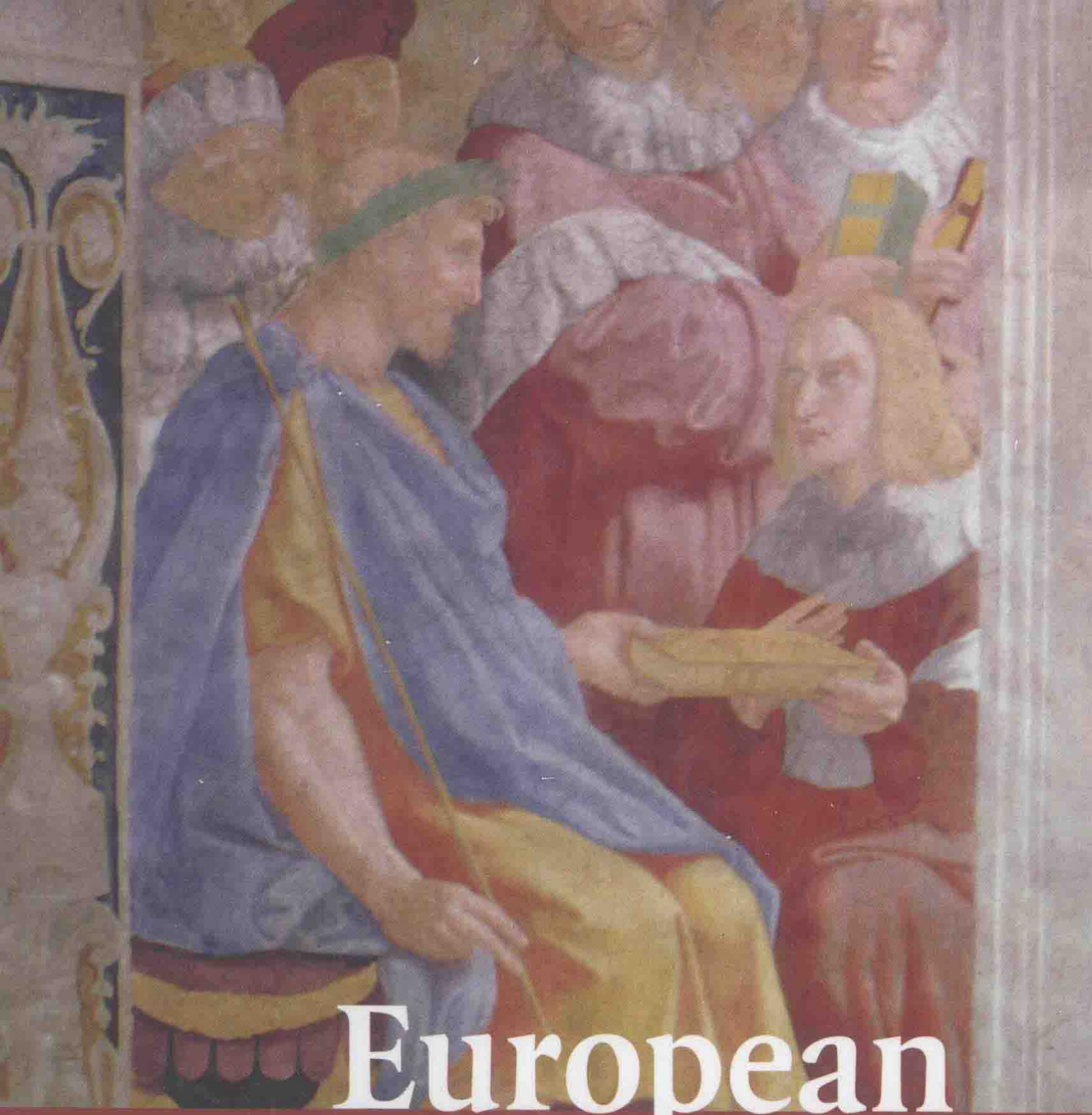

European Legal History

A Cultural and Political Perspective

RANDALL LESAFFER

CAMBRIDGE

EUROPEAN LEGAL HISTORY

A cultural and political perspective

RANDALL LESAFFER

Translated by
JAN ARRIENS

CAMBRIDGE
UNIVERSITY PRESS

CAMBRIDGE UNIVERSITY PRESS
Cambridge, New York, Melbourne, Madrid, Cape Town, Singapore, São Paulo, Delhi

