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THE INFLUENCE OF ROMAN LAW ON THE DEVELOPMENT OF PRIVATE INTERNATIONAL LAW IN THE WORLD

The paper provides a comprehensive exploration of the evolution of Roman legal thought and practice, tracing its development from the archaic and customary origins of early Roman society through the Republic and Classical periods, and culminating in the codification efforts of Emperor Justinian. Central to the analysis is the dualism of the jus civile and jus gentium, which the paper presents as a foundational conceptual framework that allowed the regulation of legal relations both among Roman citizens and between citizens and foreigners. The study situates this dualism within the broader intellectual and social context of Roman law, emphasizing how its flexible yet systematic principles provided practical solutions to the complex and diverse interactions of a growing and cosmopolitan society. The research further examines the reception of Roman law in medieval Europe, focusing particularly on the work of glossators, commentators, and other early legal scholars, whose efforts to systematize, interpret, and adapt Roman legal concepts contributed directly to the emergence of the ius commune. In this context, key principles such as lex domicilii, lex patriae, and lex loci actus are analyzed in detail, demonstrating how they were applied to regulate cross-border private relations, including questions of personal status, contractual obligations, and property rights, in a pre-modern international framework. Drawing upon historical sources, doctrinal analysis, and contemporary scholarship, the paper argues that Roman legal thought did not merely provide a historical precedent but laid the intellectual and practical foundations upon which modern private international law is built.Moreover, the study highlights the methodological approaches of Roman jurists-particularly their emphasis on classification, reasoning by analogy, and systematic interpretation-as mechanisms that were gradually incorporated into later European legal practice, profoundly influencing the development of conflict-of-laws doctrines. By tracing the transmission, adaptation, and integration of Roman legal ideas into different legal systems over centuries, the paper demonstrates the enduring universality, coherence, and flexibility of Roman law, underscoring its continued relevance in regulating contemporary cross-border legal interactions.

Keywords: *Roman law, international law, private international law, reception, glossators, Corpus Juris Civilis, Romano-canon law*

INTRODUCTION

The influence of Roman law on the development of modern legal systems cannot be underestimated. The works and achievements of Roman lawyers are still admired nowadays. The impact of Roman law on the evolution of modern legal systems has long attracted the attention of scholars across different countries. Numerous studies have traced its principles, doctrines, and legal institutions, examining how they shaped both national and international legal practices. Yet, many aspects of its influence-particularly the ways in which Roman legal concepts continue to inform contemporary private international law-remain open to deeper analysis.

The **PURPOSE** of the paper is to enrich the modern understanding of the influence of Roman law on the development of private international law, demonstrate its theoretical continuity and identify the key forms and mechanisms through which Roman legal principles continue to manifest themselves across the globe today.

RESEARCH METHODS

A combination of historical and analytical methods was employed in conducting this research. The historical-genetic method was applied to trace the development of Roman private law from its archaic customary origins through the Republican and Classical periods to the codification under Emperor Justinian. Through this approach, the evolution of key legal categories-particularly those later adapted within private international law-was reconstructed.

The comparative-legal method was used to examine the transformation and reinterpretation of Roman legal principles within medieval European legal systems, especially in the context of the glossators, the commentators, and the formation of the ius commune. This method allowed for the identification of structural parallels between Roman legal institutions and the modern doctrine of conflict of laws.

The dogmatic method was applied to analyse the conceptual apparatus of Roman law, including the notions of jus civile, jus gentium, domicilium, and the early forms of connecting factors that became foundational in private international law. This approach made it possible to systematise the relevant concepts and determine their doctrinal continuity.

The historical-comparative method was used to evaluate the process of reception of Roman law in medieval and early modern Europe. Particular attention was given to the selective adoption and adaptation of Roman norms-both substantive and conceptual-into local legal systems and transnational legal thought.

RESULTS

History of the Development of Roman Private Law in the Context of the Development of Modern Legal Systems. The idea of continuity between Roman legal thought and modern law systems has been widely debated and disputed among scholars. In the broader discussion on the evolution of legal universality as such, the significance of Roman law in shaping the conceptual foundations of private law across jurisdictions remains a central question. It is generally accepted that Roman influence can be clearly observed in the systems of laws of many countries, yet, opinions differ as to the depth, degree and nature of this influence. Some researchers suggest the opinion of discontinuity between ancient and modern legal frameworks, stressing that branches of contemporary private law (international private law included) arose independently of Roman legal structures, taking into

account only certain aspirations. Others, however, trace a clear intellectual lineage, identifying in modern legal systems the enduring presence of Roman notions.

