Glossary of Commonly Used Latin Terms

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**ab urbe condita**  ‘From the foundation of the city’. Used by the Romans to indicate the number of years since the traditional founding date of Rome in 753 BC.

**acceptilatio**  The extinction of an obligation by the creditor voluntarily waiving performance.

**accessio**  Often translated as ‘accession’.

**actio** (plural *actiones*)  In litigation, the procedural form by which a remedy is sought. A range of *actiones* were available, for different remedies.

**actio in factum**  An *actio* granted by the *praetor* in circumstances in which none is provided for by the *ius civile*, but in which it is thought that a remedy should be permitted. The term *actio utilis* is also used in this context.

**actio utilis**  See *actio in factum*.

**actiones adiecticiae qualitatis**  These were a range of *actiones* by which a *paterfamilias* or slave-owner could be held liable for the actions of the *filiusfamilias* or slave.

**adoptio**  Along with *adrogatio*, one of two forms of adoption recognised in Roman law. This form was used for the adoption of *alieni iuris* persons.

**adrogatio**  Along with *adoptio*, one of two forms of adoption recognised in Roman law. This form was used for the adoption of *sui iuris* persons.

**adsertor libertatis**  In a *manumissio vindicata*, this was the party in the collusive litigation who asserted the slave’s freedom.

**affectio maritalis**  The intention to be and to remain married.
album iudicum
An official list of men available for selection to act as iudex.

alieni iuris
‘Of another’s right’. A person subject to the potestas of a paterfamilias. Compare sui iuris.

alluvio
‘Alluvion’. The gradual process of a riverbank being built up or washed away by the action of the river. Compare avulsio.

apud iudicem
In the legis actiones and formulary systems of litigation procedure, the second stage of proceedings, before the index.

arra (or arrha)
In a contract of sale, an earnest given by the buyer, for example money given as a deposit.

avulsio
‘Avulsion’. The process by which part of a riverbank is torn away by the force of the water and deposited elsewhere. Compare alluvio.

bona fides
‘Good faith’. A person who is in good faith is said to be bona fide.

bonae fidei
‘Of good faith’. A category of contracts, the formulae for whose enforcement allowed the judge to take into account matters touching on the parties’ good or bad faith. Unlike stricti iuris contracts, the validity of bonae fidei contracts depended on the parties’ genuine agreement.

bonorum venditio
‘Sale of property’. A procedure by which a debtor’s property could be seized and sold to pay the creditors.

capitis deminutio
Loss of status, consisting in the loss of one or more of the three elements of a citizen’s rights: family membership, Roman citizenship and liberty (in the sense of not being a slave).

cautio
An undertaking to act in a particular way.

cognitio (extraordinaria)
A form of litigation procedure that developed during the Empire, in which the whole trial was conducted under the authority of the magistrate, dispensing with the earlier division between in iure and apud iudicem stages of the trial.

commercium
The right, held predominantly by Roman citizens, to enter into transactions governed by the ius civile.

commixtio
The mixing together of two or more things in circumstances in which they can be separated.
commodatum
A loan for use. Compare mutuum.

condictio
Under the legis actiones, a form of procedure that asserted the existence of a debt without stating the legal basis for that debt. The name came to be associated with a range of factual situations falling into the modern category known as unjustified enrichment.

conductor
One of the parties to a contract of locatio conductio. In a hire of property, this is the lessor; in a hire of services, it is the employee; in a hire of a piece of work, it is the employer.

confusio
(1) The mixing together of two or more things in circumstances in which they cannot be separated. (2) The extinction of an obligation where the same person has become both creditor and debtor.

constitutio
An imperial pronouncement.

constitutum possessorium
A form of traditio, in which the transferor retains physical custody, but agrees to hold henceforth for the transferee on some new basis.

consul
In the Republican constitution, the consulship was the most senior magistracy. The years were named after the two consuls elected for each year, this system of dating being in more common use than the ab urbe condita system of dating years from the foundation of Rome. Where a consul died in office or was removed, a consul suffectus (suffect consul) would be elected to serve out the term. The position of suffect consul was less prestigious, and the year would not take his name.

conubium
The right to enter into a marriage regulated by the ius civile.

Corpus Iuris Civilis

cretio
Formal acceptance of an inheritance.

cum manu
Literally ‘with the hand’. A form of marriage in which the wife enters into the potestas of her husband or of his paterfamilias. Compare marriage sine manu.

damnum fatale
An Act of God, a loss that could not have reasonably been anticipated or guarded against.
**damnum infectum**
Anticipated loss.

**de facto**
‘In fact’. Indicating that a particular factual state of affairs is in existence, regardless of the legal position.

