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Regulae Iuris: A Lasting and Universal Vehicle of Legal Knowledge

Abstract: The article discusses the significance of Latin legal rules (*regulae iuris, maximae iuris, dicta*) for European legal culture. One of the areas explored by the authors is the relationship between the content of these rules and the language in which they were written down, i.e. Latin. Section one provides an overview of the origin, sources, and techniques of formulating legal rules by the jurisprudence of the ancient Roman state, with particular focus on the history of development of *ius Romanum*. After the dissolution of the Western Roman Empire (476 AD), the Church became the custodian of the values embedded in Roman law in Western Europe. Not only did she treasure precious scrolls containing ancient legal wisdom for the future generations but also implemented many Roman regulations in her internal legal system, as expressed in the paroemia *Ecclesia vivit lege romana*. This issue is addressed in section two. An important vehicle of disseminating the Roman legal thought, including its paroemias, was the Latin language. The ancient Romans contributed to its increasing circulation through rapid political expansion. Over time, Latin also elevated to the rank of the language of the Western Church. Because of that, it continued to prevail, also as a durable carrier of legal knowledge. This phenomenon is discussed in section three. The last section covers some facets of the use, application, and impact of Latin legal rules on modern legal science.
Keywords: canon law, history of law, jurisprudence, Latin, legal rules, Roman law

Introduction

The idea of legal rules and their relevance in promoting legal knowledge, including the teaching of law, has not lost its currency since antiquity. Contemporary legal culture, legal education being part hereof, as well as the various currents and trends in law, largely draws on and refers to Roman law. The study of Roman law keeps proving its profound significance for the ability to interpret and apply present-day law.[1] The ancient Romans created institutions, legal constructs, a method of legal thinking, and a clear conceptual model that have penetrated into modern-era law systems.[2] Relying on the values conveyed by *ius Romanum* and the achievements of ancient Roman jurisprudence is now strongly emphasized also in the wake of advancing globalization and the need for the lawyers of integrated Europe to share the same parlance.

An important, lasting, and inspiring legacy of learned jurists, who attained utter perfection in legal techniques and even called themselves "priests of justice" (*sacerdotes iustitiae*[3]), are the Latin legal rules and expressions. They would be known by the names of paroemias, brocards, rules, or maxims.[4] On the one hand, they still impress with their brevity; on the other hand, they are apt and accurate. This article aims to discuss how they were coined and what mechanisms were behind it; in this regard,

1 The problems of legal education in the broad sense, specific trends and currents existing in the legal science, especially in historical and legal studies, were addressed, but not only, in: M. Pyter, Współpraca ośrodka lwowskiego i lubelskiego w zakresie nauczania prawa rzymskiego, (in:) A. Dębiński, M. Pyter, B. Czech-Jezierska (eds.), Nauki prawne pomiędzy tradycją a współczesnością. Prace dedykowane Profesorowi Longchamps de Bérier w 70. rocznicę śmierci, Lublin 2011, pp. 139–165; idem, Swoboda nauczania prawa na uniwersytetach galicyjskich na przełomie XIX i XX w., (in:) M. Pyter (ed.), Studia prawnicze a rzeczywistość zawodowa, Lublin 2009, pp. 31–45; idem, Oswald Balzer i lwowska szkoła historycznoprawna, Lublin 2010; idem: Miejsce dyscyplin historycznoprawnych w wykształceniu jurydycznym w okresie międzywojennym, "Roczniki Nauk Prawnych" 2004, no. 1, pp. 105–128.

2 Analyses of individual institutions of Roman private law, with special emphasis laid on the evolution of its concepts demonstrating the viability of ideas that underlie the modern legal order, were made in numerous research papers; one of the most recent contributions addressing this question fairly comprehensively is: A. Dębiński, M. Jońca (eds.), Leksykon tradycji rzymskiego prawa prywatnego. Podstawowe pojęcia, Warsaw 2016 (Bibliography, ibid., pp. 403–409). The most important concepts of Roman penal law, exploited by penal law dogmatists as a major substrate, are discussed in, inter alia: M. Jońca, Rzymskie prawo karne. Instytucje, Lublin 2021 (wykaz literatury, ibid., pp. 206–218); M. Jońca (ed.), Leksykon rzymskiego prawa karnego. Podstawowe pojęcia, Warsaw 2022 (Bibliography, ibid., pp. XXV–XXXV). Vast literature linked to a catalogue of entries relating to Roman penal law was compiled by: M. M. Skřejpek, Bibliographia iuris romani criminalis. Bibliography of Roman criminal law, Prague 2021, and I. Leraczyk, Rzymskie prawo karne. Bibliografia, Lublin 2021.

3 Cf. D.1.1.1 (Ulpianus).

4 Invention and application in Roman law of some general legal principles, today known as rules or maxims, have been discussed at length in numerous research works for decades; multiple Roman legal rules and maxims are compiled in: K. Burczak, A. Dębiński, M. Jońca, Łacińskie sentencje i powiedzenia prawnicze, wyd. III, Warsaw 2018; bibliography, ibid., pp. 414–416.

special attention will be paid to the role of the mediaeval science of canon law and the language in which they were written down. The historical and legal method was employed.

1. Regulae Iuris: The Legacy of Roman Jurisprudence

In a figurative sense, the Latin word *regula* (*kanon*[5] being its Greek equivalent) denoted a rule, principle, a standard of conduct, while in a literal sense, it meant a levelling rod (wooden or metal) or board, or else a measuring rope or line.[6] The concept made its way into the scientific vernacular owing to grammarians and philosophers at the end of the Roman Republic period. The word "rule" (*regula*) in its normative role entered the Roman legal dictionary relatively late. As commonly held in the literature on the subject, it was Massurius Sabinus, a highly esteemed jurist from the first half of the 1st century AD, who used it first. It was also adopted later by Lucius Neratius Priscus, a Roman jurist, senator, and high official, who was active at the turn of the 1st century AD. In the 2nd century AD, the term *regula* was commonly found across legal texts.