Cambridge University Press
The Edinburgh Building, Cambridge CB2 8RU, UK

Published in the United States of America by Cambridge University Press, New York

www.cambridge.org
Information on this title: www.cambridge.org/9780521877985

First published 2009

Printed in the United Kingdom at the University Press, Cambridge

A catalogue record for this publication is available from the British Library

Library of Congress Cataloguing in Publication data
Lesaffer, Randall.
[Inleiding tot de Europese rechtsgeschiedenis. English.]
European legal history : a cultural and political perspective / Randall Lesaffer, Jan Arriens.
p. cm.
Includes index.
ISBN 978-0-521-87798-5 (hardback) 1. Law – Europe – History.
I. Arriens, Jan. II. Title.
KJ147.L473 2009
349.4–dc22
2009010957

ISBN 978-0-521-87798-5 hardback

PREFACE

Over the past few decades, the process of European integration and the debate on a common private law in Europe have made their impact felt on the study of legal history at European universities. Whereas post-Roman legal history had traditionally been studied in terms of national history, now the European perspective dominates the field.

In the past twenty years, several surveys of the history of the civil law tradition have been published. This book adds to their number. In it, the historical development of civilian jurisprudence takes centre-stage. The common law tradition is dealt with in the briefest of ways, the sole purpose of its inclusion being to indicate when and where the English law has taken its own direction. The focus here is on the Mediterranean region for Antiquity and on western Europe for the centuries since. As a result of the origins of this book, the Low Countries receive some additional attention. I have decided to retain these pieces from the original Dutch version of the book because they serve to illustrate more general trends. Moreover, I am sure nobody will be harmed by learning something of the history of these lands. Scandinavia and eastern Europe are not covered.

What sets this book apart from other introductions and surveys is that it puts legal history in a broader context. A great deal of space is devoted to political and cultural history, as much in fact as to the legal developments properly speaking. It is hoped that this will make European legal history more accessible for those readers both in Europe and beyond who lack a sufficient background in general European history, and give legal developments more sense and meaning, by relating them to their context. On the other hand, this might also allow historians and other interested readers to relate legal history to a context they know better.

This book is based on the classes in legal history that I have taught at Tilburg University for almost ten years now. It unmistakably bears the traces of the fact that I have also been teaching cultural history at the Law School of the Catholic University of Leuven since 1998. The influence of my teacher and good friend Dirk van den Auweele is evident throughout.

The members of the Legal History Section at Tilburg University have all contributed to the book. Erik-Jan Broers, Klaas Dijkhoff, Raymond Kubben, Tessa Leesen, Thomas Lina, Olga Tellegen-Couperus, Karlijn van Blom, Jan-Hendrik Valgaeren and Beatrix van Erp-Jacobs have enriched the book with their suggestions and comments. David Ibbetson took great trouble in reading and commenting on the final manuscript and made many valuable suggestions. I should also like to thank all those who have helped shape my views on law, legal history and cultural history over the years. In particular, I wish to acknowledge Maurice Adams, Philip Allott, Clifford Ando, Dominique Bauer, Raoul Bauer, James Crawford, Reginald De Schryver, Peter Haggenmacher, Dirk Heirbaut, Mark Janis, Benedict Kingsbury, Georges Martyn, Jos Monballyu, Stephen Neff, Paul Nève, Michel Oosterbosch, Andreas Osiander, Amanda Perreau-Saussine, Ignacio Rodriguez, Fred Stevens, Raoul van Caenegem, Laurent Waelkens, Bart Wauters, Alain Wijffels and Willem Witteveen.

