

How to cite: Hassa M. (2021). On the Significance of Roman Jurisprudence for the Formation and Development of Future Law. *Futurity Economics & Law*, 1 (2). <https://doi.org/10.57125/FEL.2021.06.25.5>



On the Significance of Roman Jurisprudence for the Formation and Development of Future Law

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Abstract: The relevance of the research topic is due to the theoretical and practical significance of issues related to the influence of Roman jurisprudence on the formation and development of modern legal systems, as well as national branches of the law of individual countries. The main goal of the research is the systematic study and analysis of the relationship and mutual perception of Roman law with modern law. In accordance with the stated goal, the task of the research is the study of Roman law, as a unique phenomenon of human civilization, trends of perspective development for the future in the modern law of two legal systems of the world: continental and Anglo-Saxon. General scientific and special legal methods were used to achieve the goals and objectives of the research. The result of the research is the statement that the meaning of Roman law is determined by the significant influence on the history of mankind in the period when it was formed, as well as on the further development of law and culture in general. The conclusion of the study is the substantiation of the proposition that the need for scientific research in the field of private and public law, both for individual states and human civilization as a whole, their implementation in practical activities with the aim of solving urgent issues of legal regulation of social relations, stimulates the process of development and qualitative updating of theoretical ideas that exist in modern law. First of all, we are talking about the legacy of Roman law, its adaptation to modern social, economic, and political realities, the necessity, expediency, and effectiveness of its application under such conditions.

Keywords: Roman law, legal system, law-making.

Introduction

Roman law is the legal system that existed in Ancient Rome and the Byzantine Empire from the 8th century B.C. to the 7th century A.D., where the system of legal concepts that subsequently received fundamental development in the legal systems of the world was born and actively developed. In Rome for the first time appeared norms relating to a property, provision for its use, possession, and disposal.

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Roman law described in detail various spheres of activity of the state, citizens, legal entities, branches, and institutions. The basis of Roman law is devoted to the private property of citizens, so it is no coincidence that Roman law is often identified with private law. The legal systems of the world have never existed in isolation from each other because they are closely interacting, having a cultural dialogue with each other. In the legal culture of individual countries, it is often possible to identify fragments of other legal cultures, thanks to which the countries are able to assess their experience, get the opportunity for further development, to improve the individual legal systems or their elements.

The relevance of the study lies in the fact that social, economic, and political transformations occurring at the present stage and accompanying the development of world civilization draws the attention of scientists to the study of the relationship between national and universal in the legal cultures of different peoples, the degree of interaction between the classical heritage and the modern state of legal consciousness. For classical and modern liberalism is characterized by the assertion that the Roman law along with the Christian heritage common to all European peoples is the foundation of the legal culture of Western civilization with its principles of freedom of entrepreneurship, economic and political democracy, the rule of law, a system of guarantees of subjective rights of the individual. It is an axiom. The subject of modern worldview scientific discussions is the clarification of the degree of universality of Western civilization, the boundaries and prospects of transit of political and legal institutions created by it into other cultures, the possibility of transformation of Western values of freedom and democracy into universal values, the formation of the language of modern science about man and society based on the principles of rational discourse.

Research Methodology

To achieve the goals and objectives of the study were used general methods of scientific knowledge: dialectical, analysis and synthesis, induction and deduction, abstraction, as well as special methods: comparative-legal and forecasting.