Nonetheless, regardless of the standpoint from which one may assess the presence of Roman law today, it is abundantly clear that it is the Roman tradition where the roots of many modern legal concepts lie deep within. Therefore, to understand the scope and mechanisms of this influence, it is necessary to turn to the origins of Roman legal thought itself and trace how its principles gradually permeated later legal systems.

Following the observations of J.J. Gstach, it may be stated that the earliest phase of Roman private law is largely enveloped in obscurity, a certain veil of ancient ambiguity. Law, naturally, at its primitive form, was an oral and customary system of rules, closely and inevitably intertwined with religious authority. Legal rules were interpreted and applied by the pontiffs – aristocratic members – and their control tended to result in outcomes favouring the patrician class. The struggle between patricians and plebeians (one shall not forget that a Roman society once was of a class-division nature) eventually created the demand for a written embodiment of law- a prototype of code that would provide equal access to legal norms. This came to its fulfilment in the passage of the Law of the Twelve Tables in 451 BC – the first attempt to codify the rules which had hitherto been unwritten. Although the Tables were far from comprehensive and addressed themselves to mainly private and criminal matters, they set the process of transition from customary to written law underway and laid the foundation for future Roman legal development.

It is therefore possible to agree that in the very early era, during its Archaic Period, it was customary law that governed social relations and acted as a starting point for Roman private law development.

It is also possible to notice that in the times of the Roman Republic, the legal landscape evolved considerably compared to the earlier, archaic period. Though customary law and the Twelve Tables had set a foundation, the increasing sophistication of Roman society and its increasing contact with foreigners necessitated new legal avenues. The establishment of the office of the praetor, and more particularly the praetor peregrinus, reflected this need. The praetor peregrinus was specifically tasked with hearing foreign cases, and thereby marked an early awareness of the status and rights of "aliens" – the term peregrinus literally means from Latin "traveller", "alien". This development did not only address practical concerns; it laid the basis idearum for the differentiation between jus civile, the law applicable to Roman citizens, and jus gentium, the law applied to interactions involving foreigners, which was quite groundbreaking.

Interestingly, as R. Lesaffer denotes, for the Romans, the generally known term jus gentium did not refer to “public international law”, as it is widely misunderstood today, but was considered none other than the body of private, domestic law the Roman courts applied to foreigners. Such a notion is rather exceptional, as it was one of the first attempts to reconcile the coexistence of subjects with diverse legal backgrounds under one, single jurisdiction within one state. The Romans were able to integrate relations with a foreign subject into their legal order. Remarkably, here one can trace the emergence of the intellectual foundation for later doctrines concerning the recognition of foreign rights and obligations and the prototype of relations with a foreign element – ideas that would eventually re-emerge at the heart of private international law.

All in all, the evolution of Roman private law up to the late Republic is a remarkable set of legal adaptation and intellectual refinement. Starting from its initial customary form tied with ritual and class privilege, Roman law gradually evolved into a practical and rational system capable of adapting to the needs of a rising and diversified society. The dualism between jus civile/jus gentium, apart from providing versatility in conflict resolution, also reflected an early awareness of universal principles of law transcending the ties of citizenship and geography.

The Classical Period (3-rd century BCE – 3-rd century CE) is considered to be the golden age of Roman jurisprudence. As Rome grew into an extensive empire, its law took on a universal character. Jurists such as Gaius, Ulpian, and Papinian developed doctrines that still form the basis of many modern-day private law systems. Under Augustus, judicial process was codified in the Leges Iuliae de iurisdictione (17 BCE), abandoning archaic ritualism (which still persisted and was deeply rooted within the society) and adopting a formulaic, orderly process.

The Post-Classical Era (3-rd – 6-th centuries CE) deserves special consideration as it witnessed increasing centralization of legal authority under imperial law control. Juristic creativity gradually gave way to systematic compilation endeavors, with the rule of Emperor Justinian (527-565 CE) being the peak of it. It was during his rule that centuries of legal ideology were distilled into a cohesive whole – the Corpus Juris Civilis, a codification that had a far-reaching effect on the development of European and international private law.

The Role of Justinian's Code. Being a truly noteworthy, remarkable and rather unique document, Corpus Juris Civilis forms the basis for the legal codes of most countries in continental Europe today without much exaggeration. Being considered a bedrock of legal tradition in most civil law legal systems, having spread throughout Europe during the Middle Ages, its influence can be found even in private international law. The compilatory and legislative process initiated by Emperor Justinian not only preserved the intellectual heritage of Rome but also laid the foundation for the revival of legal scholarship in medieval Europe.

