

# Roman Law and the Narratives of European Legal History

**Kaius Tuori\***

Sometimes one sees things clearer from afar. Some years ago, James Q. Whitman published a remarkable article, evocatively titled “Long live the hatred of Roman law!” In it, he traced the long history of animosity towards Roman law in European culture, from the Middle Ages to the Nazis, discussing the various reasons why Roman law has been attacked by opponents ranging from theologians, lawyers and political leaders as being against the Christian faith, as being foreign, capitalistic, against morality and public good. He argues pointedly that the “hatred of Roman law was, in fact, a constant of western history until 1945.”<sup>1</sup>

What has been most remarkable is the extent in which similar claims, that Roman law promotes greed, unrestrained capitalism or other vices, have circulated throughout its history. In these often nationalistic narratives about law and what should constitute law, Roman law was presented as an alien and immoral monster, which sought to destroy all that is good and proper. According to these stories, Roman law promoted property absolutism that was considered offensive to theologians, political absolutism that was offensive to everyone except the princes, who adored the example of “princeps legibus solutus”, and law that was materialistic and individualistic and thus offensive to the common people and their customs, as mainly characterized by nineteenth century Romantic authors in Germany and their Nazi followers. The latest would even codify their hatred of Roman law in point 19 of the Nazi party program (1920), which would call for the eradication of materialistic Roman law and its

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1. James Q. Whitman, *Long Live the Hatred of Roman Law!*, 2 *RECHTSGESCHICHTE* 40, 41 (2003).

replacement with German people's law.<sup>2</sup>

The notion of narrative has gotten considerable traction in recent decades, both within historiography and even in popular culture. The storification of culture or the idea that individuals, organizations, and other things should have their own "stories" that are the embodiments of their values and aims has gone to such lengths that now even the smallest of private companies wish to present themselves as having a story. This is much like the preceding enthusiasm of having "missions" and "values" corporate lingo that seeks to provide meaning but merely reinforces the emptiness of the words.<sup>3</sup> What the recent literature on narratives has managed to demonstrate is how strongly narratives are embedded into the human psyche as ways of connecting facts and beliefs with each other. By doing that, a narrative seeks to give them meanings by placing them as parts of a linear development, brought together not simply by claims of causality but even more importantly, that of outlining an understanding of their shared meanings.

As a historiographical tool, narrative is a completely different animal. The field of narratology, initially defined by a method of narrative analysis, was developed in literary studies and moved to historiography when theoretically minded historians such as Hayden White began to point out that historical writing operates within the same conventions as literary fiction, studies having narrative arches and their heroes and villains. This tends to be also the most misunderstood part about the relationship between narratives and history. Offended historians were howling that they worked in scientific historiography, not in fiction. What the offence-taking obscured was the fact that there was little controversial in the theory itself, which was soon expanded by theorists and philosophers of history into a fully blown debate that was later dubbed as the narrative turn.<sup>4</sup> Lost among many over-theorized pieces was the basic truth that all good history presents a story, an interpretation of the facts that it contains and illustrating links with more general historical developments.

At the same time, in writing seminars dedicated to historical writing, authors are exhorted to present their studies in a way that keeps the reader in its grip, that contains a change or a turn and so illustrates the wider significance of the events. They are, in a way, asked to write a story that frames and conveys the results of their scientific historical inquiry. Authors of popular history have amply demonstrated the lure of history for the audience, verifiable from their sales figures.

So the content of history is not fiction, but the shape of history or

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2. In addition to Jim's article, the phenomenon has been discussed by Gamauf, Richard Gamauf, *Die Kritik am römischen Recht im 19. und 20. Jahrhundert*, 2 *ORBIS IURIS ROMANI* 33 (1995).

3. See PETER BROOKS, *SEDUCED BY STORY: THE USE AND ABUSE OF NARRATIVE* (2022).

4. HAYDEN WHITE, *METAHISTORY: THE HISTORICAL IMAGINATION IN NINETEENTH-CENTURY EUROPE* (1973); KUISMA KORHONEN, *TROPES FOR THE PAST: HAYDEN WHITE AND THE HISTORY/LITERATURE DEBATE* (2006).

historical writing follows the age old narrative conventions of stories. They have a beginning, a middle point, and an end. Characters are introduced, their fates are discussed, and the end contains a concluding part that draws together the narrative lines. The point that separates popular historical authors from the excellent professionals is that while the popular historical writers often tell the dramatized version of the accepted *Stand der Lehre* among historians, the professional's narrative may change the common narrative by giving it a new direction and meaning. This has been always one of the best things in Whitman's works: he takes a big theme in the history of law and revisits it, giving it a new twist and interpretation. In short, Jim engages in giving new meanings to historical narratives.

