

THE IMPACT OF ROMAN LAW ON THE DEVELOPMENT OF EUROPEAN LEGAL SYSTEMS

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ABSTRACT

Roman law has played an instrumental role in shaping the legal systems of Europe, serving as the foundation for many modern legal frameworks. Originating in ancient Rome, its principles, particularly those of *jus civile* and *jus gentium*, established concepts of justice, property, and governance that have permeated European legal thought. Throughout the Middle Ages, Roman law experienced a revival through jurists and scholars who integrated it into the developing legal systems of Europe, particularly within the civil law tradition.

The influence of Roman law is evident in the formation of the Napoleonic Code, which later spread across continental Europe, laying the groundwork for modern civil law systems. Even common law systems, such as that of England, were indirectly influenced through the study of Roman law, especially in areas like equity and property law. Furthermore, the principles of Roman law have played a significant role in shaping the legal frameworks of the European Union, providing foundational legal concepts such as *pacta sunt servanda* and *bona fides*.

Roman law's detailed approach to contracts, obligations, and property law has left a lasting imprint on European legal thought. The distinction between public and private law, developed during the Roman Empire, continues to structure modern European legal systems. Additionally, the adaptability and systematic nature of Roman legal principles have enabled their application in diverse legal contexts across Europe.

Despite the passage of centuries, Roman law's legacy endures in the codification of laws, the structuring of legal institutions, and the interpretation of legal principles. The Roman legal system's ability to balance flexibility with structure has ensured its ongoing relevance in European legal traditions, influencing both national legal systems and supranational bodies like the European Union. This enduring influence highlights the critical role of Roman law in the historical development and modern function of European legal systems.

Keywords: Separation of Powers, Legal Theory, Modern Governance.

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1. Introduction

Roman law has had a profound and enduring influence on the legal systems of Europe, forming the bedrock of modern civil law traditions and providing a conceptual framework that continues to shape contemporary legal structures. Originating during the Roman Republic and evolving throughout the Roman Empire, this body of law extended beyond the borders of the ancient empire, significantly impacting the development of legal systems in Europe from the Middle Ages onward. Roman law's comprehensive codification, particularly through the *Corpus Juris Civilis* (Body of Civil Law) compiled under Emperor Justinian in the 6th century, provided a model for later European legal systems that sought to establish coherence, stability, and fairness.

The resurgence of Roman legal thought in the Middle Ages, particularly through the study and teaching of Roman law at European universities such as Bologna, played a pivotal role in the consolidation of national legal systems. Roman law's sophisticated system of obligations, property rights, and personal status laid the groundwork for the civil law traditions that later emerged in countries such as France, Italy, Spain, and Germany. These systems, known collectively as *jus civile*, were characterized by their reliance on written legal codes, a key principle inherited from Roman legal practice.

Moreover, the principles of Roman law, including the distinction between public and private law, the notion of contractual obligations, and the recognition of property rights, were not confined to civil law jurisdictions. Even in common law systems, such as that of England, Roman law left its mark through the influence of medieval jurists and legal scholars. These principles helped shape the development of equity and contributed to foundational legal concepts such as *stare decisis*, which anchors modern common law systems.

One of the most significant manifestations of Roman law's influence can be observed in the Napoleonic Code of 1804. This codification of French law drew heavily on Roman legal principles and became a model for legal systems across continental Europe and beyond. The Napoleonic Code's clear structure and reliance on legal reason resonated with many emerging European states, which adopted similar codes to govern their societies. Its impact spread to Latin America, Africa, and Asia, where it helped shape modern legal frameworks in post-colonial nations.

Roman law's influence is also evident in the legal frameworks of the European Union. The EU's emphasis on the rule of law, fairness in commerce, and the protection of fundamental rights finds its roots in Roman legal thought. Concepts such as *pacta sunt servanda* (agreements must be kept) and *bona fides* (good faith) form the backbone of modern contract law and continue to be central to EU regulations, especially in trade and commerce agreements (Zimmermann, 1996).

