higher education for Ukrainian youth during the interwar period was severely restricted. Quotas were established for students of Ukrainian nationality. Consequently, in the 1923–1924 academic year, out of 2,354 students at Lviv University, only about 100 were Ukrainian. In the 1937–1938 academic year, among 48,200 students in Polish universities, Ukrainians constituted only 3.1 % [13, p. 11].

The Department of Law at Jan Kazimierz University was the strongest scientific center of legal scholarship in interwar Poland, as evidenced by the contributions of its scholars to both international legal discourse and the broader Polish academic community. Juliusz Makarewicz was among the central figures of this school. According to Austrian legislation and the laws governing academic institutions from 1920 and 1930, the faculty council held the highest authority within the Faculty of Law [14].



The faculty council was composed of ordinary and extraordinary professors affiliated with the faculty, two assistant professors (elected annually from among the faculty's assistant professors), emeritus professors who had previously held faculty positions, and, in exceptional cases, professors from other faculties who taught at the Faculty of Law [14, p. 116].

Juliusz Makarewicz served as the second rector with a legal background at Jan Kazimierz University from 1923 to 1924.

Notably, J. Makarewicz was the academic supervisor for Raphael Lemkin's doctoral dissertation in the summer of 1926. R. Lemkin would later gain international recognition as a specialist in international law and as the person who introduced the concepts of "genocide" and "crimes against humanity" to the Nuremberg Trials, making him a distinguished student of J. Makarewicz.

Professor Makarewicz taught Austrian criminal law and among his students was Hersch Lauterpacht (1915–1919). In response to changing political circumstances, J. Makarewicz effectively retrained from Austrian to Polish criminal law [15, pp. 230–231].

The normal educational process at Jan Kazimierz University was disrupted by the arrival of Soviet forces in Western Ukraine in September 1939, as the Soviet administration sought to reform the university's educational system based on the statutes of higher education in the Ukrainian SSR and the USSR [4].

Eyewitnesses reported that Bolshevik terror against the intelligentsia was far more severe than German repression, which contributed to a comparatively more favorable view of the Germans among Poles and Ukrainians.

During the restructuring of the university, the NKVD implemented a targeted policy to remove intellectuals from academic positions. The Faculty of Law faced particular difficulties, especially for Polish lecturers, due to language barriers and the substantial quantitative losses suffered by the faculty.

In March–April 1940, the following faculty members were imprisoned under the Soviet occupation: assistant professors Zenon Wachlowski, Władysław Mikuszewski, Kazimierz Grzybowski; lecturers Alfred Lanevski, Stanisław Postempski; and Master's degree holder Wiktor Turek. In June 1941, the tragic fate extended to Master of Law Władysław Renbiś. Among all those affected, only one assistant professor of the Department of Criminal Law, Zdzisław Paperkowski, managed to survive [2, p. 260].

Those scholars who were not arrested continued to work under extremely difficult conditions. Several assistant professors were demoted to the positions of laboratory assistants. Professor J. Makarewicz was among those transferred to contract-based employment; the plan to restore his previous position was scheduled for June 1941, but the rectorate was unable to implement it due to the arrival of Nazi forces in Lviv.

J. Makarewicz was also among those summoned to a meeting of honorary professors of the faculty council in January 1940 with regard to his scholarly activity. The council demanded to renounce the views expressed in his publications, but he refused to comply [9].

As a result of professors' refusal to cooperate with the punitive-repressive authorities, adequate conditions for work and life were absent.

With the outbreak of the German-Soviet war on 22 June 1941, the academic process at Lviv University was suspended. Some faculty members were mobilized into the Red Army, while remaining Soviet staff and students, particularly those of Jewish origin, left for the East, to the Asian territories of the USSR [11, pp. 50–51].

Unlike the Bolsheviks, who maintained strict control through coercion, the Germans excluded and prohibited scientific activity.