This book first appeared in 2004 in Dutch as *Inleiding tot de Europese rechtsgeschiedenis* with Leuven University Press. Jan Arriens, to whom I am most indebted, translated the text which I then revised and updated. From the first time I came forward with the idea of producing an English version of the book, Finola O'Sullivan at Cambridge University Press gave it her full, enthusiastic support. Richard Woodham, Carol Fellingham Webb and Chantal Hamill at the Press put in a great deal of hard work and devotion in the final laps of the publication process. My parents and in-laws, Amber, An, Andreas, Jana, Fauve, Joost, Maurane, Rebecca, Wim and Sabien, as well as all my other 'birthday-party friends', I thank for keeping work on this book and other projects from becoming an even larger part of my life.

Brugge

CONTENTS

Preface viii

1 Introduction 1

PART I Ancient Roman law 15

2 *Suum cuique tribuere* (Ancient Rome, *c.*1000 BC–AD 565) 17
A Politics and the state 17
B Culture and the law 63

PART II The civil law tradition 121

3 *Correctio* (the Early Middle Ages, *c.*500–1000) 123
A Politics and the state 123
B Culture and the law 159

4 *Auctoritas* (the Late Middle Ages, *c.*1000–1453) 192
A Politics and the state 192
B Culture and the law 235

5 *Emulatio* (the Early Modern Age, 1453–1648) 289
A Politics and the state 289
B Culture and the law 338

6 *Ratio* (the Modern Age, 1648–1914) 372
A Politics and the state 372
B Culture and the law 438

EPILOGUE 481

7 *Voluntas* (the Post-Modern Age, 1914–2004) 483

Index 521

1

Introduction

Quand on parle de l'amour du passé, il faut faire attention,
c'est de l'amour de la vie qu'il s'agit; la vie est beaucoup
plus au passé qu'au présent. Le présent est un moment toujours
court, et cela même lorsque sa plénitude le fait paraître éternel.
Quand on aime la vie, on aime le passé parce que c'est le présent
tel qu'il a survécu dans la mémoire humaine.
Ce qui ne veut pas dire que le passé soit un âge d'or:
tout comme le présent il est à la fois atroce, superbe,
ou brutal, ou seulement quelconque.

Marguerite Yourcenar, *Les yeux ouverts.*

1 Towards a new ius commune?

1 The end of the Cold War and the integration of Europe

The end of the Cold War triggered an acceleration in the process of European integration. For France and Britain, the unification of Germany (1990) was only palatable if its power would be safely embedded within Europe. These countries feared they would be overshadowed by a strong and unified Germany and wanted to tie it down in the European structures. In 1992, the Maastricht Treaty transformed the European Community into the European Union (EU). Apart from the traditional economic and monetary integration, steps were taken towards greater co-operation in the field of foreign policy, defence and justice. In the 1990s, a timeframe was established for the introduction of a single currency, which became a fact on 1 January 2002. Moreover, the collapse of the communist bloc paved the way for the expansion of the EU to the east. In 2004, ten new member states acceded to the EU, most of them former Eastern bloc countries; in 2007, Bulgaria and Romania joined. The rejection of the European constitution by French and Dutch voters in 2005 put an – at least temporary – end to this period of accelerated integration and left the European Union facing an uncertain future. Nevertheless, Europe is today more a fact of life than it was before.

In the climate of renewed Euro-optimism in the 1990s and the early years of the twenty-first century, the idea of a unified European law made headway. This applies primarily to private law and much less to public law. Whereas numerous advocates of ongoing European unification have traditionally dreamed of a federal Europe and ultimately almost turned the idea of a European constitution into reality, hardly anyone would dream of standard national constitutions or administrative systems. For many, that would amount to the nightmare of a centralised European super state having come true. Although co-operation between the member states of the EU was enhanced in certain areas of crime control, the harmonisation, let alone unification, of criminal law does not appear realistic. Criminal law and prosecution have traditionally been among the prime concerns of any government. Justice and internal security belong to the essence of national sovereignty. The difficulties surrounding the implementation of the Schengen Agreement and, after 11 September 2001, the introduction of a European arrest warrant, show just how jealously the European member states guard their autonomy in this area.

