From the Spanish Civil Foundations to the Soviet Academic Model: Reshaping the Teaching of Roman Law and Legal History in Modern Cuba

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Abstract – The School of Law of the University of Havana has taught Roman law since its opening in 1728, but its curriculum has been reshaped by different political, legal and intellectual influences during the last three centuries. These movements included secular, positivist and socialist periods that sought the elimination of Roman law, as Cuban legal scholars and politicians transitioned from normativism to pragmatism and, ultimately, to nihilism. Despite these movements of opposition, Roman law survived as some jurists defended its preservation and even promoted its expansion in the curriculum as a foundational element of national legislation. This feature of Roman law was common to the rest of the Latin American countries that were part of the Civil law legal system. In the case of Cuba, however, the relevance of Roman law in the public sphere intimately also involved the faculty teaching those courses, who consistently functioned as active members of the local legal community. At the same time, these scholars implemented major legal intellectual movements in the field of Roman law in Cuba through constant updates to the reading lists and updates to the curriculum. This article argues that the teaching of legal history in Cuba has been closely connected to major national events since the founding of the University of Havana, whose faculty devised various survival

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Abbreviations: AHUH = Archives of the University of Havana; AHN = National Historical Archive in Madrid; AGI = the Archive of the Indies in Seville; ANC = National Cuban Archives in Havana. The section of ULTRAMAR of the Spanish Archives preserves documents pertaining to overseas affairs within the Spanish Empire, including local bureaucracies and functionaries appointed to public positions in Spanish America.

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strategies to preserve Roman law in the curriculum of the School of Law, and ultimately turning this legal field into part of the Cuban legal identity.

I. Introduction

In the Spring of 2006, the faculty of the School of Law at the University of Havana gathered in the amphitheater located on the first floor of their building. The purpose of this meeting was to discuss revisions to the Plan of Studies C, the third curricular reform since 1965. The proposal sought to create a more efficient curriculum with fewer required courses, and a credit-by-course system that included elective seminars. After debates, participant faculty members pointed out courses that overlapped, and where subjects could be reduced. Roman law and legal history were among the first courses on that list. All faculty members had taken Roman law and legal history as law students, and they understood its role as a reminder of the classical origins of the Cuban legal system. Yet, many lawyers questioned their practicality and considered prioritizing other courses with subjects that had more direct application such as Civil, Criminal or Procedure law. For that reason, the small Roman law and legal history faculty had to come to its defense once again and used persuasive arguments about the foundational role of Roman law in the training of lawyers in Civil Law countries. Their rhetoric proved convincing one more time, and the course remained unmodified in the new plan of studies.

The meeting in 2006 was not the first time in Cuban history that the faculty of Roman law had to come in defense of their course in Havana. Since the opening of the University in 1728, the teaching of Roman law had reshaped and mutated multiple times against the frequent political and intellectual movements seeking its reduction or elimination. In that process, Roman law had managed to avoid intellectual, political, and even economic challenges, even as its courses had sometimes increased or decreased over time. The University of Havana, however, was not the only institution where this process happened in Ibero-America.

Until the nineteenth century, Roman law was the main element in the formation of jurists.[1] After the collapse of the Roman

[1] See M. C. Mirow, *Latin American Law: A History of Private Law and Institutions in Spanish America* (Austin 2004); T. Herzog, *Upholding Justice: Society, State, and the Penal System in Quito (1650–1750)* (Ann

Empire, its legal system became the reference for medieval European kingdoms and the Catholic Church, which borrowed Roman legal principles and organization to develop their own legal systems. In that process, Roman law merged with Germanic rules to form the European *ius commune*, while medieval scholars studied Roman legal compilations, mainly Emperor Justinian's *Corpus Iuris Civilis*, seeking its applicability and reinterpretations. As a result, Roman law became the basis for medieval legislation, both secular and ecclesiastical, and, therefore, the legal systems of European monarchies and the Church. For these reasons, Enlightenment philosophers increasingly questioned Roman law as the legal backbone of medieval political and religious authorities. When the Spanish Bourbon Monarchy enacted legislation during their imperial reforms, they wanted to distinguish themselves from the legislation rooted in the European *ius commune* and the Roman legal tradition.[2] For that reason, the Spanish government called this new set of laws *derecho patrio* (national law), to emphasize its departure from tradition and highlight the needs of a nation-based legal system. This notion extended to the emergent Latin American republics and led to the enactment of their constitutions and codes from the early nineteenth century. These nationalistic processes further separated modern legislative systems and Roman law, which liberals increasingly deemed as obsolete and inapplicable. For that reason, many universities reduced or eliminated Roman law from their curricula.[3]

Despite growing opposition to Roman law in modern schools of law, American scholars specializing in Latin American history have increasingly shown interest in its legacy. Spanish and Portuguese settlers transplanted Iberian legislation to their overseas territories and, consequently, extended its influence into both secular and ecclesiastical legal fields. During most of the colonial period, Roman law served as applicable legislation in secular matters regarding personal status, family, or contracts, and even native communities used some of its legal principles to defend land

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Arbor 2004); R. Pérez Perdomo, *Latin American Lawyers: A Historical Introduction* (Stanford 2006); J. A. Brundage, *The Medieval Origins of the Legal Profession: Canonists, Civilians and Courts* (Chicago 2008); G. Mousourakis, *Roman Law and the Origins of the Civil Law Tradition* (New York 2014); T. Herzog, *A Short History of European Law: The Last Two and a Half Millennia* (Cambridge 2018); and R. Pérez Perdomo, *Legal Education in the Western World: A Cultural and Comparative History* (Stanford 2024).

[2] Herzog, *A Short History of European Law* (note 1), 199–200.

[3] Mirow (note 1), 107–20.

property rights.[4] For these reasons, some scholars such as Kathy Burns, Bianca Premo and Lauren Benton have analysed Roman law as a key foundational element of the legal culture in Ibero-America.[5]

In addition to these approaches to Roman law, United States' academia has largely documented its influence in regulations regarding the enslavement of Africans, with particular attention to Cuba. In 1946, Frank Tannenbaum published his comparative study on slavery in the English, Portuguese and Spanish colonies, with frequent references to their legal systems.[6] Thereafter, other scholars such as Arthur Corwin and Christopher Schmidt-Nowara referred to Rome as the source of Spanish regulations about slavery.[7] Yet, Alejandro de la Fuente's revisions to the Tannenbaum debates returned academic attention to the importance of Roman law for Spanish colonial regulations about slavery, and as a way to understand their difference from English legislation on that matter.[8] Moreover, De la Fuente and Ariela Gross coauthored a study that further compared legislation regarding Africans in Cuba, Louisiana and Virginia, and they often refer to Roman law.[9] Other historians, such as Rebecca Scott, Carlos Venegas, Adriana Chira, Claudia Varella and Manuel Barcia, have also highlighted the Spanish legal tradition as a source of legislation on Afro-Cubans, and how they used Roman legal institutions to defend

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[4] Among others, see references to Roman law in the protection of native Americans in Y. Yannakakis, *The Art of Being In-between: Native Intermediaries, Indian Identity, and Local Rule in Colonial Oaxaca* (Durham 2008), 116; and B. P. Owensby, *Empire of Law and Indian Justice in Colonial Mexico* (Stanford 2008), 94.

[5] See, e.g., L. Benton, *A Search for Sovereignty: Law and Geography in European Empires, 1400–1900* (Cambridge 2009); K. Burns, *Into the Archive: Writing and Power in Colonial Peru* (Durham 2010); B. Premo, *The Enlightenment on Trial: Ordinary Litigants and Colonialism in the Spanish Empire* (Oxford 2017).

[6] F. Tannenbaum, *Slave and Citizen: The Classic Comparative Study of Race Relations in the Americas* (Boston 1992).

[7] A. Corwin, *Spain and the Abolition of Slavery in Cuba, 1817–1886* (Austin 1967), 207; C. Schmidt-Nowara, *Slavery, Freedom and Abolition in Latin America and the Atlantic World* (Albuquerque 2011), 40.

[8] A. de la Fuente, "Slave Law and Claims-Making in Cuba: The Tannenbaum Debate Revisited," *LHR*, 22 (2004), 342, 356.

[9] A. de la Fuente and A. Gross, *Becoming Free, Becoming Black: Race, Freedom, and Law in Cuba, Virginia and Louisiana* (Cambridge 2020), 4, 8, 33, 44, 65, 125–28, 135–36.

their rights and even obtain emancipation.[10] These works, therefore, prove an interest in the influence of Roman law in Cuban legal history. Yet, the overall history of Roman law in Cuba remains unknown.

Some authors, mainly from Cuba, have examined specific aspects of the influence of Roman law in Cuban national legislation, or its teaching on the island during certain periods.[11] These works, however, do not attempt to provide a systematic study about Roman law as an academic field in Cuba, or how this course managed to remain for almost three hundred years in the curriculum of the University of Havana. Unlike other Latin American countries, Cuba transitioned from a Spanish overseas territory to an American protectorate, to a neocolonial republic and, finally, to a socialist regime. In each of these transitions, the law faculty of Roman law in Havana became involved, reshaping its plans of study and organization to adapt to the new circumstances, and even participating in major events in Cuban history.

This article argues that the study of Roman law in Cuba has been closely connected to major national events since the foundation of the University of Havana. Its endurance required survival strategies on the part of advocates to preserve the curriculum and actually increase Roman law's presence as part of the Cuban legal identity. The purpose of this study, therefore, is not to document the influence of Roman law in regulating aspects of the lives of people in Cuba, as other scholars have, but to shed light on how intellectual, political and legal movements were deeply intertwined with the study of Roman law. This process, however, has mutated over time, and Roman law changed from enforceable legislation to a basic introductory course in the School of Law, while legal history remained an important political and

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[10] R. J. Scott and C. Venegas, "María Coleta and the Capuchin Friar: Slavery, Salvation, and the Adjudication of Status," *The William and Mary Quarterly Omohundro Institute of Early American History and Culture,* 76 (2019), 755; C. Varella and M. Barcia, *Wage-Earning Slaves: Coartación in Nineteenth-Century Cuba* (Gainesville 2020), 25, 92; A. Chira, *Patchwork Freedoms: Law, Slavery, and Race Beyond Cuba's Plantations* (Cambridge 2022), 12–16.

[11] J. González Quevedo, *La recepción del derecho público Romano en la historia constitucional Cubana* (Buenos Aires 2021); F. Mulet Martínez, "La primera cátedra Cubana de historia del derecho: notas para su estudio," *Revista del Instituto de Ciencias Jurídicas de Puebla, Mexico*, 13 (2019), 245–67; A. Cabrera Bibilonia, "Las historias del estado y del derecho: enseñanza e historiografía jurídica en Cuba," in V. Kluger, A. Parise, and O. Barney, eds., *Diálogos transnacionales entre historiadores del derecho* (Buenos Aires 2025).

intellectual tool. Additionally, this story demonstrates the attachment of Cuban jurists to the Spanish legal heritage and their adaptability to continue teaching those subjects under multiple, and often hostile, circumstances.

