

Linking Fields, Approaches, and Methods in Byzantine Legal Studies

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Abstract In this paper I will be presenting the means and methodology that the researcher of Byzantine law has at their disposal to investigate their research subject. I aim through this presentation to address the question as to whether the study of Byzantine law comes under the umbrella of the humanities, as does history, or the social sciences, such as Law. Furthermore, the relevance that the study of Byzantine law has today will be discussed here. That is to say, if its relevance is exhausted through the reconstitution of a legal culture, or if in itself it may be of use as a science to help resolve contemporary legal issues.

Keywords Byzantine law. Byzantine legal studies. Research methodology (in Byzantine legal studies). Law history. History of Byzantine law.

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Edizioni
Ca' Foscari

The 24th International Congress of Byzantine Studies 1 | 1

ISBN [ebook] 978-88-6969-590-2

Peer review | Open access

Submitted 2021-10-15 | Accepted 2022-02-09 | Published 2022-08-22

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DOI 10.30687/978-88-6969-590-2/010

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1 The Question. And a Second Question

Legal historians are ‘scientifically homeless’ academics: to historians, they are lawyers who study legal cultures of the past, frequently employing concepts and terminology incomprehensible to them, while to lawyers they are former fellow students who specialise in a field they consider as a mere luxury on a Law course, since it does not provide any practical use to the knowledge they acquired in the same lecture theatre.¹

What indeed is legal history? Does the fact that it is cultivated by lawyers with a bent for History and historians drawn to the legal field make it a specialisation of Law or of History? Is it, that is, a discipline of Social Sciences or the Humanities?

In the lines below, I will be addressing the above question, with the focus on Byzantine law, which as a law professor, I continue to study until the present. I will attempt to provide answers through investigating research tools that the researcher of Byzantine law avails themselves of, the means loaned from other disciplines so as to process their research subject. That is to say, I’ll be looking at what it is that comprise the linking fields, approaches and methods in Byzantine legal studies, as the title of the paper assigned to me requires.

In this context I believe it is of interest to venture a second question. That relates to the relevance that the study of Byzantine law has today: Is its significance exhausted through the reconstitution of a legal culture of the past in order to preserve its memory or does it perhaps offer other services? It may seem at first that I’m digressing; however, I think that it is actually the reverse side of the first question; that is to say, that apart from revealing the academic environment that frames, completes, supports and directs research into Byzantine law, it would be of interest to see if and under which conditions the knowledge derived from studying it would be useful as a helpful tool for resolving contemporary issues. From the answer to this question, the practical usefulness of the study of Byzantine law today will emerge.

1 Legal history was a popular field of enquiry in Europe up until the Second World War. A great many studies of Roman law as well medieval, secular and ecclesiastical law appeared at that time. In Greece, historical conditions prevailing until the mid-twentieth century meant that the research and objectives of Greek researchers in Byzantine legal history took on a particular character, objective and orientation; for more on this see below, under § 3.1.

From the second half of the last century until today, interest in legal history has declined the world over, which can perhaps be explained by the tendency in Western society to prioritise “cutting edge” sciences “focused on the future” and not on those examining the past, such as the historical sciences (Havet 1978, 999-1000).

2 The Research Tools for the Historian of Byzantine Law (Answer to the First Question)

The use of supporting or methodological tools that the researcher of Byzantine law borrows from other disciplines, apart from that of law, depends on the subject matter of one's study.

2.1 Philology, Legal Papyrology, History and its Auxiliary Sciences

An important field of enquiry in Byzantine legal studies relates to the publication of its sources.² Of the most seminal pieces of research of this nature to have been carried out in the second half of the twentieth century to the present, we need look no further than the contemporary critical edition of the *Basilica*, which over a period of more than forty years (1945-88) was completed by the research team of professors of Roman and Byzantine law at the university of Groningen. Also of crucial importance is the contribution of the Max Planck Institute's *Edition und Bearbeitung byzantinischer Rechtsquellen*, the fruits of which have been published in the *Forschungen zur byzantinischen Rechtsgeschichte* and the *Fontes Minores* series from the 1970s until the present date. The aim of this research programme was not just to record all Byzantine law sources, but also to publish sources, whether known or unknown until today, supported by all their manuscript tradition. To present, new editions have appeared as well studies on Byzantine legislative texts, imperial *Novellae*, private legislative collections, patriarchal *sigillia* (i.e. official documents bearing a seal), canonical collections, *scholia*, treatises, court judgments, transactional documents, legal dictionaries and so on.

