

Otto von Gierke and His Early Corporatism

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Abstract

This article presents the corporatism described in the works of Otto von Gierke. This German scholar, active at the turn of nineteenth and twentieth centuries, created an elaborate concept of social reconstruction based on historical, social and legal studies. In his works, central government and associations are in constant conflict. Both are dominant in certain eras, creating a cycle crucial to development of state and society. Gierke concluded that the next century would be an age of associations. Corporations, the sovereign and self-governed unions, would be fundamental to creation of a new federal state. His concept bore many similarities to the idea of civil society and, in fact, influenced many social activists and early pluralists all over Europe. The article presents Gierke's ideas in the context of his life and intellectual formation. Moreover, it provides some information on reception of his ideas.

Keywords

Otto von Gierke, corporatism, legal theory

Introduction

Corporatism, the idea of self-governance based on unions of both workers and employers, gained widespread recognition in the interwar period. Its popularity has risen in reaction to the Great Depression, but the concept has been rooted strongly in the social thought of the nineteenth century. One of the most venerable early corporatist intellectuals was Otto von Gierke, a jurist, historian, politician and scholar of the Second German Empire. His fame peaked at the turn of centuries,

with his criticism of individualistic institutions of German Civil Code (BGB) of 1900. In the early twentieth century, he was seen as ‘the last leader of the historical school in jurisprudence’ and his corporatist works were translated into French and English. Von Gierke’s ideas were studied by lawyers and sociologists all over Europe even after his death in 1921. His idea was, as Paul Hirst puts it, ‘a central stimulus in English pluralism’¹. In the later part of the century though, von Gierke faded into obscurity².

In his works, von Gierke presented an idealistic approach to vision of history and future as well as organicist outlook on society and precise legal thinking. He was the author of a ‘real legal person’ theory, which is still impactful in the pluralist discourse. Most importantly, his works normalised the corporatist approach presenting it as natural and historically valid. This influential scholar presented the vision of history in which associations and central government were in eternal conflict. Dominance of one over the other were achieved in certain eras. This theory convinced him that times of corporative self-government and pluralist society are ahead.

In this article, the vital parts of von Gierke’s corporatism will be presented in the context of his life, intellectual formation, and the times he lived in. The words ‘association’ and ‘corporation’ will be used in place of German ‘Genossenschaft’ and ‘Korporation’.

German legal thought in the second half of the 19th century

The first thing that must be considered when analysing the works of the thinker is his background. Otto von Gierke’s corporatism was a creative continuation of German jurisprudence of the nineteenth century. Built on strong foundations of philosophy and history of law, German school of jurisprudence had a lasting impact on most of continental Europe. Both romantic and positivistic perspective on society and power had a place in its development. Works of von Gierke were a product of this process. In a way, they can be considered a conclusion of so-called ‘German approach to jurisprudence’.

German law scholars of the late nineteenth and early twentieth centuries were intellectually shaped by two great philosophers: Immanuel Kant and Georg Hegel. Von Gierke incorporated some of their conclusions into his philosophy of history, criticising them at the same time.

Kant’s revolutionary humanistic legal theories opened a new chapter in jurisprudence. He considered law in the broad context of the rules of conduct. As such, any regulation could be either a natural consequence of human behaviour or an abstract decision of authority. But it was works of Hegel, not Kant, that became true foundations of von Gierke’s works. Three ideas were crucial: the

¹ Paul Hirst, “Introduction,” in *The pluralist theory of the state. Selected writings of G. D. H. Cole, J. N. Figgis, and H. J. Laski* (London–New York: Routledge, 1993), 10.

² Wolfgang Pöggeler, “Introduction,” in Otto von Gierke, *Aufsätze und kleinere Monographien* (Heldesheim–Zürich–New York: Olms-Weidmann, 2001), 3.

concept of civil society, the idea of state and the Hegelian triad way of reasoning. For Hegel, civil society was distinct from the state. He saw some associations, like family, as natural and in some ways in opposition to the central power. It was a legacy of so-called early ‘romantic corporatism’³. The state in Hegel’s thought was all-encompassing ‘higher being’. The individuality should be lost in favour of conformity and common good. This idea was especially important to von Gierke, although he was a strong opponent of the absolute state. He was also using the Hegelian triad, finding the endless cycle of synthesis and change in history of societies.