**decretum** (plural *decreta*)
In the Empire, a decision issued by the emperor on a specific case.

**depositum**
The contract of deposit.

**dolus**
Fraud or deceit.

**donatio**
A gift, which could be either *inter vivos* or *mortis causa*.

**edictum** (plural *edicta*)
A proclamation by a magistrate or the emperor.

**emptio venditio**
The contract of sale.

**exceptio**
A defence in litigation.

**fideicommissum**
An arrangement, contained in a will, whereby something is ‘entrusted to the faith’ of someone for the benefit of another person.

**fiducia**
A form of security involving an outright transfer of ownership by the debtor to the creditor, with an undertaking by the creditor to transfer the property back when the debt was repaid.

**filiusfamilias** (feminine *filiafamilias*)
‘Son [or daughter] of the family’. A person subject to the *potestas* of a *paterfamilias*.

**formula** (plural *formulae*)
In the formulary system of procedure, this was a formal statement of the legal issues in a case. It was formulated by the parties during the *in iure* stage of proceedings, before the *praetor*.

**furtum**
Theft.

**hypotheica**
A form of security in which the creditor obtained neither ownership nor possession of the property.

**imperium**
The scope of the authority of a senior magistrate or the emperor to issue commands.

**in iure**
In the *legis actiones* and formulary systems of litigation procedure, the first stage of proceedings, before the *praetor*.

**in iure cessio**
A method of transfer used for property falling into the category of *res mancipi* or the creation of urban servitudes, involving the parties appearing before a magistrate.

**in ius vocatio**
A formal summons to litigation.

**infamia**
Legal disgrace.

**iniuria**
In general terms, this term indicates simply something wrongful. It also has a more specific
meaning in the context of the delictual actio
iniuriarum, for wrongful conduct against the
person, reputation or dignity of another.

*inter vivos*

‘Among the living’. An *inter vivos* transaction is
one between living persons. Compare *mortis
causa*.

*interdictum* (plural *interdicta*)

Interdict, an administrative order given by
a magistrate in the course of legal proceedings.
Several *interdicta* were concerned with the
interim regulation of possession of
property.

*invecta et illata*

Goods brought onto land and intended to
remain there.

*iudex*

The person appointed to act as judge in a case,
not necessarily or even usually a lawyer.

*ius civile*

‘Civil law’. Particularly used to denote that part
of the law that was specific to Roman citizens.
Compare *ius gentium*.

*ius commune*

‘Common law’. A common legal tradition that
developed in Europe in the Middle Ages and
beyond, based in part on Roman law.

*ius gentium*

‘Law of nations’. Particularly used to denote
that part of the law that applied to Roman
citizens and non-citizens alike.

*ius honorarium*

A body of law developed by magistrates to
supplement and modify the application of the
*ius civile*.

*ius naturale*

‘Natural law’. Typically used in Roman texts as
a synonym for *ius gentium*. The distinction
between the two is unclear.

*ius respondendi*

‘The right of giving legal opinions’. This was
a right, of uncertain scope, that developed in
the early Empire and was in the gift of the
emperor.

*iusta causa*

‘Just cause’. The legal basis for a transaction.

*iustum pretium*

The fair price for property.

*laesio enormis*

‘Great loss’. Suffered where land is sold for less
than half the *iustum pretium*.

*legatum*

Legacy.

*legis actio* (plural *legis actiones*)

The earliest form of procedure used for
litigation. Like the formulary procedure that
replaced it, it involved a division into two
stages: *in iure*, before the *praetor*; and *apud
iudicem*, before the *iudex*.
**lex (plural leges)**  
An enactment of a citizen assembly, sometimes also used for imperial legislation. The standard approach to naming a *lex* was to attach to it the name of the person who proposed it (in the feminine form, as *lex* is grammatically feminine), and sometimes also the subject matter. Examples include the *lex Aquilia*, proposed by a magistrate called Aquilius; and the *lex Iulia de adulteriis coercendis*, which was concerned with the punishment of adultery.

**liber (plural liberī)**  
Literally ‘child’. In the context of succession, it had the broader meaning of anyone falling into the category of the *sui heredes* of the deceased.

**litis contestatio**  
In litigation, the end of the *in iure* stage of proceedings, at which the legal issues to be resolved have been formulated. At this point, the action was said to be ‘consumed’, and it would not be possible to bring a further case on the same facts.

**locatio conductio**  
The contract of hire.

**locator**  
One of the parties to a contract of *locatio conductio*. In a hire of property, this is the lessee; in a hire of services, it is the employer; in a hire of a piece of work, it is the employee.