Ultimately, rules became understood as concisely framed, yet generally applicable legal principles. Rules so defined were of normative character, even if, from the linguistic point of view, they would often be found as descriptive in form. The definition of the term *regula* was proposed by Iulius Paulus, a reputable representative of Roman law in its heyday, i.e. of the classical period of Roman law, who lived at the turn of the 2nd century AD. He authored numerous legal works, including commentaries to texts by other jurists. In his commentary to the writings of Plautius, he included a three-sentence text, which was incorporated in Book 50 of *The Digest*, at the beginning of Title 17 *De diversis regulis iuris antiqui*[7] ("Concerning Different Rules of Ancient Law"). The paragraph begins as follows: *Regula est, quae rem quae est breviter enarrat*[8] ("A rule is a statement, in a few words, of the course to be followed in the

5 The origin of the word "canon" can be traced back in its etymology. The term derives from the Hebrew word *kaneh* denoting "measuring rod". In Greek the word meant "pattern", "measurement", or "measuring rod". These rods were used in construction to tell measurements. The Greeks widened its use and transferred it to other areas of science to designate a simple, finished shape and an unfailing measurement unit to appraise different phenomena. In an ethical context, canon refers to what is fair and correct, or to a criterion to apply and conform to; in art, canon is a perfect, yet achievable form. In the study of canon law, canon and norm are used as synonyms, and the former is equivalent in its meaning to a regulation or provision of ecclesiastical law.

6 For more on this term, its interpretation, and application in legal sources, see P. Stein, Regulae iuris: from juristic rules to legal maxims, Edinburgh 1966, pp. 49–73; H. Kupiszewski, Prawo rzymskie a współczesność, Warsaw 1988, pp. 131–175; W. Litewski, Podstawowe wartości prawa rzymskiego, Cracow 2001, pp. 43–44.

7 D.50.17.

8 D.50.17.1

matter under discussion"). Then, the jurist goes on to point out that, *Non ex reguła ius sumatur, sed ex iure quod est regula fiat* ("The law, however, is not derived from the rule, but the rule is established by the law"). Finally, Paulus explains, *Per regulam igitur brevis rerum narratio traditur, et, ut ait Sabinus, quasi causae coniectio est, quae simul cum in aliquo vitiata est, perdit officium suum* ("Hence, a short decision of the point in question is made by the rule; or, as Sabinus says, a concise explanation of the case is given, which, however, in other instances to which it is not applicable, loses its force").

Hence, according to the learned jurist, a rule should be succinct and provide a short description of the basic premises of the given legal order. When explaining the mechanism of creating a rule, the author stressed that a law was not derived from it (*ius*), but in contrast, the rule came from the law. At the same time, Paulus recommended not to broaden the meaning of the rule beyond the relevant scope of application.

The process of establishing and applying legal rules in antiquity has a relatively long history;[9] its origins go back as far as to the literature of the ancient Greeks. They devised an elaborate system of expressions known as gnomes (Gr. *gnōmē*). Gnomes were short adages imparting a deeper thought or general judgment, often of philosophical or moral relevance. The oldest of them can be found in the writings of Homer and Hesiod (8th century BC). Some of them were of a legal nature.

However, it was the ancient Romans who disseminated the use of succinct legal rules. The early oral usage is known from the jurisprudence of ancient Roman pontiffs, yet most of them date back to the period of the Late Republic. Legal rules were most often coined through pragmatic induction after a considerable number of specific judicial decisions had been accumulated. Certainly, this kind of reasoning only created a probability rather than certainty of their application. Consequently, a rule so understood was more of an instructive rather than directly binding nature. Still, it helped find the correct (lawful) solution. However, it could not guarantee such a solution to take effect in practice.

In classical Roman law, which was actually a mosaic of extremely diverse, often incoherent and hardly available sources from different periods, rules were of paramount importance. They helped navigate through the normative maze. Their correct application, however, required the involved jurist to display certain autonomy. In accordance with his knowledge of "things human and divine" and "the knowledge of just and unjust",[10] to cite Ulpian's words, he had to decide whether the application of a rule in a certain case was in accordance with the principles of legitimacy. No less important was the question of whether the application of that rule would have been

9 A brief history and the use of sententia-like expressions in the legal practice was discussed by M. Jońca, Prawo rzymskie. Marginalia, ed. II, Lublin 2015, pp. 110–118.

10 Cf. D.1.1.1 (Ulpianus).

aligned with other components of the legal order. If there had been no such premises, he should have abandoned the use of the rule. The most prominent lawyers of that period, more or less intentionally, would often put forward brief solutions to complex legal challenges and would attach them as short sentences opening or summarizing a broader discussion of a problem.

Recreating the mechanisms behind the creation of legal rules is a daunting, if not impossible, task. The rules were presumably less frequently formulated through scientific reasoning. This was indeed the case at the decline of the republic and was attributed to the adoption by Roman jurists of the Greek dialectical method, primarily the introduction of the division into *genus* and *species* into the science of law. Sometimes a rule was proposed that was intended to rectify some existing legal matter.