It is self-evident that for such publications which require archival research, transcription and manuscript dating, the sketching of a *stemma*, or the establishing of the author of a text or the scribe, the specialised knowledge linked with philological fields such as Palaeography, Codicology and Textual criticism and also History are the tools that are absolutely essential if these publications are to be realised. It is no accident that the law academics in the Max Planck Institute research team have collaborated closely with philologists and historians so that they may offer modern and topical *instrumenta studiorum* to the research community.

Apart from the engagement with legal sources *per se*, research of Byzantine law can of course take on the form of a study of its content,

² The term 'legal sources' is used here to refer to the provenance of information relevant to Byzantine law. Other content is employed however in the context of the Sociology of Law, on which see below under § 2.4.

of its institutions, of its legal concepts, persons and events linked to it. In such instances, the researcher will initially depend on the material provided to them in texts with legal content, but they will also lean on supplementary supporting material from which they will draw indirect information on their subject. Such indirect information is to be found in such texts as historical (from Byzantine historians and chroniclers), hagiographic (lives of the saints) and philological (letters, speeches, poetry).

The researcher of Byzantine law will also seek out other supplementary material from other academic disciplines, some of which have led to the development of subjects such as Epigraphy, Sigillography and Numismatics. From here, as also from Art, the researcher can extract supplementary material which will support and complete their research.³

Special mention should be made of Legal Papyrology, the study of papyri of Byzantine Egypt until its conquest by the Arabs in the seventh century. This material is of particular interest since in this region, the Greek presence had been unbroken in the centuries which preceded. Consequently, there is an interest in research into locating surviving legal institutions and practices of non-Roman provenance in this distant region of the Byzantine empire.⁴

It goes without saying that, beyond the supplementary support material, the historian of Byzantine law also requires from other fields the means they provide. I am referring to History, an absolutely necessary discipline to shine a light on historical, social, economic and political conditions that prevailed and that are likely to explain the advent of legal phenomena and facts of legal interest.

2.2 Folklore Studies

A useful material for the historian of Byzantine law deriving from the Humanities is that of Folklore studies, “the field, whose subject is people and their culture” (Kyriakidou-Nestoros 2006, 15). More recent folklore researchers study the forms of traditional culture, employing the historical method, i.e. examples of folklore phenomena over their historical course (‘vertical historical method’). This approach is diametrically opposite the comparative method which the

³ Karayannopoulos (1987, 39-84) gives a detailed account of all these categories of byzantine material.

⁴ Beaucamp (2010, 445-82) gives a detailed account on the state of the art in byzantine juristic papyrology.

first folklore researchers⁵ of the nineteenth and early twentieth century employed, which through studying forms of oral language from different periods and languages they would go on to make comparisons and correlations of traditional cultures over time and from place to place ('horizontal comparative method') (Sifakis 2003, 22; Kyriakidou-Nestoros 2006, 99-100).