However, the integration of Roman law into European legal systems was not without challenges. The process of adapting Roman law to fit local customs and governance structures required significant modifications, particularly as European nations developed their distinct legal identities. For instance, while Roman law emphasized written legal codes, many European societies operated under customary laws that were passed down orally or through local traditions (Stein, 1999). The reconciliation of these two legal traditions—written and customary—was a complex process that varied across regions.

Roman law's impact on European legal systems is both far-reaching and multifaceted. Its contributions to the development of legal codifications, principles of justice, and the structure of legal institutions remain foundational to many European countries. Through a historical lens, Roman law serves as both a source of inspiration and a practical framework for modern legal thought, reflecting its adaptability and enduring relevance.

2. Key Elements of Roman Law

Roman law's influence on European legal systems can be best understood through its fundamental principles and doctrines. These key elements formed the backbone of the Roman legal framework, and many of them have persisted into modern legal thought.

2.1. The Concept of Jus Civile and Jus Gentium

One of the core elements of Roman law was the distinction between *jus civile* (civil law) and *jus gentium* (the law of nations). *Jus civile* referred to laws specifically governing Roman citizens, while *jus gentium* was a broader set of principles that applied to interactions with foreigners or non-citizens. This dual system allowed Roman law to adapt to the needs of a growing and diverse empire, which in turn laid the groundwork for later European legal pluralism (Stein, 1999). *Jus gentium* later became the

foundation of international law, influencing not only European legal systems but also modern global jurisprudence (Zimmermann, 1996).

2.2. Codification and the Role of Written Law

Roman law was one of the earliest legal systems to emphasize the importance of codification. The Twelve Tables (450 BCE) were the first attempt at creating a written legal code for Roman citizens. Later, the Corpus Juris Civilis under Emperor Justinian consolidated centuries of legal thought into an authoritative compilation. This focus on codification not only ensured consistency and transparency in Roman law but also influenced the structure of legal systems across Europe, particularly in civil law countries such as France, Germany, and Italy, which adopted similar approaches to codifying laws in the modern era (Stein, 1999).

2.3. The Law of Obligations

One of the most enduring contributions of Roman law to European legal systems is the concept of obligations, which forms the basis of modern contract and tort law. Roman law classified obligations into four types: contracts, delicts (similar to torts), quasi-contracts, and quasi-delicts. These classifications allowed for a detailed understanding of legal duties and responsibilities, influencing both private and commercial law in Europe (Zimmermann, 1996). The Roman principle of *pacta sunt servanda* (agreements must be kept) remains a cornerstone of contract law in modern legal systems, emphasizing the binding nature of contracts.

2.4. Property Rights and Ownership

Roman law developed a highly sophisticated system of property rights that has greatly influenced European legal traditions. Roman jurists distinguished between ownership (*dominium*) and possession (*possessio*), a distinction that continues to be relevant in contemporary property law. The Roman approach to property law emphasized the absolute nature of ownership, allowing owners full control over their property, subject to certain restrictions like easements and servitudes. This concept of ownership became fundamental to modern property law in civil law countries (Stein, 1999).

2.5. The Role of Equity and Justice

Roman law also recognized the importance of equity (*aequitas*) in the application of legal rules. Equity allowed judges and magistrates to adapt legal principles to individual circumstances, ensuring that justice was

served. This concept of equity influenced later developments in European legal thought, particularly in the English common law system, where the principles of equity continue to operate alongside formal legal rules (Zimmermann, 1996). The integration of equity into Roman law underscored the importance of fairness and flexibility in legal adjudication, a legacy that persists in modern legal systems.

2.6. Public and Private Law

Roman law made a significant distinction between public law (*jus publicum*) and private law (*jus privatum*). Public law governed the relationship between the state and individuals, covering areas like criminal law and constitutional matters, while private law dealt with relationships between individuals, particularly in areas like contracts and property. This separation remains fundamental to modern European legal systems, which continue to distinguish between public law, such as administrative and constitutional law, and private law, such as family and inheritance law (Stein, 1999).

2.7. The Influence of Roman Jurisprudence

Roman jurists played a critical role in the development of Roman law, offering interpretations and opinions that shaped the application of legal principles. Figures like Gaius, Ulpian, and Papinian contributed significantly to the development of legal thought, and their writings were included in Justinian's Digest. This tradition of legal scholarship laid the foundation for the role of legal experts and academics in European legal systems, where the writings of jurists continue to influence both case law and legislation (Stein, 1999).