Following the entry of Wehrmacht units into Lviv on 30 June 1941, the Nazi occupation regime completely closed secondary schools (more than four classes) and higher education institutions. This measure was mandated by the occupation authorities and aimed at the systematic destruction of the intelligentsia in the occupied territories.

During the German occupation, the Gestapo operated in the city and, as part of the racial policies of the Nazis, began persecuting university professors, particularly Jews and Poles.

Nevertheless, secret teaching at Lviv University continued. From late 1941 until July 1944, a clandestine Jan Kazimierz University operated under the leadership of Professor Edmund Bulanda [16].



During this period, Juliusz Makarewicz also contributed to the teaching and research of criminal law and legal philosophy and the education was provided free of charge.

Starting from January 1945, amid rising campaigns against Polish landowners and nationalists, professors of the Faculty of Law, K. Przybyłowski and J. Makarewicz, were arrested. They were transferred from the prison on Laskiego Street in Lviv to a camp in the Donbas and assigned to forced labor in the mines.

Later in 1945, the KGB arrested J. Makarewicz and exiled him to Siberia. Through the intervention of a group of Polish professors, he was eventually released and returned to Lviv to resume his academic duties at the Faculty of Law [15, p. 238].

After his release, unlike Professor K. Przybyłowski, who relocated to Kraków in September 1945, J. Makarewicz chose to remain in Lviv. As later scholars noted, he saw no fundamental difference between Polish and Soviet communism [17, p. 44].

Thus, J. Makarewicz was among the members of the Jan Kazimierz University academic staff who remained in Lviv and continued to work after the war [17, p. 233].

In 1947, he was appointed as a lecturer in the Department of Criminal Law and Procedure, teaching the course “Foreign Criminal Law” on an hourly-paid basis. His academic titles, however, were not immediately confirmed. In a letter to the Minister of Higher Education of the USSR, J. Makarewicz requested recognition of his position at Lviv State University, as well as confirmation of his doctoral degree and professorial title. It was not until 1949 that his academic degree and title were officially recognized. Until his death in 1955, he continued working part-time, receiving only half of a full professor’s salary.

In 1948, by decree of the Executive Committee of the Lviv City Council, J. Makarewicz was returned his personal residence at Dragomanova street, 58, which he had originally built in 1910.

Juliusz Makarewicz, the distinguished Polish scholar, lawyer, criminologist, professor of criminal law, rector of Lviv University, academician and senator of the Second Polish Republic, died in 1955 at the age of 82.

With the support of the Polish government, a monument on his grave at Lychakiv Cemetery in Lviv was restored.

The principles and concepts introduced by J. Makarewicz during the interwar period were later reflected in the criminal codes of Denmark (1930), Italy (1930) and Switzerland (1937).

Juliusz Makarewicz is the author of several monographs, including *The Essence of Crime* (1896), *The Ideal Concurrence of Crimes in the Austrian Criminal Code* (1897), *Introduction to the Philosophy of Criminal Law* (1906), *Legal Articles* (1907), *Criminal Law of the World* (1914), *Polish Criminal Law* (1919) and *Criminal Law: A Comparative Analysis* (1924). He was also the author of the *General Part of the Criminal Code of Poland* (1932), commonly referred to as the “Makarewicz Code,” along with its accompanying commentary [18].

**Conclusions.** The periods of Soviet and German occupation in the history of Lviv University marked a time of irreparable destruction. Among all higher education institutions in the city, the university suffered the greatest losses of both human and material resources, since the educational process and the scientific activities of the faculty were generally not a part of the occupiers’ plans.

Despite the instability faced by faculty and students, the educational process continued, often under conditions that exposed teaching staff, including Juliusz Makarewicz, to various forms of trials and repression.

A contemporary textbook on Polish criminal law cannot dispense with the works of J. Makarewicz; his ideas, set forth in commentaries, continue to be cited in the decisions of the Supreme Court of Poland as well as the Constitutional Tribunal to this day.