Historical writing has often been discussed by using stereotypes, such as that of Whig history. Coming from the field of British history, Whig history presents history as the onward march of progress, things getting better, improving and generally the humankind living a happier and longer life as a result. In contrast, the past is a realm of badness, backwards customs, violent behaviour and monikers such as the "Dark Middle Ages" or the "Renaissance" or "Enlightenment" to describe the general expectation of improvement of the state in which lives were nasty, brutish and short to something more pleasant. The tone of a typical Whig history is that in the past Things were bad, but now they are getting better.<sup>5</sup>

What does this have to do with legal history then?

A lot, it turns out. Especially popular accounts of legal history have sought to present the strangeness of the past as an exhibition of what may be described as the alien, the revolting, the cruel, and the barbarous of the past presented as contrasts to the enlightened present. Elements such as using torture, burning people as witches, having vendettas and blood revenges, not to mention the trials of animals for crimes they were understood to have committed were proof of the irrational, violent, prejudiced, and hateful nature of "early man", who's qualities may in many instances be compared to those of the indigenous peoples past and present. In all of this there is a strange, shared conviction that while modern law was thought to be a rational process, early law contained irrational and strange rituals, from ordeals to magical incantations. This same conviction has then been transplanted to social theory through authors such as Max Weber or Michel Foucault.<sup>6</sup>

In these accounts, there is an inbuilt assumption that history is a development from the early, simple, barbarous and cruel towards

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5. The term was originally invented by Herbert Butterfield. HERBERT BUTTERFIELD, *THE WHIG INTERPRETATION OF HISTORY* (1931).

6. While the textbook narratives of especially criminal law are almost universally following this model, its roots may be traced to theorists such as Max Weber. James Q Whitman, *At the Origins of Law and the State: Monopolization of Violence, Mutilation of Bodies, or Fixing of Prices?* CHICAGO-KENT LAW REVIEW 71 (1996): 41-84.

sophistication and rationality, to measured punishments and virtue. From mutilations and bodily punishments to incarceration with aim to cure or rehabilitate the criminal, or from objective guilt to evaluating the intention of the culprit, and so forth.

In short, a civilizing process is taking place.<sup>7</sup>

This is a narrative that national legal histories have adopted almost universally. For example, early Finnish legal history is about peasant communities, blood revenge, ritualistic and formalistic trials, harsh punishments, and the assumption of very low hygiene standards. Medieval laws would allow for revenge killings done in “first anger,” while later criminal law would prescribe the death penalty as punishment for breaking any of the biblical ten commandments. With the advent of modernization and urbanism come civilized manners and ideas about criminal law being about rehabilitation, not simply punishment as deterrence.<sup>8</sup>

The way Roman law fits into these narratives is twofold. First, there is the internal development of Roman law, its civilizing process, if one is to use the term. The narratives of archaic Roman law begin from the law of self-help and ritual formalism, the unlimited power of the father, and cruel punishments for offenses, often linked with magic and the supernatural.<sup>9</sup> Then, as Rome becomes a world power, civilizing influences, often in the shape of new philosophical ideas, begin to slowly transform the law: the powers of the father and the slave owner are curtailed, the position of women is improved and the humanity of all is recognized. The growing influence of Stoic philosophy brings about a novel concept of humanity as an universal notion that encompasses all irrespective of legal status, which leads to a drive to extend privileges previously reserved to adult male citizens to others as well.<sup>10</sup> While such trends may have been only partial and later reversed, it is clear that they represent a marked change in principle to universalizing ideas of law.

The second is the way that the influence of Roman law brings new impulses to local laws, helping it to develop and to, adopt to, new circumstances. This is the law of Roman jurists at its best, being rediscovered. Douglas Osler has written about this narrative of the emergence of Roman law as the key feature of European legal development that drives forwards it towards modernization.

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7. NORBERT ELIAS, *THE CIVILIZING PROCESS* (1982); Andrew Linklater & Stephen Mennell, *Norbert Elias, The Civilizing Process: Sociogenetic and Psychogenetic Investigations—An Overview And Assessment*, 49 *HIST. & THEORY* 384 (2010).

8. On the legal basis, see for example King Magnus Eriksson’s 1351 Law of the Realm on vengeance or Karl IX’s 1608 decree on the Law of Moses as applicable criminal law.

