

FORMATION OF THE SILK ROAD – FORMATION OF EURO-ASIAN BUSINESS RELATIONS

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Abstract: In 2013, Chinese president Xi Jinping launched the new Belt and Road initiative in order to connect worldwide markets with China and in order to promote exchange of goods on both terrestrial and maritime routes. This initiative is a follow up of ancient Silk road, established during Han dynasty in 2nd century BC. Since then, Silk road contributed not only to exchange of goods between China and Western civilizations, but as well to exchange of legal cultures.

Keywords: China, Silk road, Chinese law, Roman law, Vulgar Roman law, Buddhism

The Chinese Han Dynasty¹ launched the Silk Road to the West at a time when a compact legal system had already been built in their territory; as for its significance regarding further development of Chinese law, the system can be compared to the significance of Roman law in Europe, emerging tens of thousands of kilometers westbound at approximately the same time. Roman law represented the legacy of a legal system that was extinguished as such, but continued through the Eastern Roman Empire and was subsequently adopted in various modifications by new states established in the former territory of the Western Roman Empire. The classical Chinese law was the law of a state that did not disappear, but survived and continued its existence. The continuity of the classical Chinese law may appear to have been interrupted after the fall of the Chinese Empire in 1911. However, many examples in later practice of legal interpretation have shown that the ancient Chinese law is far from being “dead”.

I. FORMATION OF CONTACTS

What was the relationship between the two big legal systems of that time, namely Chinese law and Roman law? Did they ever meet, become acquainted with each other or possibly influence one another? Speculations regarding their mutual contacts may be supported by obvious exchange of goods and apparent business contacts between the two empires. China was well-known in ancient Rome primarily for silk. The Chinese name for silk *si* (丝) had an impact upon its Latin equivalent *sericus*. This is how the Latin name for China as *Serica* and for Chinese as *Seres* were derived. Roman writer Pliny the Elder (Plinius Secundus) in his work *Naturalis historia* (the Natural History) from 77 AD describes that between the Tabis Mountain and the Eastern Sea “the Seres live and are famous for

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¹ The Han Dynasty governed in China from 206 BC until AD 220.

their silk”.² It should be added in this context that some other Roman sources mention *Sinae* when referring to Chinese people. This designation indicates the powerful Qin Dynasty (秦),³ namely in sources describing various meetings with those people during sea journeys. However, it is not absolutely certain that the Roman designation *Seres* fully covers the ethnic group established as the Han people in the period of the Han Empire, considered as genuine and ethnic Chinese. Historians and world travellers clearly connect this ethnic group with silk. Scottish orientalist Sir Henry Yule describes the Han as civilised people, gentle, fair and modest who wish to be relieved of neither their habits nor their goods, silk being the most visible and valued.⁴

The existence of the Roman Empire was known to the Chinese. They called it *Daqin* (大秦). According to the History of the Han (*Hanshu* 汉书) written by historian Ban Gu and his sister Ban Zhao, the Chinese considered Romans to be their geographically very remote antipodes. This is why the sign 秦 was identical with the designation of the former Chinese dynasty. The sign 大 indicated that the Chinese regarded the Roman Empire as the “Power”. Chinese designation of the Roman Empire was elucidated by Fan Yüe in the “History of Later Han” (*Hou Hanshu* 后汉书): the writer describes Romans as tall and symmetric people who resemble Chinese and therefore their country can be called *Daqin*.⁵ Fan Yüe notes that the King is not permanent, but chosen and enjoys high respect; the country abounds with gold, silver and precious stones, and remarkable coloured fabric is manufactured there. Archaeological findings indicate that Roman glass reached China at that time and the Chinese accepted it as a substitute for jade. Fan Yüe also notes trading in Roman glass described as a product from the empire of *Daqin*, or, alternatively, *Lijian* (犁鞞). Roman glass could have been brought to China via sea, namely through Vietnam under the control of the Han Empire. Roman coins and glass objects were found in the vicinity of today’s Ho Chimin City.⁶

Contacts between those two powers were complicated not only due to their enormous remoteness, but also due to the Parthian Empire located between them. Romans had to undergo many armed conflicts with Parthians; China was later prevented by the Parthians to carry out business directly with the Roman Empire. An interest to become acquainted with the “Western” regions significantly increased under the reign of the Han dynasty Emperor Wudi between 140 and 87 BC; his empire spread from North Korea to Middle Asia. His motto was “defence and trade”. Wudi is considered the founder of the Silk Road and the initiator of Chinese expeditions to the West. The mission led by envoy Zhang Qian is one of the most famous in this respect; Zhang Qian could confirm to the Emperor in 125 BC that in the West there were developed civilisations and that it was worth it to start doing business with them. Naturally at that time, he did not reach the Roman Empire itself and

² Plin, NH, VI, 54.