Roman law's key elements—*jus civile* and *jus gentium*, codification, obligations, property rights, equity, public and private law distinctions, and legal scholarship—have profoundly shaped the development of European legal systems. These principles have been integrated into both civil and common law traditions, providing a foundation for modern legal frameworks across Europe and beyond.

3. Roman Law in the Middle Ages

During the Middle Ages, Roman law experienced a revival that profoundly impacted the development of European legal systems. After the fall of the Western Roman Empire, much of Roman law was preserved in the Byzantine Empire through Justinian's *Corpus Juris Civilis*, which became a key reference point for medieval legal scholars. In the 12th

century, the study of Roman law was reintroduced in Western Europe, particularly at the University of Bologna, where scholars such as Irnerius began to systematize and teach it.

3.1. The Revival of Roman Law in Medieval Universities

The rediscovery of Justinian's *Corpus Juris Civilis* in the 11th and 12th centuries played a crucial role in the rebirth of Roman law across Europe. The University of Bologna became the central hub for the study of Roman law, with jurists like Irnerius leading the way in its interpretation. Roman law became the foundation for the *ius commune*, a body of common legal principles that influenced legal systems across Europe (Stein, 1999). The spread of Roman law from Bologna to other universities in Europe contributed to the creation of a learned legal culture.

3.2. Canon Law and Roman Law

Roman law had a significant influence on the development of canon law, the legal system of the Catholic Church. Medieval canonists often drew on Roman law principles, especially in areas related to contracts, property, and marriage. Gratian's *Decretum*, a foundational text for canon law written in the 12th century, was heavily influenced by Roman legal concepts (Helmholz, 1996). The interaction between canon law and Roman law helped shape the legal frameworks of medieval Europe and ensured that Roman law principles continued to influence European legal thought.

3.3. The Glossators and Commentators

The Glossators were medieval jurists who played a significant role in interpreting and adapting Roman law to the needs of their time. They wrote extensive commentaries (known as glosses) on the *Corpus Juris Civilis*, explaining and clarifying its meaning for contemporary audiences. Scholars like Accursius compiled these glosses into comprehensive works, which became standard references in the study of Roman law (Stein, 1999). In the 14th century, the Commentators, led by jurists like Bartolus and Baldus, further developed the application of Roman law, adapting it to local customs and integrating it with feudal law.

3.4. Roman Law and Feudal Law

While Roman law was revived in the universities, Europe during the Middle Ages was largely governed by feudal law, which was based on local customs and feudal obligations. The interaction between Roman law

and feudal law led to the emergence of the *ius commune*, a legal system that combined Roman legal principles with local traditions. Roman law provided a more systematic and rational approach to legal problems, particularly in matters of property, obligations, and inheritance, which were critical in a feudal society (Stein, 1999).

3.5. Influence on Emerging National Legal Systems

By the late Middle Ages, Roman law had a profound influence on the development of national legal systems across Europe. In countries like Italy, France, and Germany, Roman law was used as a subsidiary legal system alongside local laws. In the Holy Roman Empire, for instance, the reception of Roman law in the 15th and 16th centuries led to the development of a legal system that combined Roman legal principles with local Germanic law, known as reception of Roman law (Zimmermann, 1996).

3.6. The Impact of Roman Law on Jurisprudence and Legal Practice

Roman law provided a sophisticated framework for legal reasoning and jurisprudence that had a lasting impact on European legal systems. The principles of Roman law, particularly those related to property, contracts, and obligations, were incorporated into the legal systems of many European countries. This influence is particularly evident in the civil law traditions of France, Italy, and Germany, where Roman law served as the foundation for the development of modern legal codes (Helmholz, 1996).

Roman law in the Middle Ages not only survived but thrived, influencing legal education, the development of canon law, and the formation of national legal systems. Its revival in medieval universities and the work of jurists like the Glossators and Commentators ensured that Roman legal principles would remain at the heart of European jurisprudence, shaping legal thought and practice for centuries to come.

