

DAPHNE PENNA, *Byzantine Law: The Law of the Eastern Roman Empire (Elements in Rethinking Byzantium)*. Cambridge: Cambridge University Press 2026. 57 pp. – ISBN 978-10-096-9607-4

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This short, highly approachable work is the latest entry in CUP's *Elements in Rethinking Byzantium* series. For readers who may be unfamiliar with the concept, Cambridge Elements aim to 'combine the best features of books and journals', effectively making a hybrid of monograph and long research article, usually around fifty to eighty pages. Unlike Oxford's *Very Short Introductions*, which offer subject matter overviews to novices, the purpose of these Elements is to give scholars a venue to present their research in a brief and digestible form. In this case, DAPHNE PENNA of the University of Groningen introduces us to her research on Byzantine law and makes the case that Byzantium should be accepted as an integral part of Europe's Roman legal heritage. Of course, since the subject will be unfamiliar to many readers, PENNA does include some useful introductory information as well.

The book is divided into two chapters: 'What Is Byzantine Law, or Does Byzantine Law Exist?' (pp. 2–26) and 'How Is Byzantine Law Related to European Law, or Rethinking Byzantine Law' (pp. 26–47). The first chapter is the most introductory, running from Justinian's sixth-century *Corpus Juris Civilis* to the Photian *Eisagoge* of the ninth century, dealing with issues such as language (Greek vs Latin) and the relationship between civil and ecclesiastical law along the way. There is then a substantial section on sources for Byzantine 'law in action', including the *Ecloga Basilicorum* of c. 1142 and the 'new' *Basilica* scholia of the eleventh century, on both of which PENNA is an expert (a bit oddly, she does not explain what the *Basilica* themselves are until Chapter Two). Chapter One concludes with a narrative on the afterlife of Byzantine law beyond 1453, which continued to be used by Orthodox Christians in the Ottoman Empire and by the modern state of Greece from 1835 to 1946.

Having established in Chapter One that Byzantine law does indeed exist, PENNA's focus in Chapter Two turns to justifying it as a legitimate object

of scholarly research. She begins with an excursus on the debt of modern civil law jurisdictions to Roman law, which was initially ‘somewhat forgotten’ (p. 28) in post-Roman Western Europe until the ‘rediscovery’ of Justinian’s *Digest* in late-eleventh-century Italy (pp. 26–29). As PENNA rightly points out, the Justinianic law that was rediscovered in Italy was in fact still alive and well in contemporary Byzantium. She then argues for the value of comparative study of the medieval Greek and Latin legal traditions, drawing on her own research on legal interaction between Byzantium and the Italian merchant cities of Venice, Genoa, and Pisa in the eleventh to thirteenth centuries as a point of reference. Finally, she discusses the reception of Byzantine law in modern European jurisprudence and closes with some *bons mots* about the future of the field.

This book thus provides both an introduction to Byzantine law and a justification for its study. Students of Byzantine history may wonder why such justification is necessary at all. Indeed, at times PENNA can come across as surprisingly defensive of her subject. The opening pages (pp. 2–5), for example, inveigh against the anti-Byzantine prejudice of Enlightenment thinkers, reminding us that the Byzantines were not really ‘Byzantines’ but in fact Romans or *Rhomaioi*. Another section pushes back on the idea that Byzantium was ‘a decadent, backward theocratic society’ (p. 35) by arguing that the legislation of the Byzantine emperor Leo VI (r. 886–912) anticipated the eighteenth-century Italian jurist Cesare Beccaria’s principles of criminal law. The book’s final sentence proclaims that ‘Byzantine law, the law of the Eastern Roman Empire, is certainly not boring and can be studied in many ways and for many reasons’ (p. 47).

There are surely few professional historians today who would uncritically accept Enlightenment prejudice against Byzantium or assert that it was a ‘decadent, backward’ empire without at least a degree of nuance. Who would hold views like these? Even among those who might find it boring, who would go so far as to call it unworthy of study? Apparently, PENNA knows a lot of people who would. She opens the book with an eye-opening observation: ‘Whenever I say that I am specialized in Byzantine law, most of the people look surprised, baffled, and occasionally there is a glimpse of pity in their face or even horror’ (p. 1).

Even horror! PENNA does not specify who these interlocutors are, though it may be possible to guess. As with many similarly technical niches of history (e.g. history of science), one can approach Byzantine law from two different angles: either as a historian who works with legal sources, or as

a lawyer who works with historical sources (PENNA, it should be noted, is the latter). As a historian who works with legal sources, I can say that I have never encountered such a negative reaction when I tell colleagues about my field of research: indeed, most historians respond quite positively. By a process of elimination, we can surmise that it must be the lawyers who express horror at the field.

PENNA alludes to this distinction between historians and lawyers in the closing pages of the book, noting that ‘legal historians have, in principle, different aims and interests than historians have.’ (p. 45) This is reflected in the structure and content of the book itself. While PENNA is writing for both audiences, as a legal scholar herself she naturally leans more to one side than the other. Legal scholars are quite aware of the importance of Roman law in European legal history, though they (generally) do not appreciate the significance of Byzantium as a part of that Roman law tradition. This accounts for the need to justify Byzantine law as a field of study, which may seem superfluous to students of Byzantine history.

It must be said that, superfluous or not, PENNA makes an excellent case for her field. I was particularly interested in her discussion of the role of Byzantine law in modern European legal history, which comes towards the end of the book (pp. 39–44). We learn, for example, about references to the *Hexabiblos* (a fourteenth-century collection of Byzantine law produced by the jurist Constantine Harmenopoulos) in the works of the seventeenth-century French playwright Racine, which have gone largely unnoticed among legal historians. We also learn of the significance of the *Hexabiblos* to the nineteenth-century Pandectist movement in Germany, which may have influenced the structure of the 1900 German Civil Code (*Bürgerliches Gesetzbuch*). These are fascinating details that one does not generally find in discussions of Byzantine legal history.

On the other hand, students of Byzantine history who come to this book expecting a detailed introduction to the inner workings of the empire’s legal system may be a little disappointed. PENNA’s goal is not so much to introduce law as a field of Byzantine history as it is to introduce Byzantine law as a field of legal history. This means, for instance, that relatively major collections of Byzantine law such as the *Ecloga* or *Prochiron*, or legislation such as the *Sailor’s Law* and *Farmer’s Law*, receive just one brief, passing reference (p. 17). Readers looking for a more in-depth treatment of Byzantine law would do better to read some of PENNA’s other works such as the *Sourcebook* that she co-wrote with ROOS MEIJERING or the

Companion that she recently co-edited with ELEFThERIA PAPAGIANNI.¹ Nonetheless, readers who approach this book on its own terms will find it both thoughtful and rewarding. Not only does PENNA do an excellent job of conveying the essence and significance of Byzantine law as a field of study, but she is quite convincing in her effort to claim a spot for Byzantium as an integral element of Europe's broader legal tradition. I do not know if the lawyers will pay attention to this book (I hope that they do), but Byzantinists certainly should.

Keywords

Byzantine law

1. DAPHNE PENNA – ROOS MEIJERING, *A Sourcebook on Byzantine Law: Illustrating Byzantine Law through the Sources* (Medieval Law and Its Practice 34). Leiden 2022; DAPHNE PENNA – ELEFThERIA PAPAGIANNI (eds.), *A Companion to Byzantine Law from the Foundation of Constantinople (330) until the End of the Macedonian Dynasty (1056)*. Leiden 2025.