In the German jurisprudence of the nineteenth century, the German Historical School rose to prominence. Scholars representing this approach argued, following Carl von Savigny, that all changes in the law had to be grounded in tradition of the nation⁴. Georg Puchta proposed that custom is the most important source for the lawmakers. For those scholars, there was no linear advancement in law, but only constant change. In their works, society had an organic nature. Generally, they were also in opposition to positivist outlook on the law, although to a varied degree.

This school had two major branches. The older one argued that Roman law was the most appropriate for Germany. In opposition to this concept came an idea that custom of Germanic tribes and communities is much more fitting and should be studied. Von Gierke synthesised those ideas, claiming that in history, central state law was ‘Romanistic’ and law of communities and associations – ‘Germanistic’. He was a proponent of the latter.

Otto von Gierke was a student of two great scholars of the historical school, Carl Gustav Homeyer and Georg Bessler. From the latter, he borrowed the idea of ‘Genossenschaft’ (association) as a general term for all ways of self-organisation, including both civil communities and companies. From the former, he took interest in the Middle Ages. In time, he himself became a prime representative of the school.

With the historical school representing more ‘romantic’ or socially inclined approach to jurisprudence, positivism was dominant in the latter half of the century. Its proponents dominated the reforms of the German unification.

Otto von Gierke and Germany

Otto von Gierke was born on January 11, 1841 in Stettin in Pomerania, a province of the Kingdom of Prussia. His father Julius was an official, a Member of Parliament in the time of the German Revolution of 1848–49, and then a president of the appellation court. His mother Teresa was a part of an important family of lawyers in Stettin. They both died in 1855 in the cholera outbreak. From

³ Tetsushi Harada, *Politische Ökonomie des Idealismus und der Romantik: Korporatismus von Fichte, Möller und Hegel* (Berlin: Duncker & Humblot, 1989), 110.

⁴ Fundamental for this approach was Savigny’s work titled *Vom Beruf unserer Zeit für Gesetzgebung und Rechtswissenschaft*, published in 1814.

the young age, Otto was preparing to become a lawyer. He started studying law in 1857 at the University of Berlin (at the time Frederick Wilhelm's University, now Humboldt University). For three semesters, von Gierke studied in Heidelberg and became Doctor of Law in 1860, at the age of 19.

For a time, von Gierke was working as a lawyer and performed military service in the wars of 1866 and 1870. Nevertheless, he was first and foremost an academic. He worked at the universities of Zurich, Breslau, Heidelberg and finally back in Berlin (since 1887), where he stayed for the rest of his life. In 1873, he married Marie Teresa Loening, a daughter of a well-known publisher, with whom he had four children. In 1911, von Gierke was nobilitated for his accomplishments in scholarly pursuit gaining the 'von' in his surname.

Otto von Gierke had an impact on the unification of German law in the Second German Empire. He worked on the German Dictionary of Law and presented many papers and books on reform of civil law. Furthermore, he was strongly against putting too much emphasis on individualism and was a strong proponent of associations. Von Gierke was a German conservative patriot with some nationalistic tendencies in the later part of his life. After the Great War, though personally moved by the fall of the country he had helped to build, he argued for more pluralistic society and state⁵. Many of his students, who shared the sentiment, helped in the formation of the Weimar Republic. Among them was Hugo Preuss, author of the draft of the federal constitution. Gierke died on October 10, 1921 at the age of 80⁶.

Otto von Gierke's life was strongly influenced by the history of Germany. He was born to a family active in the Spring of the Nations period. He fought in the wars for unification of Germany, taking part in the bloody Battle of Königgrätz. His contributions were important for two German states he lived in. On his death he believed that his homeland was becoming a republican federation. In this context, it is not surprising his work concentrated on national history and possible future.

Although von Gierke was born and educated in the nineteenth century, time of the greatest prominence of his work came in the first two decades of the following century. His commentaries to civil law and historical works were at the time read all over Europe and translated into many languages. Moreover, his works were cited by lawyers, sociologists, economists, politicians, and historians. Most of them are pluralists⁷.

History of associations

The vision of the history presented by von Gierke was crucial to his corporatism. In his works, the past was a key to the future. This interpretation

⁵ Otto von Gierke, *Aufsätze und kleinere Monographien* (Heldesheim–Zurich–New York: Olms-Weidmann, 2001), 1063–1092.

⁶ Pöggeler, "Introduction," 16–17.

⁷ *Ibidem*, 10.

of the history was presented mainly in his four-part magnum opus *Das deutsche Genossenschaftsrecht*. In this concept, there was place for both an organic evolution and cycles of returning ideas. Von Gierke concentrated on the history of Germany from antiquity to the nineteenth century and proposed a vision of future that was a logical consequence of the described process.