³ The Qin Dynasty governed in China between 221 and 206 BC.

⁴ YULE, H. *Cathay and the way thither, being a collection of mediaeval notices of China*. Vol. I a II. London, Hakluyt Society, 1866.

⁵ HULSEWÉ, A. F. P. *China in Central Asia. The Early Stage: 125 BC–AD 23*. Leiden, 1979.

⁶ CRESPIGNY, R. de *A Biographical Dictionary of Later Han to the Three Kingdoms (23–220 AD)*. Leiden: Koninklijke Brill, 2007.

neither did his successor Gan Ying one hundred years later. The latter got closer to the Romans, but the Parthians dissuaded him from going farther as they intended to preserve their monopoly over trading in Chinese silk.⁷ In 166 AD according to the “History of Later Han”, the Emperor’s Court was reached by the “envoy of King Andon” (assumably Marcus Aurelius Augustus) who brought with him gifts made of ivory, rhino horns and tortoise shells. However, such gifts were far from having the potential to amaze the Chinese.⁸ Yule speculates that the original Roman goods were stolen from Romans on the way and that gifts claimed to be from the Roman Emperor were gained in South Asia.⁹ Some historians, such as Raffe de Crespigni, believe that those Romans were in fact traders and not the Emperor’s envoys.¹⁰ It should be noted that the line between diplomacy and business was frequently imperceptible in Chinese-Roman relations.

Today we know that ancient Chinese applied a developed system of customs that was equivalent to what Romans created as the law. Trade customs of ancient China were noted in the literary sources of that time; however, Chinese appeared not to have any of their customs shared with anyone nor had they intended to remove them as Yule mentioned.¹¹ Pliny the Elder writes that Seres customarily left goods intended for trade on the other bank of a river. When they assumed that no deal had been made they took the goods back. Roman geographer Pomponius Mela in his work *De chorographia* (Description of the World) in 43 AD describes Seres as “a very fair and just nation famous for their way of trading carried out in their absence after they had left the goods at an agreed place...”.¹² Thus, no direct business contact between Chinese and Romans occurred. That was why Romans perceived Chinese trade customs as Pomponius described. Czech sinologist Vladimír Liščák claims that Chinese did not dare bring their goods farther than the edge of the Taklamakan Desert located in southwest Xinjiang (Uyghur Autonomous Region) in Northwest China; as a result, trading with Romans was carried out by Greeks and Jews.¹³ Directions of trading in Chinese silk with Romans and their intermediaries can be well traced through the findings of Roman coins. The route by land cut through Middle Asia and followed the route of the Silk Road. The sea routes of trading are indicated by findings of Roman coins in Sri Lanka, India and also in Vietnam. Greek sea traders were able to make use of monsoon air flows to cruise the Indian Ocean; thus they became the main intermediaries in the sea trade between the Roman Empire and the Han Empire.¹⁴ Russian historian Michail Rostovzev notes

⁷ HILL, J. E. *Through the Jade Gate to Rome: A Study of the Silk Routes during the Later Han Dynasty, First to Second Centuries CE*. Washington: BookSurge, 2009.

⁸ HULSEWÉ, A. F. P. *China in Central Asia. The Early Stage: 125 BC–AD 23*. Leiden, 1979.

⁹ YULE, H. *Cathay and the way thither, being a collection of mediaeval notices of China*. Vol. I a II. London, Hakluyt Society, 1866.

¹⁰ CRESPIGNY, R. de *A Biographical Dictionary of Later Han to the Three Kingdoms (23–220 AD)*. Leiden: Koninklijke Brill, 2007.

¹¹ YULE, H. *Cathay and the way thither, being a collection of mediaeval notices of China*. Vol. I a II. London, Hakluyt Society, 1866.

¹² Pomp. III, 50.

¹³ LIŠČÁK, V. *Čína – Dobrodružství Hedvábné cesty. Po stopách styků Východ – Západ [China – Adventure of the Silk Road. Tracing the Contacts East-West]*. Praha: Set Out, 2000.

