



## *The Hebrew University of Jerusalem*

### *Syllabus*

## *Law and Order in Latin: Reading the Sources of Roman Law - 39717*

*Last update 03-11-2024*

*HU Credits: 2*

*Degree/Cycle: 2nd degree (Master)*

*Responsible Department: History*

*Academic year: 0*

*Semester: 1st Semester*

*Teaching Languages: Hebrew*

*Campus: Mt. Scopus*

*Course/Module Coordinator: Dr. Matthias Schmidt*

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*Coordinator Office Hours: Mondays 13:00 - 14:00*

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Teaching Staff:

Dr. Matthias Schmidt

Course/Module description:

*In the thousand years between the Law of the Twelve Tables of the early Republic and Justinian's massive Codifications in late antiquity of academic jurisprudence regarding private law, the Romans developed probably the most sophisticated and comprehensive secular legal system of Antiquity, which remains at the heart of the civil law tradition of Europe and beyond. Roman lawyers created new legal concepts, ideas, rules, mechanisms and regulations that most Western legal system still apply. - In the seminar a representative cross-section of texts from the Roman Law corpus will be read (in Latin) and discussed (in Hebrew) regarding their historical and legal contexts. Representative examples will be taken from the different categories of law - like ius civile (privatum et publicum), ius honorarium, ius gentium; but also religious law; constitutional law; criminal law etc - according to the interest of participants. The Roman legal system, legal procedures and practises will be illustrated by additional relevant contemporary secondary sources ("case studies") to detect the "Sitz im Leben" of Roman Civil Law in order to define characteristics and principal achievements of Roman legal culture. Important Roman jurists will be introduced through their commentaries and contributions to Roman Law and Order.*

Course/Module aims:

*Students will read and study a variety of law texts in Latin in their historical and intellectual contexts to gain insight into vocabulary and terminology of Roman Law, its different sources and aspects. They will acquire knowledge about the timeline of the development of Roman law, its tradition and interpretations. They will learn about the codification in late antiquity of academic jurisprudence regarding private law and familiarize themselves with the defining characteristics and principal achievements of Roman legal culture. In addition, they will learn about the legal system and procedures in the practice of Roman law courts by studying a choice of famous trials. The synthesis of all subjects of the course should create a comprehensive overview and enable students to evaluate the relevance of Roman Law and its basic concepts today.*

Learning outcomes - On successful completion of this module, students should be able to:

- \* read and study law texts in their original Latin language and understand their linguistic contexts;*
- \* identify the different sources of Roman Law and its contexts;*

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- \* familiarize themselves with the time line of the development of Roman Law and its codification;
  - \* differentiate between the different traditions, categories, concepts and ideological ideas of Roman Law;
  - \* point to the most important Roman jurists and their contribution to the Law Corpus;
  - \* familiarize themselves with Roman legal procedures and practises
  - \* evaluate the meaning, importance and value of Roman Law for modern societies
  - \* select and synthesize material from lectures and recommended primary and secondary sources as well as research literature to use in oral and written discussions of set topics.

Attendance requirements(%):

100

*Teaching arrangement and method of instruction: The reading and analysis of primary and secondary sources in the context of Roman Law and the discussion of a selection of research literature will identify the main elements of the arrangements of law and order in ancient Rome. Latin legal texts and additional source texts (in translation) as well as modern research literature will be circulated and must be prepared for each session of the seminar in advance. In the seminar student presentations of texts, power point presentations by the teacher, class room discussions and group work will alternate.*

Course/Module Content:

*The following work plan gives the main structure of the seminar.*

*1. Introduction*

*1.1 Definitions - Categories - Subjects*

*1.2 Sources of Roman Law*

*1.2.1 The Legislative Authorities in Rome*

*1.2.2 The Roman Law Library - online editions of source texts*

*2. Civil and Religious Law*

*2.1 The Twelve Tables/leges XII tabularum - Eternal LAW before the Laws*

*2.2 S C de Bacchanalibus - Decree of the Roman Senate prohibiting the Bacchanalia: ILS 18; ILLRP 511; Livius 39, 17*