**mala fides**  
‘Bad faith’. A person who is in bad faith is said to be *mala fide*.

**mancipatio**  
A method of transfer used for property falling into the category of *res mancipi*, involving the carrying out of a formal procedure before witnesses.

**mandatum**  
(1) An instruction issued by the emperor to an official on the discharge of the latter’s duties.  
(2) The contract of mandate.

**manumissio**  
The process of freeing a slave. In the classical law, this was mainly done in a will or by *manumissio vindicta*, which took the form of a collusive litigation before a magistrate.

**metus**  
Literally ‘fear’. In a legal context this refers to the use of fear to coerce another person.

**missio in possessionem**  
An order of the *praetor*, authorising the seizure of another person’s property.
mortis causa  ‘By reason of death’. A mortis causa transaction is one taking effect on the death of one of the parties. The major example of this is a will.

mutuum  A contract of loan for consumption. Compare commodatum.

negotiorum gestio  The intervention by one person in another’s affairs, without the latter’s agreement.

novatio  The renewal of an existing obligation by entering into a new contract.

occupatio  The acquisition of ownership of an ownerless thing by taking possession of it.

pactum  An agreement falling outwith the recognised categories of contract.

pater est quem nuptiae demonstrant  ‘The father is the one whom the marriage demonstrates’. The legal presumption that the husband of a child’s mother is the father of that child.

paterfamilias  In a family, the oldest surviving male ascendant in the male line, exercising patria potestas over all direct descendants in the male line.

patria potestas  The power exercised by a paterfamilias, in principle giving complete power over the persons of those subject to it and over any property acquired by them. Those subject to this power are said to be alieni iuris. Those not subject to it are said to be sui iuris.

peculium  A fund of money or property that could be held by a slave or filiusfamilias, and treated as belonging to that person, notwithstanding that the slave or filiusfamilias had no proprietary capacity.

pignoris capio  A procedure whereby a creditor could be permitted to seize property belonging to the debtor, and hold it until performance by the debtor.

pignus  Pledge, a security by which the creditor is given possession until the debtor performs the obligation.

plebiscitum (plural plebiscita)  Legislation of the plebeian assembly, the concilium plebis.

pontifex maximus  In pre-Christian Roman religion, the head of the most important of the colleges of priests.

potestas  See patria potestas.
praetor

In the Republican constitution, the praetor was the magistrate responsible for the administration of justice. During the Republic, the role was divided into two, with the praetor urbanus (urban praetor) being responsible for disputes between citizens and the praetor peregrinus (peregrine praetor) being responsible for disputes involving foreigners. Later, other praetorships were created.

precarium

A licence to use property, revocable at will.

princeps

A term adopted in the early Empire (called the Principate for this reason) as a title for the emperor.

procurator

A term used in various contexts for a person acting on another’s behalf, for example in litigation.

rei vindicatio

See vindicatio.

res mancipi

A category of property, including slaves, Italic land and certain animals, requiring one of the formal methods of transfer, mancipatio and in iure cessio.

res nec mancipi

All property not falling into the category res mancipi.

rescriptum (plural rescripta)

An answer to a question or petition from an official or private citizen.

restitutio in integrum

An order setting aside the effect of a transaction and restoring the previous position.

senatus consultum (plural senatus consulta)

A resolution of the Senate.

sine manu

Literally ‘without the hand’. A form of marriage in which the wife does not enter into the potestas of her husband or of his paterfamilias. Instead, she remains sui iuris or else subject to the potestas of her own paterfamilias. Compare marriage cum manu.

societas

The contract of partnership.

specificatio

The making of a new thing using materials belonging to another. An example would be using another person’s grapes to make wine.

stipulatio

A form of contract formed by question and answer in prescribed form.

stricti iuris

‘Of strict law’. A category of contracts whose validity depended on strict compliance with formalities. Compare bonae fidei.
stuprum: Unlawful sexual activity.
sui heredes: Literally ‘heirs to themselves’. Those becoming *sui iuris* on the death of the *paterfamilias*.
sui iuris: Literally ‘of their own right’. Those not subject to the *potestas* of a *paterfamilias*.
testamenti factio: The legal power to make a will under Roman law.
testamentum: A will.
traditio: Delivery, transfer of possession.
tutela: Guardianship.
tutor: A person appointed as guardian to a child or other person seen as being in need of legal protection.
usuapio: The process of acquiring ownership of property through possession for a period of time.
vadimonium: A promise to appear for the purposes of legal proceedings.
vi, clam aut precario: ‘By force, stealth or licence’. On the last, see *precarium*.
vindicatio: Recovery of property on the basis of ownership. This is sometimes called *rei vindicatio* (‘vindication of a thing’).