Abstract

Through the project *Pax Boreo-Romana*, Roman law is reimagined as a living pedagogical tool in Icelandic legal education. This commentary explores how classical legal concepts are taught through active learning, comparison, and creative engagement. It argues that Roman law continues to offer a powerful training ground for legal reasoning, even at the edge of the Arctic world.

Where Do Laws Begin? And Why Do We Start in Rome

As professors, we often ask ourselves why and how Roman law should be taught today. Throughout this course, we discovered that the answer is far more profound than one might expect. Many students began the semester assuming that Roman law was distant, archaic, and disconnected from the realities of modern legal systems. Yet, as the weeks unfolded, they started to recognise familiar structures, recurring ideas, and echoes of the legal logic that still shapes their everyday understanding of justice. They realised that the world has not changed as radically as we often imagine; societies continue to respond to challenges of *bona fides* (good faith), property, family, liability, and procedural fairness in ways that preserve the same essential logic. What evolves is not the core reasoning itself, but how each generation reshapes it.

This insight deepened when we undertook a comparative exercise that placed Roman law in dialogue with modern legal systems, especially the Italian and Icelandic ones. Comparative law is usually practised horizontally, between contemporary jurisdictions. Roman law, however, invites a comparison that is both vertical (across time) and horizontal (across concepts). Through this "double comparison," students came to see that law is not a static construction but a continuous process: layered with interpretation, shaped by reform, and responsive to social needs. This pedagogical discovery resonates strongly with contemporary scholarship. Aldo Schiavone has argued convincingly that modern legal thought still operates within the conceptual laboratory built by the Roman jurists. He notes that the great families of concepts that sustained the Western legal order for centuries, for example, sovereignty, property, contract, have been emptied of their original historical meaning and refilled with new content generated by technological and economic transformations.[1]

However, what modernity inherited from Rome was not the Roman legal experience itself, but its distorted image. For more than a millennium, the Western tradition identified Roman law with the *Corpus iuris civilis*, reading it as a timeless code rather than as the product of centuries of intellectual experimentation. Schiavone describes this as a "falsification," a conceptual crystallisation that cancelled the dynamism and intellectual plurality of ancient jurisprudence.[2] Correcting this genealogy requires returning to the *jurists* themselves to understand that Roman law was not born as a code but as a *jurisprudential order*, a dynamic system of case-based reasoning shaped by experts who simultaneously produced legal science and constructed the normative framework of an expanding empire. Recognising this helps us see that legal concepts are never fixed, and that what appears stable today is the outcome of constant reconstruction.[3]

The importance of Comparative Law

Students who also attended the *European Legal Tradition / Sameiginleg lagahefð Evrópu* course experienced this intertemporal comparison firsthand. When we studied the rigidity of the Roman *legis actiones*, they immediately connected it to the strictness of the early English *writ system*. Two legal traditions that developed independently nevertheless followed strikingly similar trajectories. Both required precise formulas to initiate legal action; both eventually confronted the injustices created by excessive formalism; and both reformed themselves by introducing more flexible mechanisms grounded in equity and fairness.

"Sed istae omnes legis actiones paulatim in odium uenerunt ; namque ex nimia subtilitate ueterum qui tune iura condiderunt eo res perducta est ut uel qui minimum errasset litem perderet."
(But all those leg-is actiones gradually fell into discredit ; for, owing to the extreme subtility of the jurists of the republic, whose province it then was to declare the law, it came about that a litigant making even the slightest mistake lost his cause) Gaius, *Institutiones* 4.30

"The keynote of the form of action is struck by the original writ, the writ whereby the action is begun. From of old the rule has been that no one can bring an action in the king's courts of common law without the king's writ." F.W. Maitland[4]

So, it is easy to say that what appears stable and settled today is often the result of long struggles for balance between form and justice. The course also encouraged students to engage with topics that Roman law, for obvious historical reasons, could not have anticipated: environmental protection, gender equality, and children's rights. Bringing these themes into the classroom created an important reflective space. Students were surprised to see that, despite the absence of environmental consciousness in antiquity, Roman legal tools such as neighbourhood obligations and limitations on harmful land use still offer conceptual resources for environmental law today.[5] Likewise, in understanding the *iura vitae necisque* traditionally attributed to the *pater familias*, who held authority (*patria potestas*) over his *liberi* under his *auctoritas* and could decide whether to accept the *infans* into the *domus* or subject the newborn to *exposition*.[6]

The *Glossarium Vivum*

Beyond the comparative approach, another methodological feature that shaped the course was the *glossarium vivum*. What began as a simple vocabulary exercise soon grew into a living, dynamic part of the class. By speaking Latin terms aloud, students almost stepped into the intellectual world of the jurists they were studying. Each week, we organised friendly competitions among small groups, which encouraged active and joyful engagement. Students debated meanings, corrected one another, and celebrated each step of their progress. This embodied the idea that Roman law remains intellectually vibrant when it is spoken, debated, and lived, much like the Roman jurists themselves, whose work developed through constant dialogue and disputation.[7]