¹⁴ CĚDĚS, G. *The Indianized States of Southeast Asia*, (translated from French by Susan Brown Cowing). Honolulu, 1968.

that transports of silk from China were accompanied by Roman military escorts whether in Egyptian ports in the Red Sea or during their journeys by land along the Silk Road.¹⁵

Pliny's description of trading where Chinese left goods intended for trade on the other bank of a river and waited until the buyer picked up the goods can also be explained by the notion that Chinese were not used to direct trade with Barbarians in private space. In other words Chinese preferred trading in a public place governed by the state. Zuo zhuan (the Commentary of Zuo) describes that, under the mythical Xia Dynasty¹⁶ at the end of the 3rd millennium BC, its legendary ruler Divine Farmer taught people how to exchange products: "When sun was shining he gathered people from the whole country and their goods and the market could start."¹⁷ The need for barter trade was increasing in China along with the development of towns and craft; as a result, trade was developing at both the national and international levels. Under another mythical dynasty – Shang¹⁸ – the state was presumed to intervene in trade relations and the rulers of the state Shang probably commenced not only to regulate trade, but also to divide it into internal and external. The name of the Shang Dynasty (商) has been used in Chinese until today in words and collocations denoting trade, traders and trading. Since the Zhou Dynasty¹⁹ external trading was strictly separated from national trading and the state commenced to execute a monopoly over international trade. The concept of a business area was strengthened in China under the rule of the Qin Dynasty when internal customs duties were removed. Han Emperor Wudi, creating his conception of "defence and trade" and respecting the legacy of his predecessors, combined external trade with expanding the business sphere under the control and protection of the state.

II. FORMATION OF LAW

Pragmatic Romans cultivated the regulation of relationships among people through the development of law *ius*, subdivided into civil law (*ius civile*), clerical law (*ius honorarium*) and the law of (other) nations (*ius gentium*).²⁰ Roman civil law corresponded in its scope and content to the Chinese customs *li* (礼). These customs covered all relations that might occur in the field of private law. It should be noted that ancient Chinese law made no distinction between categories denoted today as rights in rem and obligations respectively. The concept of *fa* (法) designated the body of legal rules, i.e. written law, resembling the Roman *ius*. Roman clerical law roughly corresponded to the ancient Chinese administrative act *ming* (命). What was very developed was the ancient Chinese system of written criminal law, both substantive and procedural. On the other hand, unlike Romans, Chinese failed to develop civil procedure in the spirit of Confucius teaching claiming that to litigate regarding rights is immoral and against the natural order of things.²¹ Roman *ius*

¹⁵ ROSTOVZEV, M. *Storia economica e sociale dell'Imperio Romano*. Firenze, 1946.

¹⁶ The mythical dynasty Xia allegedly governed in China between 2200 and 1760 BC.

¹⁷ TOMÁŠEK, M. *Dějiny čínské práva [History of Chinese Law]*. Praha: Academia 2004.

¹⁸ The legendary Shang dynasty allegedly governed in China between 1760 and 1025 BC.

¹⁹ The Zhou dynasty governed approximately between 1025 and 771 BC.

²⁰ SKŘEJPEK, M. *Lex et ius: zákony a právo antického Říma [Lex et ius: Laws and the Law of Ancient Rome]*. Plzeň: Vydavatelství a nakladatelství Aleš Čeněk, 2018.

²¹ TOMÁŠEK, M. *Právní systémy Dálného východu I [Legal Systems of the Far East I]*. Praha: Karolinum 2016.

gentium had no corresponding category in ancient Chinese law. Foreigners (Barbarians) occurred sporadically in China at that time. They were easily recognisable as to their physiognomy, but they were expected to adapt to the Chinese habits. Special rules for foreigners were adopted much later.

Considering newer classical Roman law science that commenced to distinguish between private law (*ius privatum*) and public law (*ius publicum*), the difference between Chinese law and Roman law can be formulated in such a way that the branch of private law in China was regulated by customs, whilst the branch of public law was governed by written law. This is the origin of the characteristics of ancient Chinese law as a mixed system of law relying on the triad of sources, namely customs, written rules and judicial precedents. However, two comments should be made in this respect. First, there was equality between parties within Roman private law; Chinese customs were free of such principle since the Confucian hierarchy of higher and lower position people applied. On the other hand, the concept of Roman *ius publicum* where the state acted as the holder of the public power corresponds to the Chinese concept of law *fa*. Second, Chinese legal doctrine has never recognised the concepts of private and public law and has not used them. There is an interesting theoretical issue, namely the position of ancient Chinese trade customs. Generally, they might belong to the branch of private law, but because historically there has always been supervision over trading by an official a significant public law element is always present there.

