

# BOLOGNA, COLOGNE AND WITTENBERG –THREE MODELS FOR THE RENAISSANCE UNIVERSITY OF COPENHAGEN

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## RESUMEN

El Derecho ha sido enseñado en Copenhague desde la fundación de la Universidad de Copenhague en 1479, con variables grados de desarrollo. Durante mucho tiempo sólo existía una universidad danesa, y por lo tanto no había más que una facultad de la ley en Dinamarca. Las historias, tanto de la Universidad de Copenhague como la de su Facultad de Leyes están, en consecuencia, íntimamente ligada a la historia de Dinamarca. Así, la historia de la Universidad de Copenhague hasta el siglo pasado es básicamente la historia de la vida académica danesa.

Palabras clave: *Enseñanza del Derecho - Universidad de Copenhague - Facultad de Leyes - Dinamarca*

## ABSTRACT

Law has been taught in Copenhagen since the founding of the University of Copenhagen in 1479, with varying degrees of development. For a long time there was only one Danish University, and therefore there was only one law faculty in Denmark. The stories of both the University of Copenhagen as its Faculty of Law are in consequence intimately linked to the history of Denmark. Thus, the history of the University of Copenhagen until the last century is basically the story of Danish academic life.

Key words: *Teaching of the Law - University of Copenhague - Law School - Denmark*

## 1. BOLOGNA AND COLOGNE

The history of how a legal profession was made, and the changing methods of law teaching form an important part of legal history. Denmark for centuries had followed a European pattern of law teaching which took as its starting point Bolognas a model for legal studies. In the late 15<sup>th</sup> century however Cologne was a geographically closer model to be substituted in the 16<sup>th</sup> century by the Lutheran University of Wittenberg. Taking these three Universities as a model, law teaching was established in Copenhagen on different levels and with different aims before and after 1500. Only in the 18<sup>th</sup> century did law studies and a national legal science really start to develop and only then the conditions necessary for the rise of a legal profession was there. However law teaching in Denmark has quite some history and the following contribution to the honouring of a Latin American scholar of legal history aims at presenting the ideas on which ideas a law faculty was established in a Northern European kingdom in the early modern period.

Law has been taught in Copenhagen since the foundation of the University of Copenhagen in 1479. For a long time only one Danish University existed, and thus there was only one law faculty in Denmark. The history of the University of Copenhagen and also that of its law faculty is therefore intimately linked to the history of Denmark. Copenhagen 1479 was the capital of a country that included not only the Kingdom of Denmark but also Norway, Iceland, the Faroe Islands and Greenland. As the only real centre of learning in the monarchy the Copenhagen University has played a crucial role in Danish and also Norwegian history until a separate university was founded in Kristiania (today Oslo) in 1811. The Danish and Norwegian academic elites were educated here. Thus the history of the University of Copenhagen until the last century is basically the history of Danish academic life.

As a University the Copenhagen University has been linked to the European University tradition, however it also presents distinctive local features due to the specific task of a national university to supply the Danish government with ecclesiastical and civil servants. The Faculty of theology played especially for the centuries to follow the Lutheran Reformation in Denmark in 1536 a dominant role. Compared to the Faculty of theology the law faculty only at a rather late stage since the 18th century gained importance as the place for education of professional lawyers to occupy positions as judges and advocates and later also as civil servants in the Danish administration.

However the story of the law faculty reaches back to the oldest University of Copenhagen founded in 1479<sup>1</sup>. The foundation of a University in Copenhagen was made possible after the Danish King Christian I on the occasion of a visit to Rome in 1474 had obtained the permission from the pope Sixtus IV to establish a University in Copenhagen. A papal bull of 19 June 1475 authorised the establishment of a university in Denmark with the full range of faculties, and granted the right to confer international academic degrees such as *baccalaureus*, *licentiatus*, *magister* and *doctor*. Geographically the University was placed in Copenhagen, the biggest town and also the residential city of the king. Since its foundation the University has thus been linked closely to the secular power. In Sweden the oldest university founded in 1477 as the first Nordic university was placed in the smaller town of Uppsala, the ecclesiastical centre of Sweden with the residence of the Archbishop. In Denmark the University too was an ecclesiastical institution but placed in the capital it came to play a different role.

The statutes of this early Faculty of Law are together with the general statutes of the University are the only statutes from the earliest university preserved<sup>2</sup>. It was a full university from the outset, consisting of the three upper faculties (theology, law and medicine) as well as a lower arts faculty, where students learned humanities and natural sciences.