There is a bigger constituency for a common private law of Europe. Over recent decades, relations between citizens and businesses in the European Union have become unmistakably more numerous and more intense. Whereas previously only larger companies were active in international markets, a substantial proportion of the customers and suppliers and, in some cases, even the employees of small and medium-sized businesses are now foreign. Ever more businesses have establishments in different European countries. The European authorities are encouraging this process of internationalisation by the liberalisation of such sectors as the postal service, energy, telecommunications, insurance and banking. Modern means of communication have added an international dimension to retailing. The mobility of private individuals, be they employees, students, migrants or tourists, is increasing in leaps and bounds.

In legal terms, all these relationships pertain to private law. Although the mass of European legislation and regulations is growing and the European courts are becoming more important, the countries of the Union each have their own municipal systems of private law. In recent years, the idea has gained ground to try and change this. During the 1990s, leading academics from many European law faculties pushed for a European *ius commune*, that is, a common private law for Europe. For many, the ultimate goal of this process is a European civil code to replace the existing, municipal civil codes.

2 The civil law tradition

Proponents and opponents alike agree that the unification of European private law and the drafting of a common civil code is no easy matter. The biggest problem in this regard is the dividing line between the civil law tradition prevailing in continental Europe and the common law tradition prevailing in England and Ireland.

In the civil law countries, private law – as other parts of the law – has largely been codified by the national legislature. Although the civil codes of distinct countries differ from one another as regards concepts, rules, structure and methodology, there are sufficient similarities for us to speak of a truly continental civil law tradition. There are several historical explanations for this.

First, the historical context in which the various municipal codes were drafted is largely the same. The codification movement was inspired and promoted by the natural law and Enlightenment thinkers of the seventeenth and eighteenth centuries. With the exception of the United Kingdom, codification took place in virtually all the countries of western and central Europe in the eighteenth and nineteenth centuries. In that sense, it was a truly European movement.

Second, the majority of European and also non-European civil codes spring from two 'models': the French *Code civil* of 1804 and the German *Bürgerliches Gesetzbuch* of 1896/1900.

Third and most importantly, the codification of the eighteenth and nineteenth centuries did not mark a radical break with pre-codification law. In contrast to what certain authors of the great civil codes and the generations of lawyers immediately afterwards asserted, the civil codes were in large measure inspired by the 'old' law. The codification did not mark an absolute caesura in the development of the civil law. Old legal practices and doctrines retained much of their relevance. Although codification took place within national states and, certainly as far as the German codification was concerned, in an atmosphere of nationalism, the new civil codes preserved much of the civil law tradition.

3 The civil and common law traditions

The civil law tradition has its origins in the late eleventh century, in the rediscovery of ancient Roman law in Italy. This marked the beginning of a European legal science based on the study of the compilation of Roman law promulgated by the Byzantine Emperor Justinian (529–65), the *Corpus Iuris Civilis*, and of canon law texts. This scholarly démarche was genuinely European in nature. It also gained a foothold in England. Until

codification, the study of law was to a large extent co-terminous with the study of Roman and canon law. This amalgam of 'learned law' – Roman and canon – is also known as the *ius commune*. Even after the 'nationalisation' of private law began to take shape from the sixteenth century onwards, this historical *ius commune* continued to provide a common core on which national legal systems were able to draw. By giving the name *ius commune* to their ideal, contemporary advocates of a European private law system have sought to link up with historical tradition.