The authors of the vast majority of legal rules were unknown, which makes it even more challenging to reconstruct the principles behind their formation. This is true not only of the generally post-classical period of the development of Roman law but also of the pre-classical and classical periods, that is, ones that produced many learned jurists known by name. Among the many unknown rules, the *regula Catoniana* (Cato's rule) was an exception. It was most likely laid down by Cato Licinianus, a jurist from the 2nd century BC, son of the famous Cato the Elder (Cato the Censor).

Roman jurists did not regard the existing rules as permanent and immutable. They were not generally the subject of controversy among individual law experts. However, along with the expansion and development of law, as well its progressing diversification, a need for change began to be commonly acknowledged. Because of the Roman adherence to tradition and conservatism, however, the old rules were not removed but only limited by introducing various exceptions. Roman jurists justified such limitations in a number of ways. Most often, they relied upon a teleological reduction, e.g. they exposed some absurd consequences in a legal case, or they sought similarities to another legal condition that did not correspond to the challenged rule. Only in extreme cases were they ready to accept that a specific rule should not be applied. Salvius Iulianus (2nd century AD) took a rigid stance on this problem, and in one of his works he expressly stated, *In his, quae contra rationem iuris constituta sunt, non possemus sequi regulam iuris* ("In those matters which have been established contrary to the legal rules, we cannot follow the legal rules").[11]

Concise legal rules were found, although to a relatively narrow extent, already in the writings of jurists of the Roman Republic. It is worth noting that different rules and maxims were often transferred to the legal domain from literature. Marcus Tullius Cicero (106–43 BC) was a particularly prolific author. His wise and accurate observations have been circulating for centuries, not only among lawyers.

In ancient Rome, there was also the practice of making separate compilations of sayings and maxims, most of which served legal purposes. An example of this is

11 D. 1.3.15 (Iulianus).

the work of Publilius Syrus (1st century BC). He compiled a work titled *Sententiae*. Its educational value was recognized already by Roman teachers. The first edition of *Sententiae* from the 1st century AD contained only the author's output. In subsequent editions, the rules were amended, and new were added, including ones attributed to or authored by Seneca.

As the number of new legal rules was gradually increasing, jurists from the classical period (2–3rd century), despite their inclination towards a casuistic approach to legal problems, began to group them into separate collections known as "books of rules" (*libri regularum*).[12] Ranked as pedagogic literature, they became a separate form of extensive and diverse writing output of Roman jurists.[13]

Great interest in classical works dotted with legal rules was seen in the Roman Dominate. Old legal writings were stripped of casuistry and controversy to expose the rules only. Sometimes the old rules were rewritten into a new, post-classical form. Often, when taken out of their original context, the rules assumed a more general understanding. This was especially true of those included in imperial orders.

In the period of post-classical Roman law (4th–6th centuries), also referred to as declining or vulgar Roman law, which was marked by the evident disintegration of intellectual culture, including the legal one, jurists, usually anonymous, attempted to adapt classical legislation to contemporary needs. Departing from the sophisticated considerations of their predecessors, they made radical alterations or compilations of classical works. They were most eager to copy short and concise rules and disseminate them as a cursory, though practical and comprehensible image of the binding law. Some of the most popular and noteworthy were *Regulae Ulpiani, Pauli Sententiae, Fragmenta Vaticana*, or *Collatio legum Mosaicarum et Romanarum*; they also contained a variety of *regulae*, *maximae,* and *sententiae*.

However, of greatest significance was the incorporation of ancient rules in a separate title of Justinian's *Digest*, *De diversis regulis iuris antiqui* ("Concerning Different

12 Their list and discussion is available in P. Stein…, *op. cit.,* pp. 117–118.

13 The literary output of *iuris prudentes* was marked by high intellectual level and diversity. The most widespread and typical literary forms were the works compiling casuistic decisions (*quaestiones*, *disputationes*, *responsa*, *epistulae*); in these works, jurists presented and settled dubious cases (*casus*), both real and fictional. The works contained opinions and legal recommendations to questions raised by private persons and offices. Jurists, mainly for teaching purposes, produced basic legal textbooks for law schools called *institutiones* or *enchiridia*. Furthermore, commentaries were made to individual statutes (e.g. to the Law of Twelve Tables), official edicts (*ad edictum*), and works of past jurists (e.g. *ad Sabinum*) as well as monograph studies on distinct legal institutions. Another literary form was *digesta*, i.e. relatively voluminous works providing an exhaustive and comprehensive coverage of the author's legal decisions, commentaries to historical authors with critical remarks (*notae*), and works treating excerpts (*excerpta*) from the pieces of past jurists; cf. A. Dębiński, Rzymskie praw prywatne. Kompendium, Warsaw 2017, pp. 50–51. See also: M. Skřejpek, Lex et ius. Zákony a právo antického Říma, Plzeň 2018.

Rules of Ancient Law").[14] Justinian compilers listed 211 various legal rules meticulously extracted from the works of jurists of the pre-classical and classical periods and delivered in a concise and maxim-like form. They were mainly sourced from the writings of Paulus and Ulpian; fewer were borrowed from the works of Pomponius and Gaius. The authors also reached for the writings of Javolenus, Mecianus, Hermogenian, and Celsus. Many of those rules have not become obsolete at all.

The *regule* integrated into *The Digest* were usually excerpts from jurists' justifications of decisions in individual cases. In other words, originally, they did not operate independently. Taken out of their original context, the rules and maxims in the form presented by Justinian compilers assumed a more general character, somewhat departing from their original tenor. Not all of them followed the classical definition of legal rule by Paulus, either. On top of this, the original scope of application of specific rules is not easy to find out.

