

Marijan Horvat, Marko Petrak
RIMSKO PRAVO (ROMAN LAW)
17th revised and amended edition,
Faculty of Law University of Zagreb, 2022, pp. 411¹

Dear guests, friends of Roman law, it is a great honor to have the opportunity to give my review of the book *Roman Law-XVII amended and revised edition 2022.*, written by Marijan Horvat and Marko Petrak and published by the Faculty of Law of the University of Zagreb.

When I first received the text of this book released in 2022., it immediately inspired me to visit my personal library and reach for Professor Marijan Horvat's book on Roman law, which I had previously used as a first-year student at the Faculty of Law in Sarajevo during my study of Roman law. I have been treasuring the book "Roman Law" of Professor Marijan Horvat for all these years, knowing that I would frequently use it throughout my entire working career. While I was reading and comparing these two books, I immediately noted that they are two completely different pieces of scientific work. In order to learn and gain knowledge on Roman law, I would like to remind you that Marijan Horvat's textbook "Roman Law" represents essential reading material used by many students at most law faculties in our former country. Its value and scientific authority are best confirmed by the numerous editions of that textbook, and I feel at liberty to compare it to the famous work of the great pandectist Bernard Windscheid, "Lehrbuch des Pandektenrechts", in terms of the large number of repeated editions. Professor Marijan Horvat was one of the greatest novelists from our area who, through this textbook and his other scholarly work, contributed to the creation of the scientific and teaching discipline of Roman law to our public, while continuously presenting the latest trends in contemporary romance.

During numerous meetings and conversations, finally I asked Professor Petrak why he had not written a textbook on Roman law, and he told me: „Oh, my old man, it is not at all easy to embark on such an adventure, bearing in mind the authority of the literature of Horvat and Romac, but I am thinking, as a specific form of gratitude, I should try to rework, supplement and modernize Professor Horvat's textbook, which has been used for teaching Roman law at the University of Zagreb for many years.“ I supported him in such an initiative and thought about the courage one must have in an attempt to put his name on the title page of the book next to the name of Marijan Horvat. When I read the book that I am presenting to you today, I concluded that Professor Petrak has fully succeeded in realizing his intention.

With his devoted, continuous work, Professor Petrak managed to build a personal authority and rank himself among the leading scholars of European and

¹ Author would like to express sincere gratitude to Adna Škamo and Enida Dučić for their support in translating and proofreading of this paper.

world novelistic. I have always enjoyed reading, analysing and commenting his work. The spectrum of his scientific interest was very wide, from classic legal-dogmatic issues, the reception of Roman law through the Roman-Byzantine phase, to the medieval *ius commune* and his favourite topic - Pandectics. A special place of his scientific pursuits was the never-ending commitment to scientific proof of the actuality and vitality of Roman law in contemporary European and world paths of legal development. He carried this out in his own unique way. Roman law was an indispensable part that marks his life. Even in everyday life, he would often present anecdotes in a humorous way using numerous examples from the rich ancient Roman casuistry.

After reading the book I am about to present to you, I can confidently state that Professor Petrak has fully achieved his goal. This book is a new modernized edition of the earlier book written by Professor Marijan Horvat. Petrak did not change the basic structure and composition of the traditionally presented matter which, according to Gaius' methodology of systematizing material, every book of Roman law that is used by students who are on the threshold of the intricate phenomenon of law should have. He succeeded to infuse the matter with the spirit of modernity through numerous notes in the book, through connecting classical Roman legal solutions with modern law. In this book, Roman law is alive, always around us. All of this was achieved in a masterful way without compromising the volume of the book itself. This book will not be a burden for students, instead it may become one of the most fascinating readings they've had the chance to encounter during their studies.

In the course of the realization of the project, which consisted of updating the book, Professor Petrak shows all the expanse, breadth and disseminated knowledge he owns. We immediately become aware that he is not just an excellent novelist, but an experienced historian, linguist and connoisseur of broad comparative legal topics and currents of contemporary development in general. In each of these mentioned dimensions, Petrak successfully corresponds with the latest scientific Romanist tendencies, legislative solutions and current domestic and international judicial practice. He connects Roman law with other legal families, primarily canon law, proving their inherent determination with the Roman legal tradition.

Professor Petrak is a supporter of the understanding that a large part of the history of today's private law is contained in Roman law, and he constantly proves this with arguments in this book. Among other things, it proves this on numerous examples of the application of the basic principles of the Roman legal circle, such as the principle of *alterum non laedere* in contemporary civil law doctrine and judicial practice directly in the Latin language. The idea of European unification and the unity of European law paved the way for increased interest in received Roman law - *ius commune*. According to the author, the Roman legal tradition becomes the common denominator of European legal culture and the foundation of future European private law. Petrak believes that the recent reaffirmation of the Roman

legal tradition will be the basis of the legal systems of the largest world forces such as China and Russia.

The author shows his linguistic breadth by explaining the recontextualization of several concepts of Roman law, which in this way acquires a different and broader social meaning. While explaining certain laws from the Roman period (*Lex Claudia de nave senatorum*), Petrak begins the always difficult discussion of the applicability of some public legal concepts of ancient Roman law in the contemporary public and political sphere, starting from the knowledge that the principles of government and the basic characteristics of human nature have not really changed much from antiquity to the present day. He successfully finds footholds and roots in the Roman legal spirit for the most modern understandings of new theories such as the gender theory. It shows with numerous examples that legal doctrine and jurisprudence directly take over the rules belonging to the Roman legal tradition as legally binding. It shows how the legal definition of marriage in the Republic of Croatia proves the vitality of Ulpinian's natural law understanding of the heterosexuality of marriage. In addition, he mentions a return of *ius vitae ac necis* in certain European legal systems in the context of the controversial juridical-political phenomenon of euthanasia, while in the case of guardianship institutes he proposes a contemporary adaptation of the legal nature of these institutes into modern legislation. All his analyses are exhaustively supported by the presentation of original Roman material, which will certainly make these ancient legal texts more understandable to future young lawyers. Furthermore, it should be particularly emphasized on the breadth of the comparative-legal aspect of legal solutions through the presentation from most European countries, and there are also examples from the Anglo-American legal circle as well as canon law. Petrak writes about the ennobling meeting of Roman law with the Greek philosophical tradition, pointing to the deepest roots of the Roman legal genius. Through explaining *possessio non vitiosa*, he reveals the inadequate language use of valid legal solutions and looks for, but also suggests, concrete appropriate legal terms, without which the original Roman principles could be misinterpreted. He does not hesitate to make suggestions about 'the need' to revise certain positions of the Constitutional Court in order to find solutions to accelerate slow court cases. The author devoted special attention to his favourite topic of relevant and newsworthy application of the Roman Rules in the practice of European and national courts. During the presentation of convergent views in modern novelistic, he proves himself to be an excellent connoisseur of the most modern scientific currents and does not shy away from bold polemics with the highest scientific authorities. He successfully demonstrated and proved that modern civil legislation *verbatim et litteratim* relies on the heritage of classical Roman jurists.

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