4. Roman Law and Canon Law

Roman law and canon law have been closely intertwined throughout European history, particularly during the Middle Ages. Canon law, the legal framework of the Catholic Church, borrowed extensively from Roman legal principles, particularly those codified in the *Corpus Juris Civilis*. Roman law influenced canon law in areas such as property rights, marriage, and contracts, contributing to the development of a

comprehensive legal system that shaped both ecclesiastical and secular jurisprudence.

4.1. Early Development of Canon Law

Canon law emerged as the legal system of the Christian Church, initially influenced by biblical teachings and the decisions of early Church councils. However, as the Church expanded, it required a more sophisticated legal framework to govern its internal matters and interactions with secular authorities. Roman law, with its well-established doctrines on property, obligations, and governance, provided a foundation for canon law. The Corpus Juris Civilis of Justinian, particularly the Digest and Code, became key sources of legal norms for canonists (Helmholz, 1996). This incorporation of Roman law into canon law allowed the Church to develop a legal system that could regulate not only religious matters but also issues of family law, contracts, and property disputes.

4.2. Gratian's Decretum and the Formalization of Canon Law

In the 12th century, Gratian's Decretum marked a turning point in the formalization of canon law. Gratian, a monk and legal scholar, compiled a collection of Church laws and teachings that became the foundational text for medieval canon law. While the Decretum was rooted in Church doctrine, it was heavily influenced by Roman law principles, particularly those relating to justice, equity, and procedural rules (Helmholz, 1996). Gratian's work was instrumental in creating a systematic body of law that could be taught and applied consistently across Christendom. The influence of Roman law on Gratian's Decretum also helped bridge the gap between ecclesiastical and secular legal systems, as many of the same legal principles were applied in both domains.

4.3. Roman Law in Ecclesiastical Courts

Ecclesiastical courts, which were responsible for adjudicating matters related to the Church, family law, and moral offenses, often applied Roman law principles in their decisions. Roman law's doctrines on contracts, inheritance, and property rights were particularly influential in these courts. For example, the Roman law concept of bona fides (good faith) was central to canon law's approach to contractual obligations, emphasizing the moral duty of individuals to honor their agreements (Helmholz, 1996). Similarly, Roman law's rules on succession and

property were adapted by canon law to regulate Church property and the distribution of estates in cases involving clerics or religious institutions.

4.4. Interaction with Secular Law

The interaction between Roman law, canon law, and secular legal systems was complex. While canon law governed matters within the Church's jurisdiction, Roman law continued to influence secular courts, particularly in regions where the Church held significant political power. In some cases, ecclesiastical courts had jurisdiction over matters that would today be considered secular, such as marriage, inheritance, and contracts. This overlap between canon and secular law created a legal pluralism in which Roman legal principles were applied in both religious and civil contexts (Berman, 1983). The influence of Roman law on both canon and secular legal systems contributed to the development of the *ius commune*, a body of common legal principles that formed the foundation for European legal traditions.

4.5. Critiques and Reforms of Canon Law

Despite its reliance on Roman law, canon law faced criticism and calls for reform, particularly during the Reformation. Critics argued that the Church's legal system was overly complex, corrupt, and disconnected from the needs of the faithful. The Protestant Reformation, in particular, challenged the authority of canon law, leading to significant legal reforms in many parts of Europe. However, the influence of Roman law on canon law persisted, particularly in Catholic regions, where the Council of Trent (1545–1563) reaffirmed the Church's legal traditions and codified many aspects of canon law (Berman, 1983).

4.6. Legacy of Roman Law in Canon Law

The legacy of Roman law in canon law is evident in modern legal systems, particularly in countries with civil law traditions. Many of the principles that were developed in medieval canon law, such as the concept of legal equity, the regulation of contracts, and the protection of property rights, continue to influence contemporary legal thought. Additionally, the study of Roman and canon law in medieval universities laid the groundwork for the development of modern legal education, with Roman law serving as a model for legal reasoning and codification.

In conclusion, Roman law played a fundamental role in shaping canon law, particularly in the areas of property, contracts, and procedural justice. The interaction between these two legal systems not only influenced the

governance of the Church but also contributed to the development of European legal traditions more broadly. The enduring legacy of Roman law in canon law highlights the importance of legal pluralism in the formation of Western legal systems.

