A group of people are seated around a long wooden conference table in a modern meeting room. A man stands at the head of the table, presenting to a large screen. The room has wood-paneled walls and large windows. The text is overlaid on the image.

# The Robbins Collection and Research Center in Religious and Civil Law

**DIGEST**  
2023



# Letter from the Director

This issue of the Digest shows the breadth of the intellectual community fostered at the Robbins Collection and Research Center.

After analyzing the Covid pandemic's impact on the ways we conducted our scholarly work, we saw an emerging need for greater access to our materials, especially in digital form. To this end, we embarked on an ambitious project to digitize most of our manuscripts and incunables. This effort will not only help to preserve our rarest and most unique materials, but will also open our collection to a wider audience. Manuscripts and early print books like those in the Collection were seen at one time as innovative ways of presenting information, and we are building upon this legacy of innovation by making these manuscripts and incunables available in an entirely new way.

The breadth and quality of events we have hosted this year embody this promotion of innovative legal thought. Our comparative law conference on "Customary Law and the Courts," co-hosted with the Institut des Usages at the University of Montpellier, brought together an impressive group of jurists from diverse continents and legal traditions. The Robbins Lecture in Jewish Law, Thought, and Identity, organized in close collaboration with the Helen Diller Institute for Jewish Law and Israel Studies, once again attracted a large audience and generated lively discussions.

Our newest publications are a natural complement to our other work. They include essays on contracts and family law forming the next volume of David Daube's collected works on Roman law. As a part of our comparative legal studies series, a new volume on current legal issues in Taiwan and in the United States was released in 2023. These essays were presented through a series of workshops over a period of four years held both at National Taiwan University College of Law and at Berkeley Law under the auspices of the Robbins Collection and Research Center.

Our Robbins Fellowship initiatives continue to include programs supporting both J.S.D. and J.D. students. In addition, the notable accomplishments of the numerous Robbins Research Fellows, past and present, uniquely reflects Lloyd Robbins's prescient belief in the importance of comparative and legal historical scholarship for solving present and future legal challenges. Years of litigation on his parents' behalf, seeking recognition of the community property system in California and culminating in the Supreme Court case *United States v. Robbins* (269 U.S. 315 (1926)), had taught him the practical value of comparative and historical understanding of legal issues. These students' various projects illustrate the form and the substance of the interest and methodology that Lloyd Robbins developed in his work on community property laws in California.

Laurent Mayali  
Distinguished Lloyd M. Robbins Professor of Law  
Director, The Robbins Collection and Research Center  
University of California, Berkeley  
School of Law

This  
year's cover  
features a  
photograph from  
the Customary Law  
Conference

# Contents

THE ROBBINS COLLECTION  
AND RESEARCH CENTER IN  
RELIGIOUS & CIVIL LAW

DIGEST 2023



## CONTACT

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**Berkeley** Law

## EVENTS

Customary Law Conference	3-5
Robbins Collection Annual Lecture in Jewish Law, Thought, and Identity	6

## ROBBINS FELLOWS

Spotlight: Anna Floris	8
Spotlight: Francesco D'Urso	9
Robbins J.S.D. Fellows	10
J.D. Students Abroad	11-12
Fellows Updates	13

## NEWS

Digitization Project	15-16
Recent Acquisitions	17
Visiting Professor Hannah Buxbaum	18
Rare Book School	19
New Robbins Publication	19
Upcoming Conferences	20
Staff News	20

## BOOK REVIEWS

Review of <i>Power and Justice in Medieval England: The Law of Patronage and Royal Courts</i> by Joshua Tate	22
Review of <i>Estudios de derecho romano y derecho civil desde una perspectiva histórica, comparativa y práctica</i> by Laura M. Velázquez Arroyo and Jorge Adame	23

A large, multi-story building with a prominent stone chimney and wooden accents, surrounded by trees and a lawn. The building has a dark roof and several windows. The foreground is dominated by a large, gnarled tree with sparse green leaves. The sky is a clear, light blue.

# EVENTS

*A look back at the conferences and  
lectures hosted by the Robbins Collection*





# Customary Law Conference:

## Customary Law and the Courts

In October 2023, the Robbins Collection and Research Center and the Institut des Usages at the University of Montpellier jointly hosted a conference on “Customary Law and the Courts,” held over two days at the Asilomar Conference Center in Monterey, California. The Berkeley and Montpellier law schools have fostered a strong academic and scholarly relationship for many years. The October conference was the second gathering organized by the two institutions; the first was held in Montpellier, France in 2017.

Facilitated by Professor Laurent Mayali, Berkeley Law, and Professor Pierre Mousseron, Institut des Usages, the event brought together distinguished scholars from the United States and France to explore themes as varied as constitutional law, customary law in France, Korea, Taiwan, and Muslim countries, common law, religious law, and family law.

The presentations during the conference’s first day all highlighted the mechanisms by which governments have incorporated customary law into their civil courts, while emphasizing the immense variation in different countries’



Conference participants engage in discussion

integration of customary law.

The first session, led by Mousseron, explored customary law in French, Korean, and Muslim legal systems. Employing bullfighting as a case study for the handing of customary law by French administrative courts and the Conseil d’Etat, Lise Chatain, professor of law at University of Bourgogne, noted that the lack of criminal prosecution of bullfighting is based solely in tradition, not law. She called this preference afforded to custom over law an “uninterrupted local tradition,” citing the impact and psychology of local tradition on the French legal system.

Hanyang University law professor Jae-Wan Park’s work on the role of customary law in South Korean civil cases revealed the complexity of this practice—it is unclear whether the authority to declare customary law unconstitutional lies with the ordinary courts or with the Constitutional Court of South Korea. Park highlighted three recent cases that have included a constitutionality review of the nation’s customary

### Looking Back: *Customary Law Today*

Published in 2018, *Customary Law Today* addresses current practices in customary law, includes the contributions of scholars from various legal systems (the USA, France, Israel, Canada, etc), who examine the current impacts of customary law on various aspects of private law, constitutional law, business law, international law and criminal law. This publication, co-edited by Laurent Mayali, and Pierre Mousseron and published by the Robbins Collection, was the basis for the 2023 Customary Law Conference.

laws.

Shams Al Hajjaji, a research associate at the Walter Schücking Institute for International Law at the University of Kiel and director of the Luxembourg University Press, discussed his work on the multi-dimensional aspects of *qisas*, an Islamic legal concept of “legal retribution” that provides for equitable punishment of violent crimes, especially in murder cases. His work emphasizes how Islamic legal systems aim to balance justice and mercy in their rulings.

In the conference’s second session, National Central University Taiwan law professor In-Chin Chen dissected the evolution of Taiwan’s supervision system. Taiwan has struggled to adapt the system from servants of the emperor to guardians of human-rights protections, especially as it relates to ensuring due process in impeachment cases. Chen explained the current shortcomings of the supervision system in providing due process and offered potential provisions that would enable due process based on human rights principles.