A record of Byzantine folklore material exists in the work of Faidon Koukoules' "Byzantine life and culture" (Koukoules 1948-55), unique in its genre. Its sources, legal (secular legislation as well as canons and their *scholia*), from the works of historians and chroniclers, hagiological texts, papyri, works of art, poems, epigrams, sayings, riddles, folk texts such as home remedies, astrology and oneiromancy, all provide information on customs and attitudes. They also shed light on the legal doctrines of the Byzantines on legal subjects, such as marriage, divorce, concubinage, marriage relations, professions, trades, crimes, penalties, the courts, prisons etc.⁶

2.3 Legal Anthropology

Modern folklore researchers⁷ tend to borrow their methodological tools from Social Anthropology.⁸ Thus, the study of works of popular culture does not take place on its own but in connection with organising structures, ideology and doctrines from the society that generates it.⁹ When they first emerged in the nineteenth century, Folklore studies and Social Anthropology were two distinct fields which diverged significantly as far as concerned the subject of study, the geographical regions focused on, the methods they used and their

⁵ The birth of Folklore studies as a science is linked to the emergence of nation-states in Europe and the need to showcase the peculiar cultural features which make up the national identity of a social whole (Sifakis 2003, 21).

⁶ Byzantine folklore material can also be found in Koukoules 1950 and Kougeas 1913.

⁷ Kyriakidou-Nestoros (2006, 15-85) and Sifakis (2003, 21-4) give a detailed account on the history of Folklore studies and its methods in Greece and globally.

⁸ Social Anthropology was born in the nineteenth century together with colonialism with the aim of studying the native people of the colonies. The first field studies of Malinowski (on the Trobriand Islands in the Sea of New Guinea) and Radcliffe-Brown (on the Andaman Islands in the Indian Ocean) appeared in 1922. The gradual liberation of the European colonies in the twentieth century, shifted the focus of Social Anthropology towards the study of European societies, such as in the case of Greece, which presented an historical depth, preserving up until the mid-twentieth century its peculiar traditions (Sifakis 2003, 15-16, 24-5). Folklore studies, born in Europe in the nineteenth century along with nationalism, at the time of the disintegration of the multiethnic empires and the creation of nation states, aimed to show the particular cultural elements which mark the 'ethnic' character of each people (Kyriakidou-Nestoros 2006, 142).

⁹ The fact that Social Anthropology employs such an approach, has resulted in it being described as the "universal science of man".

expressed aims (Sifakis 2003, 20-1). Today, however, Social Anthropology seems to “include what once belonged to Ethnology and Ethnography and to some extent Folklore studies” (Kyriakidou-Nestoros 2006, 19-20; Sifakis 2003, 13).

A special branch of Social Anthropology is Legal Anthropology, which “sets itself the task of understanding the discourse, practices, values and beliefs which all societies consider essential to their operation and reproduction” (Rouland 1994, 1), or “(a) pour objet l’étude de l’homme par référence à son milieu social et culturel” (Arnaud 1993, 34). It emerged as a separate discipline when, studying small traditional colonial societies in the nineteenth century, anthropologists observed that the rules regulating social life did not always derive from some central authority, as was the case in western societies, where they themselves came from. In contrast, social peace was achieved through a smooth coexistence of groups integrated into these societies, which functioned as mechanisms generating legal rules. Under these conditions, the study of law as a factor in assuring order as well as the functioning and self-perpetuation of these societies was disconnected from the one and only (non-existent in any case in these ‘primitive’ traditional societies) central authority, which monopolises the mechanisms for generating rules of law and shifted to these groups and the relations they developed amongst themselves.

Consequently, contrary to the idea of legal centralism, on which research into the legal life of a society up to then was based, the notion of legal pluralism was born.¹⁰

Legal pluralism leads to a sociological-anthropological approach to the phenomenon of law, which focuses on the relations developed between a central legal system and normative orders emanating from social groups (Roberts 1994, viii).¹¹

The manner in which legal pluralism manifests itself in the Byzantine period has itself already been a subject of study. Those groups which next to the central authority give a picture of pluralism, characterising the Byzantine legal phenomenon, are the Church, professional guilds, the army, farmers, minorities (Jews, Armenians) (Zepos 1985, 460). Viewed from another angle, Byzantine legal pluralism specialises in the relation developed between state and customary law (Michaelidès-Nouaros 1977, 419-46). Consequently, research into the above parameters which comprise legal pluralism, as expressed in Byzantium, places the study of Byzantine law on a basis which goes

¹⁰ On legal pluralism see Gilissen (1971, the synthetical work of Vanderlinden 1971, commented by Rouland 1994, 79-80, 42-102, with suggestions for further reading.