9. On criminal law, see JUDY E. GAUGHAN, *MURDER WAS NOT A CRIME: HOMICIDE AND POWER IN THE ROMAN REPUBLIC* (2010). On magic and its uses, see Kaius Tuori, *The Magic of Mancipatio*, 55 *REVUE INTERNATIONALE DES DROITS DE L’ANTIQUITÉ* 499 (2010).

10. Tony Honoré *Ulpian: Pioneer of Human Rights* (2002); DETLEF LIEBS, *SUMMONED TO ROMAN COURTS: FAMOUS TRIALS FROM ANTIQUITY* 139-154 (2012).

Osler maintains that this is the origin story of German legal history, a kind of *translatio studii* (transfer of learning, a play on the concept of *translation imperii*, how sovereignty was transferred from ancient Roman emperors to successor kingdoms) of legal learning. The narrative begins in Northern Italy with the rediscovery of the Digest of Justinian and the work of the doctors, the commentators and compilers to bring the light of Roman law and its solutions to bear on the novel commercial situations that the expanding trade and industry of the Renaissance needed. From there, the torch of legal learning was passed to France and the legal humanists there, from there to the Netherlands, a commercial center that developed a thriving school of law during the Early Modern period. The culmination of the story is that of the reception of Roman law in Germany, a grand event that fused together the work of great German lawyers and the long tradition of European Roman law scholarship.<sup>11</sup>

As has been pointed out by Osler and others, this is a wonderful narrative. It is also a narrative that has spread to nearly all legal history textbooks in Europe and the Western world. However, it is also a very German narrative, the origin story of German law. And as Osler and others have pointed out, it is also a false narrative, a narrative that omits and excludes, forgetting the vast majority of legal scholarship that was published in Europe, the *mos Italicus* style of writing which focused on the practical legal problems of the day. In its stead, it projects into the past an origin story of a certain kind of legal scholarship, emphasizing things that are mostly relevant in the present. Of course, if it would be simply a history of that type of scholarship, little harm would be done. However, as such narratives purport to be the histories of European law, such selectivity comes with a price.

However, what has often been forgotten is that instead of a single narrative of Roman law in European history, there are several narratives, with different aims and backgrounds. We have narratives such as that of Paul Koschaker, who began to craft his version as a counterargument to Nazi policies. He emphasized the pre-war unity of the imperial Europe, of the cultural cohesion brought by Christianity, and the continuing power of the example of Rome. Koschaker's ideal is Europe that reconnects with the best traits of the pre-1918 empires of multinationalism, although he is prone to forgetting how empires were also prone to abusing minorities.<sup>12</sup> Then we have narratives such as that of Álvaro D'Ors, depicting Catholicism as the driving force for unity, with Roman law as a lay part of a Catholic order which is not reliant on the vagaries of the nation state.<sup>13</sup> Finally, there were

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11. D.J. Osler, *The Fantasy Men*, 10 RECHTSGESCHICHTE 169 (2007).

12. PAUL KOSCHAKER, *EUROPA UND DAS RÖMISCHE RECHT* (1947). On Koschaker, see TOMMASO BEGGIO, *PAUL KOSCHAKER (1879–1951): REDISCOVERING THE ROMAN FOUNDATIONS OF EUROPEAN LEGAL TRADITION* (2018).

13. Álvaro d'Ors, *Jus Europaeum*, in, *L'EUROPA E IL DIRITTO ROMANO: STUDI IN MEMORIA DI PAOLO KOSCHAKER* 449-476 (Milano Giuffrè, ed., 1954).

authors such as Franz Wieacker, whose enthusiasm for Nazi New Legal Science after 1933 was replaced in 1944, when Soviet tanks were approaching Berlin, by a strong belief of the unity of legal thought and method, emerging from the background of Roman law but overcoming and eclipsing it.<sup>14</sup>

All of these narratives were born in the vacuum of the post-war years, what Michael Stolleis called the silence of the 1950s, the refusal of the German legal academia to discuss the Nazi years and their implications. They were all produced with the not so hidden agenda of erasing the compromises, collusions, and involvements of the years of totalitarianism. Not that it would have been hard, especially in Germany where the short period of denazification was followed by a renazification of vast proportions.<sup>15</sup> Even in Germany, legal scholars who had been complicit in the Nazi efforts to subvert the legal system on racial ground were fairly soon rehabilitated, many of them changing fields and reinventing themselves. The only Nazi legal academics who really paid the price were Hans Frank, who was sentenced to death in Nuremberg and hanged (primarily for his actions as the governor of Nazi-occupied Poland), and Carl Schmitt, the erstwhile crown jurist of the Nazi movement, who was never to hold an official post at a German university.