According to the statutes at the Faculty of Law (the *facultas utriusque juris*), of both of the universal legal systems canon law and Roman law were supposed to be taught. In the statutes, the purpose of legal studies is expressed in phrases which tell how knowledge of canon and civil law provided 'a knowledge of the right and the just, the most valuable knowledge of all', that they helped to 'keep selfish impulses within the boundaries of the law' and promoted justice and peace.

Even if in the papal bull the University of Bologna was mentioned as model for the new Danish university in fact it was the charter and the statutes of the law faculty in German Cologne that actually were used when it came to the redaction of the basic rules for the newly

<sup>1</sup> To the following: TAMM, Ditlev. *Juraen på Københavns Universitet 1479-2005*. Copenhagen: 2005; TAMM, Ditlev. *Retsvidenskaben i Danmark*. Copenhagen: 1992; NORVIN. *Københavns Universitet i Middelalderen*, 1929, p. 190-207 all with further ref.

<sup>2</sup> The statutes are edited by PINDBORG, J. *Universitas Studii Hafniensis*. Copenhagen: 1979, with Latin text and Ebglisg and Danish translation

founded university in Copenhagen. Bologna since the 12th century was visited by several Danish students<sup>3</sup>, especially ecclesiastics, however the university in Cologne was at that time counted among the best in Germany<sup>4</sup>, geographically it was closer to Copenhagen and since its foundation in 1388 also attracted Nordic students. Among those that had studied in Cologne was the Danish Archbishop since 1472 Jens Brostrup –inscribed in Cologne 1447, 1455 bachelor in law– who had a great impact on the establishment of the new university in Copenhagen. A significant number of the new university's teaching staff was also recruited from Cologne.

A comparison between the Cologne law faculty's statutes<sup>5</sup> and the Copenhagen statutes reveal a high degree of correspondence. In places the Copenhagen statute was more detailed than that for Cologne, e.g. the conferring of doctorates, reflecting a procedure also known from the university in Paris; but apart from this and a few other addenda and amendments, the statute for the Copenhagen Faculty of Law seems to have been as dependent on the Cologne faculty statute as general statute of the University of Copenhagen was on the general statutes from Cologne.

According to the Copenhagen statutes two parallel law faculties were envisaged, each of which would prepare students for degrees of *baccalaur*, *licentiatus* and, finally, *doctor*, in either canon law or Roman law. It required three-and-a-half years to obtain the *baccalaur* degree and another two-and-a-half for the degree of *licentiatus*. The doctorate was conferred after the successful conclusion of a ceremonial lecture. Under the statutes, those who had studied for or acquired one of the degrees in canon law or Roman law, were eligible for a reduction in study time for a degree in the other.

Lectures in canon law were supposed to be given on Gratian's Decretum from about 1140 and the later papal collections of decretals, especially Pope Gregor IX's *Liber Extra* from 1234. During the Middle Ages several Danish clerics had studied abroad. Canon law thus was well known in Denmark and in medieval Danish testaments we find mention of several manuscripts of canon law that have belonged to clerics. At the new University books were available and a donation to the new university was the foundation of a rich library. Parts of the collection were later destroyed by fire but it proved possible to rebuild the stock and it appears that the library constituted a significant collection, not only of canonical and Roman legal texts, but also of important works on Roman law with a good collection of the works of Bartolus and of canon law.

We have some knowledge of the activities of the old law faculty due to some anonymous annotations in the preserved copy of the statutes. It seems that the work of the faculty concentrated particularly on the study of canon law and less on Roman law. The individuals who received university degrees all seem to have received them in canon law, however, although one person is described as *baccalaureus utriusque iuris*. It is an open question whether the distinction between a canon law and a civil law department was as clear as the statutes suggest – this was not the case at several German universities where, as a rule, the student had to have some knowledge of Roman law to benefit from the teaching in canon law. The fact that the preface

<sup>3</sup> SÄLLSTRÖM, Åke. *Bologna och Norden indtill Avigninpåvedömets tid*. Lund: 1957. VII, 303s. (Bibliotheca Historica Lundensis 5).

