INTRODUCTION

This book presents the Civil Code Controversy in Japan, which emerged between two factions of Japanese jurisprudence from 1889 to 1892. The first of the parties, the so-called decisive faction, consisted of the French School of legal scholarship representatives, who advocated the newly drafted Civil Code and its entry into force on 1 January 1893, the date initially set by the cabinet. The second group, the postponement faction, comprised the English School of legal jurisprudence representatives. Unlike their adversaries, they called for delaying the entry into force of the Civil Code to reconsider its principles and introduce multiple formal amendments. Both parties had a different vision of the first national Civil Code for Japan from the beginning to the end of the Controversy, which made the compromise highly improbable. Despite the initial criticism of the Civil Code draft, it was promulgated by Aritomo Yamagata's cabinet in two parts. Property Law, Security and Evidence constituting Books Two, Three (part), Four and Five were published in April 1890, followed by Personal and Succession Law forming Books One and Three (part) in October 1890. The challenged Civil Code was drafted in 1879–1889 by Gustave E. Boissonade, a French legal adviser to the Meiji government and the Ministry of Justice, and a team of Japanese jurists, the French School graduates, working under his supervision. The democratically elected Imperial Diet eventually settled the Controversy in May and June 1892. It ended with the postponement faction's unexpected but unquestionable victory, which resulted in delaying the entry into force of the Civil Code to enable comprehensive revision to be carried out in the following years.

An important issue that deserves special attention in the introduction is using the correct terminology related to the Civil Code Controversy in Japan. Since this subject is a relatively new research field in Western legal scholarship, I decided to adopt the widely recognized nomenclature in Japanese legal history, even though Japanese scholars also used different terms in the past. The Civil Code Controversy is often closely linked to the parallel discussion on the Commercial Code. It is not uncommon that Japanese scholars refer to the more general description of the "dispute over the codes", yet a particular group of scholars use different kanji characters for the word "dispute". Because Japanese legal history witnessed several disputes about different codes in the last 150 years, Japanese scholars introduced the more precise term 民法転論争; *Mimpōten Ronsō* – the Civil Code Controversy – to unambiguously identify the distinction between the postponement and decisive factions. In the 1940s, Tōru Hoshino, a recognized researcher of Japanese private

law, promoted this nomenclature, which became the standardized indication of the events in 1889–1892. To adequately transplant the *Mimpōten Ronsō* term to Western legal scholarship, it must be remembered that it contains two nouns without a connecting particle (*の*; *no*), characteristic of the Japanese language. The indication of the subject (論争; *Ronsō* – a dispute or controversy) and the object (民法典; *Mimpōten* – the Civil Code) is possible due to the specific order of kanji characters. Therefore, the most natural translation of this term in English is *the Civil Code Controversy*.

The time frames of the Controversy are inseparably connected to the legislative process and the discussion on the Civil Code. It was initiated by the Association of Jurists, which published its opinion on the Civil Code draft in April 1889. After three years of intensive exchange of views between the two Japanese jurisprudence factions, the Imperial Diet settled the dispute. The bill delaying the entry into force of the Civil Code was passed at the end of May 1892 by the House of Representatives and then approved by the House of Peers in June. Although the cabinet initially planned to challenge the parliament's decision using its political power, the bill was upheld and entered into force in November 1892, formally ending the Controversy.

This book portrays the causes, course, effects and importance of the Civil Code Controversy for the codification of Japanese private law during the Meiji era. It also answers additional questions that need detailed clarification to understand the nature of the dispute – reasons for which the Civil Code, drafted in 1879–1889 by G. Boissonade and a team of Japanese jurists and published in two parts in 1890, did not enter into force on 1 January 1893. At the time of the promulgation of the Constitution of Japan in 1889, private law was the last uncodified branch of the Japanese legal system, whose reform was publicly announced by Emperor Meiji himself as early as 1868. The Civil Code, the cornerstone for regulating the most critical issues related to economic and personal relations between citizens in a modern state governed by the rule of law, became the subject of a fierce dispute between two factions of Japanese jurisprudence. The postponement of the date of entry into force of the Civil Code was a direct result of the Controversy, which lasted over three years. To answer the initial question, it is necessary to identify and categorize the most critical objections of the postponement faction against the Civil Code and the counterarguments of the decisive faction. Since the dispute went beyond ordinary debate between members of the Japanese jurisprudence, the extra-legal factors that influenced the decision to delay the date of entry into force of the Civil Code must also be considered. Additionally, the book will provide findings on the issues related to the Civil Code that did not become the subject of dispute despite the overall rivalry between the two factions.