¹¹ Social groups as components of society, which, through their interaction produce social relations are described in Laburthe-Tolra, Warnier 1993, 55-7.

beyond a static approach of its rules, and extends to those factors related to the mechanisms of its production, reception and functioning.

2.4 Sociology of Law

From the social sciences, the Sociology of Law is also useful for the historian of Byzantine law. This discipline studies law as a phenomenon in a discourse with the society to which it is connected: “une discipline qui a pour objet d’étude les rapports ([...] la fonction) du droit à (dans) la société” (Carbonnier 1978, 14).¹² The answer therefore to the question ‘What is law’ is not exhausted – from the sociological point of view – in the mission it accomplishes as a part of society; in other words, the law is not defined as “the total of general obligations and abstract rules, through which human (and therefore societal) co-habitation is regulated externally” (Simantiras 1977, 29-30),¹³ as the classical legal definition has it, but the “totality of obligatory rules which regulate social relations and imposed by the group to which we belong” (Lévy-Bruhl 1951, 3-4; 1981, 21-2). Which is this group? Supporters of the monistic school argue that it is the group that possesses political authority and therefore also has a monopoly over the production of the rules of law (Gilissen 1971, 7-8): proponents of the pluralistic school on the other hand see that such a group may be any group integrated into society that may produce rules of law mandatory for its members (Lévy-Bruhl 1951, 4-5; 1981, 24-6, 29-30), which may not always be in consensus with the laws of society in general (Lévy-Bruhl 1981, 30-1). On the basis of the above, the notion of law is entwined with that of legal pluralism, which seeks multiplicity and heterogeneity (Carbonnier 1978, 356) in its mechanisms for generating it, a perspective which, as well have seen, also employs Legal Anthropology.

The approach to the phenomenon of law in the context of legal pluralism takes us to another useful methodological tool which is connected to the sources the researcher will draw upon. The classical definition, perceived as legal sources “the monuments from which we draw our information on legal matters” (Pappoulias 1927, 12), does not suffice since it identifies them with their external form. For the Sociology of Law, sources are those internal parameters of law, which, irrespective of their external expression, refer to the function of law; to its birth, its theoretical elaboration, its reception and

¹² Carbonnier (1978, 14) also discusses the distinction between “sociologie juridique” and “sociologie du droit”.

¹³ In Simantiras 1977, 30 fn. 4 eighteen more definitions of law to the same effect are to be found.

its application in practice. In this sense, sources are not – from a sociological perspective – inscriptions, papyri, parchments, historians, chroniclers etc. (known also as “diagnostic sources” [Pantazopoulos 1974, 21-46]), but law and custom, legal science, transactional practices and case law (Pantazopoulos 1974, 46-52). An enquiry into all the aforementioned perspectives, places the study of the phenomenon of law of a society, both contemporary and/or historical, as in the case of the Byzantine empire, on a basis which supersedes a positivist approach. For historical law of course such a ‘holistic’ approach depends on the degree to which this is permitted by the condition of the extant sources the researcher has at their disposal today. Particularly, when it comes to the Byzantine empire, the material from where information on all the aforementioned aspects of legal operation is drawn can be found in: legislation and private legislative collections, in *nomocanons*, in scattered testimonies on customary practices, in public and private documents, in the jurisprudence of secular and ecclesiastical courts (the *Peira* of Eustathios Romaios, the court decisions and legal opinions of the bishop of Ohrid, Demetrios Chomatenos, the judgments of the metropolitan bishop of Naupakos, John Apokaukos and of the patriarchal synodic court; Lokin 2009, 416-17; Stolte 2009, 239-40), in interpretative philology (Basilica *scholia*, canon commentaries), in the work of legal philology, (brief monographs, extended treatise, teaching manuals, *specula principum*).