Berkeley Law professor José Argueta Funes examined customary law as a legal argument in Hawai’i, using *Oni v. Meek*, a case in which the plaintiff’s lawyer claimed that Oni had both a customary and a statutory right to pasturage that Meek controlled. Funes observed not only that lawyers frame Hawaiian customs as a common law, but also that Hawaiian common law is entirely absent from traditional histories of common law in the United States.

Kai-Ping Su, an associate professor of law at National Taiwan University, detailed Taiwan’s criminal courts’ history of incorporating foreign law into individual court decisions, thereby causing major inconsistencies within the court system when customs beyond the nation’s written laws are honored. He also argued that any introduction of a foreign law should be based on a root within Taiwan’s legal system and local customs.

#### Forthcoming Publication:

Papers from this Customary Law Conference will soon be compiled into a volume and released by the Robbins Collection in late 2024



Kai-Ping Su presents his research to the participants

Amar Laidani, a lecturer in law and political science at Laval University, Québec, Canada, examined the protection of Aboriginal rights in the Canadian courts, as they assume a more central role in Canadian jurisprudence and as Aboriginal customary laws begin to gain formal recognition. Historically, Canada’s Supreme Court has been the interpreter of First Nations’ customary law, resulting in a troubling legacy of institutionalized colonialism within Canadian courts.

Zhiyu Li, an assistant professor at Durham University, traced the persistence of Confucian legal thought in modern societies and its implications for family law rulings. Looking at existing Confucian statutes in mainland China, Hong Kong, and Macau, Li observed a persistence of Confucian values in current legal culture, even after policy changes and colonialism. In their work, both Laidani and Li seek to better understand how colonialism impacts the legacy of customary law within modern legal systems.

On the second day, two sessions focused on customary law and its application to government or civil courts. Professor Jibong Lim of Sogang University presented research on customary law within the Korean Constitutional Court, detailing both the abolition of the marriage prohibition system, prompted, as he argues, by extreme judicial activism, and the ruling that the relocation of South Korea’s capital was unconstitutional—the capital’s location had been deemed a customary constitution. Professor Mousseron detailed the difficulties of applying family customs within the French commercial court system, as French commercial courts and judges are often unequipped to navigate



the complexities of family law cases. He noted the reforms of commercial courts to include customary practices and the phenomenon of French family capitalism, by which French families have found ways to incorporate family custom into the commercial courts. Both South Korea and France's constitutional court systems proved effective case studies for examining the incorporation of customary law into a nation's constitutional framework.

Distinguished Professor Dr. Kuan-Ling Shen of National Taiwan University explained that customary law is rarely accepted in Taiwanese judicial practice because of the high standard of proof. She illustrated the intricacies of customs in Taiwanese courts using several cases, including the alienation guarantee (Sicherungseigentum), ancestor worship guilds, and the right of de facto disposal on the unauthorized constructions. Shen argued that the courts should make every effort to investigate facts of the customary law ex officio and that the standard of proof should be reduced.

All the diverse studies presented at the conference will contribute to a necessary rethinking of the role of customs in contemporary legal systems and provide stimulating ideas for the legal profession. According to Professor Mayali, "The topics explored by the international scholars and judges at this conference contribute to Lloyd M. Robbins's original vision of a research center dedicated to exploring the legal challenges of tomorrow."

The Robbins Collection looks forward to continuing the successful partnership with the Institut des Usages at the University of Montpellier and to fostering vigorous comparative exchanges that are mutually beneficial to contributors.

## Conference Participants

**Lise Chatain**

Professor, University of Bourgogne

**In-Chin Chen**

Professor, National Central University

**The Honorable William Fletcher**

US Court of Appeals for the Ninth Circuit

**José E. Argueta Funes**

Professor, Berkeley Law

**Shams Al Hajjaji**

Research Associate, the Walter Schücking Institute for International Law at the University of Keil, Director of Luxembourg University Press

**Amar Laidani**

Associate researcher, CIRAM-Centre interdisciplinaire de recherche sur l'Afrique et le Moyen Orient, Laval University, Québec, Canada

**Zhiyu Li**

Assistant Professor, Durham University

**Jibong Lim**

Professor, Sogang University Law School

**Daniel Mainguy**

Professor, Paris 1 Panthéon-Sorbonne University

**Laurent Mayali**

Director, the Robbins Collection & Research Center and Distinguished Professor, Berkeley Law

**Pierre Mousseron**

Director, Institut de Usages and Professor, University of Montpellier

**Jaewan Park**

Professor, University of Bourgogne

**Eric Rakowski**

Professor, Berkeley Law

**Kuan-Ling Shen**

Distinguished Professor, National Taiwan University

**Claudia Storti**

Professor, University of Milan

**Kai-Ping Su**

Associate Professor, National Taiwan University

**Amanda Tyler**

Professor, Berkeley Law

# Robbins Collection Annual Lecture in Jewish Law, Thought, and Identity

## The Executioner's Prayer: What Evolutionary Neuroscience and Talmudic Tradition Teach us about the Role of Punishment in Society



Professor Levy lecturing to the crowd

Daniel Levy, an associate professor at Baruch Ivcher School of Psychology at Reichman University, gave the 2023 Annual Robbins Collection Lecture in Jewish Law, Thought, and Identity. His lecture titled “The Executioner’s Prayer” explored the role of punishment in society and how it affects social cohesion. Levy, a 2022-2023 Helen Diller Institute visiting professor, traced the tradition of judicial punishment in the Bible and Talmud while seeking to understand how the idea of punishment might be tied to our evolutionary history and psychology.

Levy suggested that there might be an innate, evolutionary desire to inflict punishment on those who have offended social norms, using animal behavior as an example. “Ravens show evidence of third-party involvement to maintain social order,” he said. “There is a social norm that any raven that holds food can keep it, regardless of the status of other ravens present. A raven that violates this rule and attempts to take some of the food will be attacked by a third raven, who is not necessarily a relative of the victim. The punisher does not gain any direct personal benefit from attacking the thief.”

Humans, according to Levy, have also been found to exhibit strong tendencies to punish others who fail to cooperate for the common good, even if there is a personal cost to those carrying out the punishment. In PET-imaging studies of the brain activity of people playing “public goods games” (economic games intended to study behavior), when players planned to impose penalties on exploitative players, “activity was recorded in the striatum, an area important for learning the reward value of actions,” said Levy.

While acknowledging that crimes often stem from the hardship of social inequality, Levy said that “many crimes are still committed by people with the means and resources to succeed.” Then, drawing on an example from the Hebrew Bible, Levy suggested that there might be an ultimately more humane alternative to years of incarceration as punishment. Deuteronomy 25:3 seems to imply that, after corporal punishment, the offender should be immediately welcomed back into society—as though witnessing punishment allowed for people to forgive those who had harmed them. “We should consider the cost of punishment against the cost of carrying out the punishment. Incarceration does not work,” Levy said, while suggesting that it might be worth considering alternatives through these kinds of thought experiments.