Scholars have examined the study of Roman law and its connection to the history of other countries in Latin America. Víctor Uribe-Urán, Carlos Tormo Camallonga, Stephen Jacobson, and Rogelio Pérez Perdomo, for example, have examined the history of lawyers in Ibero-America, and they have explained the resistance against Roman law in societies that became increasingly pragmatic and corporativist.[12] Additionally, in 2004, Matthew Mirow published a broader study about private law in Latin America, which included in every chapter a section for legal education, with frequent references to the studies of Roman law and how it changed over time.[13] More recently, in 2024, Pérez Perdomo published "Legal Education in the Western World," where he summarized the history of law studies primarily in the Americas and Europe, with a reconstruction of the studies of Roman law in some Latin America countries.[14] In this piece, he mentions that the teaching of Roman law was controversial since its origins in the early Middle Ages as it reflected rivalries between the secular and ecclesiastical authorities, and he explains that modern debates about Roman law in Latin America reflect similar struggles. The case of Cuba, however, is not included in this analysis, as its study remains unexplored.

This research is original work conducted primarily in archives in Havana. Most of the information was available in the academic or administrative files in the Archives of the University of Havana (AHUH), which included documents, publications and resumes of Roman law faculty. In addition, other sources were available in the National Historical Archive (AHN) in Madrid, the Archive of the Indies (AGI) in Seville, and the National Cuban Archives (ANC) in Havana. For some events of the mid-twentieth century, this research also incorporates oral histories from senior faculty that worked at the School of Law in Havana between 2000 and 2006. While scattered and somewhat fragmentary, the record of faculty debates and course content nonetheless reveal a striking pattern of

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[12] V. Uribe-Urán, *Honorable Lives: Lawyers, Family, and Politics in Colombia, 1780–1850* (Pittsburgh 2000); C. Tormo Camallonga, *El Colegio de Abogados de Valencia: Entre el Antiguo Régimen y el Liberalismo* (Valencia 2004); S. Jacobson, *Catalonia's Advocates: Lawyers, Society, and Politics in Barcelona, 1759-1900* (Chapel Hill 2009); Pérez Perdomo, *Latin American Lawyers* (note 1).

[13] Mirow (note 1), 16–18, 35–37, 117–20, 185.

[14] Pérez Perdomo, *Legal Education* (note 1).

persistence, adaptation, and a singular identity for Cuban law in the context of Latin American history.

This study is organized in five periods: Enlightenment, secularization, positivism, nationalism, and socialism. The Enlightenment period examines the studies of Roman law at the Royal and Pontifical University of Havana, after its opening in 1728 when it was controlled by ecclesiastical authorities. A second stage begins in 1842, with the secularization of the University and the creation of the new system of chairs. A third phase explores the influence of positivism, between 1878 until the end of the first American occupation in 1902. The fourth section covers the events during the National University period, when Roman law became connected with national politics while solidifying its role as part of the Cuban legal identity. Finally, the fifth section unveils the events after 1959, when Roman law was temporarily suppressed from the curriculum, but it reemerged once again after a last movement for its elimination. The study ends in the year 2000, when the Cuban government further decentralized legal studies with a system of provincial and municipal university branches that facilitated the ability to obtain law degrees nationwide.

II. The enlightened university: the beginning of the end for Roman law in Cuba

On September 12, 1721, the first Bourbon King of Spain, Philip V, granted authorization to the Catholic Church to open a university in Havana. Since the 1670s, the government of Havana had requested authorization to open a local university like the one in La Hispaniola.[15] Long journeys separated young Cubans from studying law in Mexico, Lima, or the Iberian Peninsula, and candidates mostly were young members of the local elites, who complained about the necessity to travel to pursue higher education.[16] In addition, a growing administration under Bourbon rule required more trained lawyers, who were very scarce on the island. For that reason, and also under pressure by Bishop Gerónimo Valdés, Philip V authorized a university in Havana.

On January 5, 1728, Dominican priests created the University of Havana in the Convent of San Juan de Letran. In its initial plan, they offered programs on Grammar, Arts, Theology and Sacred Scriptures, and, in 1734, the Board incorporated Mathematics,

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[15] *University of Havana Yearbook* (Havana 1870–1871), 5.

[16] J. M. F. Arrate, *Llave del nuevo mundo: antemural de las Indias Occidentales* (Havana 1876), 308.

Philosophy, Medicine, Civil law, and Canon law.[17] The university statutes provided a system of competitive chairs, where an academic committee selected a candidate as permanent faculty for six years, when the position became vacant and they selected a new candidate. This institution, however, faced poor material conditions where faculty received low salaries and often depended on students' tips. For this reason, the Dominicans raised funds through charity, but many chairs remained vacant, and they had to recruit recent law graduates from other universities for faculty positions.

The University of Havana modeled itself after the University of Salamanca, the leading institution in Spain at the time. Upon completing the required lectures and assignments for four years, students received the degrees of Bachiller, *Licenciado* and Doctor in Civil and Canon Law. The Royal and Pontifical University of Havana taught Roman law based on Accursius' *Glossa Magna* of Justinian's *Institutes*.[18] As Pérez Perdomo indicates, universities of the Civil law tradition used studies that rationalized and systematized the *Institutes* as teaching materials, and Havana was part of this general movement.[19] In addition, Mirow explains that Spanish overseas universities comprised at least four chairs of law, while faculty in Havana offered classes in the morning (*prima*) and the afternoon (*vísperas*), with special courses on property rights.[20] This feature demonstrated a transition from the traditional studies of the classic texts and an increased focus on modern legal debates, as with the inclusion of property rights.

Since the early eighteenth century, the ideas of national law had questioned the necessity of Roman law. The Spanish monarchy pushed for the incorporation of its Royal Orders in the plans of legal studies and, while principles from Roman law could have provided the foundations for those regulations, they were identified as a new legal field known as *derecho patrio* (national law). This denomination created the perception that the new laws were derived from the nation, reinforcing also the notion of Spanish identity through laws. In that process, the Bourbon reforms aimed to develop a national law that would bring legal unity to the fragmented Spanish kingdoms and consolidate their monarchical authority. As part of these efforts, in 1741, Philip V commanded scholars to

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[17] *University of Havana Yearbook* (Havana 1870–1871), 6.

[18] F. Cuena Boy, "Una tardía crítica al derecho Romano: la sátira del cubano Prudencio Hechavarría O'Gavan (1819–1828)," *Anuario da Facultade de Dereito da Universidade da Coruña*, 10 (2006), 255.

[19] Pérez Perdomo, *Legal Education* (note 1), 24–26.

[20] Mirow, *Latin American Law* (note 1), 35–36.

compare Roman law with the royal orders and determine their differences, including the practical portions of the Roman compilations.[21] Pérez Perdomo mentions that this process took place in the Schools of Law, where law faculty reduced their teaching to the applicable subjects in the legal fields. At the same time, faculty introduced new subjects of interest such as natural law. By 1802, Spanish universities expanded the study of the royal orders to match the same four years dedicated to Roman law, and they kept this practice until 1807, when they started reducing the number of hours dedicated to the *Institutes*.

In 1808, Napoleon invaded Spain, and early liberal ideas further spread among Cubans, which impacted legal studies. Since its opening, the University of Havana had graduated 25 *Licenciados* and 49 Doctors in Civil law, and 47 *Licenciados* and 75 Doctors in Canon law.[22] For these early cohorts of students, Roman law was an essential part of their training and education, and an unquestionable part of the legal system and culture. After the constitutional period between 1812 and 1814, however, the number of law students increased, as liberals removed requirements of lineage and blood purity to access higher education. As a result, from about 70 lawyers in Havana in 1795, there were more than 250 during the 1820s.[23] This rapid growth of the professional community resulted in a broader dissemination of legal knowledge, but many young lawyers increasingly deemed Roman law an unnecessary part of their education, considering its lack of direct application, in contrast to the movements for national codification in France, Spain and Latin America.

Young lawyers educated under the debates between Roman law and *Derecho Patrio* supported the liberal approach, focused on the study of current and practical legislation at the University of Havana. One of them was Prudencio Hechavarría O'Gavan, the son of the Lieutenant Governor of Santiago de Cuba. He received his degree of *Licenciado* in 1818, and the following year he published a satire against Roman law.[24] In this short piece, Hechavarría recreated a conversation between two students of law where they complained about carrying a colossal book, in representation of the voluminous compendiums of classical legal studies such as the *Institutes*. They also expressed the need to learn *Derecho Patrio* as

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[21] Cuena Boy (note 18), 254.

[22] *University of Havana Yearbook* (Havana 1870–1871), 172, 176–77, 179, 181–82.

[23] *Guides for Foreigners in Cuba* (1795; 1820).

[24] *University of Havana Yearbook* (1870–1871), 173.

the enforceable law, and the anti-national character of Roman law. The characters even joked about the classical jurists and advocated for educational reform.[25] In addition, young faculty members like José Agustín Govantes promoted the study of national legislation as a priority over the repetitions of Roman law.[26] By contrast, other local religious institutions, such as the Seminars of San Carlos in Havana and San Basilio in Santiago, had incorporated chairs on legal topics with a more pragmatic approach including Constitutional law, Jurisprudence and Political Economy, which made the University of Havana increasingly look obsolete and its teaching outdated.

Despite the movement against Roman law, some Cuban lawyers still considered it a cultural reference for the Spanish tradition and tried to make its contents available to the general public as a way to reduce the colonial monopoly over legal knowledge. Between 1824 and 1833, the Cuban lawyer José Antonio Saco, while living in New York, published a translation of Irnerius' comments on Roman law in the newspaper *El Mensajero Semanal.* Like Saco, other young Cuban liberals experienced exile during the 1830s because of their liberal views that the local authorities interpreted as forms of political dissent. Yet, the establishment of a liberal government in Spain triggered some reforms in Cuba, some of them involving Roman law.

III. The secularized university: preserving Roman law and legal history as Spanish heritage

In 1842, Spain secularized the University of Havana. This project initiated during the early 1820s, when liberal politicians temporarily seized control of the government in Madrid. The ecclesiastical authorities in Havana rejected the proposal to reform the University and protested to Captain General Nicolás de Mahy, but the restoration of Ferdinand VII in 1823 delayed that movement until the return of a Spanish liberal government in 1833. In 1836, Spain created the National Directory of Education, which enacted secular legislation for Havana, and the local government formed a committee to reform the University, including legal studies.[27]

At the School of Law, the committee replaced the ecclesiastical teaching model with a new system of chairs that represented

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[25] Cuena Boy (note 18), 251–59.

[26] F. Mulet Martínez, "Las críticas al derecho Romano en Cuba durante la primera mitad del siglo XIX: a propósito de la modernización de la enseñanza y la ciencia jurídica," *Precedente*, 13 (2018), 191–223.