The primary legal research methodology adopted in the book is based on qualitative analysis of Japanese jurisprudence's opinions presented during the Civil Code Controversy. Since they were drawn up in the Japanese language

characteristic of the Meiji era, i.e. with traditional writing and archaic grammatical forms compared to modern Japanese, I used a linguistic method that allows us to understand not only the basic meaning of legal opinions but also their historical and cultural nuances resulting from Japan's centuries-old belonging to the circle of Eastern civilization. Additionally, discussing the systematics of the Civil Code and the content of some of its provisions criticized by the postponement faction required the adoption of the doctrinal legal research methodology.

Although broadly understood Japanese-related legal and political topics have grown in popularity, Japanese private law and its history remain a relatively unknown field in Western legal scholarship. They have been analysed to varying degrees in the works published by H. Oda,[1] Y. Noda,[2] H. Tanaka,[3] R. Ishii and W.J. Chambliss[4], K. Takayanagi[5] and M. Dean.[6] Special mention must also be given for the papers by S. Ono,[7] K. Hatoyama,[8] P. Van den Berg,[9] S. Kanamori[10] and T. Hayashi.[11] The most notable research in English was provided in 2005 by W. Röhl, who published a monograph concerning the history of Japanese law since 1868. For the first time in Western legal scholarship, he outlined the development of the Japanese Civil Code over 20 years, also covering the Civil Code Controversy in a separate subchapter.[12] Yet, W. Röhl's work depicts the entire Japanese legal system throughout the last 150 years without focusing on drafting the Civil Code. Therefore, the 1912 monograph by N. Hozumi, one of the three fathers of the revised Civil Code and a Civil Code Controversy participant, continues to be the most comprehensive account of the Japanese private law codification in the 19th century.[13]

Important publications on Japanese private law history have also been published in French. The reception of French law into the Japanese legal system

[1] Oda, 2009.

[2] Noda (ed.), 1976.

[3] Tanaka (ed.), 1976.

[4] Ishii, Chambliss, 1969.

[5] Takayanagi, 1931, pp. 1–21.

[6] Dean, 2002.

[7] Ono, 1996, pp. 27–45.

[8] Hatoyama, 1902, pp. 354–370.

[9] Van den Berg, 2018, pp. 69–87.

[10] Kanamori, 1999, pp. 93–95.

[11] Hayashi, 2008, pp. 15–26.

[12] Röhl, 2005. W. Röhl is also the author of an article on the history of Japanese law in German: Röhl, 2002, pp. 185–207.

[13] Hozumi, 1912.

in the Meiji era was presented by Y. Noda,[14] Y. Horie,[15] J. Robert[16] and B. Jaluzot.[17] Furthermore, the Civil Code Controversy was described in short by Y. Ōkubo,[18] a distinguished Japanese legal scholar famous for research on the Old Civil Code and G. Boissonade's activity in Japan.

A more general review of Japanese private law history, including the codification process in the 19th century, was addressed in German by H.P. Martuschke,[19] C. Steenstrup,[20] C. Sokolowski[21] and J.M. Jehle, V. Lippa and K. Yamanaki, who edited a collection of speeches from the Göttingen – Kansai symposium.[22]

In other European languages, Japanese private law history remains unpopular, yet the following articles, loosely related to Japanese legal history or Japanese law in general, require honourable mention: F.L. Ramaioli in Italian,[23] H. Bocken in Dutch,[24] A. Kość,[25] L. Leszczyński,[26] L. Górnicki,[27] T. Karaś and T. Suzuki[28] in Polish, W.N. Yeremin[29] and N.P. Zarubina[30] in Russian, M. Frolík in Czech,[31] L.R. Marković and R.M. Đurović in Serbian,[32] and T. Hayashi,[33] F.V. Rodríguez[34] and R. Domingo[35] in Spanish.