The audience had many questions about the practical applications of Levy’s argument. One audience member, a former public defender, spoke about how Black and Brown people are disproportionately incarcerated in the United States, and how adopting corporal punishment in lieu of incarceration evokes unpleasant associations with corporal punishment inflicted on enslaved people in the nineteenth century. In response, Levy acknowledged that every society has a different history, and that he was merely considering an alternative to traditional models of incarceration, not proposing a fully-fleshed model that could, or should, be immediately adopted in the United States or any other country.

Levy’s lecture was the fourteenth annual Robbins Collection Lecture in Jewish Law, Thought, and Identity. “Our collaboration pre-dates the Helen Diller Institute” (for Jewish Law and Israel Studies), said Professor Kenneth Bamberger, the Institute’s director, in his opening remarks. “We look forward to many more years of ongoing collaboration with the Robbins Collection and Research Center.”



# FELLOWS

*A snapshot of the work that Robbins  
Collection Fellows have pursued over the  
past academic year*



# Robbins Fellow Spotlight

## Anna Floris

Currently a postdoctoral research fellow at the University of Palermo in Sicily, Anna Floris came as a Robbins fellow in the summer of 2023 to finish her soon-to-be-published book, *Interpreting Local Law in the Middle Ages: The Case of the Carta de Logu*. The monograph, which originated as Floris's 2021 dissertation at the Università degli Studi di Trento in northern Italy, is a synoptical edition of the *quaestiones* of the *Carta de Logu*."

The *Carta de Logu*, a 14th-century compilation of local law of the Judicate of Arborea, plays a fundamental role in Sardinian legal history. Instead of in Latin, which one would typically expect in a legal document from this period, the document is written in the Sardinian vernacular language. Appended to the *Carta* is a list of *quaestiones*, hypothetical legal cases drafted in the form of questions and answers—unique in their use of the Sardinian vernacular—which deal with agricultural and pastoral issues and reflect the society from which the text emerged.



Anna Floris

“Before my summer at the Robbins Collection, I’d never experienced the pleasure of finding every book or article I looked for”

“As all postdoctoral researchers know, this is an excruciating process,” she says. “There wasn’t one problem in particular, but rather many issues that needed to be revised and rediscussed.”

The hypothetical cases in these *quaestiones* are still solved through Roman law, much like more traditional *quaestiones*. There are also references, though not explicit, to the Gloss of Accursius and the *ius commune*. “You need to know what you’re looking for to see these,” Floris says.

Floris used the Robbins Collection’s books and journals primarily for her previous research, but also discovered material to begin a new project: the microfilm reproduction of a manuscript currently preserved at the Vatican Library, containing hundreds of *quaestiones* from 13th-century jurists. “To what degree did these jurists influence later generations of jurists?” she asks.

Since returning to Palermo, she has worked as a postdoctoral researcher on the FONTES Erasmus+ Project, an EU-funded project that aims to devise innovative ways to teach legal history. The project includes two semester-long courses, two workshops, a digital textbook, and an online platform with open-access resources and exercises. She also authored a video course on medieval legal sources and is currently contributing to the delivery of the FONTES semester course—as well as continuing her own research. She recently submitted a paper on legal pluralism in the thought of the 20th-century Italian legal scholars Santi Romano, Giuseppe Capograssi, and Antonio Pigliaru.

“Before my summer at the Robbins Collection, I’d never experienced the pleasure of finding every book or article I looked for,” Floris says. “The library and its staff are extraordinary. The whole environment at UC Berkeley encourages and facilitates deep scholarship.”



# Robbins Fellow Spotlight

## Francesco D'Urso



Francesco D'Urso

D'Urso's research with the Collection's archive materials built upon Otto Gierke's previous work on medieval jurisprudence and pluralism, especially as it relates to self-governing groups and corporations that exist alongside the state. "While Gierke's work has become foundational to the field, much of it needs revision, especially his theories surrounding canon law," he says.

While visiting the Robbins Collection, D'Urso focused his research on sixteenth-century editions, as well as a wide variety of online bibliographic resources, and he considers the Robbins Collection's access to materials unparalleled. In particular, he used Manuscripts 5 (Decretales with glosses), 36, 75 (Henricus de Merseburg), 150 (Niccolò de Tudeschi), and 312 (Digestum vetus with glosses) and has since integrated the materials he used during his fellowship into the next phase of his research.

D'Urso believes that his fellowship with the Robbins Collection has afforded him the time and resources to finish his current book by the end of 2024. "My time in Berkeley was essential to concentrating on my book and finding the right materials," he says.

Hosting fellows with meaningful research aspirations like Francesco D'Urso supports the Robbins Collection's mission of encouraging scholarly research in civil and religious law.

For more than two decades, Francesco D'Urso has studied canon and religious law, particularly on medieval corporations and legal thought. "It's an interesting topic because, at the end of the nineteenth century, it inspired the theory of the pluralism of 'legal orders' in Europe—all the autonomous, self-governing groups that exist both within and beside the state," he says.

From September to November 2023, D'Urso came to the Robbins Collection as a research fellow, studying corporations and their rights (*ius universitatis*) in medieval legal thought. He is a researcher at the University of Ferrara's Department of Law, where he teaches two courses on medieval and modern legal history every year. His most recent article on medieval canon law was included in the Proceedings of the Fifteenth International Congress of Medieval Canon Law, published in 2022 by the Vatican Library.

"The Research Center is well known in Italy for its importance in canon law and medieval studies," he says. "You can find anything you need about legal history, and the staff is incredibly supportive and available."

# Robbins Fellowships

## J.S.D. Class of 2026

J.S.D. students often contribute a unique global perspective to Berkeley Law, bringing a wealth of experience from their countries' legal systems. Our most recent Robbins Collection J.S.D. Fellows are no exception, as they plan to use the Fellowship to examine modern legal queries relating to comparative and religious law. Since 2019, the Robbins Collection and Research Center has provided funding for over a dozen incoming J.S.D. students who work on comparative, civil, or religious law topics. Two students in the J.S.D. class of 2026 received a Robbins Fellowship: Gunn Jiravuttipong and Helen Jennings.



Gunn Jiravuttipong

Gunn Jiravuttipong's research focuses on the diffusion of digital economy regulation from the United States and the European Union to developing countries, especially regarding digital competition law, data protection law, and content moderation law. "The challenge of the developing country is first you have to really understand what's going on in [the] US or EU. But the second challenge is that there's a lot of adaptation to make it fit to [a country's] local realities," Jiravuttipong said. He hopes to bring the knowledge he gains from the Robbins Fellowship and the J.S.D. program back to Thailand to continue to analyze international technology law and policy. Before joining the J.S.D. program, Gunn received an LL.B. from Thammasat University, Thailand, and an LL.M. from Berkeley Law School.