*2.3 Religio id est cultus deorum - The Framing of the Ideal Religious Laws: Marcus Tullius Cicero, De Legibus II 8,19-9.22*

*2.4 Religious Laws in a Colonial Constitution: lex Ursonensis 64-72; 125-128*

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### 3. The “Sitz im Leben” of Roman laws

#### 3.1 Lawyers and Courts - A short overview

#### 3.2 The Example: Roman Citizenship/civitas Romana

##### 3.2.1 From the Lex Iulia de civitate Latinis et sociis danda (90 BCE) to the Constitutio Antoniniana de civitate peregrinis danda (212 CE) - A short survey

##### 3.2.2 “Case studies” - Accusations of gaining Roman Citizenship illegally

###### 3.2.2.1 Marcus Tullius Cicero, Pro Archia poeta (62 BCE)

###### 3.2.2.2 Marcus Tullius Cicero, Pro Balbo (56 BCE)

### 5. Selected Readings of texts (choice of the students) from the Corpus Iuris Civilis and other sources

### 6. Concluding discussion: Roman Law in modern discourses about law, liberty and rights

#### Required Reading:

The 1st section gives bibliographical items for obligatory reading before the seminar.

The 2nd section gives a list of general introductions into Roman Law, its historical development, concepts and categories. Each participant is requested to study at least ONE of the suggested introductions (marked with \*) as supporting literature during the months of the seminar to cover the relevant issues of historical, conceptual, theoretical background of Roman Law. Students might find it useful to familiarize themselves in advance at least with the main topics generally dealt with in such literature - by browsing through some of the tables of contents of these items.

The 3rd section gives a list of general introductions into Roman History. Again - each participant is requested to study at least ONE of the suggested introductions (marked with \*) as supporting literature during the months of the seminar to cover the background and theoretical questions of Roman History. Students might find it useful to familiarize themselves in advance at least with the main topics generally dealt with in historiographical literature and the outline of Roman History - by browsing through some of the tables of contents of these items.

The 4th section gives a list of articles on the development of the so-called Roman constitution as well as of political-social institutions and culture of Rome. These contributions should be understood as further reading supplementing the items on Roman history and should be consulted in due time during our work in the seminar.

The 5th section gives a list of monographies or scientific articles dealing with special questions - regarding law and order or subject areas which will be dealt with

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during the seminar. Since some of the source texts will be decided about at a later stage by the participants during the course - the list in the 5th section is preliminary and gives for now mainly a choice of articles on subjects which might be discussed in light of main source texts. Other bibliographical items will be added to this section during the course, but all items in the 5th section of the required reading will be posted in due time (if necessary) on the moodle.page in chronological order according to the dynamics of our work capacity during the term.

1. Absolute obligatory reading before the seminar>

Michael C. Alexander, "Law in the Roman Republic", in: Nathan Rosenstein, Robert Morstein-Marx (eds.), *A Companion to the Roman Republic*, Hoboken, NJ: Wiley-Blackwell, 2010, 237-255 (on moodle)

2. Introductions - Roman Law - ONE of the following bibliographical items marked as (\*) - during the term:

Craik Anderson, *Roman Law*, Dundee: Dundee University Press, 2009 (online - Mount Scopus Library); 2nd edition published as> Craik Anderson, *Roman law essentials*, Edinburgh: Edingburgh University Press, 2018, 2nd edition (online - Mount Scopus Library).

Leslie Basil Curzon, *Roman Law*, London: Macdonal & Evans LTD, 1966 (actually a very comprised handbook/reference book/dictionary/short encyclopedia - and not to be suited for continous reading).

Rafael Domingo, *Roman law: an introduction*, London New York: Routledge, Taylor & Francis Group, 2018.

Gottfried Härtel, Elemér Pólay, *Römisches Recht und Römische Rechtsgeschichte*, Berlin Boston: De Gruyter, 2021.

Barry Nicholas, *An Introduction to Roman Law (Clarendon Law Series)*, Oxford: Oxford University Press, 2008, (rev. edition of the original 1962> online - Mount Scopus Library).