[27] AHN ULTRAMAR 12, Exp. 11.

modern legal fields. Candidates willing to teach should still compete for the positions, and winners would hold their chairs "in property," which was the equivalent to tenured faculty. To support the chairs, the School of Law staffed up to five *supernumerarios* (substitutes). They were recent law graduates who taught courses for the faculty on leave, without particular attention to fields of specialization, and got paid very low salaries in proportion to their substitutions. The new chairs were International Law, *Derecho Patrio* (National Law), Commercial Law-Political Economy, Public-Administrative Law, and Criminal-Procedural Law. There were also two chairs rooted in tradition: Canon Law and Roman Law.[28]

The first faculty Chair of Roman Law was Pascual Pedro Salazar. He was born in Spain, where he studied and practiced law, until he moved to Cuba as legal advisor in the local government of Puerto Príncipe.[29] Likely based on his professional networks, the local government confirmed Salazar as Chair of Roman Law on January 14, 1843. Inspired by tradition, Salazar modeled his teaching after Justinian's *Institutes*, although he adopted literature with a liberal approach. For example, he authorized the use of "Historical Explanation of Justinian's *Institutes*" by Joseph Ortolan, which became the main textbook of Roman law in Cuba during the Spanish period. Initially published in French in 1827, it also became available in Spain, and it provided a systematic organization of contents condensed into 450 pages.[30] Rather than reproducing the Roman codes, Ortolan divided his book in three parts: the history of Roman law, the generalization of Roman law, and the commentary on the *Institutes* of the Emperor Justinian, which became a more popular structure to teach Roman law in a single course.[31] In the introduction, Ortolan explained that he called this method "generalization," because he provided general ideas about Roman law in the first section of the book, and the second part focused on specific topics such as obligations, property, and actions. In alignment with the liberal movement, Ortolan argued in the introduction that lawyers should study Roman law as a historical matter. Moreover, he described Roman law as a "dead law" that should be studied based on abstractions and separated from modern legislation and interpretations. This histor-

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[28] *Guides for Foreigners in Cuba* (1843), 141–42.

[29] AHUH, Exp. 810; AHN ULTRAMAR 21, Exp. 4.

[30] M. [Joseph-Louis-Elzéar] Ortolan, *Explication historique des Instituts de l'empereur Justinien*, 1, 6th ed. (Paris 1857).

[31] Thomas Lambert Mears, *Analysis of M. Ortolan's Institutes of Justinian, including the History and Generalization of Roman Law* (London 1876), iii.

ical perception of Roman law reaffirmed its foundational spirit while it undermined its practicability as current law.

The tenure of Salazar as Chair of Roman Law was short and eventful. In October of 1844, with less than two years in the position, Salazar fell ill with acute gastric fever. For that reason, by December 1846, he requested authorization to travel to Spain to fully recover, with another three months' extension on September 14, 1847. The governments in Cuba and Madrid granted these requests, which also had the support of Captain General Leopoldo O'Donnell. In an extensive letter, O'Donnell defended Salazar's claims, which further demonstrated his close connections with the colonial establishment. Nevertheless, Salazar never resumed his teaching and, in 1849, he resigned his chair to return to the public field as legal advisor in Puerto Príncipe.[32] A letter from the President of the University dated October 8, 1850, suggests that Salazar had used his leave of absence to obtain a permanent public seat, and that he had even received a temporary appointment as *Alcalde* (Mayor) of Havana since 1846.[33] O'Donnell's letter also refers to the faculty's low salaries as a reason for seeking other employment. This issue was a reality among permanent faculty, but it was even worse for the substitutes, because the University proportionally distributed Salazar's small salary among them.

Since 1846, the teaching of Roman law in Havana mainly fell to the hands of substitute faculty. Their goal was to build a teaching portfolio until a vacancy became available, and they could compete for a permanent faculty position. The absences of Salazar, therefore, created an opportunity for substitutes in Roman law, and almost all of them got to teach this course.[34] Yet, Federico Fernández Vallín must be highlighted for his contribution to Roman law. He was born in Cuba and received his doctorate law degree in Havana on June 21, 1846.[35] Shortly after, in January of 1847, Fernández Vallín obtained the substitute position, and Salazar asked for him to teach Roman law, along with José Giralt.[36] In 1849, however, Giralt also transitioned to the public field when

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[32] AHN ULTRAMAR 26, Exp. 33.

[33] Letter dated October 8, 1850, from the President of the University of Havana to the Captain General of Cuba, AHUH, Exp. 810.

[34] AHUH, Exp. 810. The substitute faculty were Félix Giralt, Federico Fernández Vallín, José Domingo Guerrero, Felipe Lima Renté, José Sixto Bobadilla and José Ramírez Ovando.

[35] *University of Havana Yearbook* (Havana 1870–1871), 190.

[36] Summary of the competitive exams and appointment letters, AHN ULTRAMAR 21, Exp. 11; Letter from Pascual Salazar to the President of the University on January 9, 1847, AHUH, Exp. 810.

he became legal adviser of the local government in Sancti Spiritus.[37] Thereafter, Fernández Vallín remained the sole substitute in Roman law, until the University finally confirmed him as Chair in 1852, with an annual salary of 1,000 pesos.[38]

During his work as substitute or Chair of Roman Law, Fernández Vallín introduced reforms based on the influence of contemporary European intellectual movements. In his case, he followed the German Historical School, which brought an innovative interpretation of law as an evolving expression of the people's will, in contrast to traditional principles of natural law. German jurists such as Friedrich Carl von Savigny and Rudolph von Ihering made reinterpretations of Roman law that reaffirmed its foundational role but also extended its rationality for the understanding of modern legal systems. As part of this movement, in 1848, Fernández Vallín translated into Spanish *Institutiones Juris Romani Privati*, published in 1834 by Léopold Auguste Warnkoenig, who was a close associate of Savigny. Warnkoenig followed the institutional system in about 500 pages, which included a general section as introduction with the main concepts and definitions, and the rest divided into specific parts such as personal rights, property, succession, obligations and actions.[39] Fernández Vallín's translation was titled *Historia externa del derecho* (External History of the Law), and it received recognition at the University of Havana, where he used it to support his application for the Chair of Roman Law.[40] Despite his success, Fernández Vallín also resigned his academic job in 1856 and took public seats in the city councils of Matanzas and Puerto Príncipe.[41] This transition from academia to the public sector seemed to be very common among young law faculty of this generation when Felipe Lima Renté, who was the substitute expected to replace Fernández Vallín, also accepted a job as prosecutor in Havana in 1855.[42]

During the decade that followed its foundation, the Chair of Roman Law in Havana experienced instability. Most scholars,

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[37] AHN ULTRAMAR 26, Exp. 33.

[38] AHN ULTRAMAR 2344, N. 44.

[39] Leopold August Warnkoenig, *Institutiones Iuris Romani Privati*, 3rd ed. (Bonn 1834).

[40] Letter to the President of the University dated July 8, 1848, AHUH, Exp. 810.

[41] AGI ULTRAMAR 162, N. 105; *Guides for Foreigners in Cuba* (1861), 152.

[42] AHN ULTRAMAR 29, Exp. 20; and AHN ULTRAMAR 1694, Exp. 18.

rather than dedicated academics, likely used their positions at the University to move into more profitable jobs in the public field. This situation reflected an employment crisis in the legal field in Havana, where around 450 lawyers were competing for clients and permanent jobs. Perhaps for this reason, these scholars took public positions in cities out of Havana through their provincial professional networks. This job market crisis triggered lawyers to open the Mutual Aid Society for lawyers in 1848, and to become involved in the political movement seeking the annexation of Cuba to the United States between 1848 and 1852.[43] This pattern did not change until Spain implemented moderate policies of appeasement during the mid-1850s, when the University also entered a period of academic stability.

In 1856, Antonio Prudencio López became the Chair of Roman Law.[44] He was born in Cuba, received his doctorate in law in Havana on June 28, 1846, and obtained the position of substitute faculty in 1851.[45] Unlike his predecessors, López devoted most of his career to academia, and he only left the University for a few months, when he temporarily worked as deputy-mayor of Havana in 1858.[46] By contrast, López manifested deep institutional commitment by serving on the University's Commission of Poverty, Board of the Treasury, and Collector, while also developing studies of legal history in Havana. As part of his curricular activities, he participated in the university reform of 1863, when the School of Law created a second Chair of Roman Law. This additional course separated the legal contents from the history of Rome and Spain, and this aligned with the principles of the German Historical School of Law that reinforced the study of those topics. Based on this reorganization, López received the first chair, titled History and Elements of Roman Law, which focused on the historical foundations of the Spanish legal system, while the reinstated Dean of the School of Law Diego José de la Torre taught the second chair based on Justinian's *Institutes*.

Political affiliation became a relevant factor in the appointment of teaching positions in Havana during the 1860s. After the secularization, De la Torre became the Chair of International Law and the Dean of the School of Law by seniority, but the local government removed him from these positions under charges of

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[43] ANC Gobierno Superior Civil, Orden 11188, Legajo 327.

[44] AHN ULTRAMAR 1701, Exp. 7; AHN ULTRAMAR 2344, N. 987; AHN ULTRAMAR 32, Exp. 9.

[45] *University of Havana Yearbook* (Havana 1870–1871), 190.

[46] Id., 226. The substitute was José Ramírez Ovando.

spreading ideas of political dissent among students.[47] After 1863, however, De la Torre was reinstated as Dean as part of the Spanish revised amicable policy towards liberal Cubans, but he received the appointment to teach Roman law, which provided a less controversial platform for political speeches than international treaties. In this case, liberal authorities looked at Roman law as a historical course based on tradition that could not inflict much influence on creole students, and who already questioned the practicability of the subject. By contrast, loyalist faculty such as Spanish magistrate Francisco Campos became the Chair of History and Elements of Spanish Law, which was a rebranded name for the Chair of National Law that emphasized the Iberian cultural influence on Cuba. Contradictorily, the 1863 reform incorporated the chairs of Natural Law and Philosophy of the Law, which promoted constitutional ideas and political freedoms, but they were also appointed to loyalist faculty.[48] The other Chair of Roman Law, Antonio Prudencio López, also fitted in this pro-Spanish category.