Coming to Berkeley Law from Ireland, Helen Jennings is building on her LL.M. thesis exploring a transitional justice response to the child sexual abuse crisis in the Catholic Church. "I hope that my research can contribute a new depth of analysis regarding the Catholic Church's response to the crisis of child sexual abuse, and can suggest a pathway to justice for the victims, drawing from the principles of transitional justice," said Jennings. A barrister from Northern Ireland, Jennings previously studied law at the University of Cambridge and received an LL.M. from New York University School of Law in 2021 as a Fulbright scholar. She has also worked for the United Nations in multiple capacities, first for UN Women as a legal researcher, then as an intern at the UN Independent Investigative Mechanism for Myanmar, and acted as a legal assistant at the International Law Commission. She credits the support of the Robbins Fellowship for making it possible for her to enter a J.S.D. program.



Helen Jennings

There is no doubt that Jiravuttipong and Jennings will leverage their participation in the J.S.D. program, especially their utilization of the Collection, to make worthwhile contributions to the world of modern legal thought. The Robbins Collection and Research Center was established as a place for scholars to conduct research related to modern issues in the fields of civil, religious, and comparative law. "These students' work will enhance the legacy of that vision," said Laurent Mayali, Director of the Robbins Collection and Research Center.

Since 2019, the Robbins Collection and Research Center has provided funding for over a dozen incoming J.S.D. students with an interest in comparative, civil, or religious law topics. The incoming J.S.D. class of 2026 has two students who received a Robbins Fellowship; Gunn Jiravuttipong and Helen Jennings.



# J.D. Students Abroad

## Jazmin Luz '24

### ***What was your role within Women in a Legal World during your away field placement?***

I was an intern at Women in a Legal World in Madrid, Spain (WLW), a non-profit organization composed of female-identifying professionals working to transform the legal sector so that men and women have the same opportunities to succeed. My work in the organization focused on the support of new branches including Mexico and Costa Rica, helping with mentoring programs and supporting various commissions such as the diplomatic relations committee, mental health committee, and female hygiene and health rights committee.

### ***Why did you choose Women in a Legal World for your away field placement?***

I chose to focus my time at Women in a Legal World because of my work with WOCC+ (Berkeley Law's Women of Color Collective). I believe, that to make the legal sector a space where women of color can thrive, work needs to be done. WLW in Spain has recognized this issue and its sole purpose is promoting and supporting women in the legal sector and highlighting them as strong, powerful, and intelligent individuals.

### ***What do you believe an away field placement has contributed to your J.D. study that you wouldn't have received in a traditional classroom setting?***

Being part of WLW in Spain and gaining the legal and personal knowledge of running such an organization is never something I could have gained sitting in a traditional classroom. I would love to see WLW modeled in America, we need it. Although non-profit work is not currently my career path, I believe there are long strides to be made in order for female lawyers in America to be recognized, respected, and seen worthy of the same resources given to men, and an organization like WLW supports that mission.

### ***What will you be doing after graduation?***

After graduation I will be working as an associate at Dechert, LLP in San Francisco.



Jazmin Luz

Berkeley Law's Away Field Placement Program grants J.D. students academic credit for legal work performed for a non-profit or government agency outside the Bay Area. The Robbins Collection provides financial support for those students whose research takes them outside the U.S. and relates to civil or religious law traditions and institutions.



# J.D. Students Abroad

## JaeMin Kim '24

### ***What was your role within the Korean Constitutional Research Institute for your away field placement?***

During my internship at the Constitutional Research Institute in Seoul, South Korea, I worked as a research assistant on a project concerning international marriages and the influence of public law in the digital age. My duties required me to thoroughly analyze legal documents, including United Nations charters, European Union regulations, and U.S. laws, to grasp the frameworks that regulate cross-border marriages. Moreover, I played a key role in translating legal discussions about public law in the digital era for an international conference. My daily tasks involved writing and submitting weekly research papers on chosen topics and actively participating in symposiums and workshops held by the Constitutional Court of Korea.

### ***Why did you choose the Korean Constitutional Research Institute for your away field placement?***

I chose this government agency for my externship because I hold the belief that the constitution mirrors the fundamental values and principles that guide a nation's path. In the face of growing conflicts, like those seen in Korea today, the demand for a refined interpretation of the constitution becomes crucial. Such interpretation needs to honor the changing norms of society and welcome diverse viewpoints. As a Korean legal scholar passionate about my country, this opportunity was particularly appealing because it allowed me to engage in shaping constitutional interpretations that are both relevant and resonant in a global context, thereby contributing to the broader conversation about national identity and governance.



JaeMin Kim

### ***What do you believe an away field placement has contributed to your J.D. study that you wouldn't have received in a traditional classroom setting?***

The away field placement enriched my J.D. studies, offering insights and perspectives on my hometown's legal framework and legal research methodologies in ways that a traditional classroom setting could not. The use of international, cross-border laws as benchmarks and precedents in legal interpretations was particularly enlightening. This experience highlighted the evolving and dynamic nature of law. Interaction with constitutional experts also allowed me to dive into various constitutional issues, evaluating their impact on different legislations comprehensively. This unique experience further illuminated the vital role constitutional research plays in assisting judges in establishing precedents, thus influencing societal norms and governance.

### ***Do you have any advice to give to current J.D. students?***

Berkeley Law prepares students for a flood of opportunities to become some of the most brilliant legal minds. Embrace your confidence and authenticity. Always make sure to actively seek advice and mentorship from seniors; their insights and support can really help.

# Fellows Updates

Corinne Leveux-Teixeira was elected vice-president of the École Pratique des Hautes Études in November 2023. She is also a professor of legal history at the Université d'Orléans.

Rachel Guillas became a lecturer at the Université Panthéon-Assas (Paris 2) in September 2023. She was awarded the Institut de Droit Romain and Université Panthéon-Assas prizes for her thesis in 2022 and the Association des Historiens des Facultés de Droit prize in December 2023.

Alarico Barbagli published a new book, *Francesco Accolti maestro del diritto comune del Quattrocento*, about the life and works of one of the most important lawyers of the 15th century. He also received a research grant, PRIN (Relevant National Research Project) “Demania. Domini collettivi e usi civici nell’Italia centro-meridionale. (PRIN 2022)”, as Responsible for Unit of University of Catanzaro “Magna Graecia”.

Karl Shoemaker was appointed the “Robert F. and Sylvia T. Wagner Faculty Chair” in History and Law at the University of Wisconsin, Madison.

Marta Cerrito edited a collective monograph entitled *Tra diritto e religione*, published an article on the topic of negotiated justice, and became qualified as an associate professor at the University of Palermo.