A. Arthur Schiller, *Roman law: mechanisms of development*, The Hague New York: Mouton, 1978 (online - Mount Scopus Library).

Rudolph Sohm, *The Institutes of Roman Law*, Piscataway, NJ: Gorgias Press, 2002 (online - Mount Scopus Library).

Olga Tellegen-Couperus, *A Short History of Roman Law*, London New York: Routledge, 1993 (online - Mount Scopus Library).

3. Introduction - General Roman History - ONE of the following bibliographical items marked as (\*) - during the term:

A) *The Shorter Versions: Roman History*

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\*John F. Matthews (JFMa), Art. "Rome (history) &eq; History of Rome" in: Simon Hornblower, Anthony Spawforth (eds.), *The Oxford Companion to Classical Civilization*, Oxford, UK: Oxford University Press, 2014, 2nd edition, pp. 670-685 - good very densed presentation on Roman History.

\*Andrew M. Riggsby, "Roman History - The Brief Version", in: idem, *Roman Law and the Legal World of the Romans*, New York: Cambridge University Press, 2010, pp. 11-24 (online - Mount Scopus Library).

#### B) The Longer Versions: Roman History

\*Mary Beard, *SPQR. A History of Ancient Rome*, London: Profile Books, 2015 - recommended for a good, enjoyable reading.

\*Lukas de Blois, Robartus Johannes van der Spek, *An Introduction to the Ancient World*, London, New York: Routledge, 1997, - part II: Rome, chap. 12-16, pp. 149-295 - best to get comprised information on certain chapters of Roman History - if needed).

\*Klaus Bringmann, *A History of the Roman Republic*, Cambridge: Polity Press, 2007 (dt. *Geschichte der römischen Republik: Von den Anfängen bis Augustus*, Beck: München, 2002.)

#### 4) History of Roman Constitution, Institutions and Culture

Peter Jones, Keith Sidwell, *The World of Rome. An Introduction to Roman Culture*, Cambridge: Cambridge UP, 1997.

Dennis P. Kehoe, "Law and Social Formation in the Roman Empire", in: Michael Peachin (ed.), *Social Relations in the Roman World*, Oxford: Oxford University Press, 2011, p. 144-163.

Andrew Lintott, *The Constitution of the Roman Republic*, Oxford: Clarendon Press, 1999.

John A. North, "The Constitution of the Roman Republic", in: Nathan Rosenstein, Robert Morstein-Marx (eds.), *A Companion to the Roman Republic*, Malden, MA: Blackwell Publishers, 2006, pp.256-277.

Francisco Pina Polo, "SPQR. Institutions and Popular Participation in the Roman Republic", in: Paul J. Du Plessis, Clifford Ando, Kaius Tuori (eds.), *The Oxford Handbook of Roman Law and Society*, Oxford: Oxford University Press, 2016, pp. 85-97.

Adrian N. Sherwin-White, "The Roman Citizenship. Survey of its development into a world franchise", in: *ANRW I 2* (1972), 23-58.

Benjamin Straumann, "Constitutional Thought in the Late Roman Republic", in: *History of Political Thought* 32.2 (2011), pp. 280-292.

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Andrew Wallace-Hadrill, "Civitas Romana: The Fluidity of an Ideal", in: *Al-Masāq* 32.1 (2020), p. 18-33 (online > <https://doi.org/10.1080/09503110.2019.1682854>).

5) *Specific subjects:*

José Luis Alonso, "The Constitutio Antoniniana and Private Legal Practice in the Eastern Empire", in: Kimberley Czajkowski (ed), *Law in the Roman Provinces*, Oxford: Oxford University Press, 2020, p. 44-64.

Richard A. Bauman, "The Lex Valeria de provocatione of 300 B.C.", in: *Historia. Zeitschrift für Alte Geschichte* 22.1 (1973), pp. 34-47.

T. J. Cornell, "The Twelve Tables", in: *idem.*, *The Beginnings of Rome. Italy and Rome from the Bronze Age to the Punic Wars (c. 1000-264 BC)*, London New York: Routledge, 1995, 272-292 (452-456).