<sup>4</sup> BURMEISTER, K-H. *Das Studium der Rechte im Zeitalter des Humanismus im deutschen Rechtsbereich*. Wiesbaden: 1974; BOHNE, G. Die juristische Fakultät der alten Kölner Universität in den beiden ersten Jahrhunderten ihres bestehens, *FS zur Erinnerung an die Gründung der alten Universität im Jahre 1388*. Köln: 1938, p. 109-236; BECKER, H-J. "Die Entwicklung der juristischen Fakultät in Köln bis zum Jahre 1600", in: KEIL, G. *Der Humanismus und die oberen Fakultäten*. Weinheim: 1987, p. 43-64.

<sup>5</sup> The statutes are published as Anhang VI, p. 50-59 in BIANCO, Franz Joseph. *Die alte Universität Köln und die spätern Gelehrten-Schulen dieser Stadt I*. Köln: 1856.

to the faculty's statutes includes relatively well-known quotes of Roman law from Justinian's Digests shows that Roman law was not unknown. Even though it has not been possible to implement the ambitious teaching programme prescribed in the statute, we may therefore imagine that Roman law was included in the teaching to a certain extent. The studies of canon law presupposed some knowledge of Roman law, while the opposite was not the case.

We do not know anything about the eventual number of students or whether it proved possible to implement the ambitious study programme laid out in the statutes. According to the statutes, the first teaching of the day was held from 6am until 7am, when the main lecture on the decretals (*Liber Extra*) was held. At 1pm, there was a lecture on Gratian's Decrete, followed by a lecture on more recent canon law. For Roman law, it was similarly prescribed that there would be a morning lecture about the most important parts of the Digests or Codex and an afternoon lecture on the textbook *Institutiones* and other parts of the Digests. All of this very much followed the usual European pattern of law teaching, and the same is true of the admonition to the teachers to concentrate on 'the paragraphs, which are most relevant and best serve a practical purpose.

Among the earliest members of the law teaching staff, the nobleman Erik Nielsen (1447/48 - about 1505), a member of the aristocratic Rosenkrantz family and a doctor in canon law from the university in Greifswald, is usually cited as the first *ordinarius* (professor with a chair). He had studied previously in Erfurt and Rostock and had a doctor's degree from Greifswald in canon law. He held the most prestigious early morning lecture, *de mane legens*, in canon law. He was also a member of the King's Council and, as the faculty's first Dean, seems to have held a significant position at the University. He was elected Rector of the University several times. Among the first teachers we also find a Tileman Schlecht who was recruited from Cologne when the University was founded, and was made a doctor of canon law at the University of Copenhagen in 1480, but it is not clear whether he was a particularly active teacher. In A.D. 1507 Antonius, a doctor of canon law, is mentioned as the *ordinarius*. The handwritten comments on the faculty statutes also mention a Ditlev Smyther, who had studied in Louvain and Bologna, who held a *repetitio* (repetition) under the Deputy Rector of the day, Peder Albertsen. Ditlev Smyther later moved on to the university in Louvain, where he obtained the *baccalaur* degree, and then to Bologna, where he became a doctor of canon law. He was admitted to the teaching staff at the University of Copenhagen as a doctor in 1512 and is mentioned as Rector of the University for the years 1513 and 1524.

In 1520 Amelungus Amelungi was Rector of the University. He was a doctor of canon law, as well as *Christiani Advocatus & Consiliarius* (Royal Advocate and Counsellor to Christian I). Vincents Lunge (born before 1483, died 1536), was appointed professor at the University in 1521 and was active for a short period. He had acquired doctorates in both canon law and Roman law during a period of studies abroad and seems to be one of those who actually have had the formation that qualified for providing the teaching in Roman law prescribed in the statute. In 1524, Johannes Cusanus of Trier held lectures on the rules of consanguinity and conjugality and on memory techniques, but whether he did any teaching at the University in addition to this series of lectures, is unknown. Most of the mentioned teachers were only part of the faculty staff for a short period. This is probably also true of a *magister* Ingemar, who had a degree as *baccalaur* from Rostock, and was asked to hold lectures but who according to the anonymous annotations was *ignarus... sed presumptuosus* (ignorant but presumptuous).

One of the founding fathers of the new university, Peder Albertsen (died 1517), was made a doctor of canon law and held repetitions in 1500 and 1516. In 1482, he bequeathed his book collection to the University, which contained several legal works including canonical sources, among others a work by the canonist Panormitanus and a commentary on Justinian's *Institutiones* by the Cologne academic Pyro.