2.5 Comparative Law

Another interpretative tool available to the historian of law is Comparative law.¹⁴ This branch of law,¹⁵ which compares legal cultures and/or legal traditions (Moustaira 2012, 97),¹⁶ aims “to bring to light the differences existing between legal models, and to contribute to the knowledge of these models” (Mousourakis 2019, 6). The fact that a subject for comparison, being not legal rules but legal systems, results in, apart from statute law, the examination of those social parameters which gave rise to its birth and implementation (Moustaira 2012, 97). Thus, from this point of view, Comparative law is a branch related to the Sociology of Law (Zweigert, Kötz 1988, 10; Mousourakis 2019, 6).

14 The origins of Comparative law, the field of its application and the institutional framework of research and teaching in this field are being discussed by Havet (1978, 979, 981-3).

15 On the discussion whether Comparative law is a self-sufficient discipline or a method in the study of law see Watson 1974, 1 ff.; Havet 1978, 979-81; Mousourakis 2019, 3-6.

16 The context of the term ‘legal culture’ has been analysed by Nelken 2012, 480-90.

Historical legal systems can be studied from a comparative perspective. The study of Byzantine legal institutions, especially in terms of comparative law can take three forms:

- a. compared in relation to other legal systems in antiquity. The aim is to ascertain institutional commonalities, shared elements, ultimate origins or survivals. In particular, as regards Roman law, the comparison has a special significance, since Byzantine law is of Roman provenance and specifically Roman law, which was codified in its entirety by Justinian in the sixth century AD. By comparing institutions, such as those relating to later Byzantine imperial legislation (*Novellae*) and case law until the fall of Constantinople in 1453 with their respective ancient Greek and Roman institutions, it is possible to track the gradual transition from the Roman to the Byzantine legal order.¹⁷ In the latter, we can observe that in some instances survivals of institutions and legal perceptions of Greek provenance which come in conflict with the corresponding Roman institutions, such as for example the inheritance rights of a daughter who has received a dowry, the institution of 'horizontal ownership' and others.
- b. Byzantine law may also be compared with other foreign law, contemporary with it. Through the juxtaposition of Byzantine institutions with their equivalents among other peoples, with whom they come in contact, influences can be spotted, which either receive from or exercise on the foreign legal system, such as, for example the Serbian (*Farmer's Law*, Dusan's code), the western Roman empire (ordeal), the Ottoman (*pro-noia*). This comparison can be linked in with the theory of legal transplants, formulated in the 1970s, and according which "the moving of a rule or a system of law from one people to another" (Watson 1974, 21) is a very important source of the evolution of law (see also Siems 2018, 231-61).
- c. Finally, the study of institutions of Byzantine law may be done in juxtaposition with equivalents in contemporary law: this is particularly the case in Modern Greek private law, where the comparison bears out the historical depth of the institutions of modern Greek law, which to a great extent have their roots in 'Byzantine-Roman law' (βυζαντινορωμαϊκό δίκαιο), as it is called today. The link between Modern Greek law and its Byzantine past took on great significance in Greece in the

17 The absence of any clearly established date for the beginning of Byzantine law led to a doubt concerning its self-existence as a legal order separate from Roman law. Today, this position is no longer widely accepted by researchers in the field, who define it as the law of the eastern Roman Empire which is expressed in Greek (Pitsakis 2005, 1035).

nineteenth and twentieth centuries. In any case, beyond the Greek case, to which we refer below (§ 3.1), the importance of comparing institutions of the present with their equivalents of the past has already been emphasised. Indeed, such particularly close relationship is established between Comparative law and legal history (Zweigert, Kötz 1988, 10; Gordley 2006; Mousourakis 2019, 11-17) to the degree that, as has been suggested recently, these two disciplines should merge (Pihlajamäki 2018).

2.6 Preliminary Conclusions

The twofold nature of the history of Byzantine law provides the researcher with the chance to use on their subject of study research tools and methods of approach which are connected both with the Humanities as well as with Social Sciences.