Calum MacNeill Carmichael has a book titled *Interpretations of Jesus derived from Luke’s Unique Parables (Lk 9:51-19:17)* in press with Cambridge University Press on the parables unique to Luke’s gospel.

Pablo Echeverri became Special Counsel at the Office of the Advocate for Small Business Capital Formation at the U.S. Securities and Exchange Commission.

Luigi Nuzzo now teaches legal history and history of the international law at the University of Salento

where he is also the director of the PhD program in Law and Sustainability. In 2022 he received a three-month fellowship, the Alexander von Humboldt Stiftung, for a research stay at the Freie Universität and at the MPI für Rechtsgeschichte und Rechtstheorie (Frankfurt am Main). In 2023, he was visiting professor at Universidade Federal do Rio de Janeiro.

Anna Floris wrote an article titled “La quaestio dei Agiuristi nella lunga età del diritto comune” that was included in a volume on the history of the *quaestio* titled *Insegnare e Disputare. La vita intellettuale e universitaria nel Medioevo*. She recently recently wrote a contribution titled “Alcune considerazioni sulla tradizione del Codice rurale di Mariano IV e della Carta de Logu d’Arborea,” which is included in the Proceedings of the International Conference on Mariano IV d’Arborea, la guerra arborena e la Nació sardesca. She is currently working on an EU funded project named FONTES. As part of the project, the research team must produce an e-learning course and a digital handbook on medieval legal sources.

**The Digest is shared widely among our affiliated scholars and former fellows, and we would be pleased to include your professional updates. Please share any new appointments or new jobs you’d like to announce, articles or books you’ve published recently, and research grants you’ve been awarded.**

**Email us at [robbins@law.berkeley.edu](mailto:robbins@law.berkeley.edu) to include your professional updates in the next Digest.**



# NEWS

*See what's new with the Robbins  
Collection, including new projects and  
acquisitions*





# Robbins Collection embarks on ambitious digitization project

Early in the summer of 2023, sixteen hundred pounds (745kg) of equipment began to arrive at the Robbins Collection and Research Center. This delivery marked the start of an ambitious project to digitize the Robbins Collection's hundreds of manuscripts, an initiative that will significantly expand its digital holdings and researcher access to its unique resources.

"This project will preserve our rarest and most unique manuscripts for generations to come," says the Robbins Collection's director Prof. Laurent Mayali. "The collection was established to promote and encourage comparative study in religious and civil law to solve the legal problems of today, and the digitization of our manuscripts will ensure that future generations will be served by this mission."

The first phase of the project has digitized more than 350 manuscript volumes written in Latin, Italian, Greek, Hebrew, English, French, German, and Arabic—the oldest of which dates to the twelfth century. Comprising almost 200,000 pages, many of these manuscripts are extremely rare texts pertaining to customary, civil, and religious law. Digitization of all the collection's manuscripts is expected to take over a year. PDF versions of the manuscripts will then be available for research access by early 2025, and high-resolution TIFF images will be available for purchase from the Robbins Collection. Phase two of the project will digitize the collection of incunables (books printed before 1500) beginning in June 2024.

A major goal of the project is to increase access to these rare, and often fragile, materials. According to senior reference librarian Jennifer K. Nelson, one impetus was the effect that the Covid pandemic had on the conduct of scholarly research. "The recent global shut-down and the inability to travel for a substantial period had a significant impact on scholars, not only here at the Robbins Collection, but worldwide," she says. "The question of access came front and center, motivating us to digitize those items that are unique to our collection."

This monumental undertaking has been made possible through a partnership with Backstage Library Works, which is also working with the Bancroft Library to digitize its vast collection of materials.



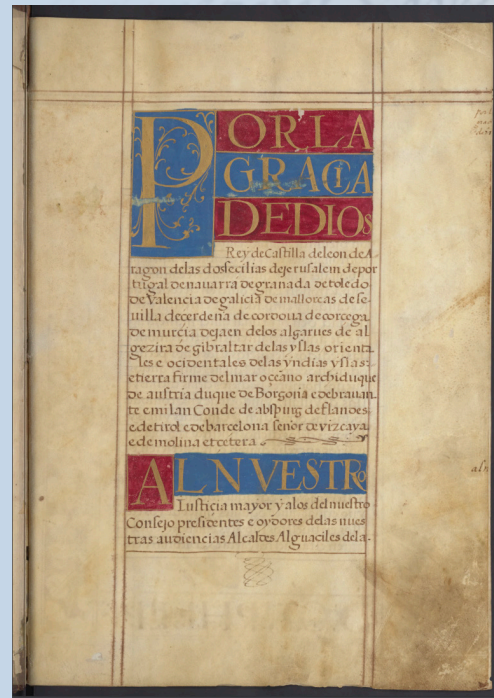
Cover of Robbins MS 199



Backstage captures high-resolution images with dual overhead, area-array cameras, using a specially designed book-cradle system to avoid putting undue stress on the materials.

“Our first priority with this project is to ensure the safety and meticulous handling of our manuscripts, and Backstage has been very responsive to our needs,” explained Emily Best, assistant director at the Robbins Collection. “It was also very important to us that they were able to set up their system on-site so that our staff can oversee the project.”

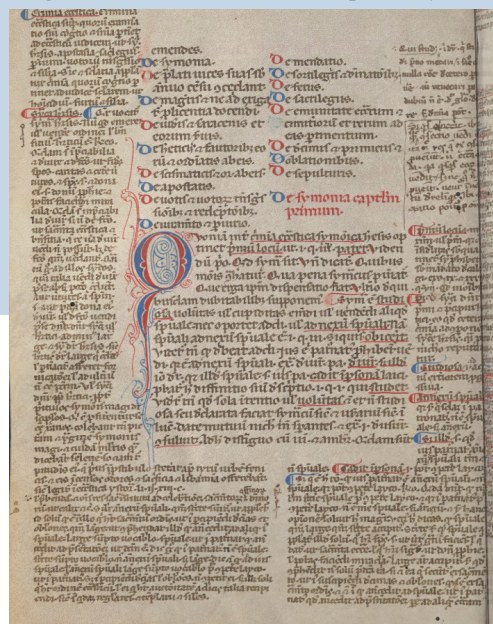
Associate librarian Jessie Sherwood and book conservator Gillian Boal have been preparing the Collection’s most delicate manuscripts for the process. “The more fragile manuscripts need to be handled with greater care, but there are different kinds of fragility,” says Sherwood. “We have manuscripts written on paper with iron gall ink that has burnt through in places, so that requires care in turning pages and slip-sheeting. We have other materials where the binding is very fragile, so we don’t want to put any weight on it at all. And we have



Robbins MS1

some items with really delicate paper, which will need to be handled carefully during the imaging process.”