Romans strongly believed in the excellence of their law as did Hans recognising just their natural order of things as the basis for societal life including trade. Hans left their goods to intermediaries, took Roman coins and were not interested in the further disposition or treatment of the goods and/or in their legal regime. Nor does it seem that Romans had a deeper interest in Chinese trade habits. All procedures were governed by their intermediaries (*mercatores, negotiatores*). Although trading with Romans had no impact upon Chinese law, Roman law considered some issues of trade. Consequences of trading in silk were of particular interest. Romans came across silk for the first time in the course of the Battle of Carrhae in 53 BC where they were heavily beaten by Parthians and where Roman commander Marcus Licinius Crassus was killed. Historian Lucius Annæus Florus notes in his description of the battle that “Romans were astonished to see Parthian flags made of a glittering cloth they had never seen before.” He describes it as “*auro sericeisque vexillis*” (flags of gold and silk).²² The flags were said to have been shining like fire and Romans had been horrified enough to flee from the field. Soon after that incident during the rule of Gaius Iulius Caesar, as substantiated by historical evidence, silk as a trade commodity reached Rome. In 54 BC Caesar ordered to build the famous square *Forum Iulium*. Close to the square in *Vicus Tuscus* street (Tuscan Avenue), a special silk market was created. Ladies could buy sheer silk togas (*toga vitrea*), light clothing called “woven zephyr” (*ventulus textilis*) and “linen mist” (*nebula lintea*).

Even men started to buy light silk clothing, which was considered as an expression of decadent morals. Historian Cornelius Tacitus in his “Annals” (*Annales*) describes how men

²² Flor., Epit., 65.

wearing silk clothing were criticised from the very beginning of the Empire.²³ Even in the middle of the 1st century AD, Seneca's son Lucius Annæus Seneca designates the wearing of silk clothing as “decadent profligacy”²⁴ and Tacitus notes that in AD 16 the Senate resolved that “men should not wear indecent silk clothing”. Some years later (AD 22) Emperor Tiberius sent his personal letter to the Senate and requested that the law against luxury should have been observed.²⁵ In his opinion, the law should have applied to “clothing whether worn by men or women”.²⁶ However in the 3rd century AD, there are notes suggesting that even emperors wore silk clothing, as allegedly Emperor Heliogabalus did.

If we compare Roman law and Chinese law under the Han Dynasty we may assume that Romans considered transactions with foreigners and their *ius gentium* was established for that purpose.²⁷ On the other hand, Hans got intentionally isolated from foreigners; that was why they believed that their law should have taken into account neither the existence of foreigners nor trading with them. However, both empires made arrangements for military protection of their respective traders. Chinese, maybe more than Romans, tried to protect their know-how from foreigners. The secret of silk-worm was strongly guarded in China. Silk-worm eggs and mulberry seeds are said to have been smuggled from China into Constantinople by two Nestorian monks upon an order of Justinian I, East Roman (Byzantine) Emperor, in hollow bamboo sticks around AD 550. Romans, on the other hand, exported their glass into China without any concerns that their technology could have been somehow copied.

III. FORMATION OF THE SILK ROAD

Both the Roman and the Han Empires led battles to expand their territories at the same time. Romans expanded their Empire in the Mediterranean area in order to obtain access to new raw materials and business routes to support their further expansion. At the same time, Emperor Wudi built a big and strong empire covering regions from the Korean Peninsula to Middle Asia. Chinese traditions in their relations with the West were of a defensive nature. Emperor Wudi joined defence against Western tribes and looked for new possibilities of enhancing trade with territories west of China. He correctly assumed that developing trade relations with traditional Chinese enemies and hostile tribes would both strengthen Chinese defence and open new business opportunities. That is why military

²³ Tac., Ann., (II, 33).

²⁴ Sen ad Luc., (III, 53).