The non-Japanese-language works mentioned above present issues related to the history of Japanese private law to a limited extent. The description of the codification process usually focuses on its basic stages, outlining the circumstances of employing foreign jurists as advisers to the Ministry of Justice and identifying the most important political and linguistic problems, which emerged during the drafting of the Civil Code and the Commercial Code, without referring to the broad legal,

[14] Noda, 1963. pp. 543–556.
[15] Horie, 2014, pp. 49–59.
[16] Robert, 1994, pp. 49–62.
[17] Jaluzot, 2015, pp. 121–146.
[18] Ōkubo, 1991, pp. 389–405.
[19] Martuschke, 2009.
[20] Steenstrup, 1990, pp. 37–47.
[21] Sokolowski, 2010.
[22] Jehle, Lipp, Yamanaka (ed.), 2008.
[23] Ramaioli, 2015, pp. 443–469.
[24] Bocken, 1985, pp. 81–144.
[25] Kość, 2001.
[26] Leszczyński, 1995; Leszczyński, 1996.
[27] Górnicki, 2012, pp. 77–155.
[28] Karaś, Suzuki (ed.), 2008.
[29] Jeriemin, 2010.
[30] Zarubina, 2016.
[31] Frolík, 2009.
[32] Marković, Đurović, 2016.
[33] Hayashi, 2009, pp. 9–21.
[34] Rodríguez, 2011, pp. 97–126.
[35] Domingo, 2003, pp. 263–279.

social and historical aspects of the legislative undertaking. Most of the cited works do not even contain references to the crucial Civil Code Controversy in 1889–1892, thus completely omitting its course and participants from three distinctive schools of legal jurisprudence. This fact allows for the assertion that the history of Japanese private law is still an unknown area for Western legal scholarship. The few available publications mostly depict the characteristics of the Meiji Civil Code (1898), which could be assessed as the most important work of Japanese jurisprudence in the field of private law, yet it only marked the culmination of about 30 years of codification work. Marginalizing or ignoring the events leading to the creation of the revised Civil Code, including the Civil Code Controversy, could hinder understanding the nature of Japanese private law and some of its norms which remain unchanged to this day.

Considering the relatively modest literature on the subject in Indo-European languages, I was motivated to research the Japanese archival sources and works to analyse thoroughly the Civil Code Controversy. In Japanese legal scholarship, this topic is part of *kindai hōseishi* – modern legal history – as part of the section devoted to the process called *hōten no hensan* – drafting the codes. The Civil Code Controversy is discussed to varying degrees in collective studies on the history of Japanese private law development. Special mention goes to the following: Y. Kawaguchi,[36] K. Kumagai,[37] K. Nakamura,[38] H. Iwamura,[39] H. Asako, T. Itō, N. Ueda and F. Jimbo,[40] and C. Takatani and Y. Koishikawa.[41] The challenged Civil Code was also the subject of in-depth research by M. Niida,[42] A. Iwata,[43] T. Hoshino,[44] K. Harada,[45] R. Ishii,[46] Y. Tezuka,[47] Y. Ōkubo and Y. Takahashi,[48] and M. Ikeda.[49] Additionally, T. Hoshino researched the Civil Code Controversy from the perspective of the family law system in Japan.[50]

The above list does not cover the wide range of other Japanese studies and articles concerning the codification of Japanese private law, the development of legal scholarship in Japan, the jurists involved in the codification process and the

[36] Kawaguchi, 2014.
[37] Kumagai, 1955.
[38] Nakamura, 1956; Nakamura, 1967.
[39] Iwamura, 1996.
[40] Asako, Itō, Ueda, Jimbo, 2010.
[41] Takatani, Koishikawa, 2018.
[42] Niida, 1943.
[43] Iwata, 1928.
[44] Hoshino, 1943.
[45] Harada, 1954.
[46] Ishii, 1979.
[47] Tezuka, 1990; Tezuka, 1991.
[48] Ōkubo, Takahashi, 1999.
[49] Ikeda, 2011.
[50] Hoshino, 1949.