In the works of von Gierke, the history of associations is divided into five periods. In each of them, dominance of either central government or organisations brought a conflict with the other. Five ‘eras’ of the history according to von Gierke were: the antiquity to 800 (before the state), from 800 to 1200s (early German emperors), from 1200s to 1525 (feudal fragmentation), from 1525 to 1806 (rise of absolutism) and from 1806 to 1870s (rebuilding of German society). As Gierke started writing his historical account in late 1860s and ended in 1913, the last epoch was still taking shape while he was working on his vision. This periodisation was, in fact, a recapitulation of an idea popular among historians of the era, to name Leopold Ranke among the others⁸. It seemed logical to frame the history of conflict between associations and rulers in the context of political history.

At the centre of philosophy of the history presented by Otto von Gierke lies a conflict between unity and multitude: the central government and associations. This strife is beneficial to the society. It brings life and dynamic to political and social life. Furthermore, it makes it change and evolve. There are many sides of the conflict: associations, local governments, the pope, the emperor, and others. No side can win completely. Some form of unity and multitude always survives and in time regains strength. The cycles of destruction and rebuilding are the backbone of the historical process. After a centralist phase, there must be a federative one. The laws follow the same cycle, with domination of administrative and penal law proceeded by triumph of civil law. History and the theory of state and associations was dynamic. With new times, new opportunities arose to perfect the society and the spirit of it. For von Gierke, the highest form of associations was a corporation (e.g. a guild or self-governing community). In his vision, a rise of the central government is always putting the associations to the test, giving them a chance to grow and evolve. The successive eras of history illustrated it in detail.

The first period of Gierke’s timeline represented the advance from tribal chieftains to central government⁹. He argued that an association was a natural state of humanity, or at least the Germanic peoples. Every person was a part of one of them, from family to tribe¹⁰. In the ancient times, one individual was unable to survive without the others. That was the state of nature represented in ancient Greek and Roman sources. The change was inevitable and new institution of state arose built on the foundation of myth and tradition of the Roman Empire¹¹. State subjugated associations and by year 800 new universal empire took hold over huge sways of Europe¹².

⁸ Leopold von Ranke, *Dzieje Papiewstwa w XVI–XIX wieku* (Warszawa: PIW, 1981), 53–55.

⁹ Otto von Gierke, *Das deutsche Genossenschaftsrecht*, Band 1, *Rechtsgeschichte der deutschen Genossenschaft* (Graz: Akademische Druck- und Verlagsanstalt, 1954 [reprint from 1868]), 150.

¹⁰ *Ibidem*, 16–17.

¹¹ *Ibidem*, 144.

¹² *Ibidem*, 150.

The second period saw the slow erosion of the central government¹³. There were two reasons of such change. Firstly, local lords and their fiefdoms became more and more independent. They were both seeking freedom from the central ruler and consolidated their own power over regions. The unitary empire became a federation. Secondly, many associations gained self-governance. The power of towns, cities and even peasant communities rose, and professional guilds were born¹⁴. Associations gained more and more power, and the central government declined.

At the beginning of the third period came the Great Interregnum, almost quarter of century without an emperor. At first, this state of affairs was beneficial mainly to the local kings and princes, but in the longer term, associations took over¹⁵. The new ‘federal society’ was born out of civil law¹⁶. It existed in parallel to the local rulers. A multitude of corporations of all estates of the realm, nobility, clergy, burghers and peasants ruled freely over certain aspects of life. In the eyes of von Gierke, it was the best time for German society. But it ended in bloodshed.

The fourth period began with the decisive military victory of the territorial states over associations (especially the local self-governance in the German Peasants’ War) and power of the emperor and the pope (who took major blows and the beginning of the period with protestant victory and sacco di Roma, respectively). The rule ‘cuius regio, eius religio’ gave rulers a powerful tool in destroying the federal society¹⁷. This was the time of building absolutism and constant war on associations and self-government. In their place, new organisations were created: state institutions and licensed partnerships¹⁸. States rebuilt associations only as extensions of their power. Dissolution of the German Empire in 1806 was by that logic ultimate triumph of the absolutism. The ‘Reich’, as a federation, was among the last remaining associations¹⁹. It was the only one that still encompassed the whole nation. With the help of Napoleon and his new empire built on Roman foundations, the German spirit of self-organisation was destroyed.