²⁵ Laws against luxury were a relatively stable part of Roman law. Their name originated in Latin *sumere* – spend. The law against luxury adopted under Iulius Caesar in 46 BC (*lex Iulia sumptuaria*) introduced special restrictions regarding the use of purple, jewels made of pearls, luxurious clothing and the use of litters for carrying people. There were exemptions possible for certain occasions or certain persons. Restriction of luxury in clothing was launched by the rule adopted in 18 BC known as *lex Iulia de vestitu et habitu*; that rule expressly regulated the wearing of silk. That was the rule referred to by Tiberius in his letter to the Senate. For details see SKŘEJPEK, M.: Omezení přepychu v římském právu [Restricting Luxury in Roman Law]. *Acta Universitatis Carolinae – Iuridica*. 1997, No. 2, pp. 7–17.

²⁶ Tac. Ann. (II, 33).

²⁷ SKŘEJPEK, M, BĚLOVSKÝ, P. a STLOUKALOVÁ, K. *Cizinci, hranice a integrace v dějinách [Foreigners, Borders and Integration in History]*. Praha: Auditorium, 2016.

activities of Hans were interlinked with diplomacy which is then linked to trade and trading. Findings of the Emperor's envoy Zhang Qian constituted the basis for two new routes of the Silk Road, which were joined at the western edge of the Taklamakan Desert. From the 2nd century BC, the Silk Road started from the capital of the Han Empire – Zhangan (Xian today) in the middle of China via Kashgar and Samarkand to Persia. The Silk Road was forked there to create the southern route to India and other routes leading to the territory of modern day Lebanon and Antakya in Turkey.²⁸ However, it should be emphasised that the name of that business route between China and Middle Asia was created in the second half of the 19th century. German geographer and biologist Ferdinand Paul Wilhelm, Baron von Richthofen, is presumed to have authored the designation.²⁹ In his work *China. Ergebnisse eigener Reisen und darauf gegründeter Studien* from 1877 he was the first author used the name the Silk Road (*Die Seidenstraße*) for the whole network of business routes connecting China with the West. The name quickly became popular and spread even in China where Chinese translated it literally from German as *Sichou zhi lu* (丝绸之路).³⁰

Wudi's delegation always included many soldiers. According to the History of the Han, Zhang Qian "was the head of the delegation composed of three hundred men of which each had two horses, and there were about ten thousand cattle and sheep. He carried gold, precious objects and silk of immense value. And he was accompanied by a large number of envoys carrying insignia so that they could be sent to neighbouring countries should the situation allow for."³¹ Chinese delegations directed to the West were in fact diplomatic missions. The History of the Han notes that "every year the maximum of ten and a minimum of five or six delegations were dispatched. Delegations could meet each other during their journeys. One larger delegation was composed of several hundred persons; a small one included about one hundred people. Delegations dispatched to reach remote regions could return in eight or nine years; shorter distances took several years."³² Business missions enjoyed what we call public law protection; they were protected by a military company and governed by the Han legal regime. For example, in 102 BC, Wudi sent to the West a military expedition composed of 60,000 soldiers, 100,000 cattle, more than 30,000 horses, 10,000 donkeys and camels respectively, and large numbers of servants carrying personal items of expedition members. Such caravans were not unique along the Silk Road, and they may be designated as "travelling towns". The state provided both military and legal protection to its traders. The legal regime was subject to provisions governing the protection of the court (*yuegong lü* 钺宫律), and regulating the safety of the Emperor's Court and Palace.³³

It would be wrong to assume from the above described paradigm that Chinese state organised international trade concentrated on journeys by land and ignored sea trade. It

²⁸ HULSEWÉ, A. F. P. *China in Central Asia. The Early Stage: 125 BC–AD 23*. Leiden, 1979.

²⁹ LE COQ, A. von *Von Land und Leuten in Ostturkistan. Berichte und Abenteuer der 4. deutschen Turfanexpedition*. Leipzig, 1928.

³⁰ LIŠČÁK, V. *Čína – Dobrodružství Hedvábné cesty. Po stopách styků Východ – Západ [China – Adventure of the Silk Road. Tracing the Contacts East-West]*. Praha: Set Out, 2000.

³¹ HULSEWÉ, A. F. P. *China in Central Asia. The Early Stage: 125 BC–AD 23*. Leiden, 1979.