5. Roman Law and the Napoleonic Code

The Napoleonic Code, introduced in 1804, represents one of the most significant legal codifications influenced by Roman law. This code aimed to systematize French law and served as a model for many legal systems worldwide. Roman law's impact on the Napoleonic Code can be seen in its structure, particularly in areas such as property, contracts, and civil rights, all of which drew heavily from Roman legal principles.

5.1. Development of the Napoleonic Code

The Napoleonic Code was a response to the need for a unified legal framework in post-revolutionary France. Prior to its creation, France had a patchwork of local customs and laws, many of which were inconsistent with Enlightenment ideals of equality and justice. Napoleon Bonaparte sought to eliminate these disparities by creating a civil code that would apply uniformly across the country (Boudon, 2005). The drafters of the Napoleonic Code turned to Roman law as a model, particularly the *Corpus Juris Civilis*, which had long been regarded as a comprehensive and rational legal system. By incorporating Roman legal principles, the Napoleonic Code aimed to create a legal framework that was clear, accessible, and rooted in a tradition of legal reasoning.

5.2. Roman Law's Influence on Property Law

One of the most significant areas in which Roman law influenced the Napoleonic Code is property law. Roman legal concepts such as *dominium* (ownership) and *usus fructus* (the right to use and enjoy property) were directly incorporated into the Code's provisions on property rights. The Code distinguished between personal and real property, a distinction that can be traced back to Roman law. Moreover, the Napoleonic Code adopted the Roman principle that ownership is an absolute right, subject only to limitations imposed by law or by the rights of others (Boudon, 2005). This emphasis on the sanctity of private property became a cornerstone of civil law systems influenced by the Napoleonic Code.

5.3. Contracts and Obligations

Roman law also played a crucial role in shaping the Napoleonic Code's provisions on contracts and obligations. Roman legal doctrines such as *pacta sunt servanda* (agreements must be kept) were incorporated into the Code's approach to contractual obligations. The Code established clear rules for the formation, performance, and enforcement of contracts, many of which were derived from Roman legal principles (Stein, 1999). For example, the concept of *bona fides* (good faith) in Roman law was carried over into the Napoleonic Code, which required parties to act in good faith in their contractual dealings. This emphasis on fairness and mutual obligation reflected the Roman law tradition of balancing individual rights with social responsibilities.

5.4. Civil Rights and Family Law

The Napoleonic Code also drew from Roman law in its treatment of civil rights and family law. Roman legal principles on marriage, inheritance, and paternal authority influenced the Code's provisions on family relationships. For example, the Roman concept of *patria potestas* (the power of the father) was adapted into the Napoleonic Code's provisions on parental authority, although the Code granted more rights to women and children than Roman law had traditionally allowed (Boudon, 2005). Additionally, Roman law's emphasis on legal formalism in matters of inheritance and succession influenced the Code's approach to wills and estates.

5.5. International Influence of the Napoleonic Code

The Napoleonic Code's reliance on Roman law contributed to its adoption as a model for legal systems around the world. Countries in Europe, Latin America, and even parts of Africa and Asia adopted legal codes based on the Napoleonic model, incorporating Roman legal principles into their own legal traditions. This diffusion of Roman law through the Napoleonic Code helped to establish civil law as the dominant legal tradition in many parts of the world (Stein, 1999). The Code's clarity, accessibility, and grounding in Roman legal principles made it a highly influential legal document that continues to shape modern legal systems.

5.6. Critiques and Reforms

Despite its widespread influence, the Napoleonic Code has faced criticism for its rigid formalism and its limitations in addressing social and economic changes. Critics argue that the Code's reliance on Roman legal

principles, while effective in creating a coherent legal system, sometimes fails to account for the complexities of modern society (Berman, 1983). In response to these critiques, many countries have reformed their civil codes to address issues such as gender equality, labor rights, and environmental protection. Nevertheless, the Napoleonic Code's foundation in Roman law continues to provide a stable framework for legal interpretation and reform.

