

Zachary Chitwood, *Byzantine Legal Culture and the Roman Legal Tradition, 867-1056*, Cambridge University Press, 2017, 248 pp.

If in the West of Europe one can speak of a legal tradition that goes up to the great Roman jurists and their law, in the East, this tradition has embraced the form of a legal culture which, impregnated with Greek philosophy, led to the emergence of an original legal system, the Byzantine one. Starting with the sixth century, this legal system becomes a complex one in which church (canons) and secular laws become one (nomocanon). This type of legal system will develop significantly from the 9th century.

This book, whose author is the young researcher Zachary Chitwood from The Humboldt University of Berlin, with a PhD thesis at Princeton University, USA¹, is an analysis of Byzantine Legal Culture during the period of the Macedonian dynasty (867–1056).² The rule of the Macedonian dynasty frames this study of Byzantine legal culture because while there are certain features of Byzantine legal culture which are diachronic, there are particular synchronic features of Byzantine legal culture under the Macedonian dynasty which distinguish it from other epochs of Byzantine history.

Straight from the beginning, the author states that “for this period, a clear distinction between canon and civil law is not always possible” (p.

¹ The PhD thesis which is at the foundation of this book is titled *Byzantine Legal Culture under the Macedonian Bynasty, 867 – 1056*, defended in 2012.

² According to the author, what determined him to write this book is the study of A. Khadzan from 1989, *Do We Need a New History of Byzantine Law?*, in “Jahrbuch der Österreichischen Byzantinistik” 39 (1989), pp. 1 – 28. There, he concluded by advocating that the study of Byzantine law should both include non-normative legal sources, like histories, saints’ lives and romances, and that “Byzantine law must become a history of institutions, not only of legal science, and it must reveal the reality of human status, of rights and transactions, of the work of judiciary courts and not only Greek images of Roman jurisprudence, interesting in themselves but often quite distant from daily reality” (p. 28).

Zachary Chitwood, Byzantine Legal Culture and the Roman Legal Tradition

13). From the time of Justinian, canon law had been granted the force of secular law, and canonists throughout the Byzantine period drew upon secular law, particularly the *Corpus Juris Civilis*.³

In *Introduction* (pp. 1 – 16), it will be argued that a unique “Macedonian” synthesis of Byzantine legal culture arose during the period of the dynasty’s rule. It was throughout very much a “top – down” phenomenon, in which the impetus for legal reform, the refinement or reformulation of existing law or its political use, stemmed from the emperor and a handful of his confidants. As with so many questions of origins, the reasons for the sudden rekindling of interest in the empire’s legal tradition are murky.

In *Chapter 1* (pp. 16 – 45) the author tries to contextualize the impetus for the Macedonian dynasty’s program of legal reform as an instrument of political ideology and a reaction to very specific political circumstances in the second half of the ninth century. While Basil I’s and Leo VI’s reform of Roman law was prompted by and directed at external powers, the internal dynamic of legal culture is examined in *Chapter 2* (pp. 45 – 76), namely how influence and friendship were expressed via the legal system.

Chapter 3 (pp. 76 – 103) is an exploration of Byzantine jurisprudence. The author emphasizes that previous studies have explored Byzantine jurisprudence and legal thought largely through the prism of the surviving excerpts of the writings of the Byzantine jurist Eustathios Rhomaios (c. 975 – 1034). Yet his own writings as well as those of other jurists of the period (e.g. Michael Attaleiates and Michael Psellos), represent the legal thought of a mere handful of legal professionals; their ideas about the law were by no means necessarily representative of the Byzantine society as a whole. In the author’s opinion, the key to understanding Byzantine jurisprudence is the question of which legal collections were used by Byzantine officials with juridical powers, the vast majority of whom probably had only a passing familiarity with Roman Law.

In *Chapter 4* (pp. 103 – 133) a new interpretation of the function of a number of “private” law collections is advanced, arguing that the popularity of legal collections like the Farmer’s Law, the Mosaic Law and

³ The *Corpus Juris* (or *Iuris*) *Civilis* (“Body of Civil Law”) is the modern name for a collection of fundamental works in jurisprudence, issued from 529 to 534 by order of Emperor Justinian I (527 – 565). It is also sometimes referred to as the *Code of Justinian*, although this name belongs more properly to the part titled *Codex Justinianus*.

Zachary Chitwood, *Byzantine Legal Culture and the Roman Legal Tradition*

the Rhodian Sea Law in Byzantium and neighboring cultures was due to the inaccessibility of the Roman legal tradition as represented by *Basilika*.⁴

The next two chapters, 5 and 6, narrate how expertise in Roman law enjoyed even greater social prestige and status and played an even more important role in the state administration and Church, as well as in the empire's political ideology. These chapters complete the arc of the story of the development of the Macedonian synthesis of Byzantine legal culture begun in Chapter 1.

Chapter 5 (pp. 133 – 150) examines the edicts of the patriarch Alexios Stoudites (1025 – 1043), which were directed against the West Syrian community in Melitene and brought back into force Justinianic legislation against heretics. These edicts, which were the result of a commission of jurists working in the 1030s, evidence the waxing influence of legal professionals in Byzantine society and their role in shaping Byzantine identity.

The *final Chapter*, the 6th one (pp. 150 – 184), chronicles the apogee of Byzantine secular law, represented by the “law school” founded by emperor Constantine IX Monomachos (1042 – 1055), which, rather than initiating a renaissance in legal studies, as has often been assumed, instead is to be seen as both the culmination of a two century long revival of Roman law as well as fitting the proclivities of Monomachos himself, who privileged law and legal studies more than any emperor since Justinian.

In *Conclusions* suggestively titled “The End of Secular Law in Byzantium?” (pp. 184 – 193), the author claims that this book is a step towards a better understanding of how and why Roman law came to prominence throughout Europe after the eleventh century so rapidly and thoroughly. The study of Middle Byzantine Legal Culture contributes to a better understanding not only of the *ius commune*, but also the regions which are not normally considered to have been within the remit of the *ius commune* and into which Byzantine law was intentionally imported, particularly the Balkans and Eastern Europe but also various Christian communities in the Middle East as well as Caucasia.

⁴ The *Basilika* was a collection of laws completed c. 892 in Constantinople by order of the Byzantine Emperor Leo VI the Wise (886 – 912), during the Macedonian dynasty. This was a continuation of the efforts of his father, Basil I (867 – 886), to simplify and adapt the Emperor Justinian I's *Corpus Juris Civilis*, code of law issued between 529 and 534 which had become outdated. The term “Basilika” comes not from the Emperor Basil's name, but rather from the Greek (τὰ βασιλικά) meaning “Royal Laws”.

Zachary Chitwood, *Byzantine Legal Culture and the Roman Legal Tradition*

All in all, the author hopes “that this study will encourage other analyses within Byzantine legal scholarship which attempts to examine law and society together rather than as separate phenomena” (pp. 192).

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