³² *Ibid.*

³³ TOMÁŠEK, M. *Právní systémy Dálného východu I [Legal Systems of the Far East I]*. Praha: Karolinum 2016.

should be noted that until the 7th century the Chinese Empire provided no active support to sea trade. On the other hand, it should be also acknowledged that the Silk Road as formed under the Han Dynasty included its sea branches. It was again Emperor Wudi who recognised the significance of southern journeys not only for the purposes of imperial security, but also for trade. His policy of “the journey south” was to provide access to rich ports in southern seas in order to develop trade and obtain raw materials. However, in order to pursue active trading there it was necessary to involve the state, which could have been done only through military actions.³⁴ On their way to southern seas the Han Empire conquered, in 111 BC, a substantial portion of Vietnamese territory – the Nam Viet state, which became part of the Chinese Empire for the subsequent thousand years.³⁵ The influence of Chinese in Vietnam is linked with the town of Rinan, which Richthoffen located not far from today’s Hanoi. That was the territory across which Chinese state-regulated trade could flow. First envoys of Roman emperors landed there to move forward to the Han Court. Cruises to Philippines, India, Sri Lanka and farther to Africa started there.³⁶ However, the Chinese did not take part in such cruises. They handed over their goods in the state-controlled port to intermediaries including goods intended for Romans and left everything in the intermediaries’ hands.

IV. FORMATION OF EXCHANGE

The Han Empire extinguished in 220 and China was divided into several smaller states. In 476 the last Roman Emperor was removed by Barbarian Odoacer and *Imperium Romanum* also collapsed. Whilst Rome and its culture and law vanished in history, a new state - today called the East Roman Empire – was developed. In 324 and in an originally insignificant place Emperor Constantine started to build a new city – Constantinople. That “second Rome” was the seat from which Byzantine rulers governed the whole East for a thousand years until defeated by Turks. Undoubtedly, the Byzantine Empire had contacts with some Chinese states.³⁷ In 581 the Sui Dynasty took a powerful position in China.³⁸ The Dynasty managed to reunify China and to oppose Byzantium as a strong and united partner.

Chinese historical sources designated the Byzantine Empire as *Fulin guo* (拂菻国). It should be noted that the attribute “Byzantine” dates to the 16th century when it was added to the name of the East Roman Empire. The Byzantines themselves called their state consistently as the Roman Empire and insisted on Latin as their official language. There was a mixture of Roman and Eastern legacies, which enabled certain Roman traditions including law to be preserved for subsequent generations. Constantinople was constructed in the way Rome had been. The Emperor had a Capitoline Hill and the Senate building took over the Roman system administration. However, the Byzantium failed to become the new

³⁴ ANTONY, R. J., SCHOTTENHAMMER, A. *Beyond the Silk Roads – New Discourses on China’s Role in East Asian Maritime History*. Wiesbaden: Harrasowitz Verlag 2017.

³⁵ MILLEROVÁ, P. *Vietnam*. Praha: Libri 2004.

³⁶ CRESPIGNY, R. de *A Biographical Dictionary of Later Han to the Three Kingdoms (23–220 AD)*. Leiden: Koninklijke Brill, 2007.

³⁷ HIRTH, F. *China and the Roman Orient*. Chicago, 1975.

³⁸ The Sui Dynasty governed China between 581 and 617.

Rome. What was missing was Roman precision and the form of government. The Byzantine understanding of an emperor was closer to the Chinese conception. An emperor was identified with deity and held absolutistic power, which was implemented through the omnipotent bureaucratic apparatus. Both the Chinese court and the Byzantine court were subject to rigid ceremonies. Perception of state and legal ideologies was similar in both empires. The Chinese Emperor used Confucian ideology as a system to govern the society; the Byzantine Emperor used the Eastern Christian Church as a state institution, decided by himself regarding religious issues and reserved for himself the process of approval of church dogma. Chinese emperors did not go so far and they did not have to. Confucianism was developing by absorbing legism, Buddhism, and later also Islam; however, the emperor was always at the top of the social hierarchy.³⁹