Controversy, as well as historical and economic aspects related to the analysed matter. Thus, I also investigated the works published by N. Hozumi,[51] K. Sakamoto,[52] Y. Ōkubo,[53] M. Fukushima[54] and M. Itō.[55]

Regardless of the extensive study of the Japanese works related to the history of private law, I based my research mostly on archival sources and legal opinions from the period of the Civil Code Controversy. The analysed documents can be found in *Kokuritsu Kokkai Toshokan* – the National Diet Library – and *Kokuritsu Kōbunshokan* – the National Archives. The archival resources concerning the drafting of the Code can be divided into two collections including materials covering: (1) the drafting of the Code by the Civil Law Codification Department and its formal successor, the Law Research Committee in 1881–1887, and (2) the analysis of the completed draft of the Code by the Law Research Committee, the Chamber of Elders and the Privy Council in 1887–1890, which marked the final preparations for the legislative procedure and promulgation of the Code. The cited archival materials include approved drafting plans, legal opinions, procedural resolutions, and minutes of official meetings of various Japanese institutions, which discussed issues related to the content of individual provisions of the Civil Code. Although this book does not focus on the process of drafting the Code, my goal was also to demonstrate some details about the work on its provisions and the legislative procedure to better understand the doubts which arose during the Controversy.

Due to the fact that over 300 legal opinions concerning the Civil Code (and the related Commercial Code) were published in various Japanese journals in 1889–1892, selecting the most representative texts, which would reflect the nature of the Controversy, was a difficult task. Thanks to a thorough analysis of legal opinions provided by Tōru Hoshino and Kazuhiro Murakami, this scope was narrowed down to over 100 opinions. To avoid quoting identical arguments of Japanese jurists, I discussed 50 legal opinions, which covered all key aspects of the dispute and helped me to answer my research questions. When selecting legal opinions, I tried to maintain a balance between the views of two opposing factions in each of the three stages of the Controversy. Although the issue of the entry into force of the Civil Code and the Commercial Code also became the subject of a lively debate among Japanese entrepreneurs, politicians, economists, scholars and journalists in 1891–1892, I concentrated on the legal aspects of the dispute, namely those aspects related to theory and philosophy of law, theory of private law and legal history.

[51] Hozumi, 1890; Hozumi, 1980.

[52] Sakamoto, 2004.

[53] Ōkubo, 1977.

[54] Fukushima, 1988.

[55] Itō, 1966.

This book consists of this introduction, seven chapters and a conclusion. Chapter One presents the historical and political background and the legal history of Japan until the collapse of the Tokugawa shogunate and the Meiji Revolution. It also depicts the reasons for the codification of Japanese private law and discusses the similarities and differences between the Japanese and European legal cultures, which became a model for the Meiji government during the reform of the state. Chapter Two briefly describes all attempts to draft the Civil Code in 1868–1889. It presents the various periods covering the first failed translation projects of the Ministry of Justice, the drafting of a Civil Code imitating the French Civil Code, and finally the establishment of the drafting team led by G. Boissonade, who submitted the Civil Code for the legislative procedure. Chapter Three outlines the schools of legal scholarship in Japan during the Meiji era, preserving the chronology of their establishment and the hierarchy of influence in the Ministry of Justice. Along with the general characteristics of the French, English and German Schools of legal scholarship, the chapter covers a short history of their most important academic centres and a description of two factions, the main participants in the Civil Code Controversy. Chapter Four focuses on the first stage of the Controversy between April 1889 and April 1890. The time limits of the first stage are marked by the critical opinion of the Association of Jurists on the draft Civil Code, publicly announced and presented to Prime Minister Kiyotake Kuroda, and the publication part of the Civil Code regarding Property Law, Security and Evidence by A. Yamagata's cabinet. Chapter Five presents the second stage of the Controversy, which lasted from May 1890 to March 1891. During this transitional period, A. Yamagata's cabinet promulgated the missing part of the Civil Code regarding Personal and Succession Law. It was also distinctive of the first victory of the postponement faction during the Imperial Diet's first meeting[56] when the date of entry into force of the Commercial Code was extended by two years, until 1 January 1893.[57] Chapter Six describes the last stage of the Controversy from April 1891 to June 1892. Due to numerous publications of both parties before the Imperial Diet's second and third meetings, the dispute escalated from a scholarly debate between jurists to a crucial national matter discussed by various influential circles. Finally, the Civil Code Controversy (including the issues related to the Commercial Code) was resolved by the Imperial Diet's third meeting at the turn of May and June 1892. The House of Peers and the House of Representatives passed a bill postponing the date of entry into force of both codes by another four years, until

