

# **SCRIPTA CLASSICA ISRAELICA**

YEARBOOK OF THE ISRAEL SOCIETY  
FOR THE PROMOTION OF CLASSICAL STUDIES

**VOLUME XLI**

**2022**

The appearance of this volume has been made possible by the support of

Bar-Ilan University  
Ben-Gurion University of the Negev  
The Hebrew University of Jerusalem  
The Open University  
Tel Aviv University  
University of Haifa

PUBLISHED BY  
THE ISRAEL SOCIETY FOR THE PROMOTION OF CLASSICAL STUDIES  
<http://www.israel-classics.org>

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Negev, P.O.B. 653 Beer Sheva 8410501, Israel.

Price \$50

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Camera-ready copy produced by the editorial staff of *Scripta Classica Israelica*  
Printed in Israel by Magnes Press, Jerusalem

# SCRIPTA CLASSICA ISRAELICA

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contained in the work of Philo, the New Testament, the *Letter to Diognetus* and Origen and he argues that in particular the redefinition of citizenship by Origen represented a potential for conflict with the Roman power. The last chapter by Hervé Inglebert further explores the Christian discourse of citizenship by looking at Augustine's City of God and its antecedents in Jewish literature and New Testament. He stresses the differences, rather than the similarities, between the Christian use of a civic vocabulary to describe new religious realities and the Graeco-Roman vocabulary and realities of citizenship.

As well as for the high quality of the single chapters, this volume must be praised for addressing the question of the impact of Roman citizenship not only on the Greeks, but also on the political and religious discourse of the Christians and the Jews. This is a crucial question because these communities defined their internal structure largely by drawing on the Graeco-Roman civic practice and civic vocabulary. One caveat: the word 'Greeks' in the title might generate some confusion, as readers interested in the impact of Roman citizenship on the Greek pagan communities of the imperial period will find fairly little in this volume, let alone the chapters of Heller and Kemezis. One might regret that the two parts of the book are not more narrowly connected to each other: a chapter of conclusions offering a comparison of the impact of Roman citizenship between the three groups discussed in the book would have been very useful. The editors' introduction aptly contextualizes the aim of the volume within the frame of the current research on Roman citizenship. However, one would have expected more attention for the recent debate on Greek citizenship and the limits of Aristotle's model,<sup>4</sup> especially since the editors engage with a discussion of Gauthier's famous comparison of Greek and Roman citizenship (pp. 3–4).<sup>5</sup> But these are just minor points of criticism. This is an excellent volume offering in-depth discussions of ancient texts and scholarly literature. It will become a fundamental reference for anyone interested in gaining a broader picture of the impact of Roman citizenship and the relations between Rome, the Christians, and the Jews.

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Oswaldo Cavallar and Julius Kirshner. *Jurists and Jurisprudence in Medieval Italy: Texts and Contexts*. Toronto, Canada: University of Toronto Press (UTP), 2020. Pp. xxv, 866.

The review of this volume on jurists and jurisprudence in Medieval Italy is written from the point of view of a Roman jurist and for a readership, of a classical journal. The authors, Oswaldo Cavallar and Julius Kirshner hereby offer an extensive volume and a highly welcome contribution for teachers and students of Medieval law, with particular interest in Italy, who prefer English and are yet to master Latin to a degree which could allow tackling the works of Medieval jurists in an unmediated form. This is a particularly challenging task for a number of reasons. Medieval law did not have an inaugural work, in the form of Gaius' (and later Justinian's) *Institutiones*. Gaius, and Justinian compiled their works for the benefit of those who wished to become jurists. They offer an

<sup>4</sup> Recently, Cecchet, Lucia and Busetto, Anna, eds. (2017), *Citizens in the Graeco-Roman World. Aspects of Citizenship from the Archaic Period to AD 212* (Leiden/Boston); Duplouy, Alain and Brock, Roger, eds. (2018), *Defining Citizenship in Archaic Greece* (Oxford).

<sup>5</sup> Gauthier, Philippe (1974), 'Générosité' romaine et 'avarice' grecque: sur l'octroi du droit de cité', in *Mélanges d'histoire ancienne offerts à William Seston*, Publications de la Sorbonne, série Etudes 9, (Paris), 207–215.

introduction to the Roman legal system, its taxonomy, and internal order. With its tripartite division into the law of persons, the law of things, and the law of actions, Gaius and future teachers of Roman law provided an easy-to-follow blueprint of Roman jurisprudence, as well as its form of instruction.