In 1864, López published "Historical Review of Overseas Legislation," to be used as a textbook in his course on legal history.[49] López's volume apparently was the first legal history book written by a Cuban. The work, however, was limited to a few concepts and topics. In his analysis of this piece, Fabricio Mulet explains that López summarized in about ninety pages the Spanish legislation for the overseas territories, including the Code of Commerce of 1829, the Commercial Procedure Law of 1830, and a short description of the Cuban government.[50] In addition, López's work was predominantly descriptive without criticisms of the Spanish legislation and its implementation in Cuba since the European arrival. For that reason, local authorities highly celebrated this brief work, and Captain General Domingo Dulce sent two volumes to the Secretary of Overseas Affairs in Madrid. In Havana, López also obtained significant recognition, and he was invited to deliver the inaugural speech for the academic year 1865–1866. In this event, however, López emphasized his understanding of the law as a social and historical product, rather than an imposition of the state. This interpretation provided a theoretical framework for increasing creoles' agency in the legislative process, precisely when ideas of self-government further developed among

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47 AHN ULTRAMAR 24, Exp. 33.
48 *Guides for Foreigners in Cuba* (1864), 216.
49 AHM ULTRAMAR 68, Exp. 31.
50 Mulet Martínez (note 11), 254–55.

Cubans.[51]

Despite the conciliatory tone of López, Cuban legal professionals were increasingly discontent with the Spanish colonial policies. In 1866, the elected Cuban Advisory Committee returned from Madrid without responses to the issues of taxation, slavery and self-government. For these reasons, many frustrated lawyers planned the first uprising for Cuban independence, which took place on October 10, 1868. During the Ten Years' War that followed, Roman law faculty in Havana remained uninvolved in the conflict.[52] By contrast, the death of De la Torre opened a vacancy in 1870, and the winning candidate was creole Juan Bautista Hernández Barreiro, who graduated in Madrid in 1868 and had joined the law faculty as a substitute faculty.[53]

During the first separatist war, López and Hernández taught their chairs of Roman law in seeming peace, while economic difficulties haunted the younger faulty members. Older faculty, like López, enjoyed higher salaries. In his case, for example, he earned 1,100 pesos annually, plus 1,400 pesos for additional work. By contrast, Hernández had an annual income of 600 pesos, plus only an additional 400 pesos. The significant salary gap forced some young scholars to further engage in private practice of law, which they increasingly combined with academic activities, rather than choosing a single professional path, as their predecessors had done. Through their practical activities, School of Law faculty also became more pragmatic, while the implementation of those ideas jeopardized the existence of the courses of Roman law once again.

IV. The positivist university: pragmatism versus Roman law and legal history

Starting in the 1870s, positivist ideas arrived in Cuba, mainly through European influence. This intellectual movement focused on the practical side of the law with attention to the enforcement of legislation rather than tradition or values that were not explicitly regulated by law. In this process, courses and content that did not teach enforceable legislation became secondary subjects of legal training, while courses discussing practical matters gained curricular prevalence. In Havana, the University introduced new chairs

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[51] A. P. López, "Oración Inaugural sobre el derecho considerado bajo sus dos aspectos, filosófico e histórico," in A. González, *Filosofía del derecho en Cuba. Contribuciones para su historia* (Buenos Aires 2023), 547–64.

[52] *Guides for Foreigners in Cuba* (1869), 153–54.

[53] AHN ULTRAMAR 264, Exp. 18; AHN UNIVERSIDADES 4240, Exp. 11.

inspired by pragmatic ideas such as "Writing of Legal Documents" and "Spanish Codification."[54] As Pérez Perdomo points out, legal codification became the modern form of legislation, and all Latin American countries had enacted their codes by the end of the nineteenth century.[55] Cuba, however, depended on Spanish codes and their extension to the island.

In 1878, the Ten Years' War concluded without Cuban independence, but this conflict paved the way for the implementation of liberal transformations. Among other reforms, Cubans initiated the gradual abolition of slavery, the formation of political parties, and obtained, as a province, representation in the Spanish *Cortes*. For this reason, Felipe Lima Renté, the Chair of Canon Law and Dean of the School of Law since 1879, resigned from academia after being elected Senator in Madrid for Puerto Príncipe.[56] Based on his seniority, Antonio Prudencio López became the new Dean of Law, and he held this position until 1893. The last decades of the nineteenth century, however, were challenging for Roman law, as positivist ideas were increasingly emphasized in the education and practice of the Cuban lawyers. This sentiment became evident in 1879, with the creation of the *Círculo de Abogados* (Lawyer's Circle).

The *Círculo de Abogados* was a space for lawyers to gather and debate about legal doctrines and legislation.[57] It was divided into five sections: (1) Civil, Criminal and Canon Law, (2) Commercial, Political and Administrative Law, (3) Procedural Law, (4) History, Philosophy of Law and International-Comparative Law, and (5) Various Sciences, comprising every other relevant subject. This structure moved to the front line the legal fields with direct applicability, and Canon law remained in the first section probably as a manifestation of tradition and loyalty to Spain and the Catholic Church. Which section covered Roman law was unclear, however. No section explicitly listed Roman law in its description, and only the inclusion of history in the fourth section and the selection of Hernández Barreiro as its Vice-President suggest that it could be included in this category.

The *Círculo* reinforced the historical approach of Roman law as an intellectual foundation rather than practical application. The fourth section of the *Círculo* met regularly every other Thursday

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[54] AHN ULTRAMAR 264, Exp. 17.

[55] Pérez Perdomo, *Legal Education* (note 1), 28–30.

[56] AHN ULTRAMAR 104, Exp. 32; ULTRAMAR 264, Exp. 10.

[57] *BNC Summary of the Board of the Bar Association in Havana* (Havana 1888), 41–42.

and discussed general issues within their fields, but the larger events had a pragmatic approach. The *Círculo* organized a series of lectures that discussed procedural, civil or criminal matters, while remaining silent regarding historical fields.[58] By contrast, Roman law was always approached as a foundational field. In 1880, for example, the *Círculo* organized a contest where lawyer Eliseo Giberga, in the inaugural speech, used Roman history to condemn the preservation of slavery in Cuba. In addition, one of the two winners was Antonio Govín, who talked about the importance of Roman law for the knowledge and understanding of modern legislation, and granting an award to this presentation emphasized the perception that this generation of Cubans looked at it as a historical field.[59]

While the positivist movement further described Roman law as a non-practical course, its faculty became notable members of the legal community. Unlike their predecessors since 1842, who held the chair only temporarily, López and Hernández stayed at the University for at least two decades after the Ten Years' War. These long tenures brought professionalization to the field, as substitute faculty no longer had to constantly replace any absent lecturer, and created a perception of permanency and tradition that reinforced the curricular presence of Roman law. In addition, López and Hernández held positions at the University, the *Círculo de Abogados* and also the *Colegio de Abogados* (Bar Association), which Hernández Barreiro led between 1895 and 1897.[60] Moreover, Spanish policies continued to support Cuban lawyers' education on legal history as a way to strengthen the colonial links.

In the reform to the plans of study of 1883, Spain incorporated the Chair of General History of Spanish Law.[61] Its courses analysed the main legal compilations of Spanish history such as the *Siete Partidas* and other laws up to the nineteenth century codifications. Two faculty occupied this chair: José María Céspedes Orellano, who resigned in 1891 for another teaching position, and Juan Francisco O'Farrill Chappotin. Once again, legal history became a stepstone for ambitious academics looking for other opportunities. Yet, Mulet analyzed some of their writings and documented that they both promoted sociological and historical studies, in the context of

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[58] *Summary of the Academic Competition of the Lawyer's Circle in Havana* (Havana 1880), 69–70.

[59] Id., 29.

[60] *BNC Summary* (note 57), 9; *BNC Statutes of the Bar Association in Havana* (Havana 1901), 33.

[61] AHN ULTRAMAR 264, Exp. 16.

growing positivism.[62]

At the moment of the separatist uprising of 1895, the University of Havana was in a deep financial crisis. Many chairs were vacant and elderly faculty continued teaching; Antonio Prudencio López was the oldest of them.[63] For that reason, upon his death, and also justified by positivist arguments, university officials proposed the elimination of his chair. Hernández Barreiro, however, advocated for Octavio Averhoff y Plá, a law student of Polish origins, to take over López's chair. University administrators rejected this proposal, and Hernández submitted in response a lengthy letter dated October 22, 1897, where he argued for the necessity of young lawyers' learning Roman law, as the historical foundation of the Spanish legal system.[64] Hernández's persuasion, probably along with his influence as Dean of the Bar Association, moved the administrators, who allowed the second chair of Roman law to remain. In 1897, Averhoff defended his doctoral dissertation "The Roman Classification of Contracts in *Reales* (Property Related), Verbal, *Literal* (Written) and Consensual in Modern Law," and began teaching Roman law right away.[65] Their victory, however, did not last.

In April of 1898, United States intervened in the war between Cuba and Spain, and, by December, the U.S. military seized control of the island. The interventionist government had the mission to improve and modernize Cuba, in preparation for a potential annexation. Therefore, they put together a government of liberal Cubans that pursued deep reforms, which included positivist lawyers and intellectuals. During 1899, the Secretary of Education was the Chair of Criminal Law, Antonio González Lanuza, who introduced the first proposal to reform legal studies.[66] This plan kept the two chairs of Roman law and preserved the historical components of legal training in a moment of critical defense of the Spanish heritage in Cuba against the American influence and the Common law. In this context, keeping Roman law was a way to preserve Cuban Latin background and its shared identity with the rest of the countries of the Civil law system, including Spain. Lanuza's plan, however, was not approved, and a leading Cuban intellectual presented a more radical draft.

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[62] Mulet Martínez (note 11), 245–67.

[63] The University of Havana has an effigy of Antonio Prudencio López in its *Aula Magna* (Ceremony Hall).

[64] Letter to the President of the University, AHUH, Exp. 129, folio 1.

[65] AHUH, Exp. 4196, folio 139.

[66] Description of the Plan of Studies, December 28, 1899, AHUH, Exp. 129, folio 25.

In 1900, liberal educator Enrique José Varona submitted a revised positivist proposal for the School of Law.[67] The new system created a limited number of chairs by eliminating many remnants of colonialism such as Canon Law, Philosophy of Law and Spanish Legal History. Despite those cuts, his proposal preserved Roman law as Chair A, along with the foremost practical course of Writing Legal Documents. In this structure, Varona recognized the foundational role of Roman law for Cuban modern legislation. However, he found no merits in preserving two chairs of Roman law, and he consolidated them in an annual course with a daily class divided as follows: (1) a general section of Roman history until Justinian, and (2) the description of legal institutions by fields (family, property, actions, obligations, contracts, and succession). To support the revised system, Hernández Barreiro adopted recently published books of Roman law by mostly French authors such as Charles Maynz, Calixte Accarias, and Didier Pailhe.[68]

The new academic plan also suppressed the previous system of substitute faculty, and the new chairs included a full professor, and an assistant, who shared the teaching duties. Influential faculty benefitted from this reform when scholars such as Hernández Barreiro became increasingly involved in public affairs. In his case, he even acted as interim Secretary of Justice during 1900. Therefore, Averhoff took charge of academic duties pertaining to Roman law, which he combined with his practice of law. The low salaries at the University and the positivist expectation that law faculty should also have practical skills encouraged, if not rewarded, professors engaging in both activities.[69] For this reason, when Americans decided not to pursue the annexation of Cuba, the School of Law in Havana featured a renewed plan of study and pragmatic faculty with private law practice and other duties in the public field.