[56] The term meeting is used to refer to the period in which the Imperial Diet debated bills; this often lasted two to three months. The term session is used to refer to the particular day when they met and discussed specific agenda items.

[57] Meiji 23-nen 12-gatsu 27-nichi Hōritsu Dai 108-gō: Shōhō oyobi Shōhō Shikō Jōrei Shikō Kigen Hōritsu.

31 December 1896.[58] Chapter Seven summarizes the Controversy, and the book then ends with a conclusion based on analysed legal opinions and events in parliament. The bibliography and the summary in Japanese are attached after the last chapter.

As a consequence of the choice of a topic related to Japanese legal history, I needed to systematize the Japanese terminology throughout the book. For the spelling of names, places, given names and surnames in Japanese, I used the old Hebon-Shiki rōmaji – the traditional version of the Hepburn Transcription, which allows writing kanji, hiragana and katakana characters in the Latin alphabet with specific diacritics characterizing Japanese pronunciation. The exceptions are geographical names or terms that appear in English in a commonly recognized changed form. These include words such as Tokyo, Kyoto, Osaka, Kobe, Kyushu, Hokkaido, shogun, daimyo and Shinto. For practical reasons, I adopted the method of referencing people by giving initials/names followed by surnames, deliberately departing from the rules of East Asian languages. In the case of people who are mentioned for the second and subsequent times, I kept the first letter of a name to correctly identify people bearing the same surname in Japanese. My intention was also to include in the main text some words or fragments of statements in Japanese to promote new terms from an unknown field in Western legal scholarship.

I would like to express my gratitude to my long-term academic supervisor, Professor Leonard Górnicki, for pushing me on the track of researching Japanese private law and for constant support in my academic development. In a present-day world which often rejects the role of authorities, he is my genuine mentor, fully respecting my identity and academic integrity.

Drafting the book would not have been possible without the financial and organizational support of the Ministry of Education of Japan (MEXT), which provided me with a scholarship for foreign researchers in 2020–2022. The research programme was supervised by Professor Fumiaki Okesha, the head of the Department of Civil Law at the Faculty of Law of the Tokyo Metropolitan University. Professors Ryōhei Sakuuchi and Takenori Tsutsumi were also the first readers of the Japanese version of the book and authors of many valuable comments during long discussions.

Finally, my acknowledgements could not miss my beloved wife and my dearest life companion, Ola. She has always been the most supportive person to me, including my academic career full of hardship and doubts. Ola was also the first critical yet kind reader of the book, who had a significant influence on its final shape. Thank you and I love you.

Sagamihara 2022 – Edinburgh 2023

[58] Meiji 25-nen 11-gatsu 24-nichi Hōritsu Dai 8-gō: Mimpō oyobi Shōhō Shikō Enchōki Hōritsu.