The Napoleonic Code represents one of the most significant instances of Roman law's influence on modern legal systems. By incorporating Roman legal principles into its provisions on property, contracts, and civil rights, the Code created a legal framework that has shaped the development of civil law traditions worldwide. The enduring legacy of Roman law in the Napoleonic Code highlights the importance of historical legal traditions in shaping modern legal systems.

6..Roman Law and Civil Law Tradition

The civil law tradition, which dominates legal systems across continental Europe and much of Latin America, owes much of its foundational principles to Roman law. The civil law tradition is characterized by codified legal systems, and the *Corpus Juris Civilis* of Justinian is considered a crucial influence. Roman law introduced comprehensive legal frameworks on property, contracts, and obligations that remain central to civil law systems today.

6.1. Codification and Roman Influence

Roman law introduced the idea of written legal codes, which became essential in the civil law tradition. The *Corpus Juris Civilis*, compiled under Emperor Justinian in the 6th century, served as a foundational text for many European legal systems. Its influence is evident in the legal codes that emerged in Europe after the fall of the Roman Empire, particularly during the 19th century when several European countries began codifying their laws (Stein, 1999). The concept of codification, where laws are systematically organized and written, is a direct inheritance from Roman legal traditions.

6.2. Private Law and Roman Foundations

One of the most enduring contributions of Roman law to the civil law tradition is its focus on private law, particularly regarding contracts, property, and obligations. Roman jurists developed sophisticated rules

governing contracts, which provided the foundation for the modern law of obligations in civil law systems (Zimmermann, 1996). The idea of consensual contracts and the binding nature of agreements under Roman law heavily influenced the development of contractual obligations in modern civil law. Similarly, Roman property law, with concepts like dominium (ownership) and servitutes (servitudes), formed the basis for property rights in European legal systems.

6.3. Legal Procedures and Courts

Roman law's influence on legal procedures and court systems is another cornerstone of the civil law tradition. The development of a clear system of legal remedies, judicial procedures, and an emphasis on written legal processes in Roman law laid the groundwork for civil law's focus on codified statutes and formalized court procedures. This structured approach to law, where cases are decided based on comprehensive written laws rather than judicial precedent, distinguishes the civil law tradition from common law systems, where case law plays a more prominent role (Glendon et al., 2018).

6.4. Revival of Roman Law in Europe

During the Middle Ages, Roman law experienced a revival, particularly in the universities of Italy, where it was studied and adapted for use in the governance of emerging European states. The rediscovery of the Corpus Juris Civilis in the 11th century led to the development of a body of legal scholarship that came to be known as the *ius commune*, or common law of Europe (Stein, 1999). This body of law, based largely on Roman principles, was instrumental in shaping the legal systems of many European countries, particularly those in the civil law tradition. Scholars and jurists adapted Roman legal principles to contemporary needs, further embedding Roman law into the fabric of European legal systems.

6.5. Modern Civil Codes and Roman Law

The codification of laws in the 19th century, most notably the Napoleonic Code in France and the Bürgerliches Gesetzbuch (BGB) in Germany, were directly influenced by Roman law. These civil codes took Roman legal concepts and adapted them to the needs of modern nation-states. The Napoleonic Code, for instance, incorporated Roman principles of property, family law, and contracts, while the BGB drew extensively from Roman legal doctrines, particularly in its treatment of obligations and private law (Zimmermann, 1996). The systematic organization and logical

structure of these codes reflect the Roman approach to law as a rational and coherent system.

6.6. Global Influence of Civil Law

The influence of Roman law is not limited to Europe. The civil law tradition, with its roots in Roman legal principles, has spread to Latin America, parts of Africa, and Asia, making Roman law one of the most significant global legal traditions. Countries such as Brazil, Japan, and Egypt, which adopted civil law systems, all owe their legal frameworks in part to the principles of Roman law (Stein, 1999). The global spread of civil law further underscores the lasting impact of Roman legal thought on the development of legal systems worldwide.

In conclusion, Roman law's influence on the civil law tradition is profound and enduring. From codification to private law, Roman legal principles continue to shape the legal systems of many countries. The civil law tradition, with its emphasis on written codes and legal clarity, is a testament to the lasting legacy of Roman law in the development of modern legal systems.