The last period, the modernity, saw the rise of new types of associations and institutions of self-government which opposed the rulers. With the Revolution of 1848, dominance of absolutism has been questioned²⁰. Democratic reforms were a new way to bring a pluralist ‘federal society’ back to life. Otto von Gierke believed that this trend could be maintained in the Second German Empire²¹. He was sure the freedom and associations would grow with each passing year. To make it possible, it was crucial to create new law that was compatible with

¹³ Ibidem, 154.

¹⁴ Ibidem, 278.

¹⁵ Ibidem, 358 and following.

¹⁶ Otto von Gierke, *Johannes Althusius und die Entwicklung der naturrechtlichen Staatstheorie* (Breslau, 1902), 244; see also Stanisław Ehrlich, *Oblicza pluralizmów* (Warszawa: PWN, 1985), 142.

¹⁷ von Gierke, *Das deutsche Genossenschaftsrecht*, Band 1, 638.

¹⁸ Ibidem, 633.

¹⁹ Ibidem, 846.

²⁰ Ibidem, 883.

²¹ von Gierke, *Aufsätze und kleinere Monographien*, 181–182.

the nature of the nation. He argued that in that crucial moment, real legal person assumption should be incorporated into the system of law.

Real legal person

The notion that legal persons exist as a fiction confirmed by the state was false to Otto von Gierke²². He saw it as an effect of the past victory of the 'Romanistic' central governments. For him, people had a natural tendency to create groups and to identify with them. As such, any form of an association is as natural as any individual person. Such notion calls, of course, for elaboration.

In jurisprudence, there is a clear distinction between a natural person (human being) and a legal (or judicial) person. The latter encompasses all groups that are provided their rights and ways of conduct by the law in opposition to the former, which is simply an effect of existence of the individual.

In the social sciences, a natural tendency of human beings to create groups is well documented and easily observed. It was first discussed in antiquity by Aristotle. Humans identify as members of many groups, be it their family, an institution they work for, an association they are a part of, or even a state or nation. Many if not most human activities are performed within a group, for a group or with the participation of a group. That being said, some groups are more natural than others (e.g. family)²³.

For a lawyer, all groups can be broadly divided into three categories: those with legal entity, those with certain rights, but no full legal recognition, and those without formalised rights and privileges. It has, of course, certain consequences. Some groups can be almost indistinguishable in form and purpose and yet be categorised differently. For example, in most countries of the western legal tradition, a fellowship can be a legal person (when it was sanctioned by administration or a court) or be treated as an informal group.

Otto von Gierke questioned such divisions. For him, the assumption that the group needs any sanction to be a legal person is absurd. Both historical and social observation suggest that forming of groups and associations is as natural as human existence. In that case, the state has no more right to give a group right to exist than to do the same to the individual. It should just acknowledge it. For von Gierke, states usurped the power to give associations their legal personality as a side effect of the fight for dominance. The fiction was created based on the Roman law²⁴. Only when the innate rights of legal persons would be recognized and accepted, will the full reconstruction of the society be possible.

²² Pöggeler, "Introduction," 12.

²³ Marta Penczek and Jakub Zapala, "Pierwsza wojna światowa jako punkt zwrotny w kształtowaniu się pojęcia kolektywnej winy narodu," *Przegląd Humanistyczny*, no. 6 (447) (2014): 19–28.

²⁴ Otto von Gierke, *Das deutsche Genossenschaftsrecht*, Band 3, *Die Staats- und Korporationslehre des Altertums und des Mittelalters und ihre Aufnahme in Deutschland* (Graz: Akademische Druck- und Verlagsanstalt, 1954 [reprint from 1881]), 279.

It is a completely different question that such a person might have full, partial or no ability to perform legal actions. For von Gierke, the key to determine that was the purpose or interest of the group. The idea was very much like that of Rudolf Ihering, who, in turn, was defending the theory of fictional personality²⁵. It is worth noting that von Gierke was not against legal constraints in that matter²⁶. Law can and should regulate what an entity of certain kind can and cannot do. It is only the existence of associations that cannot be debated.

Legal constructs of Otto von Gierke were both elaborate and precise. Based on the historical evidence, the concept was constant from his earliest writings. Although the theory he presented (known now as a realist theory) seems quite abstract, it has important implications for modern law, especially in common-law countries. The argument of separate and autonomic existence of associations influenced the commercial law as well as the law of the international communities, especially treaties forming the European Union. It is crucial in the modern discussion on the corporate citizenship. In Gierke's works, self-governing groups with a natural legal personality and the full capability of legal actions are called corporations²⁷. They are the key to his concept of an ideal society. That vision is grounded in his historical research, but mostly presented in his many commentaries to civil law.

