

AN OVERVIEW OF ROMAN LAW

JOHNSTON (D.) *Roman Law in Context*. Second edition. Pp. xiv + 221. Cambridge: Cambridge University Press, 2022 (first edition 1999). Paper, £19.99, US\$25.99 (Cased, £64.99, US\$84.99). ISBN: 978-1-108-70016-0 (978-1-108-47630-0 hbk).
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This volume is the latest in the Cambridge University Press series *Key Themes in Ancient History*, which aims to provide readable and informed original studies designed for students and teachers ‘to encourage and stimulate promising new developments in teaching and research in ancient history’. In writing *Roman Law in Context*, J. drew upon his own legal expertise as King’s Counsel in Scotland to demonstrate how Roman law might have worked in practice and how we might use it to understand better Roman social and economic history.

In light of the numerous developments in the study of Roman law that have taken place in the more than 20 years since the first edition’s publication, J. has extensively revised and updated with new evidence the original chapters and has added an additional chapter. The book is organised into seven main chapters: Introduction (Chapter 1); ‘Sources and Methodology’ (Chapter 2); ‘Family and Inheritance’ (Chapter 3); ‘Property’ (Chapter 4); ‘Commerce’ (Chapter 5); ‘Litigation’ (Chapter 6); and ‘Crime, Delict, Regulation, and Public Order’ (Chapter 7), which contains new material dealing with Roman crime and punishment not contained in the first edition. The book concludes with an epilogue, a glossary of legal terms, a bibliographic essay and an extensive, up-to-date bibliography.

The introduction begins with a clear delineation of the book’s deliberately limited scope (‘What Is Not in This Book’). J. states that the work is intended to provide a highly selective sketch, not a comprehensive account of Roman law and its social context. The historical scope of the book focuses on the so-called classical period of Roman law, from the end of the Roman republic in 31 BCE to the death of the Emperor Severus Alexander in 235 CE. Having begun with this caveat, J. moves on to an outline of the formal sources of Roman law before concluding with a historical overview of Rome and its provinces.

The sources of Roman law are further explored in the next chapter with a discussion of the various methodological problems faced by modern students and scholars engaging with Roman legal writings and law codes. Having found that the problems and limitations of using law as a means of understanding the society and economy of ancient Rome are numerous, J. nevertheless concludes that the approach is worthwhile, provided that legal sources are not used in isolation and are instead combined with other sources of evidence.

Having laid the groundwork by providing readers with an accessible and streamlined introduction to the types and sources of Roman law, J. is able to focus in the rest of the book on the core areas of concern for Roman law: family law; property ownership and use of land; business and commercial transactions and civil litigation; and crime, punishment and public order.

Chapter 3 concerns family, inheritance and succession. J. manages to condense highly complex issues of paternal power, tutelage, adoption, marriage and divorce, trusts and wills, and a brief primer on Roman slavery into a succinct yet fascinating summary that is likely to pique students’ interest enough so that they may wish to consult the volume’s well curated bibliography to pursue further reading on these issues.

Chapter 4 begins with property ownership and how it was protected in law. Discussion then moves on to how land was used by owners and tenants, how boundaries were maintained and regulated between neighbours and how disputes over damage, encroachment and nuisance could be remedied through recourse to law. J. finds that protection was incomplete and piecemeal, and, arguably not unlike society today, the law favoured those 'with deep pockets'.

The book's longest chapter (Chapter 5) is dedicated to the main legal issues involved in Roman commerce, including contract laws, sales, lending and borrowing, labour, organisation of businesses and insolvency. This chapter in particular demonstrates how Roman legal writings might be used as a means for furthering our understanding of Roman social and economic history. Though some scholars have viewed the Roman economy as essentially localised, agrarian and subsistence-based, J. finds that the Roman jurists described a system of sophisticated commercial structures and regulations. J. thus concludes that, unless these were somehow purely the theoretical musings of jurists having no application to business practices, the Roman economy was not as underdeveloped as some scholars have posited. The study of the legal texts therefore allows for a more nuanced view of the workings of the Roman economy.

While Chapters 3–5 concern themselves with substantive law, Chapter 6 focuses on litigation, i.e. whether a given legal right can be enforced in practice. The chapter largely confines its scope to civil procedures during the classical period. Not surprisingly, J. devotes the majority of the discussion to procedural rules within formal courts of law, but he does acknowledge that this was not the only place where disputes could be resolved. In practice, informal agreements and mediation could also offer resolution, or parties could formally hire an arbiter. J. concludes with a description of the fraught nature of Roman litigation and again warns against relying exclusively on the writings of the jurists as sources for historical study.

Chapter 7 groups together crime, delict (also known as 'tort' in some modern legal systems), regulation and public order. J. notes that, though these are distinct concepts in modern legal systems, in Roman law they 'overlap and shade into one another' (p. 159). The chapter broadly covers aspects of Roman law not addressed in the other chapters. J. moves briskly from discussions of crimes such as sexual offences, murder and treason to Roman criminal procedure and punishment, to the role of magistrates in regulating various aspects of public life, before concluding with final thoughts on the similarities and differences between Roman values and our own. J.'s decision to condense this material into one chapter is highly ambitious as each section could easily have been a chapter in its own right. Though this does not make for light reading, J. manages to demonstrate how these seemingly disparate concepts and practices overlap and intersect with one another within the Roman system.

A reviewer of the first edition of J.'s book opined that it was impossible to cover the subject of Roman law in such a short work (J. Filip-Fröschl, *Edinburgh Law Review* 6 [2002], 129–32). Having read the second edition, I find that I cannot agree. J. sketches a masterful survey of the relevant landscape in this slim, highly readable volume and provides students, educators and interested lay readers with a sturdy foundation for future research and teaching in Roman law.

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