Luckily, the European narrative was born in an opportune moment, with the rise of European political unification and the division of Europe between East and West. Against the threat of Soviets, even former Nazis were acceptable allies, their moral bankruptcy and participation in crimes against humanity concealed by a network of allies who, under the banner of neutrality, promoted those who had been involved in the Nazi regime and penalized those who had not, the first group gaining publications and merits while the second did not. While the new generation was not without its taints by association, central figures such as Helmut Coing were too young to have been involved in ways that could not be forgotten. Others, such as Franz Wieacker, were saved by their old comrades from the Nazi-era training camps, who obfuscated all investigations and pushed for amnesties.<sup>16</sup> Beginning from the 1950s, there emerged a new kind of understanding of legal history in Europe, one that started from the premise of Europe as a unit. With the political background of European unification, legal scholars and historians began to formulate a novel idea which took the

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14. FRANZ WIEACKER, *A HISTORY OF PRIVATE LAW IN EUROPE: WITH PARTICULAR REFERENCE TO GERMANY* (Tony Weir, trans., 1995). On Wieacker, see VILLE ERKKILÄ, *THE CONCEPTUAL CHANGE OF CONSCIENCE: FRANZ WIEACKER AND GERMAN LEGAL HISTORIOGRAPHY 1933-1968* (2019)

15. Ville Erkkilä, *The metaphysics and legal history: An interview with Michael Stolleis*, 6 *EUROP. LEG. ROOTS ONLINE* 3, 14 (2016).

16. HELMUT COING, *FÜR WISSENSCHAFTEN UND KÜNSTE: LEBENSBERICHT EINES EUROPÄISCHEN RECHTSGELEHRTEN*, HRSG., KOMMENTIERT UND MIT EINEM NACHWORT VON MICHAEL F. FELDKAMP (2014)

works of Koschaker and post-1944 Wieacker, presenting a narrative beginning from ancient Rome and its law as a starting-point of European legal integration.

From the Roman law scholars who brought this narrative to the heady optimism of the 1990's, Reinhard Zimmermann is perhaps the most emblematic. His maximalist view of the civil tradition as an uninterrupted development of learned law became a popular origin story of the vast projects attempting to unify European private law. In many of these projects, the underlying notion was that of an inherent unity of European jurisprudence, one preset in the shared roots formed by Roman jurisprudence, of the legal concepts, doctrine and modes of thinking that were derived from the Roman model. One of Zimmermann's main interests was to link even England to this story, a line that went against the nationalist legal histories of England in the same way that Brexit went against the narrative of unrelenting unification.<sup>17</sup>

The optimism of the 1990's was not to last. In the last decade or so, the political project of European unification has been in trouble, from the rise of populism and anti-Europeanist sentiment, which most famously brought us Brexit, but also the overreach of the European commission. Attempts to rectify the matter through grand projects such as the Barroso commission's "A New Narrative for Europe" (2013-2017) project have produced many papers but fewer new ideas.<sup>18</sup> In terms of European legal development, the historical project of European law has been overshadowed by the emerging European legal developments themselves, with legislation and case-law producing fodder for a new kind of European legal tradition. While some of the Roman law scholars still remind us of the Roman roots of this tradition, the so-called Neo-Pandectist moment of attempting to draft a new European private law from those roots is stalled. Instead of looking for the future in the past, the European private lawyers have been looking at Brussels.

My question is, if there is a need for a new narrative for Europe, should there also be a new narrative for Roman law in European legal history?

The interesting common feature of the narratives of European legal history has been that they have been extensions of national legal histories. Within the numerous European legal histories, is there one that would be truly European? A brief perusal of the available textbooks reveals that texts in the market are usually of the traditional variety, offering the national narrative in a general European context. The reasons why that is so may relate to the nature of the textbook market, which favors books that conform

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17. See for example, REINHARD ZIMMERMANN, *ROMAN LAW, CONTEMPORARY LAW, EUROPEAN LAW: THE CIVILIAN TRADITION TODAY* (2001)

18. The program was launched by President of the European Commission José Manuel Barroso in a speech in April 23, 2013, stating that "the European Union is fundamentally a political and cultural project based on strong humanist values." [https://ec.europa.eu/commission/presscorner/detail/en/SPEECH\\_13\\_357](https://ec.europa.eu/commission/presscorner/detail/en/SPEECH_13_357)

to the traditional way of teaching national and European legal history as a unit. In a sense, this is a continuation of the narrative formed by post-War scholars such as Koschaker, Coing, or Wieacker, who envisioned the narrative of the shared European tradition of law that had its roots in Roman law.