From the first, they will seek out this crucial and necessary material, so as to supplement their information, they will place their subject matter in an historical context, will explain the emergence or *ratio* of a legal rule, and will restore the texts and publish in accordance with modern specifications. In this sense, History, Philology, Papyrology, Folklore studies and other branches in the Humanities make use of those support tools which will give to the research scientific completeness and reliability.

From the Humanities, the historian of Byzantine law draws supplementary support material, while from the Social Sciences they borrow methods which allow them to approach the Byzantine phenomenon of law in its dynamic dimension, in relation, that is to say, on the one hand with the society from which it emerges and to which it addresses itself, and on the other with other legal systems, earlier, contemporary or subsequent to it.

In light then of the research tools and the approach used by the researcher, the answer to the initial question if the history of Byzantine law belongs to the Humanities or to Social Sciences, the answer I think is: It straddles them both. The 'interdisciplinary' nature of research means, if I may be allowed to use the expression, renders the study of Byzantine law a subject which finds itself bordering the Humanities and the Social Sciences.

3 **The Significance of the Research of Byzantine Law Today (Answer to the Second Question)**

Now I come to the second question I posed at the beginning of my paper. Beyond its research into a legal culture of the past, does the study of Byzantine law today have any practical use? Can researchers contribute with their knowledge to resolving contemporary legal problems?

To this question, for which I consider myself qualified to answer limiting myself to the data that pertain to modern Greece, allow me first briefly to turn to history.

3.1 **Byzantine Law and Greek Legal Science, Nineteenth and Mid-Twentieth Centuries**

The foundations of the contemporary Greek state after more than three hundred years of Turkish rule are to be found in the first decades of the nineteenth century. The first proclamations for drafting a Civil Code which would regulate the private relations of Greeks were being made during the Greek Revolution of 1821 and up to 1834, when the legal expert, Georg Ludwig von Maurer, a member of Othon's regency left Greece. There were two tendencies dominating the subject: on the one side, that which wished to adopt Byzantine law as the valid legal system until the drafting of the Civil Code; this would lead the modern Greeks to reconnecting themselves with their legal past before Turkish rule. On the other side, that which, aligned with the perception of the Historical School, which was in the ascendant at that time, argued that the Civil Code must include 'national' law, which echoes the 'popular spirit' (*Volksgeist*) of the Greeks: that was to be found in the customary practices which they had been applying over the centuries before the liberation (Triantaphyllopoulos 2009, 616-20).

Already from 1841, Byzantine law was a taught course in the Law school of the Othon's University founded in Athens in 1836. Its teaching aimed to facilitate the implementation in practice of the law then in force. What was that law? It was the *Hexabiblos* of Armenopoulos, the private legislative collection of the fourteenth century, which the Decree of 1835 established as the legal system to be temporarily in force in the Greek kingdom until the drafting of a Civil Code.¹⁸ Consequently, Byzantine law continued to be the temporarily valid legal system of the Greek state; not however in the form it had in the

¹⁸ What exactly the legal order which the *Hexabiblos* introduced was has occupied the Greek literature (Pitsakis 2000, 64 fn. 1).

Hexabiblos, but in the interpretation given in its provisions by Greek legal experts of the time. This interpretation was made on the basis of the ultimate source of the *Hexabiblos*, code of Justinian, which was at that time the basis of newly established Civil Codes in European states, in combination with the *Basilica* of the Macedonian emperors, who adapted the Latin text of *Corpus Iuris Civilis* to Greek. This knowledge of the sources of the *Hexabiblos* would reveal the ratio of its provisions, and therefore, their adaptation to modern Greek reality (Zepos 1949, 81-2; Dimakopoulou 2018, 184-5). Greek legal experts of the time then were knowledgeable about Byzantine law, since that was what legal reality of the period required. Lining their libraries were the *Basilica*, the *Hexabiblos*, the *Novellae* of the Byzantine emperors, while at the time studies on Byzantine law were appearing, which up to the present remain reference works.¹⁹

Eventually, the Greek Civil Code, the same which with amendments is in force today, came into force in 1946 immediately after the end of the Second World War.²⁰

It becomes eminently clear that a knowledge of Byzantine law took on a particularly practical significance in Greece from the first decades of the nineteenth century until the mid-twentieth century. Having knowledge of it as well as the study of it was made available to serve those needs emanating from the legal conditions of the time. The preservation of Byzantine law as a temporarily valid law, and its teaching and interpretation with the help of its own sources, placed it centre stage for legal experts of the period and showed it to be playing a leading role as well as a supporting tool in the service of practical needs related to the legal circumstances that prevailed in the Greek state for more than a century from its formation.