日本語の要旨

本書は、5年間の間ポーランド、ヴロツワフ大学及び東京都立大学で行われた1889年から1892年にかけて起こった大日本帝国における民法典論争の研究をまとめたものである。ヨーロッパの法学において、日本の法学の民法典論争は未知の研究領域である。そのため、本書では日本の私法を研究するポーランドの法学者の目線から、ヨーロッパの法学者に日本法制史の一部を明らかにし、その研究成果を発表する。なお、本書の原本はポーランド語及び日本語で執筆され、エディンバラ・ネイピア大学のプロジェクト下で英語に翻訳されたものである。

本書は、目次、序論、7つの章に分けられた本論、結論で構成されており、結論後に参考文献が提示される。本書は研究目標を含め、民法典論争の時系列に沿って構成されている。主な研究目標は、日本における民法典論争の原因、経緯、影響を提示し、1893年に旧民法が施行しない理由を検討すること、また、民法典論争を研究することにより日本の明治期（1968年から1912年までに）における民法編纂の過程を発表することである。。

序論では、日本における民法典論争の概要を説明し、3つのテーゼを成立する。第一テーゼでは、明治時代においてフランス民法の継受、又はフランス民法典のもとで日本の民法典が編纂された可能性は低いことを明らかにする。第二のテーゼでは、民法典論争が民法の編纂に重大な影響を及ぼし、明治民法の基盤となったことを証明する。また、第三テーゼでは、民法典論争が日本法学の発展に寄与するのみならず、独立の日本法学の誕生につながったことを提示しる。

以上に述べたテーゼを検討するために、次の3つの研究課題を考査した。まず、第一課題は、なぜ1890年に山縣内閣が公布した旧民法を施行しなかったのだろうか。第二課題は、なぜ旧民法は日本に適わない法律として評価されたのだろうか。第三課題はなぜ元々影響力を持たない延期派が、民法典論争において勝利を収めたのだろうか。また、序論ではポーランドと日本に限らず、ヨーロッパにおける民法典論争についての研究状況を評価する。

民法典論争に関する外国語の文献が極めて少ないため、本研究は日本語の資料に基づくものである。また、研究方法として、民法典論争に関する60以上の断行派・延期派の法的な意見書及び第1回・第2回・第3回帝国議会での演説の研究分析を行った。意見書の研究では、旧民法と対象となる延期派の疑問及び断行派の立場が明らかにし、民法典論争の概略とその本義を提示する。なお、旧民法に関する意見と議会の演説を分析し、議論の進行具合とその激化を把握する。

第1章では、幕末から明治維新にかけての日本の法制史及び政治的背景の概要を説明する。これは、民法典論争の本質を理解するためには、日本の民法編纂に関連する政治、法、社会的な改革を説明する必要があるからである。そして、当時の日本とその近代化を特徴付けしつつ、なぜ明治政府はフランス民法を採用したのか、その事由を考査するなお、民法編纂の理由の中には、日本法制度の統一、資本主義に基づく国民国家の成立、不平等条約を改正する政策などが提示される。

第2章では、明治維新における民法を編纂する全ての事業の概要を説明し、明治初期に司法省が失敗したフランス民法典を和訳する箕作麟祥の事業だけなく、フランス民法典を模倣する日本の民法典を編纂するプロジェクトも紹介する。こうした6つのプロジェクトが失敗に繋がったため、当時のドイツ帝国における民法典を編纂する政策と比較された概要も紹介する。また、10年間にわたってギュスターヴ・エミール・ボアソナードとフランス法派に所属した日本の法学者によって草案された旧民法とその特性を説明する。旧民法を編纂する方法及びボワソナードとその法的経験についてもまとめる。

第3章では、明治期において、フランス法派・イギリス法派・ドイツ法派という民法典論争に参加した3つの法学派の発展と各派の旧民法に対する見解を紹介する。フランス法派はついては、ボワソナードの見解を中核とし、理想な民法典を編纂する進行を明らかにする。イギリス法派は、フランス法派との対立のみならず、民法典編纂における固有な慣習法を保護する論拠も説明する。ドイツ法派に関しては、団体主義に基づく民法典を促進する見解がまとめられる。さらに、以上に述べた3つの法学派の紹介と共に、その民法典論争に対する立場及びその主な大学を表示する。