Research Results

Roman jurisprudence is, in its content, peculiarities, and significance, the subject of active scientific research at the present stage. Roman law in its historical formation goes back a long time to the past times of Antiquity, is a phenomenon of a vanished civilization, which for many centuries was developed in the legal science and practice of the late Middle Ages, Renaissance, and New Age. Thus, in modern legal culture and in modern systems of law, Roman law and jurisprudence have no direct practical significance, but the attention paid to them in legal education or general scientific knowledge of the law is explained not only by the significant influence of Roman law on the formation of national legal cultures. of the Roman-Germanic family (to which most countries of Europe, as well as Latin America, Africa, and Asia, belong), but also by the special internal qualities of Roman law itself, emerging

For the legal systems of the Roman-Germanic family, Roman law and jurisprudence have a special philosophical, historical, and cultural significance. Many features of the general legal tradition, legal institutions, and dogmatic categories of modern legal systems derive directly from the principles and

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structure of Roman law, derived either from it or from its critical perception. Certain combinations and dogmatic requirements, which originated in the era of Roman law, continue to live in modern law in a borrowed form or transformed through their own national tradition. The genetic connection with Roman law has formed the main qualitative feature of all legal systems of the Romano-Germanic family, the most developed type of legal system in comparison with others known in the world legal practice.

Compared with other, historical or contemporary systems of law, Roman law and jurisprudence are most marked by individualism, by an emphasis on regulating the free and autonomous economic and civil position of the individual, recognized by society and the State as a full subject. The political, legal, and cultural value of individualism in the history of human society, as evidenced by the repeated unsuccessful attempts at social unification and totalitarian cohesion, is the only fruitful one in a social perspective. The intrinsic qualities of Roman law acquire, from this perspective, the significance of a classical reference point whenever there is a social and legal need for a legal embodiment of the individual freedom of the citizen.

The exceptionality of Roman law and its important role for the further development of law for the future also lies in the fact that it has extended its legal life even after the collapse and rebirth of the state and the people who formed it. The consequence has been two thousand years of legal culture, practice, and scholarship. Over many centuries, Roman and non-Roman jurists, while remaining within the framework of unified beginnings, developed and reinterpreted many aspects of the legal life of society and legal problems and mishaps.

The modern terminology of philosophy, law, and legal practice, without regard to the content of the legal principles and institutions of Roman jurisprudence, owes much of its origin to it. Many concepts and terms of modern legal culture are presented by direct borrowings from Latin: “republic”, “constitution”, “mandate”, “vindication”, “bond”, etc. The content of these concepts is significantly removed from its original source, so the study of historical comparisons proves to be appropriate. Thus, Roman law is a part of the cognition of already quite modern legal practice and legal culture.

It should be remembered that at the time when Rome was a small community among many similar ones in Italy, Roman law was an uncomplicated, archaic system, whose peculiarity was a patriarchal and narrow national character. As it developed, the Roman community (*civitas Roma*) extended its influence over the whole of Italy and then the Mediterranean, becoming a huge state that united under its rule almost all the cultural world that existed at that stage. At the same time, Rome also changes internally, as the old patriarchal system collapses, the primitive subsistence economy is replaced by complex economic relations. The new life demands the utmost efforts and all the abilities of each individual; accordingly, Roman law responds to the outlined social, economic, and political transformations and changes its character by restructuring itself based on individualism: individual liberty, freedom of contract, and testament become the cornerstones of Roman jurisprudence.

Along with the expansion of the territory of the Roman state comes the involvement of Rome in international trade exchange. Equally, Rome was becoming the political center of the Mediterranean and immediately became the center of trade turnover of significant in size and heterogeneous in population. This necessitated the creation of legal rules for resolving disputes that could be applied regardless of the national and territorial ownership of the subjects of law. Roman law, which was formed at this stage,

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was no longer suited to the new economic, social, and political realities since it was not free from local and national particularities. Under the influence of objective needs, Roman law is enriched by the customs of international circulation and acquires features of universality, based on the principle of individuality, becomes the common law of the entire ancient world and the basis of the legal system of the entire Mediterranean civilization.