V. The national university: Roman law and legal history as part of the Cuban identity

In May of 1902, Cubans celebrated the inauguration of their first republic. Unlike most Latin American countries, Cuba only became

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[67] BNC Military Order 26637, June 30, 1900, in *University of Havana Yearbook* (1974).

[68] Charles Maynz, *Cours de droit Romain*, 3rd ed. (Brussels 1870); Calixte Accarias, *Precis de droit Romain, per des Institutes de Justinien* (Paris 1871); and E. Didier-Pailhé, *Cours elementaire de droit Romain contenant l'explication methodique des Institutes de Justinien* (Paris 1887).

[69] W. B. Parker, *Cubans of Today* (New York 1919), 331.

an independent nation in the twentieth century, and this delayed event also impacted the study of Roman law. On one hand, the anti-colonial stance of some liberals promoted the elimination of any remnants of the Spanish direct influence, which Roman law represented. Yet, the American presence had triggered Cuban nationalism, which also involved the legal field, where most lawyers wanted to preserve its Spanish roots as part of the national identity. Moreover, even positivist Cuban jurists perceived Roman law as the foundation and source of the local legal system, and the common language for countries within the Civil law system. For these reasons, Roman law remained at the School of Law as a single heavy course that condensed the history and legislation of Ancient Rome, and prepared freshmen law students for the other civil law courses included in the plan of studies.

In 1904, Hernández Barreiro became Chief Justice of the Supreme Court and resigned the Chair of Roman Law, which Octavio Averhoff y Plá won in competitive exams.[70] Thereafter, Averhoff introduced minor reforms such as the adoption of the recently published book, the *Manual of Roman Law* by Julián Pastor (1903).[71] This book was not significantly innovative and it followed the traditional structure of the *Institutes*, but it had the distinction of being produced in Spain. During the nineteenth century, most books used to teach Roman law in Havana had been written by French or German jurists, but Pastor was professor of Roman law in Madrid, and using his book reaffirmed the Cuban Spanish legal tradition in a moment of ascending nationalism.

As professor and lawyer, Averhoff became increasingly important among Cuban elites and government, which limited his time at the university. As with his predecessors in the mid-nineteenth century, he continuously relied on aggregated faculty or substitutes, who operated as adjuncts for teaching. Among others, Fernando Sánchez de Fuentes, Ricardo Alemán Martín, Gustavo Adolfo Tomeu y Adan, and César Salaya occasionally taught Roman law while waiting for a vacant academic position.[72] They eventually obtained the Chairs of Civil Law, Commercial Law,

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[70] Id.

[71] J. Pastor, *Manual de derecho Romano según el orden de las Instituciones de Justiniano*, 3rd ed. (Madrid 1903).

[72] (i) Letter to the Secretary of the University dated February 4, 1919; (ii) Medical Records of Octavio Averhoff from 1920; (iii) Letter to the University Council dated July 26, 1921: AHUH, Exp. 1093. (i) Letter to the President of the University dated May 10, 1920; (ii) Letters to the President of the University dated November 4, 1910, October 17, 1912, June 9, 1913, October 12, 1915: AHUH, Exp. 571.

Mortgage Law and International Law, respectively.[73] In most cases, working with Averhoff influenced the rest of their careers. Ricardo Alemán, for example, published a volume on Commercial law in 1919, and he emphasized the Roman origins of modern trade in its introduction.[74] In addition, Averhoff wrote the prologue of this book.

While most substitute faculty obtained their teaching positions in other legal fields, Ernesto Dihigo López-Trigo remained in Roman law. In 1917, in the midst of a Cuban economic boom, Averhoff had a profitable legal practice, and he married the daughter of the pharmaceutical mogul Ernesto Sarrá, who gave them a mansion (eventually known as Averhoff's castle) as a wedding present. Overwhelmed by legal work, social events, and his first steps into politics, Averhoff appointed Dihigo as permanent aggregated faculty of Roman law on September 29, 1917, and practically disconnected from academic life. Dihigo showed a higher vocation for Roman law than any of his substitute colleagues and rapidly started introducing reforms to those courses. In 1917, Dihigo adopted *Institutions of Roman Law* by Felipe Serafini, of which the ninth edition had just been translated into Spanish in 1915.[75] Serafini's work, however, did not enjoy popularity at the School of Law, and Dihigo replaced that book with the new edition of *Elementary Treatise of Roman Law* by Eugène Petit, which had been recently republished in Spanish in 1924.[76]

Dihigo carried out his work as aggregate faculty of Roman law amid growing Cuban nationalism. The United States' political and military interventions in Cuba triggered nationalist sentiments among the population. Consequently, Gerardo Machado, a populist who admired Italian fascism, won the 1925 presidential elections with ample popular support. Averhoff, whose political career was on the rise, became one of Machado's closest collaborators, and resigned the Chair of Roman Law in 1926. As part of his ascending

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[73] *University of Havana Yearbook* (Havana 1910–1911); Y. Rosabal Robaina, "Manuel Dorta Duque: Notes for a Bio-bibliographic Reconstruction," *Revista Cubana de Derecho*, 1 (2021), 23–37. The Chair of Mortgage Law was created on August 18, 1925.

[74] R. Alemán, *Las sociedades mercantiles en el derecho vigente* (Madrid 1919).

[75] F. Serafini, *Instituciones de derecho Romano*, 1, 9th ed. (Bilbao 1927), x; *Catálogo de las obras existentes en la Biblioteca del Congreso de Cuba* (Havana 1917).

[76] Ernesto Dihigo's Quinquennial Report (1937–1942), AHUH, Exp. 590; *Report about the Organization of Teaching at the University of Havana* (Havana 1926); E. Petit, *Tratado elemental de derecho Romano* (Madrid 1903).

public career, he occupied high ranked positions such as President of the University of Havana, Secretary of Public Instruction and Fine Arts in 1930 and Secretary of Justice in 1933. In those roles, Averhoff organized the International Conference of Universities that took place in Havana and supported the adoption of the Code of Private International Law (Bustamante Code) for Latin American countries in 1928.[77] In addition, the constitutional reform of 1928 incentivized other legislative processes, and jurist Mariano Aramburu y Machado submitted the bill for a Cuban Civil Code in 1929 to replace the Spanish one, still current in Cuba. Although this draft followed the principles of the Roman-Civil law tradition, its justification argued about the necessity to enact a Code that would be "authentically Cuban."[78] This proposal, however, was never implemented, as Machado's nationalist movement began to collapse.

On July 14, 1926, Dihigo received his confirmation as Chair of Roman Law.[79] In this role, he advocated for the reestablishment of the two chairs system during the university reform of 1928. While positivist ideas remained, Dihigo supported his proposal stressing the importance of reinforcing Cuban legal history among young lawyers as a way to build their national identity rooted in Spanish heritage, but also to further expand on subjects of Roman law that still were enforceable legislation. His ideas, therefore, combined practicality with the political environment, and got approval by Presidential Decree 1364 with the support of Averhoff and the nationalists.[80] Consequently, Roman law returned to having two chairs. The first year examined the history of Rome and its political institutions, as well as general definitions, *personas*, family, property rights, and actions, while the second year focused on obligations, contracts and successions.

Based on the two-year model, Dihigo chose to teach the second year, and the School of Law hired two auxiliary faculty to co-teach the first course. One of them was Emilio Andrés Fernández Camus, who obtained the position as permanent faculty. His application stood out because, in 1925, he had published *Studies in Roman*

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[77] Cuban Heritage Collection, University of Miami, Repositorio Digital, "Octavio Averhoff y Plá."

[78] L. Pérez Gallardo, "Tras las huellas del legislador del Código Civil de los Cubanos," published by the Universidad de la Habana, reprinted in *Revista de la Academia Nacional de Ciencias Sociales de Córdoba* (2022), 11.

[79] Letter to the President of the University dated July 14, 1926, AHUH, Exp. 590.

[80] Ernesto Dihigo's Quinquennial Report (1937–1942), AHUH, Exp. 590.

Private Law, which was an adaptation in two volumes of the works of the German scholar Adolf Friedrich Rudorff, and the first book of Roman law likely written by a Cuban author.[81] The other candidate was Santiago Rey Perna, who was hired as interim.[82] He was born on April 7, 1908, in the provincial town of Cienfuegos, but his family sent him to Havana to pursue a legal and political career, and a position at the University was apparently part of his strategy. Therefore, while Fernández Camus became a prolific *romanista*, Rey Perna only remained at this institution for five years, while building connections in the political circles.

Towards the end of the 1920s, Machado became increasingly unpopular. Repression of workers and students became frequent, and these events affected the reputation of his allies, such as Octavio Averhoff. In October 1930, for example, the workers' unions declared against Machado, and requested the removal of Averhoff as Secretary of Public Instruction, because of his opposition to the University Students' Directory.[83] In addition, the Great Depression exacerbated the frustration of the people, who increasingly engaged in public protests, revolts and strikes. Having also lost the support of the United States, Machado fled Cuba in August 1933, and his collaborators followed him. Among them, Averhoff escaped to Europe, from where he still reaffirmed his loyalty to Machado in November 1933. In a letter to Machado, Averhoff said: "My dear general, I recently received your kind letter. Like you, I am also sure that the stupid slander with which a group of wicked cretins have tried to tarnish us will soon be forgotten for everyone, as they already are for sensible people."[84] Despite Averhoff's optimism, an interim government initiated a process of purification of the public sphere from Machado's supporters. In this process, the University expelled pro-Machado faculty members, which included the removal of the awards and titles from exiled Octavio Averhoff.[85]

In contrast to Averhoff, Dihigo opposed Machado's regime. Dihigo refused to attend an event in support of the president,

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[81] González Quevedo (note 11), 135; and E. Fernández Camus, *Estudios de derecho privado Romano*, 1 (Havana 1925).

[82] AHUH Professional file of Santiago Rey; *University of Havana Yearbook* (1926–1927), 66.

[83] K. S. Herrera Izquierdo, *La participación de la Unión Laborista de Mujeres dentro del proceso revolucionario de los años 1930–1935* (Havana 2021), 66.

[84] Letter sent from Rome by Octavio Averhoff to Gerardo Machado on November 29, 1933, Cuban Heritage Collection, University of Miami, Repositorio Digital.