In this moment of crisis of European project, it is emblematic that even the flagship of the narrative of European legal history, the Max Planck Institute for European Legal History, has changed, reinventing itself. The way that legal historians in the institute are presenting themselves are equally telling in their attempt at stepping outside the Eurocentrist view that the institute had driven since its beginning.<sup>19</sup> However, even there the emphasis on, for instance, European settler states outside Europe could be argued to be a continuation of the old project in another shape or form.

Again, the issue has been one of focus, which side of Roman law is one interested in? Is Roman law the law of the Romans or the origins of the European legal tradition? Is the latter way of approaching it simply an abusive way of telling this history, a way of hijacking Roman law as a tool for legitimating the present? Or should Roman law be simply the law of ancient Rome, studied in its historical context as a feature of ancient societies?

The problem that has haunted Roman law and its relationship with history is that it continues to be presented as ahistoric, a legal system of the past from which we learn the law of the present, as it is present in the national legal systems. This has been the traditional way of teaching Roman law in law schools, providing an introduction to legal concepts and thought. Even in textbooks, where the actual historical material is outlined in accordance with the latest research, the aim of the narrative and the interest is in the contemporary legal system.<sup>20</sup>

Then again, for European law, is there a need for Roman law? Or is it just a history suitable for a future that never materialized? If we abandon the notion of Roman law as roots or shared origins, what remains?

I would argue that there are actually two Roman law traditions that are intermingled, yet have separate and distinct research agendas: the first being Roman law as law of the Romans and other cultures of the ancient Mediterranean, and the second being Roman law as a global tradition that has emerged from the ancient Roman sources but is distinct from them. Both traditions are integral parts of the European legal tradition and history, but in very different ways.

For a history of Roman law as Roman law, all political agendas and Neo-

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19. Thomas Duve, *Von der Europäischen Rechtsgeschichte zu einer Rechtsgeschichte Europas in globalhistorischer Perspektive*, 20 RECHTSGESCHICHTE 18 (2012).

20. ALFRED SÖLLNER & CHRISTIAN BALDUS, RÖMISCHES RECHT (2022); GEORGE MOUSOURAKIS, ROMAN LAW AND THE ORIGINS OF THE CIVIL LAW TRADITION (2015).

Pandectist fantasies of the revival of the past are useless. This is the history of the legal experience of an evolving ancient society, which was for most of its history legally and culturally pluralistic.<sup>21</sup> The reason why the separation of what appears to us as rational and what appears as irrational is important is that by looking at what we see as relevant we tend to impose our own logic on the sources and fail to see what is actually there. As the famous historian's adage states, the past is an alien place, they do things differently there.

The second tradition sees Roman law as the occasionally weird origin story of jurisprudence. The Roman tradition informs most of the contemporary legal consciousness, the legal imagination so to speak. The history of Roman law and European legal development are very much entangled, because legal concepts and the basic doctrine of law in most European legal cultures comes from Roman law, either directly, or by a link such as German or Italian jurisprudence. However, searching for the lowest common denominator as foundation was perhaps not a useful starting point for a new European private law, as has since been realized. The new European private law is being formed as a completely new development, starting from European foundations, though informed by the tradition, as law does as a self-reflective system.

If the notion of Roman law as a singular subject with its research interest based on its significance in the contemporary European legal developments, then what would be the place of Roman law in the European legal historical research agenda?

Roman law continues and will continue to play an important role in the origin stories of national European legal traditions and their self-portrayals. This remains so for two main reasons. First, because Roman law continues to have cultural legitimacy, which makes it attractive for lawyers to connect themselves to them as part of their history. Second, because elements from the Roman legal traditions, its concepts and rules, are so deeply embedded into European legal traditions.

I would argue that there is an ongoing development in which the two traditions of Roman law, that of the law of the Romans in their historical context, and the so-called reception of Roman law, are becoming more and more separated.