We do not know much more about the academic life in Copenhagen in the late 15th century law faculty. Most degrees we know of were conferred to persons attached to the church. Three doctorates were conferred, on the previously mentioned Peder Albertsen and Tileman Schlecht as well as a Christiern Pedersen, who was a member of the Order of Saint John. The *licentiat* degree was also conferred three times, also on Albertsen and Schlecht, and to a *magister* Jacob, who was prior of the Benedictine monastery in Odense. The *baccalaur* degree was conferred six times, to a Canon Lars from the church of Vestervig, a *magister* Johannes from Nyborg, who was Dean of the Arts Faculty, to Johannes Mortensen from the Cistercian monastery at Sorø, as well as the three who later achieved higher degrees.

Medieval law teaching was universal, and nothing in the statutes of the faculty mentions Danish law or specific Danish features. However in the above mentioned annotations to the statutes we also find a short description of an academic *repetitio* held in by a certain magister Nikolaj Pedersen 1516 who was appointed to a chair at the university that year. The *repetitio* was chaired by Peder Albertsen. Someone who was present at the event made notes in the preserved copy of the Faculty Statute, and these show that the repetition followed a similar procedure to that used for the conferment of doctorates. The subject of this particular repetition was not Danish law but a papal decretal known as *C. ad nostram ad pb.* This designates the decretal in the chapter on evidence, *de probationibus*, which starts with the words *ad nostram*, in Gregor IX's *Liber Extra* from 1234 ( X 2, 19, 12). The subject had some relation to Danish law as the papal letter mentioned from 28 May 1218 actually is a letter from Pope Honorius II to the Archbishop of Lund, Anders Sunesen. The Pope stresses to the Archbishop that presenting negative evidence in clerical courts must not be permitted if positive evidence is available. He describes the Danish evidence system based on the admission of compurgators as a 'plague on all law' (*pestis contra omni jure*). It appears that Nikolaj Pedersen was even asked a question concerning the continued being in force of the old Danish law on the defendant's right to free himself with an oath of denial supported by compurgators.

Compared to law faculties at the major European universities the activities we know of at the Faculty of Law at the University of Copenhagen may seem modest. Although many of the teachers came from abroad still some of them were Danes and most of the students who received a degree were Danes. They were all in all few in number but sufficiently is known about the faculty to state that a knowledge of the *ius commune* was at hand. It was to be many years before the study of law could enjoy a significantly more favourable position at the University.

## 2. WITTENBERG

The Lutheran Reformation has played a decisive role in Danish social life and also for the University of Copenhagen. The activities of the old university were suspended in the 1530'es, and only after a civil war 1533-36 a victorious King Christian III who was a convinced Lutheran believer the university was re-founded as a Lutheran University. Denmark and Danish law to a certain extent became part of what has been called by the American historian Berman a "*Usus modernus protestantium*" – a new protestant way of looking at legal science<sup>6</sup>. The centre of the development of the reformed universities in Germany was since its foundation in 1502 the University of Wittenberg that was closely connected with Denmark. The Danish King had personal connections to the leading reformers Luther and Melanchton and it was a

<sup>6</sup> BERMAN, Harold J. *Law and Revolution, II, The Impact of the Protestant Reformations on the Western Legal Tradition*. Cam.: 2004

representative from Wittenberg, Johannes Bugenhagen, who in Copenhagen helped the King in his efforts to establish a new Lutheran order of the Church and a new University the purpose of which was basically the education of ministers to preach the gospel in the reformed Danish national church.

Thus connections between the University of Wittenberg and the University of Copenhagen were tight<sup>7</sup>. In the 16<sup>th</sup> century Wittenberg for the Nordic countries had an importance that can be compared with the position of Bologna as a centre of learning in the Middle Ages. However in Denmark basically it was not the study of law but the study of theology that attracted the students. The Danish King Christian III disapproved of lawyers and legal studies. Wittenberg lawyers could be consulted on legal questions with religious implications, but Danish student were supposed to prepare themselves in theology and not in law.

The importance of Wittenberg for Danish students was grasped by William Shakespeare who in the play of "Hamlet" had the prince of Denmark coming back from Wittenberg. The University of Wittenberg thus is one of the few smaller Universities that has got its place in world literature. After the funeral of his murdered father Hamlet wants to return to Wittenberg, but the new king, his uncle Claudius, wants to withhold him (I, 2):

"...for your intent  
In going back to Wittenberg,  
It is most retrograde to our desire".  
And the mother: "*I pray thee stay with us, go not to Wittenberg*".