[85] Document dated January 13, 1934, AHUH, Exp. 4169.

arguing that he had to teach at that time, and he filed a lawsuit at the Supreme Court for unconstitutionality against the Presidential Declaration 1695 that closed the University in 1930.[86] Similarly, Santiago Rey Perna joined the university groups against Machado led by Ramón Grau San Martín, a professor of medicine turned politician, and joined the transition government in September 1933. Moreover, Rey Perna and other members of Grau's ranks briefly raised arms against Fulgencio Batista after he led a coup d'etat in January 1934. From this event, Rey Perna emerged as a self-proclaimed champion of Cuban democracy and focused on his political career, which he achieved by rebuilding his relationship with Batista and becoming one of closest allies.[87]

After several months of social unrest, the University of Havana normalized its activities in 1934. In an apparently appeased country, Dihigo accepted the vice-presidency of the *Colegio de Abogados*, keeping the public presence of Roman law faculty among legal professionals. Students and workers, however, continued their protests aiming for deeper social reforms. In his quinquennial report for the period 1937 to 1942, Dihigo explained how the social and political unrest affected the University of Havana. He stated that classes were constantly cancelled or taught with very low attendance because of the continuous political agitation and the participation of students in those events. In addition, he claimed that the number of first-year law students was excessive with cohorts that ranged from 800 to 1,200, and that he preferred smaller groups of students to promote class debates. Yet, he complained about the poor general culture of law students, who ignored Roman history and Latin, and faculty had to constantly interrupt the debates to clarify basic issues. At the same time, Dihigo highlighted the need for faculty to remain updated about the most recent literature and intellectual trends within each legal field. Moreover, he supported public education and criticized the opening of private universities in Havana.[88]

Regarding Roman law, Dihigo reaffirmed its role as the foundational course for the rest of legal studies. For Dihigo, Roman law had two main essential functions. First, it was a general intro-

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[86] Letter to the President of the University dated March 9, 1926, and copy of the lawsuit dated March 26, 1931, AHUH, Exp. 590, folios 60 and 78.

[87] Rey Perna was elected Senator of the Republic from his hometown Cienfuegos, member of the Constitutional Convention of 1940, governor of Las Villas, and Secretary of State during Batista's regime after 1952.

[88] Ernesto Dihigo's Quinquennial Report (1937–1942), AHUH, Exp. 590.

duction to the study of private law, which provided students with the legal vocabulary and origin of current institutions. Second, students learned Roman law as an evolutive body that began in the most rudimentary forms of primitive rules up to the complex legal relations during the decadence of Byzantine Roman law. Based on his integrative approach, he promoted the idea that all courses at the School of Law should be developed based on the contents of Roman law. Dihigo also claimed that other courses taught in the law school necessarily repeated part of the contents of Roman law without considering his previous teachings. Finally, he opposed midterm exams, which he deemed disturbing and anti-pedagogical exercises that interrupted the integral analysis of Roman institutions.[89]

Despite Dihigo's complaints, the late 1930s were a moment of optimism, as the national economy started making signs of recovery and the idea of a constitutional convention spread among the population. In that context, the School of Law expanded its curriculum, introduced new chairs and hired more faculty. In 1938, the university welcomed recent law graduates Domingo de la Caridad Herrera Barruete and Julio José Morales Gómez as faculty members.[90] Additionally, Fernández Camus and Dihigo published their most important works on Roman law.

Between 1938 and 1941, Fernández Camus published his *Course of Roman Law*. Since his arrival at the university, he had been prolific.[91] His second book, however, was his most extensive work and reflected his teaching model after the reform to the plan of studies in 1928. This piece was divided in six volumes as follows: History and Sources of Roman Law, Persons and Family Law,

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[89] Id.

[90] Transcripts of Herrera Barrueto's opposition for the Chair of Roman Law on February 2, 1938, AHUH, Exp. 69; Letter by the Dean of the School of Law dated October 6, 1938, AHUH, Exp. 82.

[91] Among other works, *Código Civil español explicado* (1924); *Disertaciones de derecho privado Romano: la terminología posesoria en las fuentes* (1925); *De las obligaciones correales y solidarias* (1925); *Programa de derecho Romano* (1925); *La acción Pauliana* (1925); *La adopción y la rogación en el derecho Romano* (1925); *La dote en el derecho Romano* (1925); *Historia de la compensación* (1925); *La cesión de créditos* (1925), *La obligación natural* (1925); *La excepción y las* legis actionis (1926); *Comentarios a la Regla Catoniana* (1926); *Observaciones sobre el* nexum *y el* mancipium (1926); *De la evolución de la representación en el mandato y en la gestión de negocios* (1926); *Evolución de la usucapión* (1926); *Notas sobre la teoría del negocio jurídico en el derecho Romano* (1927); *Varias conferencias sobre los principios fundamentales del derecho hereditario* (1928); *Teoría del negocio jurídico* (1929); and *Derecho hereditario: historia y legislación comparada* (1937).

Property Rights, Actions, Obligations, and Succession Law.[92] In addition, Fernández Camus pursued studies of Philosophy of Law, and published various articles about this field.[93] Moreover, he received international recognition for his publications in Germany, France and Brazil, where the Bar Association made him honorific member.[94]

Dihigo published his *Roman Law Notes* between 1944 and 1946. The title of his book emphasized its pedagogical approach, as he compiled his lecture notes and expanded them into two extensive parts separated in four volumes.[95] Dihigo's *Notes* are the most detailed book of Roman law produced in Cuba to date. This work followed the structure of his lectures: (1) general principles and history, (2) family and actions, (3) property rights, and (4) obligations, contracts and succession. Thereafter, Dihigo and Fernández Camus' works became the materials that students at the School of Law used to study Roman law. These publications were also relevant in the context of growing nationalism, since Cuban academics produced their own literature to replace European books as the primary reading materials to study law in Cuba.

Although Dihigo and Fernández Camus were dedicated scholars, they also engaged in other political and professional activities. Between 1941 and 1943, Dihigo served as Dean of the School of Law. At the same time, he was President of the International Association of Lawyers, and Supreme Court Justice.[96] Additionally, he was an active scholar who frequently participated in conferences in the United States, Europe and Latin America. Between 1945 and 1946, for example, he visited all the capitals of South America.[97] Moreover, Dihigo represented Cuba in the United Nations in 1947, and participated in the foundation of the Organization of American States in 1948, while also being a

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[92] E. Fernández Camus, *Curso de derecho Romano*, 2nd ed. (Havana 1941–1943), 6 vols.

[93] List of publications by Fernández Camus, AHUH, Exp. 1033, folio 81, including *Filosofía jurídica contemporánea*, with prologue by Hans Kelsen (1932); *Una nueva fase del derecho civil* (1933); *El derecho subjetivo* (1933); *Temario sobre cuestiones actuales* (1930); *Nietzsche, Schopenhauer y Bergson* (1932); *Sobre la crisis económica actual* (1933); *Hacia una nueva conciencia histórica* (1938); *La filosofía y el renacimiento* (1938); *Las ciencias naturales y su fundamentación en los siglos XVI y XVII* (1938).

[94] Fernández Camus (note 92), 6:1.

[95] E. Dihigo López-Trigo, *Apuntes de derecho Romano*, 2 (Havana 1946).

[96] Ernesto Dihigo's Quinquennial Report (1942–1947), AHUH, Exp. 590.

[97] Letter to the Dean of the School of Law dated March 30, 1948, AHUH, Exp. 590.

partner in the law firm Martínez Giralt, Dihigo y Llansó.[98] Fernández Camus, on the other hand, also became increasingly involved in national politics and often served as legal advisor to the Prime Minister between 1944 and 1950.[99] Most permanent faculty of Roman law in Havana, therefore, eventually transitioned to the public sphere. For these reasons, auxiliary law faculty Herrera Barruete and Morales Gómez delivered most of the lectures during this period, while waiting for the opening of a vacant chair.

In 1943, another revision to the plan of studies created the Chair of History of Law.[100] This course had previously existed in Havana, but it was removed during the positivist reform in the first U.S. military intervention. Cuban jurists such as Dihigo, however, had expressed concern about the poor preparation of law students and advocated to reinstate more courses to enhance their historical education. In 1944, Herrera Barruete successfully competed for this chair.[101] His course focused on the history of Roman law, the Germanic influence, and the major legislation of medieval Spain as foundations of the Cuban legal tradition. In many ways, this course replicated the contents of the Chair of Spanish Legal History suppressed in 1898. Herrera Barruete's promotion, however, left a significant courseload for Julio Morales Gómez, who Dihigo described as "the soul of Roman law."[102]

After 1944, Morales Gómez became the Roman law figure with a higher presence at the School of Law. In addition to teaching both courses of Roman law, he also taught History of Law when Herrera was not available, and occasionally kept all three chairs in operation.[103] In addition, he published articles such as *Requirements of the* Novatio *in Roman Law*, *Influence of Christianity on Roman Law*, and *Origins and Evolution of the* litis contestatio *through the Roman Procedural Systems*.[104] Moreover, on March 31, 1947, he

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[98] Dihigo's professional report dated September 26, 1949, AHUH, Exp. 590.

[99] Requests of temporary leave by Fernández Camus, AHUH, Exp. 82.

[100] Dean E. Dihigo created History of Law Chair on January 12 and 14, 1943, AHUH, Exp. 69.

[101] Evaluation of Herrera Barruete, dated October 14, 1944, AHUH, Exp. 69.

[102] Evaluations of Morales Gómez (1937–1942), AHUH, Exp. 590 and 82.

[103] Letter to the Dean of the School of Law dated October 15, 1958, AHUH, Exp. 82.

[104] (i) Evaluation of Morales Gómez (1937–1942), Journal of the Catholic Seminar; (ii) Transcripts of the Conference delivered by Dr. Morales Gómez to an organization of women in Havana on April 23, 1939: AHUH, Exp. 82.

became the Secretary of the School of Law and, from this position, he focused on the students, and even created the Award "Contardo Ferrini," a devout Catholic and Italian legal scholar, for the Cuban law students in 1949.[105] Therefore, he seemed the only faculty member of Roman law exclusively dedicated to teaching to gain a reputation as approachable and fair. Dihigo, by contrast, requested absences to represent Cuba in the United Nations in 1946 and 1951, and to serve as Secretary of State of President Carlos Prío Socarrás between 1950 and 1951.[106] Fernández Camus, on the other hand, decided to remain in the public sphere as legal counselor of the government, and resigned his chair in 1950, which Morales Gómez finally obtained by competitive exams in 1951.[107] To support the overworked Morales Gómez, the School of Law approved the hiring of an aggregated faculty of Roman law, which position the young law graduate, Luis Figueroa Miranda, won on August 11, 1952.[108] However, unbeknown to Dihigo and Fernández Camus, their careers in the public sphere would be soon temporarily blocked.

On March 10, 1952, Fulgencio Batista seized control of Havana through a military coup and suspended the Constitution of 1940. Batista also disbanded the members of the government of Prío, who had also become unpopular under frequent scandals of corruption. In response to Batista's overthrow of Cuban democracy, Dihigo openly protested and denounced the coup d'etat as unconstitutional. His efforts, however, were fruitless, and he decided to permanently return to the University. Santiago Rey Pernas, on the other hand, accomplished his political aspirations and became Batista's Secretary of State, while keeping a symbolic connection with the University through the Chair of Roman Law.