The fall of the Western Roman Empire is considered in Roman law studies as the end of the classical Roman law; it was supposed to continue in the form called “vulgar law”. New codifications were adopted in the West intended for the population in newly arising state and national entities. Primarily, the Visigothic codification *Lex Romana Visigotorum* written between the 5th and 8th centuries is considered as the most significant contribution to the preservation of the original Roman law. The codification contains Roman law as used in practice free of classical Roman jurisprudence.⁴⁰ The tradition of classical Roman law was also maintained in the East. In 528 Emperor Justinian initiated the compilation of a comprehensive legal codification known as *Corpus iuris civilis*. It included all Roman law, which was considered still applicable, although its form was substantially simplified. The same principle was used in another work entitled *The Digest* and compiled in 533; this compendium contains extracts from juristic writings from classical times covering particularly private law. The Digest was intended for law students to become acquainted with Roman legal traditions although in a rather curtailed form. Justinian wished to preserve the legacy of Rome and spread it to provinces; to a certain extent, he should be praised for preservation of the Roman legal tradition, although the practice was far from being simple. Latin kept being the official language in the Byzantine Empire but Justinian published his laws in Greek. The shift to Greek meant a conflict in the readings of laws, but there were other problems to solve. Courts considered it difficult to deal with a remote history of the legal regulation, moreover published in a foreign language. *Corpus iuris civilis* failed to fulfil the role it was intended for in the beginning. No significant change in legal practice was achieved and the *Corpus* was soon forgotten. It was much later when Justinian’s legal activities were recalled and highly appreciated as contribution to the continuity of European legal culture.⁴¹ Roman law even in its simplified form had absolutely no impact upon the legal development in regions east from Byzantium including Chinese law. Approximately at the same time when the first Justinian doctrine was formulated there was significant re-codification of law in China under the rule of the new and quickly growing Sui Dynasty.

The sign of the new Dynasty 隋 is said to have been created by its founder Emperor Wendi based on the semantic elements “follow” and “loyalty”. Wendi united the country

³⁹ TOMÁŠEK, M. *Dějiny čínské práva [History of Chinese Law]*. Praha: Academia 2004.

⁴⁰ LEVY, E. *Westroman Vulgar Law*. Philadelphia, 1951.

⁴¹ HATTENHAUER, H. *Europäische Rechtsgeschichte*. Heidelberg: Müller, 1992.

in the north and the Empire was very powerful in the sea as it possessed several thousand battleships. The largest of them had five floors and accommodated up to eight hundred men. They were equipped with long wooden lances capable of destroying or even sinking hostile ships.⁴² Thanks to the battleships and mounted corps on elephants the Sui Dynasty strengthened its position in Vietnam. The reunification of the Empire from north to south theoretically reconnected the land and sea branches of the Silk Road and created a strong potential for new business transactions between China, Byzantium and other countries. Information about the political development in China spread and reached the Byzantine Empire. Thanks to Chinese intermediaries – Turkic tribes in Middle Asia – a new name for China was developed in Byzantium, namely Toba according to the Toba tribe connected with the Northern Wei Empire. Byzantine historiographer Theophylact Simocatta described in detail the process of reunification of China by the Sui Dynasty, including its expansion into southern China. He provided detailed information about Chinese geography and its capital city Chang'an, which was called Khubdan by Turkic tribes. He described Chinese habits and Chinese ethnicity designated as “idolatrous, but wise and proficient in ruling”.⁴³ One of the first Byzantines setting out to China was the diplomat Zemarchos. Between 568 and 570 he travelled along the Silk Road around the Caspian Sea and the Aral Lake and brought the first information to Europe about those places and regions.⁴⁴

The Silk Road enabled China to become familiar with many foreign doctrines; not all of them left in China deep traces and grew roots as Buddhism did.⁴⁵ Particularly, it was nestorianism, called “Luminous Religion” in China (*jingjiao* 景教),⁴⁶ which arrived from Byzantium. Manicheism was transmitted from Persia and called “Bright Religion” in Chinese (*mingjiao* 明教);⁴⁷ zoroastrianism was another religion called the “Religion of God of Fire” (*xianjiao* 祆教), or *sabao* (萨宝) in phonetic transcription.⁴⁸ In the beginning, Chinese studied those religions intensively and even built monasteries for their supporters. In 845 an imperial edict was published to destroy all monasteries of non-Chinese religions and those religions were sacrificed thereby. Unlike Buddhism, having arrived into China from India along the Silk Road, religions coming from the West did not fully become established in China. The reason was neither their geographical dimension nor Chinese ignorance. Those religions were unable, as Buddhism was, to enrich traditional Confucian thinking. Similarly, Chinese law which was reuniting found nothing in the Western legal systems that may have been felt as inspiring⁴⁹, like Buddhism or later Islamic law. The latter reached China under the Tang Dynasty;⁵⁰ its ruling was the brightest period of the Silk Road and business exchange between the East and the West.

⁴² WOODBRIDGE, B. *The Founding of the Tang The Sui dynasty: The Unification of China. AD 581–617*. New York, 1941.

⁴³ HALSALL, P. *Chinese Accounts of Rome, Byzantium and the Middle East, c. 91 B.C.E. – 1643 C.E.* New York, 2008.

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