3.2 And Today?

More than fifty years after the Greek Civil Code was put into force, the legal environment is different, both at a national and at an international level. In the context of contemporary society which is moving towards globalisation, “the new paradigm of society” (Michaels 2013, 287), and as a member of the European Union, Greece participates in shaping a new *ius commune*, as its been called, which moves towards legislative standardisation not just of economic but also the

¹⁹ Such legal experts were Konstantinos Triantaphyllopoulos, Georgios Maridakis, Panagiotis Zepos et al.

²⁰ The main attributes of the contemporary Greek legal system are given by Dacoria (2012, 371-6).

private relations of individual member states.²¹ In this context, the practical use of Byzantine law for the need to exercise a ‘national’ legislative policy has no scope. One could argue that today research into Byzantine law, as with every legal system linked with the history of Hellenism, has a purely historical character.

That is true, but only partly.

In Greece the history of law remains today in some cases a *sine qua non* for the resolution of disputes related to ownership rights on real estate, which are founded on historical property documents. This concerns property in areas which were not included from the beginning within the borders of the Greek state, such as in the Ionian Islands, the ‘New Lands’ [Νέες Χώρες, i.e. Macedonia, Thrace and islands in the north Aegean sea], Crete, Samos, the Dodecanese. In some of these regions local codes were in force (Ionian Code, Cretan Code, Code of Samos), which remained in force after the incorporation of these regions into the Greek state throughout the nineteenth and twentieth centuries. These local codes were abolished with the placing into force of the Greek Civil Code in 1946, under Article 5 of the Introductory Law of the Civil Code. However, Article 51 of the same Introductory Law provides that rights *in rem* (including those of ownership), which were acquired before the introduction of the Civil Code, are still judged even after its introduction according to the law that was in force at the time of their acquisition. And so, right up until the present, disputes arise whereby the judge is called upon to rule on the basis of historical ownership documents, where the type, extent and correspondence of rights with contemporary rights is a subject of investigation by a historian of law. Greek court rooms continue to hear disputes which hinge on such ownership rights. Though in most cases, these rights can be traced back to post-Byzantine titles (Venetian decrees, Ottoman *tapu*), there are others which invoke Byzantine titles, such as the *chrysobulls*. In these cases, the court relies on opinions and expert advice of a lawyer specialised in the history of law. This person will evaluate the extent of the right being awarded with these crucial documents and will investigate on the one hand its correspondence with contemporary ownership rights, and on the other its unbroken historical survival in the centuries that followed its acquisition until today.

It is true that the courts do not receive Byzantine property documents very often. It does demonstrate however the practical importance that the study of Byzantine law may have today; the handling of such legal matters would not be possible without the contribution and specialised knowledge of one well-versed in Byzantine law.

21 European legal history was born after the Second World War and was built on the ruins of national legal history (Lesaffer 2018, 84-9).

3.3 To Finish Off

The researcher of Byzantine law cultivates a discipline which, to the extent that it relates to History, would appear to be on the wane, as are indeed all the other Humanities subjects these days. And indeed as far as it relates to the science of Law, it is included in those branches at the cutting edge of this subject. Despite the decline in the significance of the 'national' factor in the law of states emerging in the nineteenth century and the trends towards homogenising law which dominate today at a European and international level, the pre-history of the institutions of modern Greek law is not negligible. In some special cases, such as those I mentioned earlier, knowledge of Byzantine law does *itself* operate as a support tool to serve today's Greek court practice.

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