Kurt von Fritz, "The Reorganisation of the Roman Government in 366 B.C. and the so-called Licinio-Sextian Laws", in: *idem.*, *Schriften zur griechischen und römischen Verfassungsgeschichte und Verfassungstheorie*, Berlin New York: de Gruyter, 1976, pp. 329-373.

Peter Garnsey, *Social Status and Legal Privilege in the Roman Empire*, Oxford: Clarendon Press, 1970, esp. part IV *The Honosteriores*, p. 221-280 (Mount Scopus Library DG 88 G3).

Simon Hornblower, Anthony Spawforth (eds.), *The Oxford Companion to Classical Civilization*, Oxford, UK: Oxford University Press, 2014, 2nd edition (online - Mount Scopus Library) > Various articles on aspects of "Roman Law" > adoption - adultery - citizenship - family. freedmen, freedwomen - Justinian's codification - law and procedure - lawyers - legal literature - marriage law - status (legal and social) - torture - Twelve Tables.

Andrew Lintott, "Legal Procedure in Cicero's Time", in: Jonathan Powell, Jeremy Paterson (eds.), *Cicero The Advocate*, Oxford New York: Oxford University Press, 2004, p. 61-78.

Ralph W. Mathisen, "Peregrini, Barbari, and Cives Romani: Concepts of Citizenship and the Legal Identity of Barbarians in the Later Roman Empire", in: *American Historical Review* 111.4 (2006), pp. 1011-1040.

Jörg Rüpke, "Religion in the lex Ursonensis", in: *idem.*, *From Jupiter to Christ: On the History of Religion in the Roman Imperial Period*, Oxford: Oxford University Press, 2014, pp. 113-136 (also in: Clifford Ando, Jörg Rüpke (eds.), *Religion and Law in Classical and Christian Rome*, Stuttgart: Steiner, 2006, pp. 34-46).

Additional Reading Material:

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The bibliographical items below are considered additional reading in the broadest sense. They include: (a) handbooks and companions with contributions to many subjects/aspects of Roman history, society and Law giving easy access to up-to-date presentations of research areas; (b) contribution to general and specific subjects beyond the strict lines of the seminar.

(a) *Handbooks and Companions - for up-to-date on core issues and questions of Roman History, Law, Society, Institutions*

Markus D. Dubber, Christopher Tomlins (eds.), *The Oxford Handbook of Legal History*, Oxford: Oxford University Press, 2018 (online - Mount Scopus Library).

Simon Hornblower, Anthony Spawforth (eds.), *The Oxford Companion to Classical Civilization*, Oxford, UK: Oxford University Press, 2014, 2nd edition (online - Mount Scopus Library).

Caroline Humfress, David Ibbetson, Patrick Olivelle (eds.), *The Cambridge Comparative History of Ancient Law*, Cambridge, UK; New York USA; Port Melbourne, Australia: Cambridge University Press, 2024 (online - Mount Scopus Library).

David Johnston (ed), *The Cambridge Companion to Roman Law*, Cambridge: Cambridge University Press, 2015 (online - Mount Scopus Library).

Paul J. du Plessis, Clifford Ando, Kaius Tuori (eds.), *The Oxford Handbook of Roman Law and Society*, Oxford, UK: Oxford University Press, 2016 (selected chapters will be read in class - Law Library Mount Scopus: Upper Level Guzik; G 34(37)/OXF).

Andrew M. Riggsby, *Roman Law and the Legal World of the Romans*, New York: Cambridge University Press, 2010 (online - Mount Scopus Library). - In this book, Andrew Riggsby offers a survey of the main areas of Roman law, both substantive and procedural, and how the legal world interacted with the rest of Roman life. Emphasising basic concepts, he recounts its historical development and focuses in particular on the later Republic and early centuries of the Roman Empire. The volume is designed as an introductory work, with brief chapters that will be accessible to college students with little knowledge of legal matters or Roman antiquity. The text is also free of technical language and Latin terminology. It can be used in courses on Roman law, Roman history, or comparative law, but it will also serve as a useful reference for more advanced students and scholars - more a handbook/reference book - to be consulted on different subjects - like Roman History (very brief essential version).