Although the name of the title has the *antiquum ius* ("ancient law") component, the rules contained therein were to remain effective, pursuant to Emperor Justinian's decision. This decision embodied the emperor's recognition of the achievements and traditions of jurisprudence from the classical period. The rules listed in the title became a vehicle and, at the same time, an inspiring input which, after the collapse of the Roman state, spearheaded new interpretations and applications of legal principles and maxims in different legal systems. They also found their way into law collections adopted by the Church.

2. Regulae Iuris in the Collections of Canon Law

After the dissolution of the Western Roman Empire (476 AD), the Church became the custodian of the values embedded in Roman law in Western Europe. Above all, she treasured precious scrolls containing ancient legal wisdom for the future generations. Besides, she incorporated numerous Roman regulations into her internal legal system. This phenomenon was reflected in the 7th-century paroemia *Ecclesia vivit lege Romana* ("The Church lives by Roman law"). This can be explained by a number of preconditions.

The legal order of the Roman Catholic Church was closely bound with the culture of the Roman Empire; this is where Christianity was born and developed anyway. The place and time of the emergence of the new monotheistic religion were mirrored in almost all aspects of the early Church's life, beginning with the language. The influence of the cultural and social context had a tremendous impact on the juridical order developed by the Church as one of the instruments for achieving its

14 D.50.17. This title was preceded by title D.50.16. *De verborum significatione* ("Concerning the Significance of Terms"). It contains 246 extracts from different legal writings of the classical period. They offer definitions of many legal terms.

fundamental goals.[15] For that reason, Roman law was frequently referred to as "the accoucheuse of canon law".[16] In his exhaustive, three-volume work on the Christian Roman law, Italian Romanist Biondo Biondi (1888–1966) rightly pointed out that "the Roman tradition and Christianity are two mighty spiritual powers that, although deriving from dissimilar concepts and having different goals, at some point in the history intertwine to head for the same direction."[17]

The influence of Roman law on the legal system adopted by Christian communities was also asserted through the adoption of the Roman framework of concepts, definitions, constructs, and some legal rules and guidelines. Certainly, that was anything but a one-time phenomenon. The process spanned several centuries and coincided with the gradual reception of Roman law.

One of the most important sources that contributed to the ancient legal tradition permeating into mediaeval and early modern culture was *The Etymologies* (*Etymologiarum sive Originum libri XX*).[18] The work was authored by Isidore of Seville, bishop, erudite, theologian, writer, politician, and saint of the Roman Catholic Church who lived in the late 6th and early 7th century. He lived in difficult and turbulent times when the face of Europe was being transformed after the fall of the Roman Empire in the West, which resulted in the slow disintegration of ancient culture, as well as inertia and disorder caused by the migration of European peoples. The scholar from Seville made his first attempt to pen a work that would bring together all the knowledge accumulated by mankind and available to Europeans at the beginning of the 7th century. He planned his work to be delivered in a compact and structured form.

Isidore was also driven by another and no less important goal. He aspired to combine the achievements of the ancient world with the considerable intellectual capital of Christianity, which had already gained a firm foothold in the European milieu. He managed to complete his project, and the compilation soon became a very demanded source. Such a comprehensive work could not go without an exposition on law; it was included in Book V *De legibus et temporibus*. Although to a more modest extent and in a less coherent manner, the scholar of Seville also addressed this province of

15 The body of literature on connections between Roman law and canon law is extensive; a substantial collection of works is provided in A. Dębiński, Church and Roman Law, Lublin 2010 (Bibliography, ibid., pp. 173–186).

16 H.J. Berman, Prawo i rewolucja. Kształtowanie się zachodniej tradycji prawnej, przekł. S. Amsterdamski, Warsaw 1995, p. 255.

17 B. Biondi, Il diritto romano cristiano, Giuffrè, t. I, Milano 1952, p. 3.

18 The more recent and vast literature on Isidore of Seville and his legacy is compiled, for example, in: A. Dębiński, M. Jońca, Izydor z Sewilii. O prawach, opracowanie, Lublin 2021, pp. 152–157; A. Dębiński, Wiedza o prawie w ujęciu Izydora z Sewilli, "Studia Prawnicze KUL" 2020, no. 1(89), note 2, pp. 126–127.

knowledge in some other books of *The Etymologies* and, only cursorily, in other didactic pieces. He covered some aspects of legal matters as he interpreted them.

When editing his work, Isidore rewrote and compiled different texts of ancient authors, both pagan and Christian. He abridged, shortened, merged, and modified them, often adding his own views on the matters. Often, he would take off their fragments from the original context or would assign new meanings to ancient vocabulary.

Published in the Andalusian city of Seville, *The Etymologies* gained immense popularity; the work reached audiences outside the Iberian Peninsula throughout the Christian world. It was copied, translated, interpreted, annotated, and even imitated by other authors; *The Etymologies* attained the unquestionable status of a coursebook of first choice in mediaeval schools and of the most popular read right after the Bible. It also became an important and inspiring source of knowledge about law. *The Etymologies* projects a vivid picture of the process of embracing ancient ideas of law and adapting them to new needs.

The use by Christian authors of the concepts and definitions developed by ancient jurists opened up new possibilities. Papal documents from the 9th century contain explicit references to Justinian's legislation as own law (*ius proprium*). However, not only papal law and letters established new channels for Roman law to penetrate into ecclesiastical law. Numerous collections of canon law of different provenance played a similar role. They were often inspired by the codification of Emperor Justinian and intended for the clergy. The incorporation of passages from Roman law into the collections of canon law made the former gain the authority and relevance of the latter. That was how the received provisions of Roman law became an integral part of the ecclesiastical legislation. It was not so infrequent that the deficiencies of ecclesiastical law were remedied by having recourse to Roman law, which actually legitimized it as an auxiliary and supplementary source (*fons subsidiarius et suppletorius*) of canon law.