Studying Roman Law promotes Legal Thinking

Beyond these specific comparative exercises, what truly enriched the course was the way students began to see Roman law not simply as a body of rules but as a mode of thinking. Roman jurists did not think in terms of fixed codes or rigid classifications. They explored problems through flexible reasoning, often starting from concrete cases and working outward to abstract principles. The course also revealed something fundamental about the identity of European legal culture. These habits constitute what Stein described as the history of Western law, a deep structure that survives despite substantive divergences across jurisdictions.[8] Students thus came to see themselves as part of this longer

intellectual *continuum*. This experiential approach eventually inspired the idea of the special issue *Pax Boreo-Romana*. Our aim was not to force parallels between Rome and Iceland, but to explore how ancient legal ideas illuminate contemporary challenges in Iceland or other modern societies. The project was born directly from classroom discussion, where international exchange students and those in the Polar Law Programme compared Roman categories with issues arising in their own jurisdictions, from resource governance to constitutional identity, from property to cultural resilience. Teaching Roman law in this comparative and *dialogical* way created a bridge between past and present, the Mediterranean and the Arctic, Latin terminology and global legal concerns. It encouraged students to approach academic work not as a static exercise, but as a creative and evolving process. As du Plessis points out in Borkowski's Textbook on Roman Law, the manual we adopted for this course, Roman law matters not because its ancient rules still govern our lives, but because it teaches us how to think. The classical jurists worked with an attention to detail and a commitment to conceptual clarity that continues to resonate today. Their way of analysing problems, logically, and with a constant effort to refine the meaning of legal concepts, cultivated a form of intellectual discipline that modern lawyers still rely on. Even though many of the substantive doctrines they developed have long disappeared, the mental habits they shaped remain deeply familiar. Roman law, as du Plessis reminds us, is less a body of rules than a training ground for legal reasoning: a space where students learn to slow down, to interpret carefully, and to approach difficult questions with precision and imagination.[9]

Should We Still Teach Roman Law in Icelandic Classrooms?

At the edge of the Arctic, the question that opened this journey finally finds its answer: we still teach Roman law because it continues to teach us how to think**.** Far from being an anachronism in an Icelandic classroom, Roman law proves to be anything but remote. It is not merely a subject on the curriculum, but a method of reasoning, a bridge across time, and a powerful reminder that law, much like society itself, is a living organism shaped by hopes, fears, conflicts, and creativity. Through this experience, Icelandic students (and non) ultimately discover that Roman law still speaks to the modern world not because it is ancient, but because it remains, quite stubbornly and unexpectedly, profoundly alive.

References

Cicero, *Topica*
Latin text (Yonge translation): https://www.attalus.org/cicero/topica.html

Digest (Ulpian, Pomponius, etc.) – *Digesta / Pandectae* (Scott trans) https://droitromain.univ-grenoble-alpes.fr/Anglica/D1_Scott.htm

du Plessis PJ, *Borkowski's Textbook on Roman Law* (7th edn, Oxford University Press 2020).

Gaius, *Institutiones*
Latin/English (Harvard / Archive): https://archive.org/details/institutesofgaiu00gaiuuoft

Schiavone A, *Ius. L'invenzione del diritto in Occidente (Ius. The Invention of Law in the West)* (Einaudi 2005, 2017 edn)

Stein P, *Roman Law in European History* (Cambridge University Press 1999)

Endnotes

[1] Aldo Schiavone, *Ius. L'invenzione del diritto in Occidente* (Einaudi 2005, 2017 edn) 23.

[2] Schiavone (n 1) 24–30.

[3] Ibidem

[4] FW Maitland, The Forms of Action at Common Law, 1909 (Fordam University) Lecture I. https://sourcebooks.web.fordham.edu/basis/maitland-formsofaction.asp#:~:text=The%20keynote%20of%20the%20form,been%20a%20very%20great%20change.

[5] *Digest* 39.3.1.12 " nihil posse agi, nec de dolo actionem" (no legal action can be brought, not even an action for fraud (dolus))in T Mommsen, P Krüger (eds), *Corpus Iuris Civilis*.

Digesta (Weidmann 1870–1895). https://droitromain.univ-grenoble-alpes.fr/

[6] Gaius, Institutiones 1.52 "In potestate nostra sunt liberi, quos iusto matrimonio procreavimus. […] Olim autem in his vita necisque potestas fuit." ("In our power are the children whom we have begotten in lawful marriage. […] Formerly, the power of life and death existed over them.") (James Muirhead trans) https://archive.org/details/institutesofgaiu00gaiuuoft/page/n5/mode/2up?q=necisque

[7] Cicero, *Topica* 1.1–2 "quam cum tibi euissem, disciplinam inveniendorum argumentorum, ut sine ullo errore ad ea ratione et via perveniremus." ("And when I had explained them to you, and told you that the system for the discovery of arguments was contained in them") (Yonge trans.) https://www.attalus.org/cicero/topica.html

[8] Peter Stein, *Roman Law in European History*, p.3.

[9] Paul J du Plessis, *Borkowski's Textbook on Roman Law*, p.31