Even if in the 1590'ies when Shakespeare wrote Hamlet the relation between Copenhagen and Wittenberg was considerably loosened, there is a historical truth in sending Hamlet as a Dane to Wittenberg. If he had been there in the first half of the 16<sup>th</sup> century he would most probably have studied theology and not law. In this last field he would have met the latest protestant trends of legal study. Wittenberg at that time was a place of new values. If Shakespeare had really been aware of that, it may add to our admiration for his skill and his way of using even the smallest details as food for our reflection of his time, but that is another story.

In 1539 a new charter for the Copenhagen University granted the Law Faculty a position as a minor faculty. The article 7 on the duties of the so called *iureconsultus* stressed that the law professor should take the Institutes of Justinian as the fundament of his teaching<sup>8</sup>. If he was prepared to do so he could additionally lecture on the thoughts of Plato, Cicero and the politics of Aristotle:

"A law professor shall lecture on the Imperial Institutiones. If he is sufficiently learned, or otherwise considers himself capable thereof, he may regularly include something in his lectures on the law from Plato, Cicero or the historians. Or, similarly, from Aristotle's Politics, etc., in order to attract young people to his lectures. He may at any time refer to other items that may be of use to his audience, but only very little from other aspects of civil law. Thus, it is Our hope that some of the students will become men whose counsel might benefit the State".

The starting point for the teaching of law was the textbook on Roman law, which served as the introduction to Emperor Justinian's *Corpus juris civilis*. The law professor did not

<sup>7</sup> To the following: TAMM, D. "Wittenberg und Kopenhagen", in: *Wittenberg. Ein Zentrum europäischer Rechtsgeschichte und Rechtskultur* s. 83-93. Köln: Heiner Lück, Heinrich de Woll (red.). Böhlau Verlag GmbH & Cie, 2006.

<sup>8</sup> The Latin text of the statute is found in NORVIN. *Københavns Universitet i Reformationenes og Orthodoxiens Tidsalder II*. Copenhagen: 1940, p. 25 f. Translation by the author.

necessarily have to restrict himself to the law. The purpose of the teaching was to train men whose 'counsel might benefit the State'. Roman law was not the law of the land. Therefore it was necessary to explain why the teaching of law was based on the Roman system<sup>9</sup>. The new Statute st. that the study of Roman law was useful when considering whether the laws of the land were in accordance with natural law. Roman law was perceived as a source of knowledge of natural law. Roman law provided the general legal principles that could serve as a measuring post for the validity of domestic laws. This did not necessarily mean that Roman law was always preferable, however, because it could actually differ from natural law in several ways. The supreme norm of natural law therefore was the 'word of the Lord', which expressed the 'golden rule', the *regula aurea* ( St. Matthew 7, 12).

Among the duties of the law professor was also to provide a lecture on the system of consanguinity and conjugality in marriage cases<sup>10</sup>. In Latin, this was referred to as the *arbor consanguinitatis et affinitatis pro coniugiis*, a plastic presentation of family relationship as a tree (*arbor*). The legal professor was also supposed to deal with marriage cases in more detail, and here it was stipulated that 'in these and other cases which touch on the conscience, such as usury, buying and selling, etc.' he was to seek the advice of the theologians. On the other hand, there was a strong warning not to 'mix the law and the Gospel, which it is common for some to do, against the authority ordained by God'. It was the duty of the theologians to make sure that the law lectures were designed in such a way that young people 'enjoy being present, and they ought to encourage them to be so'. The law professor did not teach law to future lawyers. His audience consisted of students of theology and art students who needed to know the basics of ethics and morals and of natural law and the elementary principles of the law of marriage which was useful in their future activities as ministers of the church. . The lecture on consanguinity (*arbor consanguinitatis et affinitatis*) was a relict of the former teaching of canon law which had ceased to be relevant in a Lutheran University. The same development can be observed in a whole series of German law faculties, where the Reformation led to a negative attitude to lectures on canon law, which even lost ground in Catholic German universities. Over time, lectures on canon law sometimes gained new content as the main emphasis shifted towards its procedural aspects.