The reception of Roman law into canon law gained considerable momentum in the 12th century. The process was largely attributed to the legists and canonists who taught Roman and canon law at the University of Bologna established at the end of the 11th century.[19] The following maxim was widely shared in the Middle Ages: *Sine canonibus legistae parum valent, canonistae sine lege nihil* ("Legists without the knowledge of canons do not matter much; canonists without the knowledge of constitutions [Roman law] do not matter at all.")[20] Apart from *leges,* the Bologna legists

19 A. Dębiński, Kościół i prawo rzymskie…, *op. cit.,* p. 66.

20 Peter Rebuffus (1497–1557), a learned canonist, spoke of this bond in a similar way. He expressed the opinion that "Canon and civil law are connected to such an extent that you can hardly understand one without the other" (*Ius canonicum et civile sunt adeo connexa, ut unum sine altero vix intelligi possit*); more in A. Dębiński, Church and Roman Law…, *op. cit.,* p. 90.

were conversant with *canones* while the canonists were experts in ecclesiastical law and the Roman *leges*. In practice, canonists became legists and vice versa. Consequently, they were able to pursue and be awarded doctoral degrees *in utroque iure*. The teaching of Roman and canon law at the University of Bologna by the same professors to the same groups of students led to a situation where similar methods were utilized for the two fields of study taught in the same language (Latin). In this way, the canonists and legists at Bologna shared not only the same genres of legal literature but also the legal rules and principles that they conveyed. Both juridical systems were referred to as "the learned laws". They underpinned the legal system in locations where the Roman Catholic Church was expanding her administration.

The penetration of Roman law into canon law was also the work of the 12th and 13th-century glossators and 14th-century commentators who studied the Justinian codification, in the mid-16th century renamed as *Corpus Iuris Civilis*. The glossators upheld the tradition of compiling general paroemias from Roman casuistry, and their effort bore fruit in the form of collections of legal rules and principles. Similar collections built up by canonists show that many of the rules and principles were borrowed directly from Roman law, while others were aligned with it.

New terminology for legal rules also emerged during this period; they became known as brocards (*brocardia*) or, less often, generalities (*generalia*). The word *brocardia* (originally *procardica*) was supposedly derived from the distorted Latin phrase *pro et contra* (for and against) or from the name of Burchard of Worms (965–1025), jurist and codifier. The term was used to denote general legal guidelines but with no legal force. Their actual value was in legal texts added as arguments for or against. Brocards also provided solutions to various contradictions occurring between legal texts.

Legal rules, put together as systematic and conclusive records, found their way into two important (official) collections of canon law promulgated by the supreme ecclesiastical legislator.

The first such record was attached to the *Decretales Gregorii IX*; a separate title was included in the main body of the text, titled *De regulis iuris* ("Concerning the Rules of Law"). The collection was published by Pope Gregory IX , who was thoroughly versed in the theory and practice of canon law and Roman law. He did not overlook the deficiencies of canon law that made it difficult to understand and apply properly. Therefore, he decided to address the problem and commissioned Raymond de Peñafort (ca. 1175–1275), papal chaplain and penitentiary who, at the same time, enjoyed high esteem as a lawyer, to edit a new collection modelled on the ancient codifications of Roman law. The papal editor graduated from and taught at the University of Bologna, which was a guarantee of his expertise in the two legal systems.

According to the systematic approach adopted by Bernard of Pavia (d. 1213) and applied in similar collections, *The Decretals of Gregory IX* consist of five books. Eleven *Regulae iuris* were appended to the last one. Of these, only three seem to allude to or draw from the Justinian codification, namely *The Digest*. Although none of the existing codes of canon law have ever contained a separate set of legal rules, each of them contains provisions that refer to some of the rules promulgated by Pope Gregory IX content-wise.[21]

It took four years to complete the collection, which was promulgated in the papal bull *Rex pacificus* in 1234. *The Decretals* went with a well-known recommendation that the law contained therein be applied by the judiciary, but also in science and teaching, and literally at courts and schools (*tam in iudiciis quam in scholis*).[22] Following this instruction, at the time of promulgation, the collection was transferred to at least two universities, in Bologna and Paris. Then, in accordance with the relevant papal decree, it reached university libraries and *scriptoria* throughout Christian Europe. Its text was scrutinized, and its *regulae iuris* became a handy tool in university disputes imitating court processes.

Another official collection of canon law, even better known as a source of citations of *regulae iuris* than *The Decretals of Gregory IX*, was *Liber sextus Bonifatii VIII*. It was assembled to respond to contemporary needs. The circumstances and historical conditions that the Church was facing in the second half of the 13th century urged for the enactment of new laws, which at some point created a sizeable list. That led to serious challenges in the interpretation and application of the law. With a view to lessening these inconveniences, Pope Boniface VIII (1294–1303) commissioned the development of a uniform, authentic, and comprehensive body of canon law.

An outstanding expert in law and champion of art and science (in 1303 he founded the Sapienza University of Rome), Pope Boniface VIII, inspired by canonists, appointed a three-person editorial team and tasked them with assembling any applicable legal provisions and amending them to remove any legal ambiguities and uncertainties. The team consisted of Wilhelm de Mandagoto (d. 1321), Riccardus Petronius de Senis (d. 1314), and Berengarius Fredoli (1250–1323). Their scientific background and competence were of significance: they were first-class legal experts of high renown. The first two, like Pope Boniface VIII, graduated from the University

21 An analysis of the rules in the form of a synoptic table is available in: A. Dębiński, Kościół i prawo rzymskie, ed. II, Lublin 2008, pp. 173–174.