Bruce Frier discussed decades ago the development which he coined the descent of Roman law into history. By this he meant that Roman law was becoming more and more historicized, concerned more with the historical veracity than legal relevance. In the American context, this descent has meant that Roman law scholarship has been more and more removed from

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21. In new works such as KIMBERLEY CZAJKOWSKI, BENEDICT ECKHARDT AND MERET STROTHMANN, *LAW IN THE ROMAN PROVINCES* (2020), allusions of modern significance are completely absent.

law schools and into departments of Classics and History.<sup>22</sup> In fact, very few of the currently active Roman law scholars in the United States are employed at law schools.

The study of the Roman law of the Romans, or the historical experience of law during antiquity, has for decades grown into a historical and cultural study of the normative circumstances of the ancient world. This world was both culturally and normatively pluralistic, leading to conflicts and contestations that informed how law was understood and utilized. It would be an exaggeration to claim that this would have been a novel development; purely historical studies on ancient law without any kinds of links to modern law have been done since the late nineteenth century.

However, it is now emerging from a marginal to a mainstream pursuit. Recent works such as Ari Bryen's or Serena Connelly's illustrate that in order to be relevant, Roman law does not need to be directly connected with contemporary law, but rather that by exploring themes that open up larger issues relating to legal development and the role of law in society, one may speak to a legal audience nevertheless.<sup>23</sup>

The second tradition, that of the reception of Roman law, was the focus of Whitman's first book on Roman law during the German Romantic era. Although it is often neglected in favor of his later works which have a greater significance for American legal developments, the book remains a significant contribution to the understanding of the way that Roman law was utilized as a constitutive element in the German efforts at legal modernization, and importantly, how the failure of those efforts to use Roman law to advance modern law led to a new freedom in how to study it.<sup>24</sup> Whitman built upon the theme explored earlier by Wieacker, who argued that by the mid-nineteenth century, Roman lawyers engaged in a descent to history of a different sort. By immersing themselves to an ever more diligent study of original sources such as inscriptions and papyri, Roman lawyers uncovered more and more of the reality of law on the ground. What they discovered was not the ordered and dogmatically pure law of the Digest of Justinian (never mind that many have claimed that the Digest is neither ordered or dogmatically pure), but rather the messiness that is law applied to everyday cases. They also discovered the plurality of law in the Roman world, of the continuing relevance of local laws despite the *Constitutio Antoniniana* of 212 which was supposed to have unified law in the Roman Empire.<sup>25</sup>

Despite this breaking up of the unitary world of Roman law, scholars of

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22. Bruce Frier, *Roman law's descent into history*, 13 J. OF ROMAN ARCHAEOLOGY 446 (2000).

23. Ari Z. Bryen, *Law in Many Pieces*, 109 CLASSICAL PHILOLOGY 346 (2014).

24. JAMES Q. WHITMAN, *THE LEGACY OF ROMAN LAW IN THE GERMAN ROMANTIC ERA: HISTORICAL VISION AND LEGAL CHANGE* (1990).

25. FRANZ WIEACKER, *A HISTORY OF PRIVATE LAW IN EUROPE: WITH PARTICULAR REFERENCE TO GERMANY* (Tony Weir, trans., 1995).

Roman law continued to maintain the unity of the field, with the “reception” of Roman law added as a specific topic to the curricula of the discipline of Roman law. For instance, in Italy, there is a continuing divide between the disciplines of Roman law and legal history, with legal history starting chronologically from the Middle Ages onwards. Roman law, however, is not part of that legal history.

Stripping aside traditional disciplinary boundaries and customary ways of doing scholarship, what remains is quite remarkable. Roman law contains an immense mass of texts, with the Digest of Justinian alone containing some ten thousand excerpts of the writings of classical jurists. Documentary papyri, inscriptions and ancient literature illustrate how law formed an integral and central part of life in the ancient societies where Roman law was present, influencing legal, political, economic, and cultural spheres. This incredibly rich material offers possibilities for study beyond a narrow doctrinal scope. However, the later impact of the Roman legal material is a source for studies of literally global reach. For example, the teaching of Roman law in Japan just celebrated its 150<sup>th</sup> anniversary. What kind of influence did this have in Japanese legal development and legal doctrine? The same may be asked of the role of Roman law in the history of South Africa, where it had both a celebrated role as a foundation of Roman-Dutch law and a curious part in shaping the Apartheid legal regime. In short, the history of Roman law is vastly richer than an opening chapter for a European legal history, its complexity and global impact from the Antiquity to the present opening possibilities for all kinds of novel inquiries. In the scholarship on Roman law, Whitman’s studies have been revelatory in breaking down the boundaries between ancient and modern traditions of Roman law and their study.