During the rest of the 1950s, Roman law operated with Dihigo and Morales as chairs and Figueroa as aggregated faculty.[109] Exceptionally, Dihigo accepted an invitation to arbiter in the International Court of Justice in Geneva during the border crisis in

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[105] Letter to the President of the University, March 31, 1947, AHUH, Exp. 82, folio 117.

[106] Letter to the President of the University of Havana dated February 10, 1950, and letters to the Dean of the School of Law between 1951–1952, AHUH, Exp. 590.

[107] Letter from the Dean of the School of Law dated June 9, 1951, AHUH, Exp. 82.

[108] Letters to the Dean of Law dated August 11, 1952, and November 11, 1955, AHUH, Exp. 1084. Figueroa was born in Havana on March 8, 1929, and received his Doctorate in Havana in 1951.

[109] *University of Havana Yearbook* (1954–1955).

the Middle East in 1955.[110] Nevertheless, the political and social unrest increasingly conflicted with pedagogical activities. Students organized in armed factions frequently clashed with the police and constantly mobilized against Batista. Amid the disturbing environment, most law faculty tried to pursue their academic careers. Figueroa, for example, wrote an article titled "Natural Obligations in Roman Law" and joined the University Athletic Commission, while Dihigo became a frequent presence at the School of Law.[111] Yet, the country was at war, and the students often rallied against Batista, who temporarily closed the University in 1956. Facing the advance of the guerrillas towards Havana, Fulgencio Batista escaped on a plane for the Dominican Republic on December 31, 1958, and Cuba entered in a new phase of transformations that impacted the chairs of Roman law again.

VI. The socialist university: the fall and rebirth of Roman law and legal history

On January 8, 1959, Fidel Castro arrived in Havana and installed a coalition government that gathered members of all the factions that opposed Batista. This new regime incorporated former politicians and other professionals including faculty from the University of Havana. This institution reopened on May 11, 1959, and its new Presidency created a commission for its reform. Luis Figueroa was selected to participate in this project as representation of the School of Law, and Ernesto Dihigo rejoined the diplomatic body as Ambassador of Cuba in the United States.

During the following months, tensions increased within the coalition government, and its leaders, lawyers Manuel Urrutia and Miró Cardona, abandoned Cuba. This situation alarmed members of the interim regime, including Dihigo, who talked to Castro during his official visit to Washington, D.C., in April of 1959. Castro had been his student at the School of Law, and Dihigo expected a professional relationship and respect. Castro, however, perceived in Dihigo a representative of the Cuban liberal democracy and national bourgeoisie that he was already removing from positions of power in Havana. For that reason, when the American government extended its support to Cuban refugees in the summer of 1959, Castro demanded a more energic response from Dihigo. The Roman law chair, by contrast, still behaved as a democratic and

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[110] Letter to the Dean of the School of Law dated August 18, 1955, AHUH, Exp. 590.

[111] Folio 40; Letter to the Dean of the School of Law April 23, 1955: AHUH, Exp. 1084.

moderate ambassador appealing to the mechanisms of international law. In response, Castro recalled Dihigo to Havana in October 1959, when his diplomatic mission and career concluded.[112]

Back in Cuba, Dihigo tried to resume his academic activities, only to realize too late that the University of Havana had also changed. After a process of political removal, faculty opposed to Castro's policies were no longer on campus, including his colleagues from Roman law and legal history. After twenty-two years at the School of Law, Domingo Herrera Barruete was forced into early retirement at only fifty-eight years of age.[113] Julio Morales, who was even younger, fifty years old, resigned from his positions at the university and started teaching at the *Seminario de San Carlos* in 1962, until becoming a Catholic priest in 1971.[114] Luis Figueroa abandoned Cuba for the United States, where he became an anti-Castro activist and President of the Cuban American Bar Association in the Exile between 1978 and 1979.[115] Finally, Santiago Rey Perna fled Cuba for Chile as a political refugee and settled in Miami in 1963, where he worked at the Consulate of the Dominican Republic.[116] Under these circumstances, Dihigo also retired in 1960, when he was sixty-four years old. Thereafter, he remained in his house in Havana engaged in cultural activities as a private individual and completely disengaged from Cuban politics or academia. By 1961, when Castro declared the socialist stance of his regime, no faculty from the republican period remained in the chairs of Roman law or legal history in Havana.

The University of Havana reopened for the academic year 1962–1963. During the years that it had remained closed, a group of lawyers that supported the socialist regime revised the plan of studies at the School of Law. In their view, Roman law was a required course for law freshmen because of its formative and historical role for lawyers educated in the Spanish tradition. Yet, the group reduced Roman law again to a single condensed course to be taught in two semesters of the first curricular year, as had

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[112] R. Méndez Martínez, "Ernesto Dihigo, un embajador en tiempos agitados: memoria de un intelectual y diplomático Cubano," *Inter Press Service en Cuba* (2015).

[113] AHUH, Exp. 69, last page.

[114] "Cuba Efemérides," *Radio Ciudad de la Habana* (2024). Julio Morales was born in Havana on February 10, 1912.

[115] Cuban American Bar Association website, Past Presidents, digital access.

[116] Rey Perna temporarily moved to Chile and Mexico for a year, until finally settling in Miami where he died of a heart attack at ninety-five years old on October 7, 2003. See October 7th in "Funeral Notes," *The Miami Herald* (2003).

happened under positivist ideas during the first decades of the Cuban Republic. Most chairs of law, however, were vacant, and the university made a call for lawyers that identified with socialist ideals to take over on their teaching. During this process, Tirso Clemente Díaz received the assignment to teach Roman law. Díaz was born on February 21, 1913, had been a lawyer in Havana for twenty years and, although missing academic experience, he embraced the teaching of law and became a pilar for the School of Law during the first decades of the socialist period. In addition, and probably out of respect for his former professor, Díaz adopted Dihigo's book, which was a massive compendium of Roman law that exceeded the needs of the reduced syllabus.

In 1965, the regime of Fidel Castro entered in a period of socialist radicalization and his agents intervened in every workplace and institution, including the University of Havana and the *Colegio de Abogados*. At the School of Law, they sought to eliminate every aspect of legal education for lawyers of "the old society," and implemented a plan of studies labeled as "A" that would better reflect the needs of "the new Cuba." For them, Roman law was the basis of the traditional bourgeois legal system, consecrated in the codes of Civil law since the French Revolution. In addition, Cuba was distancing itself from the other Latin American countries, whose legal systems were modeled after the Roman tradition. Moreover, Cuba started increasing its commercial and diplomatic relations with Eastern Europe, which was developing a new socialist legal system with its own legal institutions and interpretations. Consequently, the University replaced the previous system of chairs with departments that gathered several faculty members, and both a chair and a course of Roman law disappeared. Furthermore, law faculty were no longer authorized to practice law, as a way to suppress former conflicts of interest and even political corruption.

Despite the nihilist takeover of the School of Law, as an ideology that rejects all religious, legal and moral principles, some lawyers educated in previous decades still deemed it important to learn Roman law. At the same time, History of the Law became an important chair to preserve in the socialist university modeled around Marxist principles of dialectic materialism and the historical evolution understood through class struggle. For these reasons, legal history remained in the curriculum as a core lengthy subject required for all students. The available literature, however, did not have the socialist approach, and a young lawyer took over the responsibility to fulfill that task.

Julio Fernández Bulté started working at the University of

Havana in 1965. He was born on September 14, 1937, had participated in the movement that overthrew Fulgencio Batista, and ultimately joined the socialist regime of Fidel Castro. In 1962, he received his doctorate in law, and his first job was as legal advisor to the Cuban National Bank until the government asked him to serve as General Secretary at the University of Havana. With many vacancies in faculty positions, Fernández Bulté taught multiple courses at the School of Law during the late 1960s. However, he became particularly engaged in developing History of the Law and adapted this course to the ideals of a socialist society. For that reason, he wrote a massive two-volume compendium titled *Global History of Law* that summarized the main political and legal events worldwide. The first volume examined ancient civilizations such as China, India, Mesopotamia, Egypt, Greece, and Rome, including many contents of the former courses of Roman law, as well as medieval legal history. The second part covered world history since the early modern period with attention to major processes like the Enlightenment and the American Revolution.[117] Fernández Bulté published this work in 1971, and it became very popular among the students, which referred to these books as *el ladrillo* (the brick) because of its shape, color and weight. While Fernández Bulté included Roman law in his book about legal history, the revised plan of studies of 1965 had reduced the School of Law to four years. Along with Roman law, the revisionist commission decreased the hours of Civil law, Commercial law and other fields that the government perceived as contrary to socialist principles. In that process, many legal fields traditionally associated with the Spanish empire and its Roman heritage became also suppressed, and law students received scarce training on private and commercial transactions. Eastern European socialist countries, however, still used Roman law as their legal foundation and, while they were developing a parallel legal system, some basic features with Civil law remained. For that reason, in order to facilitate a legal approach with the Soviet Union, Cuban scholars, like Fernández Bulté, suggested reincorporating Roman law into the curriculum. Moreover, the enactment of the Constitution in 1976 created a legalist spirit that favored the expansion of legal studies once again, and ultimately the government approved of these reforms.

In 1980, the University of Havana approved a new plan of studies "B" that reincorporated Roman law as a single course to be taught in one semester. The new syllabus of Roman law faced some

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[117] J. Fernández Bulté, *Historia del estado y del derecho en la antigüedad*, 1 (Havana 1971).

challenges. The books used for Roman law in Cuba were written before 1959 and were too long to teach a course in sixteen weeks. A first attempt to solve this problem was the translation into Spanish of *Foundations of Roman Civil Law* by Soviet author I. B. Novitsky.[118] This book was extremely brief and simplified the contents of Roman law to a few pages, but it provided an alternative for a course that was expected to be short. In addition, this book circulated in the Soviet Union, which meant that it should also pass Cuban official censorship. The translation was made by law faculty Delio Carreras Cuevas.

Carreras Cuevas was born on September 4, 1937, in Villa Clara, and relocated to Pinar del Río and La Habana with his family. During the 1950s, he studied various languages (English, French, Russian, Italian, German, Hebrew, Greek and Latin), journalism and accounting, before starting work as assistant of the President of the University, Clemente Inclán, in 1956. While at the University, he enrolled at the School of Law, but the political unrest of the late 1950s delayed his graduation to the early 1960s, when he received a Doctorate in Law. Upon graduation, Carreras Cuevas was able to gain a teaching position in history of law. However, he was openly Catholic and never married, which contradicted the standard socialist values of the Cuban Sovietized society and the revolutionary university. For these reasons, he was temporarily suspended from his teaching position to undergo agricultural work until he received an exception to return to the University in the 1970s.[119] Thereafter, the University granted him positions deemed politically uncontroversial such as teaching history of law and Roman law, and as historian of the University of Havana.