Even though this European tradition of *ius commune* crossed the English Channel, the dividing line between the civil and common law traditions goes back in part to the difference in impact of the *ius commune*. The early formation, from the twelfth century onwards, of a national system of law – the common law – meant that the influence of Roman law in England was more restricted then on the continent. At a formal level, the gap between England and the mainland was only widened by the codification movement: on the English side of the Channel, codification was rejected and a system of private law based on custom and case law and far less on legislation continued to hold sway.

As a result it comes as no surprise that the debate about the desirability and feasibility of a European civil code is often conducted in terms of whether or not the gap between the continental and English legal systems can be bridged. Advocates like to point out that there are no insurmountable differences inherent in the overall body of substantive law from both traditions, while opponents assert that the English will never accept a civil code.

4 The rise of European legal history

This book focuses on the historical development of the civil law tradition from the late eleventh century onwards. Since this tradition started with the rediscovery and renewed study of ancient Roman law, its historical evolution must of necessity also be covered. In Part I we examine the history, significance and most important features of ancient Roman law up to its codification under Emperor Justinian (the seventh century BC to the sixth century AD). Part II and the epilogue deal with the history of the European legal tradition from the fall of the Western Roman Empire to the present. Common law is dealt with only in passing, with the sole purpose of indicating how the differences between the two traditions came about.

Efforts to introduce a European system of private law have stimulated interest in the legal history of Europe in pre-codification times. The

advocates of the new *ius commune* – legal historians and lawyers – search the past for arguments to support their case. The historical *ius commune* provides a point of reference. Where previously handbooks and introductions on the history of law were traditionally written from the viewpoint of national history, surveys of European legal history are now clearly in vogue.[1]

This book adheres to this trend. This does not in any way mean that we are interested only in the facts and developments that underpinned the historical unity and coherence of the civil law tradition. The rediscovery of Roman law and the expansion of canon law led to the flourishing of a European legal science that exerted a major influence on legal practice. But, however real and substantial these unifying factors were, the numerous local, regional and later national legal systems were equally real and substantial. Throughout the history of the civil law tradition, unity and diversity keep one another in check. It is through the dynamics produced by these opposing forces that the civil law tradition has evolved.

2 *A cultural-historical approach*

5 External and internal legal history

Legal history may be approached either internally or externally. Internal legal history is the study of particular legal rules or concepts in or across certain periods. External legal history regards a legal system as a whole and looks at it from the outside. In this book, we confine ourselves to the external history of the civil law tradition. In the first place, the book focuses on the creation and enforcement of law. It embraces the study of legal sources and legal institutions. It is difficult to disentangle these from their political and constitutional context. Therefore, the external history of law cannot be entirely divorced from political history and the internal history of public law.

6 The civil law tradition and its cultural context

The perspective is somewhat broader again. The historical development of law is examined against the background of cultural history. Law in general and legal science in particular are determined by their intellectual and cultural context. Studying legal and cultural history together allows

[1] Manlio Bellomo, *The Common Legal Past of Europe, 1000–1800*, Washington 1995; O.F. Robinson, T.D. Fergus and W.M. Gordon, *European Legal History*, London 1994; Peter Stein, *Roman Law in European History*, Cambridge 1999.

us to understand the interaction between law, society and culture more effectively. In this way, the law emerges as an instrument for modelling society according to the dictates of a particular worldview and ideology. It also becomes clear how, in Europe's intellectual and cultural history, legal science has sometimes acted as a trailblazer and precursor for other disciplines.

'Cultural history' is understood in terms of its original meaning. Cultural history arose as an academic activity in the nineteenth century, but its intellectual roots go back further, to the Enlightenment of the eighteenth century. Following in the footsteps of the natural scientists, the historians of the Enlightenment sought to lay bare the 'laws' that ruled the chain of causes and effects that was history to them. Their optimism about their own times and their admiration for a few other civilisations and epochs – the Athens of Perikles (495–429 BC), the Rome of Cicero (106–43 BC), the Italian Renaissance (AD 1450–1530), the France of Louis XIV (1643–1715) – meant that above all they wanted to understand the dynamics of an extolled civilisation in its entirety. They were in search of the spirit of an age, the essence of a civilisation, a leading idea or concept that permeated and determined all. In this way, one could discover what historical law or laws made a civilisation great. The concrete facts and details came a distant second. Or, as the great French Enlightenment philosopher François-Marie Arouet, better known as Voltaire (1694–1778), put it in the introduction to his *Le siècle de Louis XIV*:

> It is not just an account of the life of Louis XIV that we are seeking to write; our subject is greater than that. We shall be seeking to paint for posterity not the actions of a single man but the spirit of the people in the most enlightened century there has ever been.[2]

The first major works of cultural history by professional, academic historians date from the nineteenth and early twentieth century. Jakob Burckhardt (1818–97) made his reputation with *Die Kultur der Renaissance in Italien* (*The Civilisation of the Renaissance in Italy*, 1860), in which he interpreted the Italian Renaissance in terms of the rise of the individual. The Dutch historian Johan Huizinga (1872–1945) obtained lasting renown with his *Herfsttij der Middeleeuwen* (*The Waning of the Middle Ages*, 1919).

[2] 'Ce n'est pas seulement la vie de Louis XIV qu'on prétend écrire; on se propose un plus grand objet. On veut essayer de peindre à la postérité, non les actions d'un seul homme, mais l'esprit des hommes dans le siècle le plus éclairé qui fut jamais.' Voltaire, *Le siècle de Louis XIV*, Paris 1994, 1.

The first, mainly German, cultural historians were indebted to the philosophy of history of Georg Wilhelm Friedrich Hegel (1770–1831). According to Hegel, history was not the accidental outcome of a myriad chance events and individual decisions, but was propelled forward by an all-pervasive *Geist* (spirit). The history of a nation was nothing other than the maturation process of the nation's *Volksgeist*. Each age was determined by a *Zeitgeist*.

Cultural historians seek to lay bare the spirit of an epoch. They try to discover a pattern in the multiplicity of events and developments and look for an all-explanatory determinant. As Huizinga wrote, 'the object of cultural history is culture'.[3] At first sight, this statement of the obvious provides little comfort to those wishing to define cultural history, but it is nevertheless significant. As vague and all-embracing as the term 'culture' is, the term 'cultural history' is equally vague and all-embracing. Cultural history differs fundamentally from every other branch of historiography. Political history, economic history, the history of art, legal history and intellectual history: all these are concerned with one aspect of human activity. Cultural history is not: it covers all the aspects of human life and in that sense encompasses all other subdisciplines. Even so, cultural history does not coincide with general history. It is not the sum of all historical subdisciplines. It is a search for the essence, the spirit of an age and a culture that helps to explain this age and culture for all areas of human life. Cultural history is always general in nature and, to use a contemporary buzzword, multidisciplinary.[4] It does not content itself with analysis; it also synthesises and integrates.

The difference between cultural history and every other branch of the historical tree is a bit like the different ways in which one can look at an impressionist painting, such as the *Japanese Bridge* (*Bassin aux nymphéas*, 1899) by Claude Monet (1840–1926). The paint has been pressed on to the canvas in thick, multicoloured blobs. The forms have not been separated by lines; the colours merge into one another. Stand up close to the painting and all you see is blotches. If you want to see a pond with water lilies you need to take a step backwards and take in the whole. In this book, the law and its history are not regarded as independent variables but are placed in their cultural setting. We stand up to the painting and inspect

[3] Johan Huizinga, *De taak der cultuurgeschiedenis*, Groningen 1995, 82.

[4] 'Cultural history differs from political and economic history in the sense that it only deserves its name in so far as its remains concerned with deeper considerations and the general. The state and enterprise exist as a whole but also in their details. Culture exists only as a whole.' Huizinga, *De taak der cultuurgeschiedenis*, 83.

the blotches of law; but we often also stand back and look at the place of those blotches within the whole.