About the law professor's other teaching duties it was stated that he shall 'organise defences of theses four times a year, i.e. at any time in the quarter, on subjects from the laws that may be useful for preachers, the State and the whole University and it was stressed, that he should not bother himself with paradoxes from utopian laws or erroneous or cunning laws,

<sup>9</sup> "...For, although in general we do not follow Roman laws and customs here in our countries, because we have our own, it is most right as the venerable Holy Roman Empire asserts that its laws stem from nature's law, and that it shall not be considered as seeming to contradict the laws of nature, that other countries' law is in accordance with the law of nature, even though it sometimes differs from Roman law. And this is in accordance with the highest truth, it is the word of Christ: 'Therefore all things whatsoever ye would that men should do to you, do ye even so to them: for this is the law and the prophets.' The mind also becomes sharpened through a knowledge of the laws of others, so that one is able comfortably to judge Our own laws and customö".

<sup>10</sup> "...This teacher shall from time to time draw a family tree of consanguinity and conjugality for marriage cases Similarly, in certain marriage cases, and in these and other cases which touch on the conscience, such as usury, buying and selling, etc., he must seek the advice of the theologians, who can also be of help to him in cases of that type. However, to mix together the laws with the Gospel, which it is common for some to do, against the authority ordained by God, against requisite oaths, etc., that is not permitted for him or anybody else. That is why the theologians shall make sure that this lecture is arranged such that the young people enjoy being present, and they ought to encourage them to be soö".

which are of no use to anyone'. And finally: 'Once a year, he shall himself hold a lecture, in which he recommends the study of the law or something else that benefits the whole University'.

There was a thus close relationship between the teaching of law and the teaching of theology. As there were very few or no students specializing in law the law teaching was aimed at other students. If the law had not previously been subjected to theologians, it was now. The 1539 Charter stressed the lawyer's duty to seek the advice of theologians in certain questions of conscience, such as usury, lending, buying and selling, where religion limited the extent to which man might exploit his fellow man. For a long time, there was a 'Christian interest rate' of 5%. The permissibility of interest was also an issue that vexed a king like Christian III greatly and on which he asked the Wittenberg theologians for advice. Marriage law necessarily interested the theologians, too. In penal law Mosaic law was supposed to set standards that should be followed by the state, e.g. the obligation to use death penalty in cases of homicide.

What is said in the University Charter's about the significance of Roman law for a national law like Danish law reflects the thinking of one of the famous Wittenberg professors in the early 16th century, the reformer Philip Melanchton also known as the *praeceptor Germaniae*. Since 1518 when he came to Wittenberg he had a profound influence on humanistic studies in Germany and also on new methods in the law. The core of his method was a topical approach using definitions, divisions, cause, and effects, and discussing and distinguishing the legal principles. The inclusion of Plato as well as Roman classical authors in the legal curriculum can be seen as an influence from the humanist vision of teaching stressed by Melanchton. For the study of law it was especially significant that Melanchton in a series of speeches increasingly stressed the importance of Roman law as a general model for the law also in other countries. According to the Copenhagen Statute The Holy Roman Empire maintained both that their law was deduced from Natural Law and that that, which did not respond with the Law of Nature, was not to be considered law at all. Hence the law of the other countries should be in accordance with the principles of Natural Law expressed in the Roman law. This same reason was given by Melanchton for the validity of the study of Roman law. He also warned against people who in their reformed zeal had taken the Holy Gospel as the law as does the statute of the University of Copenhagen that expressly forbids the mixing of the law with the Gospel against the legal authorities.

Originally Melanchton in his writing had distanced himself from Roman law<sup>11</sup>, but in a speech titled *de legibus* (about the laws), he stressed the importance of Roman law. The speech in a printed version was published in 1525. In *de legibus*, Melanchton presented a view of the relationship between law and state that was based on Saint Paul's perception of authority emanating from God which was in full accordance with Danish political thinking at the time. Melanchton opposed the extremist movements emerging among peasants, fanatics and other 'agitators' who wanted to live in accordance with the Bible without acknowledging the need for neither the State nor positive law. Melanchton stressed that the Gospel was compatible with the existence of secular law; later in his Commentary on the Ethics of Aristotle, he argued that the authority of God was the significant element. For Melanchton, it was: 'madness to hate the fatherland's customs and institutions. As nature has inculcated in all of us a holy love of the fatherland, those who obstruct the fatherland's laws seem to have forgotten themselves.