The digitization of the Robbins Collection’s manuscripts and incunables will undoubtedly have a lasting legacy, ensuring that this outstanding collection of Roman law and canon law will be more accessible to scholars and available to a much wider audience.



Robbins MS11



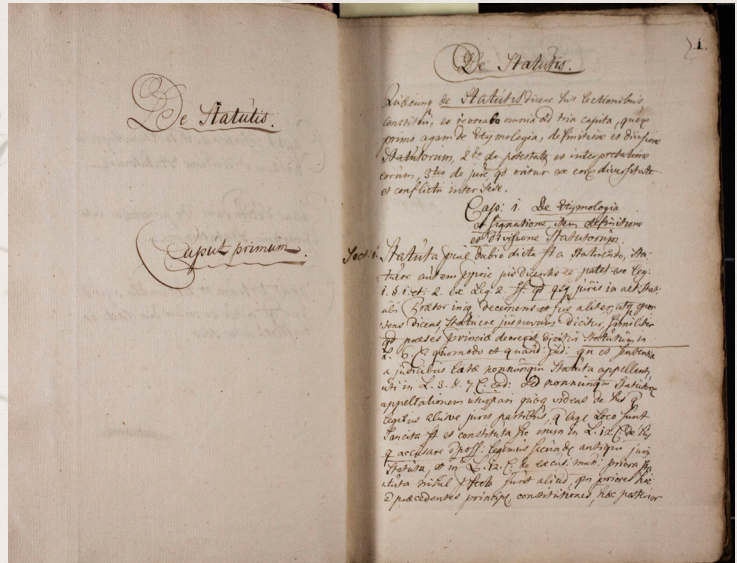
A photograph of the manuscript digitization setup



# Selection of Recent Acquisitions

## MS333 and a 1561 printing of the Statuta Universitatis Bononiensis

*Tractatus de statutis* (Robbins MS333) contains a transcription of a series of public lectures on statutes given by law professor Jacob Voorda (1690-1768). Voorda, the son of a notary, was born in Harlingen in the Netherlands, and attended university in Franeker, where he was awarded a doctorate in both laws in 1718. He practiced law at Leeuwarden and then taught at the University of Franeker beginning in 1723; in 1730 he went to Utrecht where he lectured on civil and modern law until 1758. Though he left few published works, his stature as a legal scholar is based on manuscript transcriptions of his lectures. An example of this is Robbins MS 333, which was taken by an auditor of a



Robbins MS333

series of unpublished public lectures, delivered in Utrecht in 1743-1744, on the interpretation and construction of statutes. Robbins MS 333, along with Voorda's original manuscript text and one other known set of student notes (both held by the Provinciale Bibliotheek van Friesland in Leeuwarden), were the sources used for the 1985 translated edition, produced by Margeret Hewett and Paul van Warmelo, *Tractatus de statutis auctore Jacobo Voorda:*

*A treatise on statutes by Jacob Voorda*, a copy of which is also held by the Robbins Collection.

“This copy is one of the few that reside in North America with approximately eleven more copies in Europe.”

A 1561 printing of the *Statuta Universitatis Bononiensis* was added to the Collection in early 2024. A later version of one of our existing manuscripts, Robbins MS 22, this manuscript took over a year to receive, as it was held up by Italian customs and is especially rare. This copy is one of the few that reside in North America, with approximately eleven more copies in Europe. As for the manuscript's content, the first 23 folios of the manuscript contain a diminutive law tract by the Florentine exile Bonaccorso degli Elisei, a doctor in law from the University of Bologna and a contemporary of Dante Alighieri. The last two folios include the text of the earliest known statutes governing the Faculty of Law at the University of Bologna, presumably promulgated in 1252.



# Visiting Professor

## Hannah Buxbaum

In the 2023-24 academic year, the Robbins Collection and Research Center hosted an extraordinary scholar to serve as visiting professor, bringing her intellectual expertise to the Berkeley Law campus.

The Robbins Collection and Berkeley Law welcomed Hannah Buxbaum as a Robbins Distinguished Visiting Professor in fall 2023, when she taught an insightful course on Comparative Civil Litigation. “We focused on group litigation, and on the mechanisms (including the U.S.-style class action) that are used in different legal systems to achieve access to justice in areas from consumer protection to human rights to climate action,” Buxbaum explained. “It’s a great topic for exploring some of the core issues in comparative law, including the political and cultural determinants of law reform and the prospects for legal harmonization,” she said about the course. During her time at Berkeley Law, she also taught

Contracts in the 1L curriculum as well as a Conflict of Laws course.

Buxbaum is a professor at the Indiana University Maurer School of Law and holds the John E. Schiller Chair in Legal Ethics. She was also appointed Indiana University’s vice president for international affairs in 2018. Over the course of her teaching career, she has held visiting appointments at universities including the London School of Economics, Humboldt University, and Université Paris II, Panthéon-Assas. She has also delivered courses in the Netherlands and in Buenos Aires. In 2019, she was appointed to the Curatorium of the Hague Academy of International Law. She serves on a number of advisory boards, including the U.S. State Department’s Advisory Committee on Private International Law and the Fulbright Scholar CIES Advisory Board, and as the U.S. member of the academic governing council of the Hague Academy of International Law and the vice president and president-elect of the American Society of Comparative Law. She has also held multiple leadership roles in the American Society of International Law, most recently as vice president (2016-2018). She has published numerous books and articles, specializing in transnational business law, particularly extraterritorial economic regulation.



Professor Hannah Buxbaum

## Consilia in the Robbins Collection

### Upcoming Digital Exhibit

Adapted from an existing educational guide, our newest exhibit entitled “Consilia in the Robbins Collection” explores the origin and lasting importance of consilia, expert opinions on complicated points of law or procedure that were issued between the fourteenth and nineteenth centuries. The Robbins Collection currently holds over 250 printed collections of consilia, such as Robbins MS 21, a consilium on the will of Amédée III, Count of Geneva from 1320 to 1367. These consilia remain important materials in the study of medieval legal thought. This exhibit hopes to bring greater attention to a treasured part of the Robbins Collection.

## Rare Book School Visit

In July, Robbins Collection librarians Jessie Sherwood and Jennifer K. Nelson welcomed a dozen students and their instructor Ann K. D. Myers from the California Rare Book School cataloging course. Sherwood gave the students a short history of law books before looking at a selection of Robbins manuscripts and early printings,



comparing them against later printings so they could see how books changed over time. “Students always have questions about dating manuscripts,

classing Roman law, identifying different kinds of bindings, working in multiple languages, and more,” said Sherwood.