22 The formula *tam in iudicis quam in scholis* first surfaced in the papal bull *Devotioni vestrae*; it was framed by Pope Innocent III and described the relations between pope and universities. It was applied as long as until the mid-18th century. More about the significance and application of the formula in K. Burczak, Quinque compilationes antiquae przykładem systematyki oraz współpracy ustawodawcy, sądów i uniwersytetu, Lublin 2020, pp. 619–622.

of Bologna. Petronius de Senis was a professor of Roman law at Naples, and Berengarius Fredoli held the degree of doctor of decrees and taught canon law at Paris.

Editorial work on the new collection took two years. Pope Boniface VIII promulgated the finished collection in his bull *Sacrosanctae Romanae Ecclesiae* in 1298. As his predecessors had done before, he also gifted it to, inter alia, the universities of Bologna and Paris. The bull contained a formula instructing the users of the collection to apply it at courts and schools (*tam in iudiciis quam in scholis*).

Eighty-eight legal rules arranged in five books were added to the collection of canons.[23] They are considered to have been sourced mainly from Roman law by the Bologna-based legist Dinus Mugellanus (1253–ca. 1298/1303) and were one of the outcomes of the scientific work of the university faculty. The collected *regulae iuris* aided Bologna lawyers in interpreting, applying, and supplementing the existing law. The analysis of the individual rules appended to *Liber sextus Boniface VIII* in the form of a separate column titled *De regula iuris* shows that 20 of them have no explicit connection to Roman law. However, the remaining ones were laid down on the basis of 99 excerpts taken from the Justinian codification. Ten came from *The Code of Justinian* and the rest from *The Digest*.

The role of legal rules and principles in canon law does not differ from the function that they serve in other legal systems. The role of *regulae iuris* in the era of casuistic law was to expedite the process of interpreting, applying, and supplementing canon law as *fons suppletorius* and *fons subsidiarius*. In this way, they became embedded in the legal rhetoric employed both in Roman law and canon law.

Canonists did not only compile and interpret legal rules stemming from the sources of Roman law. The number and soundness of solutions developed by canon law based on the Roman legal legacy are highly impressive. They have been used in most legal orders of the world to date, including in such areas as freedom of contract.

The close bond developed between Roman law and canon law was of great importance for the mediaeval science of law. The bond was attributed to several circumstances. First of all, civil law and canon law programmes were taught at the same university centres. As mentioned elsewhere, the courses in Roman law (*ius civile*) and *ius canonicum* were offered at Bologna, the first university of Christian Europe. The two subjects would very often be taught by the same professors. The coherence and symbiosis of both types of laws was symbolically marked by awarding the graduates of Roman law and canon law doctoral degrees in both laws (*in utroque iure*). Moreover, the employed methods of scientific research were similar. The reception by

23 For more, see Reguły prawne Bonifacego VIII. Źródła i znaczenie, (in:) M. Mikołajczyk et al. (ed.), O prawie i jego dziejach księgi dwie. Studia ofiarowane Profesorowi Adamowi Lityńskiemu w czterdziestopięciolecie pracy naukowej i siedemdziesięciolecie urodzin, vol. I, Białystok – Katowice 2010, pp. 157–164. A detailed analysis of the rules in the form of a compendious list is available in: A. Dębiński, Kościół i prawo rzymskie…, *op. cit.,* pp. 163–172.

canonists of the method pioneered by the Bologna legists led, as already mentioned, to the application in canon studies of the same genres of literature published by the school of glossators.

Of significance was also the fact that the sources of the two laws were edited and copied in the same Latin language. During the Middle Ages, it was the lingua franca of education, science, the Western Church, diplomacy, and law. And while the languages of other European countries were naturally secular, Latin, which was the language of *Corpus Iuris Civilis* and *Corpus Iuris Canonici,* became "a sacred linguistic instrument".[24]

3. Lingua Latina as a Tool Promoting Legal Rules

An important and lasting element of the cultural heritage of ancient Rome is Latin (*lingua latina*), the language of the legal maxims and adages discussed herein.[25] For centuries, it was the native language of the ancient Romans. It was adopted as the official language of the Roman Republic, and later of the western part of the Roman Empire.

Latin was already spoken in the first millennium BC in Lazio, a small province between the Apennines and the Tyrrhenian Sea in central Italy. It was considered the birthplace of the Roman state. Its northern region was inhabited by the Indo-European tribe of Latins (Latians). The entire region was named after them, and so was the language that they spoke (*lingua latina*).

The founding of Rome, which became the major urban centre of Lazio, was the pivotal event for the development of the Latin language (it is traditionally dated to the mid-8th century BC). Interestingly, the Latins did not use a uniform parlance. There were numerous Latin dialects (including Sabino, Oscan, Umbrian), the most prevailing of which was Roman Latin. The Romans pursued an expansionist policy, so they promoted the spread of Latin, or rather its Roman dialect, first within Lazio and then across Italy.

Ultimately, as a result of the cultural and military expansion of the Roman state from the 3rd century BC onwards, Latin gradually earned the status of dominant language throughout Italy. Later on, it became instrumental in the process of Romaniza-

24 F. Merzbacher, Die Parömie «Legista sine canonibus parum valet, canonista sine legibus nihil», "Studia Gratiana" 1967, no. 13, p. 281.