Notoriously, teachers and students of Medieval law were not as fortunate. To begin with, the Roman West was did not continue to exist as an integral sovereign unit from the fifth century onwards. Likewise, the sources of law – Church and state – and the scope of jurisdiction each of them carried, created a legal system which was far more convoluted to negotiate, and, in consequence, much more challenging to instruct. This applied to contemporaries and it still applies nowadays. An additional difficulty pertains the organization of legal texts in Medieval Italy (and elsewhere in the aftermath of the Roman West). The easily accessed *Codex Theodosianus*, *Digesta*, *Codex Iustinianus*, and *Novellae* – though never left obsolete – were supplemented by Church legislation (later to be collated into the *Corpus Iuris Canonici*) and works of various genres of Medieval *iuris prudentes* were, and still are, far less accessible. More concretely, the leap from an overview or a synthesis to an actual study of the texts themselves poses a bigger challenge.

This is the challenge that Cavallar and Kirshner undertook, and they have handled gallantly. They aim to offer a stepping stone for a novice in the field who wishes to advance from a textbook to independent research. Their volume provides a general introduction, followed by a wide spectrum of sources (in an English translation) accompanied by an introduction and a useful bibliography, and covering most aspects of legal practice in Medieval Italy. The book opens with a succinct, informative, and well-documented description of Medieval Italy (3–43). The authors also provide a lucid and unthreatening explanation of the initial meaning of the term ‘*ius commune*’ as referring to the *corpora* of Roman laws, collected in the *Codices*, the *Digest*, and Justinian’s *Novellae*, as well as to its afterlife in the Byzantine East, and in the Western Europe. Equally beneficial, is the presentation of the rediscovery of the *Corpus Iuris Civilis* and the emergence of centres of studies in Northern Italy, and elsewhere in Europe, and the description of the composition of the *Corpus Iuris Canonici*. Likewise, readers will benefit from the explanation of the inter-relations – in terms of content, organization, and teachings – between canon law, and the *ius commune*, before and after the publication of Gratian’s *Decretum* are clearly marked. In fact, the introduction elucidates how by the end of the fourteenth century ‘the *ius commune* crystalized into an umbrella term encompassing both Roman civil law and canon law’ (p. 6). The introduction also points out exemplary monographs on various aspects of medieval canon law, and Roman law aimed at beginners in the field (p. 8–10).

As the authors explain, this volume aims to fulfill an often-noted gap in English translations of medieval legal texts pertaining to the *ius commune*. ‘The result...is the present volume covering significant subjects and themes in six sections: 1) “Professors and Students,” 2) “Legal profession,” 3) “Civil and Criminal procedure,” 4) “Crime,” 5) “Personal and Civic Status, and 6) “Family Matters”’. These sections do not, of course, portray a complete picture of the *ius commune* in medieval Italy, but they offer a wide enough view of the legal system of Medieval Italy.

As it will be impossible to offer a review of each title within this volume, I will henceforth focus on some aspects of the criminal procedure, as it could be deduced from the collection of sources and explanatory essays hereby.

Chapter twenty one, entitled ‘Criminal Procedure’ begins – like all other chapters with a short essay on the criminal procedure in medieval Italy, followed by a very helpful bibliography for further reading. Furthermore, the authors give a useful overview of the scholarly production on the subject. This chapter thus cites pivotal manuals of legal procedures, such as the *Ordo iudicarius* of Tancredus of Bologna (ca. 1216), the *De Maleficiis* by Albertus Gandinus of Crema (1300), which

discuss every aspect of the criminal procedure, as well as relevant works of canonists, like Hostiensis and Pope Innocent IV, as well as works of civil jurists, like Accursius, Odofredus, and Dinus of Mugello. It is praiseworthy, as this book aims for beginners in the field, who might be encouraged to pursue their own research, having read the excerpts of texts Cavallar and Kirchner provide. However, the authors must assume these names are already familiar, as they are introduced in a self-evident fashion. It is one example out of a few which originate from an overarching question this reader had: who is this book addressed at? I will go back to this matter when raising my (only) point of criticism for this wonderful book: why have the authors decide not to include the original Latin texts alongside their translated excerpts? It would have been a valuable study tool for undergraduates who wish to improve their research skills by reading the sources themselves.

The authors' choice to produce excerpts from the work Albertus Gandius (ca. 1240–1311) is a natural one, as the authors themselves explain. He composed a manual on criminal procedure, which was based on scholarly work and years of experience as a criminal law judge (*iudex ad maleficia*). The translation – like all others – is fluent.

To conclude, this volume offers a useful study tool for teachers of Medieval (Italian) law. As the authors mention, this subject is failing out of grace in American Universities (and probably elsewhere). Their volume allow undergraduate to leap from a textbook to independent research, as it offers an opportunity for a guided work on the texts themselves. As mentioned before, it could have been useful to offer the original text alongside the translations, for the benefit of those who wish to engage with these texts for their own interests. Also, it would have been beneficial to have more elaborate indices of items of law, but the glossary provided (pp. 827–841) and an appendix of the Medieval system of legal citations are very welcome. The book itself is very nicely produced.

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