Students looked at Robbins Manuscripts 103, 312, frag. 1, 85, and 297, as well as early printings of the *Institutiones* and Azo’s *Summa*. They also looked at one of the earlier books printed in the Americas, the *Aduertencias para los confesores de los naturales*,

which features facing Nahuatl and Spanish translations, as well as several other books from the fourteenth through

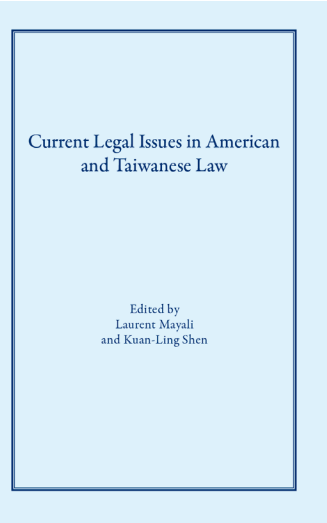


eighteenth centuries. Myers was pleased with the visit, saying, “Jessie’s selection of materials and presentation was excellent, and my students returned to class full of excitement and gratitude for the experience.”

## Now Available:

### Current Legal Issues in American and Taiwanese Law

The Robbins Collection has recently published *Current Legal Issues in American and Taiwanese Law*. Edited by Laurent Mayali and Kuan-Ling Shen. The book is a collection of essays to commemorate the multi-year relationship between the Robbins Collection and the College of Law at National Taiwan University. For several years the two institutes hosted conferences to explore topics of comparative law, and *Current Legal Issues* selects just some of the



Kuan-Ling Shen

many presentations and papers discussed at these conferences. Topics include executive power, the judiciary, family law, healthcare law, evidence law, criminal law, and more. The book can be purchased online through retailers such as Amazon and Barnes and Noble.



# Staff Updates

## New Staff



Mark Brustman

We are delighted to welcome Mark Brustman as our new Library Collections Assistant. Since April, he has served as the point person for scholars working in the reading room and plays an integral role in our ongoing digitization project and our continuing preservation and conservation efforts, among other things. An expert translator, Mark brings knowledge of German, Italian, Dutch, French, Spanish, Arabic, Latin, and Attic Greek. Mark also holds two master's degrees: a master's degree in Germanic languages and literatures from Princeton University and a master's in the historical and cultural study of religion from the Graduate Theological Union.

The Robbins Collection also welcomes Caitlin Keller as the new Communications and Publication Specialist. A Berkeley political science and media studies alumna, Ms. Keller brings communications knowledge from the nonprofit sphere. She will work on the publication of the next Daube volume and promotional materials for the department and website.



Caitlin Keller

## Noteworthy Updates



Jennifer K. Nelson

The Robbins Collection's senior reference librarian Jennifer K. Nelson presented a paper titled "Blavius paratissimus est excudere Niciana omnia: Collaborative Navigation of the Interconfessional Early Modern Book Trade" at the 15th Annual University of St Andrews/USTC Book History Conference. Her paper examines primary-source correspondence among Roman humanist author Gian Vittorio Rossi, his patron Cardinal Fabio Chigi (later Pope Alexander VII), his publisher Joan Blaeu, and his editor Barthold Nihus, to surface the anxieties and triumphs of early modern publishers, patrons, and writers caught between the competing forces of self-expression, profit, and confessional strife during the Thirty Years' War (1618-1648). Her paper will be included in a collected volume in Brill's Library of the Written Word series, the first broad survey of early modern publishers.

The Robbins Collection's associate librarian Jessie Sherwood attended the International Congress for Medieval Studies at Kalamazoo in May, where she presented a paper titled "Plastic Identities: Jewish Converts in the Tenth- and Eleventh-Century France." She also participated in the inaugural meeting of CiSaMe (Circulation des savoirs médiévaux (XIe-XIIIe)) at Strasbourg in March.



Jessie Sherwood



# Book Reviews

The impressive breadth of intellectual work fostered at the Robbins Collection continues long after our scholars depart Berkeley. This space is dedicated to our intellectual community engaging with recently published work of former Robbins Collection fellows. Our scholars span the globe and pursue diverse areas of study within the fields of religious and civil law. They also span generations: the Robbins Collection has been hosting research fellows for over thirty years and post-doctoral fellows for fourteen years.

## Reviewer Biographies

Anna Floris joined the Robbins Collection as a Research Fellow from July to August 2023. Her research looks at the development of the medieval *ius commune*, specifically the case of 15th-century Sardinia. Building upon her doctoral dissertation at the Università degli Studi di Trento, she is writing a book that will include a synoptic edition of the *Quaestiones of the Carta de Logu*. She currently holds a postdoctoral position at the Università degli Studi di Palermo where she is working on the FONTES project (<https://fontes.project.uj.edu.pl/>).

Laurent Mayali is the Lloyd M. Robbins Distinguished Professor of Law at Berkeley Law where he serves as the faculty director of the Comparative Legal Studies Program and the director of the Robbins Collection and Research Center. Mayali is the author and co-author of many publications and has also published numerous articles on medieval jurisprudence, customary law, and comparative law.

## Books Reviewed

Joshua Tate, *Power and Justice in Medieval England: The Law of Patronage and Royal Courts*

Laura M. Velázquez Arroyo and Jorge Adame, *Estudios de derecho romano y derecho civil desde una perspectiva histórica, comparativa y práctica*



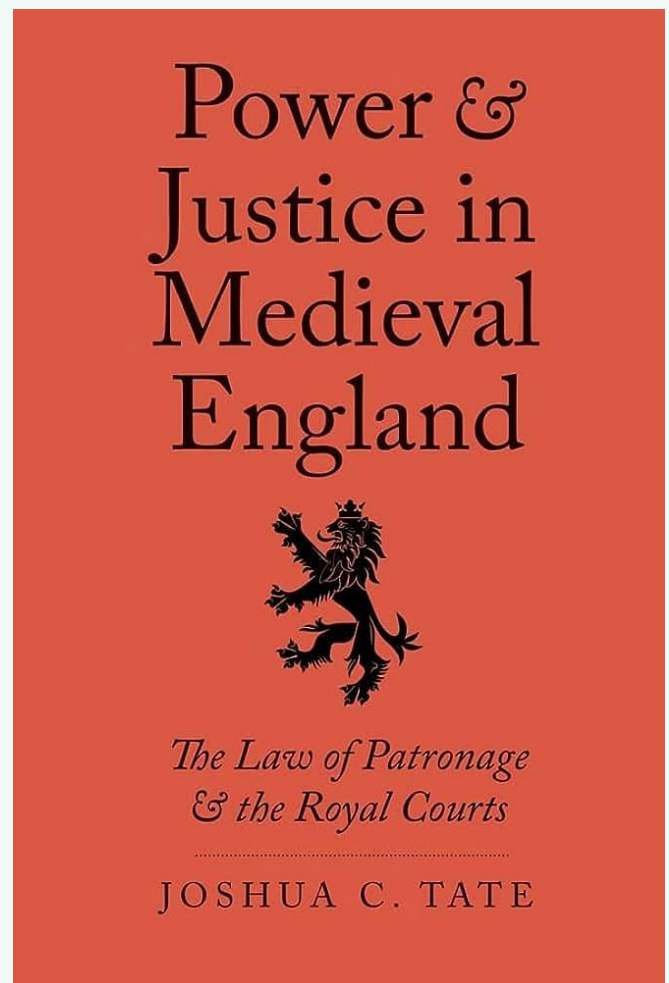
## Joshua Tate, *Power and Justice in Medieval England: The Law of Patronage and Royal Courts*