Vision of corporative future

In the eyes of Otto von Gierke, the ideal society is an association of associations in a very literal sense²⁸. For such a state to exist, it must be a federation not only of territories, but all the kinds of organized groups. As was the case in the Middle Ages, multitude of associations should govern the day-to-day life of the individual who is their participant.

Corporations are central to this new society²⁹. They are, by their nature, the most fully realised kind of association. To von Gierke, there was little difference between a trade union, a cooperative and a company as long as they use the model of the corporation. The latter is organic and sovereign. Such association is a self-governing entity that has its own interest and rights.

The corporation is considered not a sum of individuals, but an organic whole. When the individual is a part of a corporation, the individuality of it is lost to the outside world. Internal rules decide how the 'common will' of the association is determined. For it to work properly, the will of an entity must be decided fairly,

²⁵ His position is presented in the four-part cycle (numbered from 1 to 3): *Der Geist des römischen Rechts auf den verschiedenen Stufen seiner Entwicklung* (printed from 1952 to 1865).

²⁶ Otto von Gierke, *Die Genossenschaftstheorie und die deutsche Rechtsprechung* (Berlin: Weidmann, 1887), 114.

²⁷ *Ibidem*, 37.

²⁸ *Ibidem*, 190.

²⁹ *Ibidem*, 142.

and everyone must be able to comply. In the end, a corporation works as one³⁰. It is, for all purposes, treated like an individual life form.

Such corporation is also sovereign, exactly as a state³¹. The latter is only one of the many forms of an association. Every corporation can make agreements with both individuals and organisations of any type. They can also join associations, including other corporations³². The future state will be nothing else than corporation of multitude of corporations, an organic whole made by mutual agreements. This multi-level social contract will be a guarantee of the healthy growth of the society. Otherwise, the central government will be able to dominate the social life.

A society in this concept is a federation of different associations. The individual is a part of it through corporations. In effect, it must be pluralistic and multi-layered, with a democratic representation being important to its healthy growth³³. Society provides strong identification and chance of a personal development for citizens through associations. It is a self-regulating organism³⁴. That vision was one of the prototypes for modern civil society. But at its heart it was corporatism, with strong emphasis on the self-government and rights of groups representing different interests.

This corporative organisation of the society and the state was never a complete project, but rather an ideal. Like the catholic corporatism of encyclicals, it could be realised in many ways. Otto von Gierke was a historian at heart and passionately believed in the ever-changing nature of life. His concept was first and foremost a conclusion of his philosophy of the history. He presented it as a best solution for German nation. In the twentieth century, his ideas found recipients all over Europe.

Reception

The corporatism of Otto von Gierke neither rose to prominence nor became incorporated to a program of any party in his own country. If nothing else, he was highly regarded as a lawyer and a historian. Because of that, his fundamental history of associations was translated into English and French during his lifetime.

In Germany, Gierke was first and foremost an authority to a generation of lawyers and sociologists. Among his apprentices were Hugo Preuss (author of the German constitution of 1919) and Erich Kaufmann (important anti-positivist and anti-Nazi jurist and politician). They at least partially shared the social ideas of their teacher. The Weimar Republic was, according to constitution, an open and inclusive federation. Article 124 of its Constitution regulated the right to association in a way that was probably the closest realisation of the real legal person postulate. Von Gierke's works were as well important for early social

³⁰ Ibidem, 141.

³¹ von Gierke *Aufsätze und kleinere Monographien*, 190–191.

³² von Gierke, *Das deutsche Genossenschaftsrecht*, Band 1, 577.

³³ Ibidem, 10–11.

³⁴ Ibidem, 296.

sciences. Ferdinand Tönnies and Max Weber both cited the historical thought of von Gierke³⁵. The idea of society as association of associations is still very much alive in the sociology thanks to those thinkers. Works of von Gierke were also an inspiration for some German neo-corporatists in the 1970s and 1980s (like Ulrich von Alemann)³⁶.

Some works of Otto von Gierke were translated into French by a historian Jean de Pange in 1914. The ideas of the German jurist did not gain wider popularity in France, especially in the wake of the Great War. They were treated mostly as an academic study in evolution of the society in the Middle Ages. It is worth noting that de Pange himself was a close friend to Robert Schuman and they have worked together on early stages of the European integration. In a way, von Gierke foretold the birth of the European communities and the EU itself.