第4章では、1889年4月から1890年4月までに繰り広げられた、民法典論争の第1段階に焦点を当て、黒田総理大臣宛に提出された旧民法に関する法学士会の意見書及び、その内容を徹底的に解釈する。これは、法学士会の意見書は、民法典論争を引き起こしたため、その全文を解説することが必要であるからである。また、イギリス法派は旧民法を非難したものの、1890年4月に山縣内閣がボワソナードによって草案された民法典の財産編を公布することに至った粗筋も紹介する。さらに、この章では民法典論争の第1段階における延期派が発表した11の意見も解釈した。

第5章では、民法典論争が第2段階（1890年5月から1891年3月）に移行する伴い、山縣内閣が1890年10月にフランス法派によって草案された人事編及び相続法を公布した状況を明らかにする。第2回帝国議会において、民法典及び商法典をめぐる議論した結果、商法典の施行日が延期され、延期派は予想外の勝利を収めたこと、そのため、翌年に民法典論争が激しくなった概要も説明する。また、第5章では、民法典論争の第2段階における延期派・断行派が発表した8つの意見書及び議会での演説も解釈する。また議会演説の解釈では帝国議会の演説中に旧民法に対する延期派の議論に留意する。

第6章では、1891年4月から1892年6月までに繰り広げられた民法典論争の最終段階を紹介する。当時、延期派は挑発的な見解を発表したため、（具体例：穂積八束の「民法出テ、忠孝亡フ」という意見）民法典論争が日本社会の注目を集め、重要な主題になった粗筋を紹介する。また、民法典論争の激化に対応して断行派の法学者は統合し、何としても旧民法を守ろうとしたが、第2回衆議院議員総選挙に干渉しようとした結果松方内閣及び田中不二麿率いる司法省の政治的影響力が減退した内容もまとめる。さらに、断行派の一部は、政治の敗北の影響により旧民法の弁護を嫌うようになった。第3回帝国議会におけて、旧民法と旧商法をめぐる議論が開始され、断行派及び延期派が劇的議論した結果、貴族院及び衆議院は旧民法及び旧商法の施行日を延長し、1896年12月31日までに両法典を改正することに至る経歴も明らかにする。特に焦点を当てた議会演説は、大木文部大臣の「天賦人権」をめぐる貴族院の議論（「舌禍事件」というもの）であり、5月27日に富井男爵が行った画期的な演説であ

る。なお、研究内容には、第3回帝国議会における、他の断行派・延期派が発表した旧民法に関する22つの意見書もある。

第7章では、民法典論争を要約し、1893年から1898年にかけて行われた明治民法を編纂する法典調査会の作業の概要を説明する。また、法典調査会の組織だけなく、妥協の民法典が草案するために方法を説明した。民法典論争のまとめとしては、旧民法に対する断行派・延期派の議論を表示し、大きなカテゴリーに(旧民法の理念・体裁・立法上の手続き)分け、延期派が勝利を収めた理由を明らかにする。この勝利の理由として、延期派の見解で提示する日本社会に与えた影響、旧民法の理念、旧民法と大日本帝国憲法の間に多数な矛盾、旧民法の実用的な欠陥、内閣及び司法省が弱体化した政治的影響力などを論述する。

結論では、民法典論争のまとめを発表する。本書はポーランドに限らず、ヨーロッパにおいて日本民法編纂に関する最初の研究論文であり、民法典論争の経緯とその意義を初解釈したものである。なお、旧民法をめぐる議論と民法典論争における両法派の見解が明らかにする。

本図書の参考文献は、歴史資料、江戸時代及び明治時代の法律、民法典論争の意見、帝国議会の演説、300以上の論文で構成する。研究した歴史資料は、国立国会図書館及び国立公文書館に所属している。旧法及び議会の演説は、オンラインデータベースにより検討した。民法典論争の法的意見は、日本に出版された資料編集をもって手に入った。なお、300以上の論文は、日本語、英語、ポーランド語、フランス語、ドイツ語、ロシア語、スペイン語、オランダ語、チェコ語を集めた書籍である。