Yet, this book is not a true 'cultural history' of the civil law tradition. That would demand a far greater integration of law within its cultural context than is aspired to. But to some extent, legal history is related, if not integrated, to the main cultural and intellectual evolutions with which the law interacted.

This approach implies a mild criticism of one of the major pitfalls of university education and research in our time: the exaggerated drive for specialisation resulting in the fragmentation of knowledge into ever smaller and more autonomous areas. Recent decades have seen a phenomenal increase in the knowledge available. Academics have responded by entrenching themselves in a minuscule part of their field. They know more and more about less and less. The safety of detail is preferred to the risks of synthesis. Overspecialisation hinders communication between specialists from different fields and reduces scholars' added value for society. In relation to the study of law, exaggerated specialisation not only threatens the coherence of the law itself but widens the gap between law and society. Overspecialisation is a daily assault on the collective consciousness and the collective memory of the intellectual elites. It does its bit towards the fragmentation of culture and society.

3 *Periodisation in history*

7 Petrarch and the traditional periodisation of history

Historical periodisation is never neutral. Periodisation means that certain historical events or trends are put in the spotlight while others are relegated to the background. Everything that underlines the internal unity of an epoch is brought to the fore; everything that suggests otherwise is dusted under the carpet. An event marking the caesura between two epochs is given undue exposure and puts other events in the shade.

In modern European historiography, traditionally four major epochs are distinguished: Antiquity (up to AD 476), the Middle Ages (476–1453), the Early Modern Age (1453–1789) and the Modern Age (1789 to present). Often, the post-1945 years are considered a distinct epoch and are referred to under the term 'contemporary history'. In this book the Modern Age concludes with the First World War.

What might appear to be a fourfold or fivefold division of history in fact rests on the foundations of a threefold division going back as far as the early Renaissance or even the proto-humanist Petrarch (Francesco Petrarca, 1304–74). As the terminology indicates, the Early Modern Age and the

Modern Age are closely connected. They are the eras of the emergence of modernity and, as such, stand in a dialectic relationship with 'Antiquity'. Together they form the 'Modern Age' in a broad sense. The differences between the two periods, and the importance of the French Revolution of 1789 that divides them, is particularly stressed in France and the Low Countries. In other countries, such as Britain, the gap is less deep.

In essence, this traditional periodisation is a by-product of the self-image and worldview of Renaissance and modern Europe and the judgements they implied about Antiquity, the Middle Ages and the Modern Age. It is little more than what is known in the Anglo-American world as the 'Whig interpretation of history' on a European scale.

Already in the fourteenth century, Petrarch observed that, in his own age, the West was undergoing a cultural revival for the first time since the fall of the Western Roman Empire. In the works of the great poet Dante Alighieri (1265–1321) and the painter Giotto di Bondone (1266–1337), he glimpsed a new dawn for literature and the fine arts. It was Petrarch who first used the terms *antica* (old) and *nuova* (new) in this context. The intervening period between classical – Graeco-Roman – Antiquity and his own New Age was in his eyes a barbaric era to be labelled *medium aevum*, that is, the Middle Ages.

By the early eighteenth century, the threefold classification between Antiquity, the Middle Ages and the Modern Age had become established. During the nineteenth century, the opinion gained ground that the beginnings of modernity could be traced to the Italy of the late fifteenth and early sixteenth centuries. The rediscovery of classical Antiquity by the scholars and artists of that time set in motion a cultural movement dubbed the 'Renaissance' by historians Jakob Burckhardt (1818–97) and Jules Michelet (1798–1874). Petrarch was considered an early forerunner of the Renaissance and humanism. His thinking is sometimes referred to as the false dawn of humanism. With the name Renaissance (or rebirth), Burckhardt and Michelet wanted to indicate its key characteristic: the study of classical Antiquity as a model. The Italian Renaissance marked at one and the same time the rebirth of classical culture in the West and the birth of modern, Western civilisation. The Middle Ages – a period of a thousand years – were by and large portrayed in a negative light.