While Novitsky's book was a solution for the teaching needs of Roman law, it was too exiguous, and Fernández Bulté decided to write a collection of reading materials to teach Roman law. Between 1980 and 1981, he led a team integrated by Carreras Cuevas and Rosa María Yañez García to produce a textbook for Roman law. Yañez García had studied law after the socialist reform, was a member of the Communist Party and apparently the first woman to permanently teach legal history and Roman law at the University of Havana. In 1982, they published *Handbook of Roman*

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[118] D. Carreras Cuevas, *Traducción de fundamentos del derecho civil Romano de I. B. Novitsky* (Havana 1980).

[119] About these camps see L. Guerra, *Patriots and Traitors in Revolutionary Cuba, 1961–1981* (Pittsburgh 2023); and A. Madero Sierra, *El cuerpo nunca olvida: trabajo forzado, hombre nuevo y memoria en Cuba (1959–1980)* (Querétaro 2022).

Law.[120] This textbook summarized in about 250 pages the traditional contents of Roman law. The reduction of topics, therefore, was significant and they simplified many analyses with respect to previous programs. Yet, this textbook included an introduction and seven chapters by fields of Roman law: general principles, family, actions, property, crime, obligations, contracts and succession. In the brief introduction, the authors explained that the purpose of the book was to provide a simple and basic text for the study of Roman law, without expectations of innovative research or sophisticated analysis. The authors also clarified the necessity of learning Roman law in a socialist legal system, as part of the analysis of social classes' struggle through the study of ancient laws.

The plan of studies B also incorporated a course titled History of State and Law in Cuba, which examined the national constitutional history. Julio Angel Carreras Collado, who was a historian and an educator, delivered this course, and he had the distinction to be the first Afro-Cuban teaching legal history at the University of Havana. He was born on October 1, 1923, and worked as a schoolteacher until joining the School of Law during the 1970s. He held a doctorate in pedagogy, and he demonstrated interest in legal topics with his research about the reeducation of inmates and slavery. His major bibliographical contribution was the publication of *History of State and Law in Cuba*, which summarized in 550 pages the political and legal development of Cuba since the Spanish period until the socialist reforms in 1960.[121] Carreras Collado wrote this piece as basic reading material for law students, but it was rushed into print and published without a prologue. Yet, it was the first book that focused on Cuban national legal history, and it became the reference about those topics for the next decades.

During the 1980s, the Department of Legal History continued expanding its research and influence. Fernández Bulté occupied multiple seats in the School of Law, from Department Chair to Associate Dean for Academic Affairs, and finally Dean of the School of Law in 1987. From these positions, he provided institutional support for the development of Roman law and the courses of legal history, within the limitations of the politically censored university. During those years, Fernández Bulté published summarized versions of his *ladrillos*, that made the readings of legal history

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[120] J. Fernández Bulté, D. Carreras Cuevas, and R. M. Yañez García, *Manual de derecho Romano* (Havana 1982).

[121] J. A. Carreras, *Historia del estado y del derecho en Cuba* (Havana 1981).

more accessible to law students, which later became the *Handouts of Legal History*.[122] Carreras Cuevas also wrote a short history of the University of Havana in 1984, while Julio Carreras published *Brief History of Jamaica* in 1984, and *Slavery, Abolition and Racism* in 1989.[123] All these books contributed to the formation of a Cuban academic that conformed to the expectations of the politically controlled Cuba, but were also innovative about topics scarcely explored by Cuban legal historians. In addition, Fernández Bulté decided to expand the available literature for Roman law and visited the long-retired Ernesto Dihigo to request authorization to reprint his books. A hesitant Dihigo accepted, under condition that the new editions should not have a prologue, because, as Férnandez Bulté later referred, "the communists change the meaning of everything."[124] In 1989, at 93 years of age, Dihigo finally left Havana for Miami, where he passed away two years later.

Between 1989 and 1991, the Socialist bloc fell apart, and Castro lost the economic and military support from Eastern Europe, while the American economic embargo remained in place. This situation initiated a period of crisis for the Cuban people characterized by shortages of food, services and electricity. In response, Castro called a constitutional reform in 1992 to legalize some private entrepreneurial initiatives and foreign investment. These major legal reforms triggered a new Plan of Study "C" at the School of Law, where faculty expanded the courses of Civil and Commercial law, and included Philosophy of the Law. This reform did not bring any changes to Roman law, which remained deeply rooted in its historical approach as a sixteen-week course in the law freshmen year. Roman law faculty, conversely, remained in charge of the School of Law, and, when Fernández Bulté stepped down as Dean for health issues, Yañez García assumed this role until her resignation in 1994. By then, Cuba was immersed in a deep social, political and economic crisis, and she left the University to become legal advisor in international trade. As happened in colonial times, law faculty had an alternative in times of crisis to engage in the practice of law, which was more profitable than academia.

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[122] J. Fernández Bulté, *Manual de historia del estado y el derecho Americano y Africano* (Havana 1984); J. Fernández Bulté, *Manual de historia general del estado y el derecho* (Havana 1990).

[123] D. Carreras Cuevas, "La Universidad de San Jerónimo de la Habana," *Revista de la Universidad de la Habana*, 222 (1984); J. A. Carreras, *Breve historia de Jamaica* (Havana 1984); J. A. Carreras, *Esclavitud, abolición y racismo* (Havana 1989).

[124] This information is this author's recollection from lectures and conversations with professor Fernández Bulté.

Thereafter, legal history faculty became unstable, mostly relying on teaching assistants, adjuncts or young instructors, under the leadership of aging Fernández Bulté, Carreras Cuevas and Carreras Collado.

Despite the struggles of teaching Roman law, this legal field offered an opportunity to reconnect with other Civil law countries when Cuba needed to fight against its economic and political isolation. Roman law faculty became increasingly involved in international activities and, in 1997, the School of Law hosted the First Workshop on Roman Law and Latinity in the Caribbean, which continued to take place regularly in Cuba. In addition, international conferences and seminars took place in Havana, including the 13th International Conference of Roman Law in August of 2002. In this process, Fernández Bulté became interested in Roman public law, which he added to the syllabus, and he wrote a booklet of forty pages in 2001 to use as supplementary reading for this topic.[125] Despite his health issues, Fernández Bulté continued publishing textbooks for the School of Law: *Philosophy of Law* in 1999, *Theory of State and Law* in 2001, and a revised version of *History of State and Law in Cuba* in 2005. In this last work, Fernández Bulté added two new chapters where he departed from the politicized discourse of the flawless socialist revolution, and he introduced a pioneering analysis about the impact of the socialist government on Cuban legal education. Furthermore, Fernández Bulté continued teaching as much as he could and became a charismatic icon and intellectual reference among Cuban law students for multiple generations.

As the socialist government struggled to navigate the economic crisis, the beginning of the twenty-first century marked the end of the generation of jurists that kept Roman law alive during the first decades of the socialist regime. In 2001, Julio Carreras Collado, who was 78 years old, retired from teaching, and passed away in 2005. Shortly after, Julio Fernández Bulté died on October 30, 2008, and Delio Carreras Cuevos passed away on September 28, 2012. With their losses, a new generation of young scholars took charge of the teaching of Roman law, as the government moved forward with their plans to decentralize legal studies across Cuba.[126] After the meeting in Spring of 2006, the School of Law approved the Plan of Study "D," where Roman law remained

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[125] J. Fernández Bulté, *Separata de derecho público Romano* (Havana 1999).

[126] On the decentralization of Cuban legal studies after 2000, see Cabrera Bibilonia (note 11).

unchanged as a condensed single course in the second term of law school freshmen year to be taught with the *Roman Law Handout*, the *Booklet of Roman Public Law*, and the four heavy volumes, without a prologue, of *Roman Law Notes* by Ernesto Dihigo.

VII. Conclusions

In 1994, the soap opera *El año que viene* (The Next Coming Year) portrayed the Cuban society from the 1920s. Its complex plot included a villain aristocrat lawyer, Lorenzo Zamora, who was Professor of Roman Law at the University of Havana. Through this fictional character, the televised production characterized the elitist and intimidating perception associated with studying law in republican Cuba, represented specifically by Roman law. It also showed that Roman law had become somehow a popular symbol of legal education, and that even people who did not have formal legal training would relate this term with the University of Havana and the School of Law. At the same time, it could have been interpreted as old fashioned, or out of touch.

In addition to available studies about the Roman influence on Cuban legislation, since colonial times to the present, the studies of Roman law and legal history in Havana have been deeply intertwined with the national history. From the opening of the University of Havana during the Enlightenment, the necessity to study Roman law has been questioned and subject to debate. Monarchical authority, positivism and socialism had pushed for the reduction or elimination of studying Roman law considering its lack of direct applicability with respect to positive law, or as the representation of legal systems and values deemed obsolete such as the Ancien Régime or the Cuban Republic.

Despite these movements, favorable political circumstances rooted in European legal history facilitated the persistence and reinvention of the studies of Roman law in Havana. During secularization, Spanish latest colonial policies, nationalist movements and socialist anti-isolationist strategies, Roman law became an intellectual tool to strengthen the connection between Cuba, Spain, or other Civil law countries. In those periods, Roman law could be considered a political mechanism to educate younger generations of lawyers based on new values such as liberalism, nationalism, or socialism, but still founded on traditional legal knowledge. In those cases, Roman law was not only about teaching legal institutions, but also the historical foundations of the Cuban legal system. For that reason, since the nineteenth century, the University also created courses in legal history that aligned with

contemporary political or ideological agendas in those same critical moments.

Law faculty played a major role in the constant reforms to the plans of study. Since the latest decades of the Spanish period, the School of Law increasingly relied on endogenous employment, meaning that it hired its own graduates to teach law. For that reason, generations of law faculty prepared their substitutes, and passed along teaching methods and survival strategies that facilitated the permanence, expansion and return of Roman law in the curriculum. At the same time, the faculty of Roman law was a representation of the main political, social, economic and intellectual phases of Cuban history, where they participated as active agents of change, opposition and resistance. Some of them, such as Antonio Prudencio López, Ernesto Dihigo López-Trigo and Julio Fernández Bulté became the image of the University of Havana, and a symbol of the Cuban legal academy in three completely different times.

After 300 years, the study of Roman law and legal history in Cuba has survived multiple attempts of elimination. Through faculty's strategies, intellectual movements and official policies, Roman law courses remained in the curriculum of this School of Law. In this process, the courses of Roman law had become not only a key component of the Spanish legal tradition, but an element of national identity within the field of law. Based on its resilience, it became clear that it has an adaptability that allows it to be reshaped under multiple circumstances. Yet, its study continues to embody traditional values and to anchor modern legal system to their ancient past, with constant attacks on its practicability and its necessity to be learned. For that reason, the battle to preserve the study of Roman law in Cuba will probably continue and face new challenges in the future, but it would probably always return, as evidence of the endurance of the Roman tradition.