<sup>11</sup> See to the following esp. KISCH, Guido. *Melanchthons Rechts- und Soziallehre*. Berlin: 1967, and for his influence on the Copenhagen curriculum JØRGENSEN, Poul J. "Retsundervisningen og Retsvidenskaben ved Københavns Universitet 1537-1736", in *FS Indførelse af juridisk Eksamen ved Københavns Universitet*. Copenhagen: 1936, p. 19 s.

Melanchton later expanded on this subject in his Commentary on Aristotle's Ethics from 1530. A main concern for Melanchton was that Roman law's intrinsic merits justified its acceptance as law, as had happened in Germany in the years up to 1500. He was now aware that

“There are nations in Europe that do not judge according to Roman laws, but domestic ones. And yet, those who would lead the State study Roman law abroad, and when they –as I understand it– are asked why they place so much emphasis on knowing it when our laws are not valid in their lands, they usually reply that they extract the law's soul and spirit (*animam se spiritumque legum*) –for such is how they speak– in other words, to deduce the spirit and nature of fairness (*aequitatis vim ac naturam*) from it, so that they are better able to judge the laws of their fatherland (*ut de patriis legibus rectius judicent*)”.

This was in close agreement with the beliefs that formed the foundation for the Copenhagen Charter's assertion of the significance of Roman law as a basis for assessing Danish law, irrespective of the fact that Roman law was not directly applicable in Denmark.

In a later speech, *de dignitate legum*, in 1538, Melanchton even stated that it was permissible to use any law, Roman law and Mosaic law – as long as the law concerned complied with natural law.

The Copenhagen Faculty of Law in the first centuries after the Reformation existed entirely in the shadow of the Faculty of Theology, which, as a seat of learning in the new evangelical faith, assumed the leading role at the University for a long time to come. As has been seen the needs of the theologians to a high degree determined the content of the law teaching. In fact, there was not much use for professional lawyers during this period as was also reflected in the reluctance of the king to admit students in Wittenberg to studies of law. The King Christian III probably subscribed to the popular axiom of the time, '*Juristen, böse Christen*' (lawyers are bad Christians). When it came to the practice of law and justice, the King preferred to take the advice of theologians, not lawyers. Even on those occasions that he did listen to lawyers, he would consult the university in Wittenberg – the Rome of the Reformation. The chief task of the law as a subject was to teach prospective civil servants respect for the law and for God's authority on earth, whose orders required obedience. Through the preaching of the ministers, and their supervision of their local congregation's conduct, this idea found its way to the most remote parishes, where new legislation was pronounced from the pulpit. The local ministers thus in many ways fulfilled their duties as representatives of royal power.

The Faculty of Law however was part of a proper university and had the power to confer academic degrees. More importantly, however, its teaching supplemented the training that took place in the theology and arts faculties. We know that, in Wittenberg, Melanchton included Roman law in his teaching at the arts faculty. The textbook *Institutiones* was particularly well-suited as a basis for teaching law to non-law students.

The University Charter of 1539 mentions as three different ways of teaching in law, lectures (*lectiones*), disputations (*disputationes*) or repetitions as they are known to at other universities. The lectures had as their subject the *Institutiones* and possibly other works. Disputations were held every quarter. It was the teacher's decision whether to hold repetitions during lecture time. It is reasonable to assume that the methods of teaching were inspired by the same humanist ideas that were found in Wittenberg. The law teaching in Copenhagen however certainly did not have a level of ambition that would have made it possible, without supplementary studies abroad, to gain an actual law degree. The Faculty was not sufficiently staffed to make it possible to train professional lawyers. As far as legal training was concerned, the demands that the University of Copenhagen was able to meet in its first centuries therefore cannot be considered as particularly high. This situation remained the same until

the 18th century. When advice was needed on conflicts that could arise when Danish law was assessed in relation to the law of God, it was the theologians whose counsel was sought. There were periods when there was no law professor at the Copenhagen University to consult, but in time, the legal teaching chair was permanently occupied, but it was not until 1732 that a new University Charter stated that there should be two professors of law. From that time and especially after the introduction in 1736 of a specific law exam the Faculty of Law started to prosper. The understanding of the reduced importance of law as taught in the University until a late time is significant for the understanding of how Danish law for a long period was handled by laymen and not by educated lawyers. Only after the faculty had its own exam a law profession was built that gradually took over the practical handling of Justice and thus created a need for teaching practical legal subjects different from the ideals of 1539. At that time Lutheran Wittenberg had long ago ceased to be the model which was now found in those illuminated universities where the Northern European version of natural law was taught.