In developing the principles of the legal system, Roman jurisprudence focused primarily on the principles of mutual recognition of the subjects of civil turnover, the exclusivity of individual control over his property, the equivalence of the exchange of goods and services, the freedom of will of determination in accordance with the degree of permitted behavior established in society. A characteristic feature of Roman law was the perception of natural law as a specific component of law in general, not just a theoretical-legal construct. This position is confirmed in the various classifications and definitions of law left in the scientific works of Roman jurists, their inclusion of natural law in the aggregate volume of law in general corresponded to their ideas about law as a just phenomenon. Analyzing casus causa from the standpoint of correspondence to the steady norms of civil law (*ius civile*) and ideas of good and justice, Roman lawyers developed various forms of satisfaction and coordination of individual interests, worked out almost all legal institutions that exist at the contemporary stage and created the language of the law, its terminology.

Discussion

“Roman law is widely considered to be the foundation of European legal culture and an inherent source of unity within European law” (Tuori & Björklund, 2019). Civil law, which is the largest heir of Roman jurisprudence, is a fundamental science that studies the regularities of civil law regulation of social relations. The special place of the science of civil law is provided by its subject, its place in the system of legal sciences, and its importance for cardinal transformations in the life of the world community.

“The Romans developed a sophisticated body of law over one thousand years” (Metzger, 2020). The legacy of Roman jurists is actively used by modern society. Through reception, Roman law has influenced and is now of great interest in the formation of legislation and legal scholarship. Its influence can be observed in various branches of law, from criminal law to civil law, and terminology, the basic principles of Roman law are now present in virtually every legal system in the world.

It's important to understand “... the phenomenon of Latin as a universal cultural code that continues to be actively used in various spheres of life” (Korolova et al., 2019). It is generally accepted that the universal meaning of the categories of Roman law is the basis of legal thinking in general. The study of Latin terminology broadens the outlook and legal culture of a lawyer. Legislation and the science of private law (civil law) of many European countries widely apply directly Latin terms.

“... most of the general principles of the law of peoples have become today the imperative principles of international law, and the general principles, which were developed by the Roman jurists, foremost, it is the principles of equality, justice, and humanism...” (ZADOROZHNA, 2019). The importance of Roman law is determined by its tremendous influence on the further development of law

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as well as on the development of culture in general. Roman law is characterized by an effective elaboration of all significant legal relations of ordinary commodity owners (buyer and seller, creditor and debtor, etc.). For example, "... can be found in most of the contemporary European legal systems, in the same legal position, as an exception to the principle of contracts taking effects only between parties" (CODREA, 2018).

"In the civil law tradition, the tradition which developed in continental Europe based on the Byzantine codification of Roman law, 'system' is used in relation to substantive doctrine, especially as set out in codes, i.e., in axiomatically organized accounts of law" (Brouwer, 2018). The characteristic features of Roman law contributed to the fact that when the developing industry and trade of medieval Europe demanded a more perfect legal superstructure when the feudal rules of common law ceased to fulfill the conditions of existence, a process of borrowing of Roman law took place. Having entered through reception into the practice of medieval states, Roman law also influenced the following codifications of civil law.

Conclusions and Implications

As a result of the study the following conclusions can be made:

1. At the present stage, the institutions of Roman law represent a kind of dogma of civilistics, certain canons of regulation of certain social relations. Modern civil law does not reflect the legal institutions of Roman law, because it was created under the influence of the modern economic, political and social life of society and the state. However, the most important concepts, ideas of legal regulation of property and personal non-property relations arise in the Roman private law.
2. In certain cases, at the present stage, the doctrine of Roman law and the categories and concepts developed by it are not directly embodied in the legal provisions of the states of the continental and Anglo-Saxon legal systems but play an important role in the training of legal professionals, their assimilation of the relevant educational material, the formation of their professional competence to address complex practical issues of legal regulation of social relations.
3. The relevance of Roman law and jurisprudence is not limited to their direct influence on the content of modern continental and Anglo-Saxon legal systems, it remains for the future because Roman lawyers developed exemplary legal methods and constructions, their achievements offer an ideal paradigm for decision-making theory and legal reasoning, solving complex legal problems that remain relevant for modern jurists.

Acknowledgements

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Acknowledgements of people, grants, funds, etc should be placed in a separate section not numbered at the very end of the paper.

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