

## Review

Rafael Palomino\*

Formación léxica y conceptualización jurídica. El vocablo “excepción”.  
By Jesús Bogarín Díaz. Madrid: Dykinson. 2021. 193 pp. ISBN 978-84-1377-680-4.

---

The author of this book is Jesús Bogarín, Professor of Law at Universidad de Huelva (Spain). He earned two degrees at Universidad de Sevilla, in Law (1984) and Classical Philology (1985). He began his academic career in 1985 enjoying a Scholarship for Training of Research Staff. In 1996 he earned a Doctoral Degree at Universidad de Sevilla with his dissertation *La personalidad jurídica de las comunidades religiosas. Estudio de derecho comparado europeo* (*The Legal Personality of Religious Communities. European Comparative Law Study*), subsequently published in 2008. He has focused his research interests on Law and Religion and Canon Law, paying special attention to the latter concerning the Spanish confraternities of penitents (*cofradías penitenciales*). Professor Bogarín has published 14 papers, 24 contributions to collective works, and 9 books. Professor Bogarín's rich and wide background explains his success in dealing with the topic of this book, combining philology and history of law in explaining in depth the origin and use of the Latin term *exceptio* (i.e. judicial allegation opposed by a defendant to the plaintiff's action) and its evolution in romance languages.

The book is published by the prestigious Spanish publishing house Dykinson, which maintains a high reputation standard according to the Scholarly Publishers Indicators in Humanities and Social Sciences, a reliable source to know the quality of books published in Spain in the legal sphere. The book is part of the Legal History Series of the Figuerola Institute of Social Science History – a part of the Carlos III University of Madrid – devoted to improving the overall knowledge of the history of law covering both ancient and modern eras. Carlos III University offers an open-access electronic version of this book in its digital library repository.

---

\* Professor of Law, Universidad Complutense de Madrid.

The book starts with a well-known assertion: legal norms are composed of words, and their interpretation is based on meaning. To achieve the latter, philological tools are needed. However, there is not only an instrumental link between philological tools and law but also a link between jurisprudence and linguistics when it comes to achieving a better understanding of the meaning of legal norms. This interdisciplinary link between jurisprudence and philology is reflected in specialized studies, such as Forensic Linguistics, Semiotics of Law, and Translation Studies. Throughout the twentieth century, these studies have been increasing and improving. This book is a manifestation of their consolidation.

The structure of the book consists of three chapters that track the dynamic and evolution of the word *exceptio* along different historical periods and different languages: from Latin to Spanish.

Intuitively, it might be held that the legal Latin use of the word *exceptio* was derived from its common use. However, in the first chapter the author shows that the legal use decisively influenced the common use. To prove this the author goes back – aided by philological tools – to the very roots of the term *exceptio* and its variations in Proto-Indo-European and in Latin. Following a strict method, the author offers each time an evolutive stage of meaning backed by several examples not only from legal texts, from Gaius to Justinian to Bartolus de Saxoferrato, but also from literary texts of diverse genres, from Cicero to Tertullian, from Seneca to Benedict of Nursia. And in this immense journey through centuries, the author takes pains to detail the meaning and uses of the term and its derivatives from the *Corpus Iuris Civilis* in a continual line throughout the long period of the European *Ius Commune* up to the eighteenth century, in a sort of titanic effort to reach a solid conclusion: the term *exceptio* gained a specific meaning in procedural Roman law which was adopted afterward into common use. Latin texts are used to contrast different sources, if necessary, with the corresponding translation to Spanish in footnotes. All this task requires a deep knowledge of the language, and of the sources as well, combined with a holistic vision of the words analysed in very different classical sources.

The second chapter of the book studies the word “exception” in the Romance languages: Spanish, Catalan, Galician, French, Occitan, Retro-Romance, Tuscan, Venetian, Umbrian, Sicilian, Romanian and Sardinian, among others. As in the previous chapter, the statements about the dynamics of the word *exceptio* are systematically contrasted with legal sources (e.g. *Lo Codi*) as well as non-legal sources (e.g. the poem *Le Roman de la Rose*), that reveal that the term remained in medieval legal Latin and, though

not incorporated into the nascent Romance languages in an evolved form, nevertheless became entrenched as a learned word.

The third and final chapter is devoted to the evolution of the word in Spanish, from the fifteenth century onwards, following the meaning of “exception” from Antonio de Nebrija’s dictionary to the *Real Academia de la Lengua* dictionary in its successive editions, between the years 1726 and 2014. The new Panhispanic Dictionary of Legal Spanish of 2017 is an essential reference to achieve a precise knowledge of the use of the word “exception” in Latin American states’ legal systems. Once again, dictionary definitions are exemplified and contrasted with the use of the word in legal and non-legal sources.

In conclusory remarks, the author points out that in Latin the common use of the word *exceptio* originated in forensic or legal use. Jurisprudence over the centuries refined the procedural notion of exception until it reached an ultimate, precise notion: exception is a means of defense consisting of the allegation of a new fact regarding the plaintiff’s claim, with which the defendant intends to free himself from the obligation contained in that claim. Although during the Middle Ages the term continued to be alive in legal Latin, it was not used in Vulgar Latin, and as a result it was not incorporated into the lexicon of Romance languages but used as a learned word. In the Spanish language, the word *excepción* was incorporated in the dictionary of the *Real Academia de la Lengua* of 1884. In the 2014 edition of that dictionary, the word *excepción* has up to three meanings, the third being the precise notion before mentioned (defendant’s defense against plaintiff’s claim). In a general conclusion, Bogarín states that law and linguistics need each other and illuminate each other for a full understanding of the origin, evolution, and meaning of the word *excepción*. Yet the analysis model proposed and developed in this book by the author is undoubtedly very useful to research upon other words and legal concepts.

---