7. Roman Law's Influence on Common Law

Although common law and civil law are often seen as distinct legal traditions, Roman law has had a significant influence on the development of common law, particularly in the areas of legal reasoning and structure. Unlike civil law systems, common law relies heavily on case law and judicial precedent. However, the study of Roman law during the medieval period, especially in universities like Oxford and Cambridge, introduced important legal concepts that shaped the intellectual foundation of common law (van Caenegem, 1988).

7.1. Legal Principles and Structure

Roman law provided a framework for organizing legal thought that impacted the development of common law in England. Key principles of Roman private law, particularly in areas like property and obligations, influenced the way English jurists conceptualized legal rights and duties. For example, the Roman concept of dominium (ownership) parallels the common law understanding of property rights, and the Roman law of obligations informed contract law in common law jurisdictions (Stein, 1999). This influence was transmitted through the *Corpus Juris Civilis*,

which, while not adopted directly, served as a scholarly resource for the development of legal doctrine.

7.2. Equity and Roman Law

Another area where Roman law had a marked influence is in the development of the English law of equity. Equity emerged as a distinct body of law in England during the medieval period, providing remedies where common law was inadequate. Many of the principles that underpinned equity were derived from Roman law, particularly from the praetorian edicts, which allowed for more flexible legal solutions based on fairness and justice (van Caenegem, 1988). The Roman principle of *aequitas* (equity) directly influenced the moral underpinnings of English equity law, emphasizing fairness over strict legalism.

7.3. Procedural Influence

Roman law also influenced the procedural aspects of common law. English legal procedures, particularly in the royal courts, were shaped by Roman models of legal formalism. Roman procedural law introduced structured systems for pleading, appeals, and jurisdiction, elements that became important in the English legal system. Even though English common law evolved its own distinct procedures, the influence of Roman legal organization is evident in the systematic approach to legal administration (Stein, 1999).

7.4. Scholarly Influence

The study of Roman law became part of the curriculum at English universities during the Middle Ages, which led to the incorporation of Roman legal reasoning into the training of English lawyers and judges. This scholarly engagement with Roman law helped introduce concepts such as *ratio decidendi* (the reason for a decision) and *stare decisis* (the principle of precedent), which remain cornerstones of common law systems. Roman law's rigorous analytical methods (Nuredin A, & Nuredin M., 2023) influenced how common law judges structured their reasoning and applied legal principles to new cases (Baker, 2002).

7.5. The Civil Law Tradition and Common Law Judges

Throughout history, common law judges have drawn from Roman law principles when facing cases where existing common law was insufficient. For example, Lord Mansfield, one of the most influential English judges in the 18th century, incorporated Roman legal concepts into his rulings, particularly in commercial law. His judgments helped to

modernize English common law by integrating Roman principles of fairness and equity, especially in cases related to contract and trade (Baker, 2002).

7.6. Comparative Legal Studies

In the modern era, comparative legal studies have further illuminated the ways in which Roman law continues to influence common law systems. The interaction between Roman law and common law is particularly evident in the field of commercial law, where global trade requires harmonization of legal principles across different jurisdictions. Roman concepts of contracts, torts, and restitution continue to inform the development of legal norms in common law countries (Zimmermann, 1996).

In conclusion, while common law and civil law are traditionally viewed as separate legal systems, Roman law has had a lasting impact on the development of common law, particularly in the areas of legal principles, procedural frameworks, and scholarly influence. The engagement with Roman legal ideas helped shape the intellectual foundations of common law and continues to influence its evolution in the modern era.

8. Roman Law and Modern European Union Law

The influence of Roman law on modern European Union (EU) law is profound, serving as a historical and conceptual foundation for many legal principles within the EU's legal framework. Roman law, with its well-defined systems of private law, contracts, property, and obligations, continues to resonate in the civil law traditions of many EU member states. These traditions inform the development of the EU's legal system, particularly in matters related to the internal market, human rights (Nuredin, 2022), and the balance of power between institutions.

