

***Roman Law and the Idea of Europe: Europe's Legacy in the Modern World*, Kaius Tuori and Heta Björklund (eds.), Bloomsbury, Helsinki, 2019, 294 pp.**

This book is a collection of fourteen essays which seek to present a common European legal tradition based upon Roman law. However, it is primarily concerned not with a broad sweep of the Roman law tradition and its constitutional and jurisprudential effect on various European countries but with its influence over and against the Revolutionary Russian and Nazi regimes in 20th century and their totalitarian ideologies.

The authors are largely about those who fled from Russia and Germany and who settled into academia abroad. The editors admit that Roman law, and classical civilization generally, was appealed to by Nazi leaders as providing a basis for their contemporary agendas but that this was countered by scholars who fled from the Nazi's and who went on to lay the foundations for a common European project in the first half of the last century.

These scholars argued that Roman law was in total opposition to totalitarian legal theories, which is interesting given the actual operational structure of the Roman Empire in its time was not a forerunner of anything "liberal" or "democratic". As a result of the rise of National Socialism, many scholars emigrated to Britain and the United States where they continued their work and reflected on what they had left behind as regards Roman law thinking in their homelands. To this end, they sought to argue against the racial and nationalistic ideas of Communism in Russia and National Socialism in Germany and looked to Roman law as a source for European law.

The obvious future for such an enterprise was in the shared European integration project with Roman law as its foundation, at least in part, since it certainly contributed to legal traditions in different European countries with common or codified law, general culture, and history.

This collection of essays covers a wide range of Roman law thought ranging from "The Impact of Exile on Law and Legal Science, 1934-64", "Francis de Zulueta (1878-1958): An Oxford Roman Lawyer between Totalitarianisms", "The Idea of Rome: Political Fascism and Fascist (Roman) Law", and "Conceptions of Roman Law in Scots Law: 1900-60", among

others. The idea of a united Europe in modern times stems largely from the aftermath of the Second World War and the desire of the victors for nations to unite across borders and so constitutional thought, especially in regards to law, sought to provide a blueprint for this endeavour.

The Roman law scholars in exile got to work to fulfil this need to construct a common European legal culture. Their different experiences of their new academic homes in Britain and the U.S. provided the scholars with a fresh start in Roman law thinking, not least in their having to reimagine their work for a new audience which proved creative for all concerned. However, Roman law was also appealed to by fascists in Italy, and so it can be seen that a retrospective on this type of law could yield very different results depending on who was addressing the issue and for what purpose: Roman law was flexible enough to provide an accommodation for totalitarians and liberal democrats, depending on one's contemporary needs and retrospective lenses.

The context for revisiting Roman law is, of course, essential and this is exemplified by the chapter on Francis de Zulueta (1878-1958) who was a Catholic in Oxford whose religion gave him a particular take on legal thinking at a university which had only recently readmitted Catholics a few decades prior to his arrival.

He was the first Catholic to hold the Regius Chair of Civil Law since the English Reformation and was one of only four Catholics in a senior academic post. His Catholic faith meant that he was supportive of Franco in Spain at that time and so he was called a fascist but he may have been misunderstood since his primary concern was the defense of the Catholic Church and, indeed, he helped German refugees and Polish soldiers who fought Germany. Nevertheless, his support of Franco buttressed by his faith and his interpretation of Roman law stained his reputation for many years even after his death.

Another Catholic, Baron Mikhail von Taube, was originally a Russian intellectual but fled Russia at the time of the Revolution and he blamed Roman law for the demise of political debate and social and personal morality. It is noted that both Russia then, and Germany during the Third Reich, were hostile to Roman law thinking. Taube held onto his Eastern European influences and argued that Western Europeans were wrong in seeking territorial forms of sovereignty in Roman law and sought to reinterpret it as a means of uniting Eastern and Western Christianity and thus providing a foundation for an emerging European idea. To his credit, Taube viewed the 1917 Code of Canon Law for the Catholic Church as a new type of Christian law which promised to unite Christians.

These essays provide an extraordinary glimpse into the difficult worlds of émigré Roman law scholars who had fled totalitarianism of different

kinds and who tried to think of a better way forward for the continent of Europe with reference to their academic speciality. However, as can be seen from the current situation across Europe, there has been no settled agreement across the affected nations on how the idea of a united or unified Europe should be run and even if that is a good idea.

This book seeks to provide specialized accounts of the range of émigré and expert scholarly thinking in the first half of the twentieth century when the idea of Europe was tentatively being formulated and discussed. It comes with a bibliography and index and is a most worthy addition to the field of European constitutional thought. Roman law certainly did have a strong influence on the idea of Europe.

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