Despite this well-deserved recognition, even during his lifetime, the 1932 Polish Criminal Code faced criticism. Young lawyers demanded stricter justice, to which J. Makarewicz responded that civilization had developed alternative forms of punishment distinct from revenge.

Being a professor at Lviv University, J. Makarewicz was constantly under close surveillance by Soviet authorities.

Notwithstanding these circumstances, neither political regimes nor socio-political systems (Austria-Hungary, the Second Polish Republic and the USSR) left a discernible imprint on his scholarly output, which was characterized by notable coherence and intellectual substance as well as by innovative ideas.



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**Олег ВИНАРЧИК**

Національний університет “Львівська політехніка”,  
асистент кафедри адміністративного  
та інформаційного права  
Навчально-наукового інституту права,  
психології та інноваційної освіти,  
кандидат юридичних наук,  
помічник судді Львівського апеляційного суду  
oleh.p.vynarchyk@lpnu.ua  
ORCID: 0000-0002-7303-0070

**ДІЯЛЬНІСТЬ ТА ЗНАЧЕННЯ НАУКОВОГО ДОРОБКУ  
ЮЛІУША МАКАРЕВИЧА, ЯК ВИДАТНОГО НАУКОВЦЯ XX СТОЛІТТЯ  
ТА СПІВАВТОРА КРИМІНАЛЬНОГО КОДЕКСУ ПОЛЬЩІ 1932 РОКУ**

Наукову статтю присвячено видатному науковцю XX ст. та професору університету Яна Казимира (тепер Львівського національного університету імені Івана Франка) - Ю. Макаревичу. Будучи обраним на першому засіданні відділу кодифікації кримінального законодавства 12 листопада 1919 року у приміщенні Найвищого Суду, шляхом таємного голосування віце – головою, Ю. Макаревич, став промотором усієї роботи з кодифікації кримінального законодавства міжвоєнної Польщі. Принциповими науковець вважав питання запровадження у кодексі покарання у вигляді смертної кари, видів позбавлення волі (тяжке ув'язнення, ув'язнення й арешт), широкої дискусії за його участі та участі інших членів комісії набуло питання класифікації злочинних дій, які Ю. Макаревич, з врахуванням відповідних аргументів, настоював залишити на рівні подвійного поділу, частина комісії висловився за потрійний поділ злочинів, який все ж був підтриманий, однак для досягнення компромісу, зроблено специфічну інтерпретацію в класифікації злочинних дій за якою злочини і правопорушення були одною категорією, а другою проступки.

Робота Кодифікаційної комісії не зводилась до виключно одного проєкту кодексу львівського професора, оскільки версій кодексу було п'ять, однак саме робота Макаревича була орієнтиром для дій секції, зокрема проєкти його артикулів, разом з експертними висновками вже в 1922 році були предметом дискусії у секції.

Окремої уваги заслуговує позиція науковця, щодо тих чи інших видів показань, зокрема останній стверджував, що не є обов'язком щоб законодавець визначав порядок вимірювання штрафу, як альтернативного покарання, оскільки таке покарання залежить не тільки від вини порушника, але й від його майнових можливостей, закон, вважав він, має визначати максимальний розмір штрафу окремо для злочинів та окремо для проступків.

У статті також проведено частковий хронологічний аналіз професійної та наукової діяльності, концепцій та поглядів науковця. Звернуто увагу на особливості викладацької діяльності в окупаційні періоди.

У підсумку констатовано про достатність підстав для висновку про те, що сучасні, зокрема польські науковці цілком виправдано та справедливо стверджують про важливе місце «Львівської школи права» часів міжвоєнного періоду у кодифікаційних процесах Польської держави та її високий (досконалий) юридичний рівень.

Саме тому, кримінальний кодекс Польщі 1932 року уособлюють з Ю. Макаревичем, якого ще називають його батьком.

Ключові слова: Ю. Макаревич, міжвоєнний період, окупаційні режими, університет Яна Казимира, Кодифікаційна комісія, покарання, смертна кара.