8.1. Roman Law's Structural Influence

Roman law provided a comprehensive legal structure that underpins many of the EU's foundational principles, particularly in areas of contract and property law. The concept of *ius commune*, a shared body of legal principles across European jurisdictions, has its roots in Roman law and continues to inform the harmonization efforts of EU law, particularly through regulations and directives aimed at creating a more unified legal system (Zimmermann, 1996).

8.2. Principles of Legal Reasoning and Interpretation

Roman legal thought introduced the method of legal reasoning, which is prevalent in modern EU law. Concepts such as *ratio decidendi* (the principle underpinning a legal decision) and the use of precedents can be traced to Roman jurisprudence. The EU's Court of Justice (ECJ) has often drawn upon these principles, applying Roman-inspired methods of legal interpretation, especially in cases that deal with cross-border legal disputes and the interpretation of EU treaties (Stein, 1999).

8.3. Subsidiarity and Proportionality

The Roman legal tradition also contributed to the development of key constitutional doctrines within the EU, such as subsidiarity and proportionality. Subsidiarity, which dictates that decisions should be made as closely as possible to the citizens they affect, reflects Roman concepts of governance where local customs and laws were respected, provided they did not conflict with the overarching authority of Roman law. Similarly, the proportionality principle, which ensures that EU actions do not exceed what is necessary to achieve their objectives, finds echoes in Roman legal principles of fairness and justice (Craig & de Búrca, 2015).

8.4. Human Rights and Roman Law

Human rights law within the EU is another area where Roman legal principles continue to have a lasting impact. The Roman concept of *ius naturale* (natural law) has influenced the development of human rights frameworks within EU law, particularly in the European Convention on Human Rights (ECHR) and the Charter of Fundamental Rights of the European Union (Nuredin, 2023). These documents reflect the idea that certain rights are inherent to all individuals by virtue of their humanity, a concept deeply rooted in Roman legal thought (Buckland, 1963).

8.5. Legal Pluralism and Integration

Roman law's ability to integrate and respect diverse local legal systems has a parallel in the EU's legal system. The EU operates as a legal order that encompasses multiple legal traditions, much like how Roman law adapted to local customs while maintaining an overarching legal framework. The integration of diverse legal systems within the EU, particularly in areas like commercial law and intellectual property law, reflects Roman law's flexibility and adaptability (Stein, 1999).

Roman law continues to influence modern European Union law in numerous ways, from legal reasoning and interpretation to constitutional principles such as subsidiarity and proportionality. By laying the groundwork for many of the legal traditions that are present in today's EU member states, Roman law remains a vital part of the EU's legal fabric, shaping its evolution and ensuring the integration of diverse legal systems into a coherent whole.

Conclusion

Roman law has left a lasting legacy on the development of European legal systems, influencing both civil law and common law traditions. Its systematic approach to legal concepts such as property, contracts, and obligations has provided a framework that modern European states have built upon. Roman law's adaptability, seen in its integration of diverse local customs within a coherent legal framework, mirrors the pluralistic nature of contemporary legal systems, particularly within the European Union.

One of the most enduring elements of Roman law is its emphasis on the importance of legal reasoning and the application of universal principles, such as fairness and justice, in legal processes. This intellectual rigor has been preserved and further developed in European legal thought, particularly within civil law jurisdictions. The codification of law, exemplified by the Napoleonic Code, has Roman law roots and continues to serve as a model for modern legal systems in Europe and beyond.

The influence of Roman law is not limited to the civil law tradition but can also be observed in common law systems, particularly in the areas of contract and property law. Despite the common law's historical development through judicial decisions, Roman legal principles have been woven into its fabric, creating a complex interplay between customary law and codified law.

In modern European Union law, the impact of Roman law is evident in foundational legal principles such as subsidiarity, proportionality, and the protection of fundamental rights. These principles, rooted in Roman concepts of governance and natural law, continue to shape EU legal frameworks and decision-making processes.

The enduring legacy of Roman law demonstrates its flexibility, intellectual depth, and universal applicability. As European legal systems evolve, Roman law remains a cornerstone, providing a robust foundation that continues to inform legal practices and reforms across diverse jurisdictions. Its timeless nature ensures that it will remain relevant in addressing contemporary legal challenges, maintaining its position as a pillar of European legal culture.

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