8 The Renaissance of the Twelfth Century

In 1927, the American historian Charles Homer Haskins (1870–1937) published his magnum opus: *The Renaissance of the Twelfth Century.*

According to Haskins, the crucial caesura in Western history was not the Renaissance of the fifteenth and sixteenth centuries but that of the twelfth century.

In his book, Haskins contended that the period between 1070 and 1225 was marked by a general revival of economic, political, legal, religious, intellectual and artistic life in western Europe. This revival too was a 'renaissance' in the sense that it rested on a distinctive rediscovery of Antiquity. Haskins – whose basic tenets were later adopted by many other historians – argued that modern Western culture could be traced back to the Renaissance of the Twelfth Century.

What is to a certain extent true for general history certainly applies to legal history. The beginning of European legal science – the backbone of the civil law tradition – coincides with the beginning of the Renaissance of the Twelfth Century. Moreover, the rediscovery of Roman law and the emergence of classical canon law from 1070 onwards provided an important foundation for this Renaissance of the Middle Ages.

9 An alternative periodisation

This book uses an alternative periodisation of history rather than the traditional one. The three-way breakdown into Antiquity, the Middle Ages and the Modern Age has been preserved, but the boundaries have been shifted. The major caesura marking the beginning of European or Western civilisation has been brought forward by some four to five centuries. Since it is now generally accepted that the revival of Europe stems from as far back as the late tenth (Germany and England) and eleventh centuries (France), the year 1000 has been taken as the starting point for the emerging of European civilisation. Strictly speaking, it would be more correct to talk of years, or rather decades, of transition – that is, stretches of no man's land between the ages – rather than to use specific years.

In this way, we arrive at a new three-way classification. First, there is the age of the ancient civilisations around the Mediterranean. We could speak of the age of Mediterranean civilisations. Of these civilisations, this book discusses only the Roman one. On account of the codification by the Eastern Roman Emperor Justinian, this age stretched into the sixth century. This is then followed by a period referred to here as the Early Middle Ages (sixth to tenth century). The period of European civilisation starts around the year 1000. Alternatively, we might refer to the Early Middle Ages as the 'Short Middle Ages' in the sense of a shortened period of transition between the Mediterranean and European civilisations.

The periodisation of history

The traditional periodisation		The periodisation in this book	
Antiquity	until AD 476	Age of the Mediterranean civilisations	until AD 565
Middle Ages	476–1453	Early Middle Ages	500-1000
Early Middle Ages	476–1070	Age of the European civilisations	1000–1914
High and Later Middle Ages	1070–1453	Late Middle Ages	1000–1453
Early Modern Age	1453–1789	Early Modern Age	1453–1648
Modern Age	1789–1945	Modern Age	1648–1914
Contemporary Era	1945 to present	Post-Modern Age	1914 to present

The period of European civilisation has been further subdivided into three ages: the age of scholasticism from 1000 to 1453 (the Late Middle Ages), the age of humanism from 1453 to 1648 (the Early Modern Age) and the age of rationalism from 1648 to 1914 (the Modern Age). This three-way classification is based on a cultural-historical logic. Each age is understood in terms of its central ideology, its views on God, man, nature and truth which dominated the intellectual and cultural life of that age – including legal thinking. This does not in any way imply that there were no counter-currents to these core beliefs. These counter-currents did, however, evolve in dialogue with the mainstream and could to a certain extent be explained by the latter. A prime example is provided by Romanticism as a reaction to the rationalism of the Enlightenment.

10 The end of modernity

The triumph of reason during the eighteenth and nineteenth centuries was at the same time the triumph of modern, European civilisation. These centuries were characterised by an unparalleled advance of science and technology. Thanks to their technological supremacy, the European powers conquered and colonised the greater part of the world. After 1914, the European model was increasingly contested from both within and without. The drama of the First World War (1914–18) dealt a heavy blow to Europe's power and self-perception. The twentieth century is in more than one sense an age of transition or, as Eric Hobsbawn put it, an *Age*