Thus, after its rediscovery, the study of the Corpus Juris Civilis gained a so-called foothold in medieval universities, particularly at Bologna, where a new generation of jurists known as glossators arose. These scholars pored over the Justinian texts, adding marginal and interlinear notes- glossae - to clarify, interpret, and reconcile challenging passages. By their analytical approach, Roman law was transformed from a collection of ancient rules to a systematic and teachable corpus. In the works of scholars such as Irnerius, Accursius, and their successors, Roman legal concepts were reopened and rendered relevant to the needs of a rapidly developing medieval society. The glossators' orderly method of commentary furnished the intellectual groundwork for later jurists so that Justinian's compilation became not merely a remnant of the past but the living flower of European civil law, whose roots are deeply embedded in Roman legal tradition.

Its influence on Western European private international law (and beyond) can, to a large extent, be traced to the enduring dominance of Justinian's Code. Indeed, the Corpus Juris Civilis anticipated many of the questions later add-

ressed by conflict of laws. In adopting principles derived from the Roman jus gentium Corpus Juris Civilis provided an intellectual framework to the management of legal plurality inside and outside the Empire. This universalist dimension of Roman law anticipated much of the conflict of laws questions that came to the forefront subsequently. Concepts such as domicile and personal status, which were originally employed to prescribe which law should be applied to people subject to Roman jurisdiction, evolved into key linking concepts to guide the apportionment of legal jurisdiction among distinct states and juridical systems. In this way, Justinian's codification preserved a common conception of justice in between distinct communities and sowed the initial seeds of what later evolved into modern-day private international law.

The Concept of Reception of Roman Law. Influence of the Reception of Roman Private Law in Private International Law. In order to address the rich topic of the notion of Roman law reception in the context of the development of private international law, it would be useful to uncover the historical context from where the the adoption of Romano-canon law (that should be percieved as a synthesis of Roman and canon law that developed in medieval universities) reached its peak: in Europe from about the 12th century onwards. As glossators and later commentators systematised and taught Roman legal doctrines, these principles gradually permeated local laws and practices across the continent. This process was not just a mere imitation but a selective adaptation, driven by the need for intellectual coherence and legal uniformity amid the fragmentation of medieval jurisdictions. Roman law offered a universal language of rights and obligations, capable of bridging the legal diversity of European principalities and city-states. Reception thus involved both the revival of ancient jurisprudence as well as the emergence of a shared legal consciousness-one that would proceed to shape subsequent transnational thought in law, including the foundations of private international law.

The reception of Roman law was not an isolated phenomenon but instead responded to the growing demand for an orderly and rational legal order in a fragmented Europe. Where it seemed that local customary systems could not respond to the intricacy of transnational trade, property, and contractual relations, scholars and jurists sought the intellectual ferocity and universality of Roman legal precepts. The reception thus was not a mere borrowing from the past but an active reception of Roman legal thought to adapt to the needs of a growing society. It helped in the evolution of a common legal vocabulary transcending political frontiers and served as a unifying foundation for European jurisprudence.

As E. Chevreau suggests, reception of Roman law into practice also involved selective borrowing of foreign and local laws into the Roman legal system as well, e.g., the lex Rhodia de iactu. Originating in the commercial practices of the island of Rhodes, this principle-based on the equitable idea of sharing the loss arising from a jettison in sea carriage-was adopted in Roman law and technically realised within the Roman legal institution of locatio conductio. This instance illustrates that the reception was not a passive copy but an active intellectual synthesis in which Roman law was developed into a universal and flexible system that had the capacity to absorb and reconcile various legal traditions.

All in all, the process of reception of Roman law is of a particular interest for international law scholars. Indeed, the Roman model proved capable of transcending the boundaries of time and geography, offering a universal language of law grounded on notions of equity, good faith, and order of reason. It is with this alone intellectual heritage that Roman law provided not only the set of legal categories, but also the very means whereby conflicts of law were to be construed and resolved.

Reception of Concepts and Definitions. It is suggested by some scholars that the process of reception began in the very 13th century, touching upon spheres of administration and the judiciary exclusively, gradually spreading throughout the territory and time, entangling with canon law. Later on, the influence of Roman law could be traced in the principles of public international law, yet the reception in the context of private international law deserves special consideration as well.