Nathan Rosenstein, Robert Morstein-Marx, *A Companion to the Roman Republic*, Blackwell Publishing: Oxford, 2006.

*Roman Law - Further Aspects and Readings*

Clifford Ando, "Roman Law", in: Markus D. Dubber, Christopher Tomlins (eds.), *The Oxford Handbook of Legal History*, Oxford, UK: Oxford University Press, 2018, pp.



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663-680 (online - Mount Scopus Library) - the chapter describes the history of studying Roman law and describes the contours of contemporary study as the product of complex and imbricated historical factors.

Leanne Bablitz, "Roman Society in the Courtroom", in: Michael Peachin (ed.), *Social Relations in the Roman World*, Oxford: Oxford University Press, 2011, p. 317-334.

Erica M. Bexley, *Giannēs Ziōgas* (eds.), *Roman Law and Latin Literature*, London, UK; New York, NY: Bloomsbury Academic, Bloomsbury Publishing Plc, 2022 (online - Mount Scopus Library).

Peter Garnsey, "Roman Citizenship and Roman Law in the Late Empire", in: Simon Swain, Mark Edwards (eds.), *Approaching Late Antiquity: The Transformation from Early to Late Empire*, Oxford: Oxford University Press, 2006, pp. 133-155 (online - Mount Scopus Library).

Judith Evans Grubbs, *Women and the Law in the Roman Empire. A sourcebook on marriage, divorce and widowhood*, London New York: Routledge, 2002 (Mount Scopus Library DG 91 G78 2002).

Kimberley Czajkowski (ed), *Law in the Roman Provinces*, Oxford: Oxford University Press, 2020 - a variety of contributions to the subject (online - Mount Scopus Library).

Peter Garnsey, *Social Status and Legal Privilege in the Roman Empire*, Oxford: Clarendon Press, 1970.

Jacob Giltaij, Kaius Tuori, "Human rights in Antiquity? Revisiting anachronism and Roman law", in: Pamela Slotte, Miia Halme-Tuomisaari (eds.), *Revisiting the Origins of Human Rights*, Cambridge: Cambridge University Press, 2015, 39-63.

Tony Honoré, *Ulpian. Pioneer of Human Rights*, Oxford: Oxford University Press, 2002, 2nd ed., (online - Mount Scopus Library).

Georgy Kantor, "Ideas of Law in Hellenistic and Roman Legal Practice", in: Paul Dresch, Hannah Skoda (eds.), *Legalism: Anthropology and History*, Oxford: Oxford University Press, 2021, p. 55-83 (online - Mount Scopus Library).

Andrew William Lintott, *Judicial Reform and Land Reform in the Roman Republic (New Edition, with translation and commentary of the laws from Urbino)*, Cambridge: Cambridge University Press, 1992 (Mount Scopus Library DG 88 L56 1992; Law Faculty Library Mount Scopus, Upper Level Guzik (G 34 (37)/LIN)).

A. J. Marshall, "The survival and development of international jurisdiction in the Greek world under Roman rule", in: *ANRW II 13* (1980), 626-661.

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*Wilfried Nippel, Public Order in Ancient Rome, Cambridge: Cambridge University Press, 1995 (online - Mount Scopus Library).*

*Paul A. Vander Waerdt, "Philosophical influence on Roman jurisprudence? The case of Stoicism and Natural Law", in: ANRW II, 36.7 (1994), 4851-4900.*

Grading Scheme:

*Essay / Project / Final Assignment / Home Exam / Referat 80 %  
Attendance / Participation in Field Excursion 20 %*

Additional information:

*Main focus of the seminar is the reading of various sources in Latin. Therefore, an exemption exam for classical Latin is a necessary pre-condition for registration and participation in the course. This graduate seminar is open for advanced undergraduate students in their 3rd year (with approval by the teacher).*