25 W. Stroh, Łacina umarła, niech żyje łacina! Mała historia wielkiego języka, tł. A. Arnd, Poznań 2013; A. Mikołajczak, Łacina w kulturze polskiej, Wrocław 2005; M. Hermann, O łacinie tylko dobrze. De lingua latina nil nisi bene. Język łaciński i grecko-łacińskie dziedzictwo kulturowe we współczesnej Europie, Kraków 2014; M. Kaczmarkowski, Historia języka łacińskiego od czasów najdawniejszych do dziś, "Vox Patrum" 1986, no. 11, pp. 477–504; M. Skřejpek, Římskoprávní zásady v Koldínově díle "Práva městská království českého", Všehrd 2010, p. 21.

tion of vast areas of Western Europe and parts of the Mediterranean Basin. It is worth noting that Rome, however, did not implement the strategy of the forceful supplanting of the local languages of defeated nations. On the other hand, the defeated did not strive to preserve their own ethnic language in a conscious and organized manner.

Initially, Latin was more suited for expressing concrete rather than abstract matters. Influenced by writers, Cicero in particular, it became a more abstract language and included a scientific vocabulary of philosophy and the humanities, as we would call it today. Consequently, Christian authors were able to harness Latin to express all concepts of philosophy and theology, thus giving the people of the Middle Ages and early modern times an excellent means of expression. "Latin is concise, short, decisive, and far from ambiguous in defining meaning; it conveys one sense and can name a thing as clearly and simply as possible for a language,"[26] as Krzysztof Burczak put it. The attributes of the Latin language were instrumental in making legal rules universal. Most of them can be understood by lawyers of various nationalities and regardless of their mother tongue or legal system.

Due to the collapse of the Western Roman Empire in the 5th century AD and the elevation of local dialects to the rank of legitimate languages,[27] Latin gradually vanished as an everyday speech, yet it continued to be an international vernacular used in various areas of life.

Latin became the language of the Western Church. It was first used by the Church in North Africa in the era of Tertullian, Cyprian, Arnobius the Elder, and Lactantius (2nd–3rd centuries). In the second half of the 4th century, Latin replaced Greek as the language of the Roman Catholic liturgy and maintained this status until the reform of the Second Vatican Council. Even after the fall of the Western Roman Empire, due to the historical and cultural status of the barbarian kingdoms, whose underdeveloped languages were unable to fulfil a liturgical function, during the Middle Ages Latin became the language of religious volumes and ceremonies across the entire Western Church. The fact that the Church, universal and transnational at her core, recognized Latin as her own and made it an instrument of fostering unity and evangelizing peoples contributed to its further spread; in most European countries, it was used as the language of administration, liturgy, and literature.

Currently, although national languages were validated for liturgical purposes, Latin has remained the official language of Vatican City and of the liturgy of the Roman Catholic Church; it has also been the language of documents issued by the Holy

26 K. Burczak, Łacina trwałym nośnikiem myśli prawniczej, "Monitor Prawniczy" 2009, no. 4, pp. 186–189.

27 Latin gave rise to Italian, French, Spanish, Romanian, and Portuguese; moreover, its numerous borrowings, including of grammatical structures, can be seen also in English and German.

See and its offices.[28] The Codes of Canon Law of 1917,[29] 1983,[30] and 1990,[31] which constitute the very framework of the law of the Roman Catholic Church, were promulgated in Latin.

For centuries, up to the 18th century, Latin was the language of science as well as dominating as the legal parlance throughout Europe. This can be explained by the fact that at the time of adopting the solutions of Roman law, the local languages of the nations receiving Roman law, to a greater or lesser extent, basically did not have their written form or were not sufficiently developed.[32] This, again, strengthened the role of Latin in legal sciences. For that reason, in the Middle Ages, Western civilization radiating throughout Europe wrapped in the cloak of Christianity was permeated with the culture of the Latin language. It provided a cultural substrate and created a unique code that was legible for succeeding generations. An important item of this code is Latin legal rules and maxims.

4. Regulae Iuris in Contemporary Legal Culture

The long tradition in Europe's legal practice of using sententia-like expressions, which convey the very essence of things matter-of-factly, expressively, and in a way that makes them easy to remember, is still vivid in contemporary culture and is also invariably an area of interest to present-day science. This observation is corroborated by the fact that this slice of legal tradition is still explored by researchers in Roman law; what is more, the problem is approached from the perspective of various branches of law.[33] Its topicality can be seen in numerous scientific initiatives, such

28 This state of affairs is evidenced by the fact that in 2012 Pope Benedict XVI issued the Apostolic Letter *Latina Lingua* establishing the Pontifical Academy for Latin.

29 The Code of Canon Law (*Codex Iuris Canonici, Pii X Pontificis Maximi iussu digestus, Benedicti Papae XV auctoritate promulgatus*); the code regulated the legal system of the Latin Church and of the Eastern Churches recognizing papal primacy.

30 The Code of Canon Law (*Codex Iuris canonici auctoritate Joannis Pauli PP. II promulgatus*); the code regulated the legal system of the Latin Church.

31 Code of Canons of the Eastern Churches (*Codex canonum Ecclesiarum Orientalium auctoritate Joannis Pauli PP. II promulgatus*); the code regulated the legal system of the Eastern Churches recognizing papal primacy.

32 The process of "emancipation" of national languages showed varied intensity; I. Szczepankowska, Język prawny I Rzeczypospolitej, (in:) A. Zamoyski (ed.), Zbiór praw sądowych, Białystok 2004, p. 24, points out that "Although the Polish language in the 16th century sought to assert greater authority, it could not match Latin in all its existing functions: at church, school, offices, science..."