Works of von Gierke were translated into English by Frederic William Maitland in 1900 and by Ernest Baker in 1934. The latter was an academic and his translation was a work of scholar first and foremost. The former, a prominent historian of law, had a lasting impact on British politics. Maitland gave his translation a title *Political Theories of the Middle Ages*, and in the introduction he presented his own corporatist theory built on the ideas of von Gierke³⁷. It became popular among members of the Fabian Society, an intellectual and political unionist left-wing organisation that co-created the Labour Party. Some of them were the founders of the so-called 'guild socialism'. This pluralistic idea has been built on Gierke's vision of a federative society reinterpreted with socialist optics. At its core stood a notion of reintroduction of the self-governing corporations to both social and political live. Out of it, the idea of an industrial democracy was born. Guildism became quite popular among British intellectuals and abroad. Probably, the most prominent sympathiser of the idea and a foreign writer on the subject at the time was Ernst Johannes Wigforss, a Swedish scholar and then long-time Finance Minister. He is considered one of the founding fathers of the Scandinavian welfare state through his 'industrial democracy', the concept quite close to von Gierke's ideals³⁸.

Otto von Gierke's ideas had probably the most important impact on development of the pluralism. He inspired John Neville Figgis, a researcher interested in the history of the Church, and through him George Douglas Howard Cole and Harold Laski. Figgis adapted the idea of the state as an association of associations and the concept of a federalist society as the pluralistic state³⁹. Cole and Laski, both members of the Fabian Society, are now considered fathers of modern pluralism. The latter turned to the Marxism in his later life but was already an influential writer in the World War I period. It is worth noting that

³⁵ Ferdinand Tönnies, *Gemeinschaft und Gesellschaft* (Darmstadt, 1887); Max Weber, *Gospodarka i społeczeństwo. Zarys socjologii rozumiejącej* (Warszawa: Wydawnictwo Naukowe PWN, 2002), 53, 288; Dorota Lachowska, "Wstęp do wydania polskiego," in Max Weber, *Gospodarka i społeczeństwo*, XXV.

³⁶ See Ulrich von Alemann and Rolf G. Heinze, *Verbände und Staat: vom Pluralismus zum Korporatismus: Analysen, Positionen, Dokumente* (Opladen: Westdt. Verl., 1979).

³⁷ Frederic William Maitland, "Translator's Introduction," in Otto von Gierke, *Political Theories of the Middle Ages* (Cambridge: Cambridge University Press, 1900).

³⁸ As presented in: Ernst Wigforss, *Industriell demokrati* (Stockholm, 1920).

³⁹ David Nicholls, *Pluralist State: The Political Ideas of J. N. Figgis and His Contemporaries* (New York: St. Martin's Press, 1994).

works of Otto von Gierke featured prominently an idea of polycentric pluralism of law long before it became popular among pluralists themselves⁴⁰.

Conclusion

The corporatism of Otto von Gierke is a very interesting if somewhat forgotten social doctrine. It was a combination of a meticulous historical study and refined jurisprudence with modern trends in sociology. Although von Gierke himself was a conservative and even a bit a xenophobe in his later years, his works gained attention of intellectuals of all worldviews. His model of a federative society founded on self-governing corporations was reflected in the writings of the creators of both welfare state and the European Union.

Otto von Gierke left a mixed legacy. He was a historian and a visionary, a German nationalist conservative scholar who called World War I a ‘gift of grace to German culture’⁴¹ as well as a man who inspired British socialists. His corporative vision was one of the most democratic and inclusive ones, although he himself was none of that. But with all his flaws and extravagancies, he was an outstanding scholar and great academic, the rector of both Breslau and Berlin Universities and teacher to a generation of lawyers, economists, historians and sociologists. Probably, that was his greatest legacy.

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⁴⁰ Legal pluralism is a concept of coexistence of two or more legal systems within the same society, while polycentric law is a model of competition between such systems. Although Gierke himself was a legalist, his historical model presented both of those ideas before they were widely accepted in the second half of the 20th century.

⁴¹ Gierke’s outlook on the Great War are meticulously analysed in Mariusz Koczyński and Tomasz Tulejski, “Czekając na niemieckiego hegemonia. Otto von Gierke i koncepcja wojny narzuconej,” *Studia prawno-ekonomiczne*, vol. CVII (2018): 63–82.

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