Reviewed by Anna Floris

The product of a more than a decade-long period of study, this book is a meaningful and well-documented contribution to the vexed question of the influence of Roman law on the early English Common law. It examines a specific branch of common law that has been largely neglected by legal historiography, i.e. the law of advowsons. The book's second chapter expertly delves into the different types of writs developed by the royal courts to settle disputes concerning the right to present a parson to a vacant church in twelfth-century England. Chapter two dissects three types of writs: the writ of darrein presentment, the writ of right of advowson and the writ of quare impedit. The third chapter thoroughly discusses the possibility that Romano-canonical learning influenced the common law of advowsons. Chapter four examines the development of the law of advowsons, especially from the point of view of procedural law. Chapter five addresses the problem of jurisdictional competition between secular and ecclesiastical courts.

The book's core chapter is its third, based on an article published in 2006 by Tate in the *American Journal of Legal History*, titled "Ownership and Possession in the Early Common Law." Tate introduces new elements into a centuries-old debate, in which Maitland's and Milsom's positions stand out as the most representative. Maitland saw no difficulty in considering the terms *ius* and *seisina* as synonyms of the Roman law concepts of *proprietas* and *possessio*, and therefore considered the land writs (the writ of right for land and the assize of novel disseisin) as rough equivalents of the possessory and proprietary actions in Romano-canonical learning. Milsom strongly contested this view and proposed to explain the terms *ius* and *seisin*, often occurring in the English royal courts, through the lens of feudal relationships. Instead, Tate suggests looking at the law of advowsons, in particular to the advowson writs, which have not yet been studied as a possible example of Roman law influence. Tate deals with such a complex issue with a fairly balanced approach. He concedes that the writ of darrein presentment and the writ of right of advowson, which were first discussed by Glanvill, show features compatible with a Roma-

no-canonical influence. Tate then continues by maintaining that the third writ, the writ of quare impedit, cannot easily fit into the Roman categories, arguing instead for the full "Englishness" of the remedy. This text, published in 2022, is a valuable contribution to the problem of the origins of English Common Law, as Tate puts forth a rich bibliography of relevant authors. This book is especially relevant when contextualized with the United Kingdom's exit from the European Union.



# Laura M. Velázquez Arroyo and Jorge Adame, *Estudios de derecho romano y derecho civil desde una perspectiva histórica, comparativa y práctica*

Reviewed by Laurent Mayali

The publication of this volume, edited by Laura Velazquez Arroyo and Jorge Adame Goddard, celebrates the 80th anniversary of the creation of the Instituto de Investigaciones Jurídicas. The fifteen contributions highlight the significance of the historical and comparative method in the study of Ibero-American legal systems. On one hand, the authors acknowledge the relevance of the Roman law legacy in shaping the civil law tradition.

They do not fall, however, into the delusion of the synchronic application of its rules in the existing law. On the other hand, the perception of Roman law as a historically defined set of rules provides a valuable comparative reference for evaluating the distinctive features of present-day legal rules with their diverse manifestations and purposes.

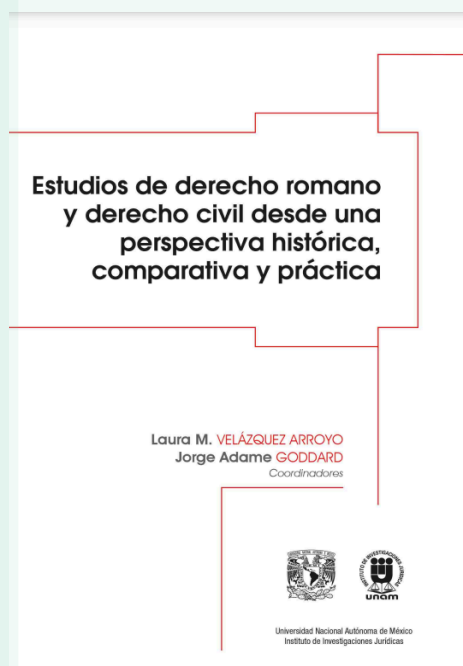
These studies also have a more practical purpose in addition to the academic exercise of evaluating the historical influence of Roman law on the civil law tradition. To this end, the aim is to offer a critical assessment of various private law rules currently in force in Mexico and other Ibero-American countries. In this regard, this book contributes to the ongoing debate on the contemporary coherence and effectiveness of legal rules and institutions that were designed and implemented more than a century ago.

With this in mind, the authors consider the practical consequences of private law doctrines on property, contracts, legal personality, possession, and sureties, including a separate contribution on the contract of mutuum in the Chinese Civil Code that is also based on a similar comparison with Roman law. A second group of papers adopts a more traditional historical method in discussing the relevance of Roman law concepts in the 21st

century. Balancing these two methods does not affect the volume's inner coherence insofar as the selected topics do offer practical points of reference for a useful comparison with existing legal rules.

In addition to their responsibilities as editors, Laura Velazquez and Jorge Adame Goddard contribute two separate studies: on the concept and legal nature of possession by the former, and on the legal concept of property by the latter. These two studies illustrate the overarching philosophy of the volume. They combine theoretical arguments on legal concepts inherited from Roman law with a more critical assessment of the Mexican legislation on these matters. The authors highlight the need for structural and substantive legal reforms that, in Mexico, should aim at providing a unified set of definitions and classifications of these key legal concepts.

This volume succeeds in demonstrating the relevance of Roman law as a historical model and its influence in the development of contemporary legal systems. In this historical-comparative perspective, however, it is important to keep in mind that contemporary civil law systems are not the modern avatars of a neo-Romanity since the conditions in which they operate and the people who shape them have fundamentally changed. The spread of Roman legal concepts is less a transplantation than a process of appropriation, which necessarily includes, as contradictory as it may seem, a process of de-romanization. In other words, the bits and pieces of Roman law preserved in various systems are simply parts of a broader legal puzzle that derives its coherence and legitimacy from the final picture that it represents. Like the pieces of a jigsaw puzzle, the Roman rules occupy a place that only makes sense in relation to the other pieces of the puzzle. Overall, the various contributions in this volume clearly distinguish between the various pieces of the legal puzzles that are national legal systems and the practical implementation of their substantive rules. They also show how contemporary legal systems, and hopefully legal scholars, have freed themselves from the effects of the Justinian syndrome with its hallmarks and illusions.







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