33 Some latest monograph works addressing this area and published by the young generation of researchers are, for example: P. Alexandrowicz, Kanonistyczne uzasadnienie swobody umów w zachodniej tradycji prawnej, Poznań 2020; A. Sacher, Zasada nieretroaktywności prawa w prawie rzymskim i kanonicznym, Lublin, 2021.

as local, national, and supranational conventions, seminars, and conferences on the subject.[34]

New research prospects embracing legal rules and maxims are also driven by the globalization and Europeanization of law. Long before the establishment of the European Union, the Austrian legal historian Paul Koschaker (1879–1951) wrote in one of his works[35] that Roman law and its original terms and expressions were more than likely to become a platform of understanding and communication among lawyers from different legal systems. The rise and development of the European Union and the common European legislation raises the question of to what extent the potential contained in *ius Romanum* is exploited to the benefit of enacted European normative acts and judgments made by international judicial institutions. Further and more in-depth research in this field may help find the answer.[36]

Latin legal rules and maxims continue to embellish items and buildings. For example, they can be found on court buildings or other public administration facilities. They are there to emphasize the rank and importance of the institutions housed inside. They are also intended to promote the tradition and values of *ius Romanum* in

34 They are held with a relatively high frequency. For example, in 2008, the *Monitor Prawniczy* journal and the Warsaw Bar Association organized a seminar, Latin Legal Paroemias and Contemporary Legal Practice. In 2014 Naples hosted a convention of historians of ancient law (*"Regulae iuris." Racines factuelles et jurisprudentielles, retombées pratiques. 68ème Session de la Société Internationale Fernand De Visscher pour l'histoire des Droits de l'Antiquité*) and the seminar *Fondamenti storici, analisi teorica, operatività pratica delle "regulae iuris" nella dimensione del diritto europeo.* In 2017 Cardinal Stefan Wyszynski University in Warsaw held a nationwide academic conference, Regulae Iuris of Boniface VIII in Contemporary Legal Systems.

35 Europa und das römische Recht, C.H. Beck Verlag, Munich/Berlin 1953.

36 On the options of reaching for Roman law in the process of harmonization and creation of *ius novum* in the European space, see K. Wyrwińska, Prawo rzymskie kluczem do zrozumienia dziedzictwa prawnego Europy. Uwagi na marginesie europejskich tendencji do harmonizacji prawa prywatnego, (in:) W. Uruszczak, P. Święcicka, A. Kramer (eds.), Leges sapere. Studia i szkice dedykowane profesorowi Januszowi Sondlowi w pięćdziesiątą rocznicę pracy naukowej, Kraków 2008, pp. 697–706. A separate question related to the influence of Roman law is the lasting debate on the influence of continental law, with its Roman roots, on the system of common law; the literature on the subject is extensive. More recently, the place of Roman law in the American legal system based on the case law of the Supreme Court has been discussed in W. Kosior, Prawo rzymskie w orzecznictwie Sądu Najwyższego Stanów Zjednoczonych Ameryki, "Zeszyty Prawnicze" 2018, no. 1, pp. 5–24. The relations between Roman law and common law (in England) were explored by, for example, Ł. Korporowicz, Prawo rzymskie w orzecznictwie Izby Lordów w latach 1876–2009, Łódź 2016; Idem, Prawo rzymskie w wybranych orzeczeniach Izby Lordów w latach 1999–2009, "Z Dziejów Prawa" 2011, no. 4, pp. 283–296; Ł. Marzec, Prawo rzymskie – składnik angielskiej doktryny i praktyki prawa narodów?, "Zeszyty Prawnicze" 2002, no. 2, pp. 83–98; Idem, Czy prawo rzymskie pokonało Kanał La Manche? "Krakowskie Studia z Dziejów Historii Państwa i Prawa" 2008, no. 2, pp. 43–53. One of the central values of the Roman jurisprudence, the idea of just and equitable law (*aequitas*) has invariably been a point of departure for discussions about corrective mechanisms of positive law; cf. S. Prutis, "Korzenie" słuszności jako zasady wiodącej prawa prywatnego, "Białostockie Studia Prawnicze" 2014,np. 17, pp. 207–215.

the public domain. This practice has a long tradition, and a contemporary example of this is the building of the Supreme Court in Warsaw, Poland (also known as the Palace of Justice). Its frontage columns are adorned with 86 Latin legal paroemias. This is how they perpetuate their culture-making role and significance in a monumental manner.[37] The Latin expressions embody the concepts of the law that has been genetically intertwined with European law and impart the cultural image of Roman law, its values, and paradigms.

Conclusion

In conclusion, the legal rules created by the ancient Roman jurisprudence and taking the form of maxims and adages were applied and creatively elaborated over centuries in various legal systems. Today, they still enjoy the vivid interest of not only researchers in Roman law. Not without significance for their dissemination among the general public was that after the collapse of the Western Roman Empire in the second half of the 5th century, the Church took the role of custodian of the values of Roman law in Western Europe. Not only did she preserve precious scrolls with ancient juridical wisdom, but she also implemented many of the Roman regulations in her own legal order. An invaluable tool that consolidated and disseminated the Roman legal thought, including legal paroemias and adages, was Latin, the language of the ancient Romans. Legal rules in an attractive form, communicating timeless ideas, and ready for use by present-day lawyers in everyday legal discourse can be attractive and inspiring input material in the process of the harmonization and development of European law.

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37 There is a body of literature covering this project; a noteworthy publication providing the relevant references is: A. Kacprzak, J. Krzynówek, W. Wołodkiewicz, "Regulae iuris". Łacińskie inskrypcje na kolumnach Sądu Najwyższego Rzeczypospolitej Polskiej, Warsaw 2006.

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