The rediscovery of Roman jurisprudence not only brought about substantive rules but also a sophisticated legal methodology and a coherent conceptual scheme that profoundly impacted the emerging doctrine of conflict of laws. Under the umbrella of the ius commune-the homogeneous legal culture generated by the confluence of Roman law and canon law-jurists began codifying transnational rules regulating private relationships. It was here in this intellectual environment that such fundamental connecting factors as lex domicilii, lex patriae (or lex nationalis), lex loci actus and many others came to solidify over time.

These principles, premised on Roman juristic thinking, brought to life the long-standing awareness of personal status, domicile, and territorial jurisdiction as considerations in law of governing law. The Romans had previously and for a long time distinguished between the jus civile applicable to citizens and the jus gentium applicable to aliens; the medieval jurists rendered these distinctions in terms of the ius commune, adapting them to fit a more unified Europe. Accordingly, the lex domicilii developed out of the Roman understanding of domicile as the centre of one's civil life, while lex loci actus had its precursor in the Roman rule that obligations were governed by the law of where they were made.

Reception of Roman concepts into private international law was therefore far from passive inheritance. It represented an active intellectual movement, one where Roman thinking provided terminology and justification for defining legal relations transcending territorial boundaries. These concepts embedded themselves in European legal awareness through the ius commune and eventually gave rise to the modern system of conflict-of-laws norms.

It is within this modern framework that private international law may be seen as the true heir to the Roman legal tradition-preserving its universal spirit while reshaping it to meet the realities of a globalised legal order.

CONCLUSIONS

Private international law can be seen as a receptor of Roman legal tradition to no lesser extent than public international law. Many modern international law rules, generally and particularly in private law analogies, have their origins in Roman law, which is remarkable, taking into account the centuries that lie between the classical Roman era and today's codifications, and the revolutionary adjustments the principles had to undergo in order to be accommodated within the complexities of modern cross-border private relations.

This enduring impact serves to illustrate the universality

and flexibility of Roman legal thought. The development of Roman law, by its reception and reinterpretation comes to show that modern private international law is not of our making, but a culmination of centuries of historical and doctrinal evolution. Knowledge of such a tradition allows scholars and practitioners to perceive the richness, coherence, and internal logic of current rules, and by placing against these the cross-temporal continuity of Roman principles, to illustrate the enduring relevance of Roman ideas to cross-border relationships today.

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ВПЛИВ РИМСЬКОГО ПРАВА НА РОЗВИТОК МІЖНАРОДНОГО ПРИВАТНОГО ПРАВА У СВІТІ

У статті надано всебічний огляд еволюції римської юридичної думки та практики, простежуючи її розвиток від архаїчних і звичаєвих початків раннього римського суспільства через період Республіки та Класичний період і завершуючи кодифікаційними зусиллями імператора Юстиніана. Центральним в аналізі є дуалізм jus civile та jus gentium, що подано як фундаментальну концептуальну основу, яка давала змогу регулювати правові відносини як між римськими громадянами, так і між громадянами та іноземцями. У дослідженні цей дуалізм розглянуто у ширшому інтелектуальному та соціальному контексті римського права, підкреслюючи, як його гнучкі, але систематизовані принципи забезпечували практичні рішення для складних і різноманітних взаємодій зростаючого та космополітичного суспільства. Проаналізовано рецепцію римського права в середньовічній Європі, зокрема через діяльність глосаторів, коментаторів та інших ранніх правознавців, чия робота із систематизації, тлумачення та адаптації римських правових концепцій безпосередньо сприяла формуванню ius commune. У цьому контексті детально проаналізовано ключові принципи, такі як lex domicilii, lex patriae та lex loci actus, демонструючи, як їх застосовували для регулювання транснаціональних приватних відносин включно з питаннями особистого статусу, договірних зобов'язань та майнових прав у передмодерному міжнародному правовому середовищі. Спираючись на історичні джерела, доктринальні дослідження та сучасну наукову літературу, доведено, що римська юридична думка не лише створила історичний прецедент, а й заклала інтелектуальні та практичні основи, на яких базується сучасне приватне міжнародне право. Крім того, висвітлено методологічні підходи римських юристів – особливо їх акцент на класифікації, міркуваннях за аналогією та систематичному тлумаченні – як механізми, що поступово інтегровано в європейську правову практику і вони суттєво вплинули на розвиток доктрини колізійного права. Простежуючи процес передачі, адаптації та інтеграції римських правових ідей у різні правові системи протягом століть, показано стійку універсальність, узгодженість і гнучкість римського права, підкреслюючи його безперервну актуальність в регулюванні сучасних транснаціональних правових взаємодій.

Ключові слова: *римське право, міжнародне право, міжнародне приватне право, рецепція, глосатори, Corpus Juris Civilis, римсько-канонічне право*