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HISTORY OF ANCIENT LEGAL SYSTEMS

**FOR THE BENEFIT OF 1ST YEAR LAW STUDENTS
COMMON CORE**

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TABLE OF CONTENTS

Introduction:.....	6
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Chapter 1: The Legal System in Ancient Egypt

1.1. Historical overview of ancient Egypt.....	11
1.1.1 Predynastic period.....	13
1.1.2. Thinite period	14
1.1.3.Old Kingdom	14
1.1.4. First Intermediate Period	15
1.1.5. Middle Kingdom.....	16
1.1.6. Second Intermediate Period	16
1.1.7. New Empire	16
1.1.8. Third Intermediate Period	17
1.1.9. Late Period.....	17
1.1.10.Ptolemaic Dynasty	18
1.1.11. Roman period	19
1.2.Ancient Egyptian Law	20
1.2.1. Structure of the legal system	23
1.2.1.1. Administration of justice	24
1.2.1.2. Judicial system.....	24
1.2.2. Justice in Ancient Egypt	25
1.2.2.1. Judicial authorities.....	25
1.2.2.2. Torture	26
1.2.2.3. Crime and Punishment	27
1.2.2.4. Decline of the system	29
1.2.3. Women's Rights in Ancient Egypt.....	30
1.2.3.1. Protected by law	31
1.2.3.2. Women of power.....	31
1.2.3.3. Queens of diplomacy	31
1.2.3.4. Pharaoh	32
1.2.3.5. Intangible social rights.....	33
1.2.3.6. A major political role	33
Glossary and Terms of Ancient Egypt	34

Chapter 2: The Legal System of Mesopotamia

2.1. Historical overview of Mesopotamia	38
2.1.1. The Pre-Pottery Neolithic	39
2.1.2. The Ceramic Neolithic	40
2.1.3. The Copper Age.....	40
2.1.4. Early Bronze Age	41
2.1.5. Middle Bronze Age.....	41
2.1.6. Late Bronze Age	42
2.1.7. Classical Antiquity	42
2.2. The structure and law of Mesopotamian society	43
2.2.1. Justice and law.....	43
2.2.2. Armies and diplomacy	44
2.2.3. Origins and general features	44
2.2.4. Women's conditions	44
2.2.5. The Cradle of Civilization	45
2.2.6. The emergence of the city	46
2.2.7. Education and Religion.....	46
2.2.8. Jobs	47
2.2.9. Construction and Government	47
2.3. Legal rules in Mesopotamia	48
2.3.1. Pecuniary penalties and blood punishments.....	48
2.3.2. Victims put in irons for fear	50
2.4. The contribution of Mesopotamia in the legal field	50
2.4.1. Babylon.....	51
2.4.2. Legacy.....	51
2.5. The Code of Hammurabi.....	52
2.5.1. The Principles of the Code of Hammurabi	52
2.5.1.1. A royal code	52
2.5.1.2. Law of Retaliation	53
2.5.2. The contents of the Code of Hammurabi	54
2.5.2.1. Aspects of criminal law	54
2.5.2.2. Family law aspects.....	54
2.5.2.3. Commercial law aspects.....	55

Glossary and Terms of Ancient Mesopotamia	57
---	----

Chapter 3: The Legal System of Ancient Greece

3.1. Historical overview of ancient Greece	61
3.1.1. Bronze Age	62
3.1.2. Dark Ages	62
3.1.3. Archaic period	62
3.1.4. Classical period	63
3.2. The Foundations of Law in Ancient Greece	64
3.2.1. The Influence of Philosophers on the Legal System	65
3.2.2. The Plurality of Legal Systems of Greek Cities	65
3.2.2.1. Athens	66
3.2.2.2. Sparta	66
3.2.2.3. Corinth	66
3.2.2.4. Ephesus	66
3.2.3. The political organization of a democratic city	66
3.3. Evolution of Greek Law	68
3.3.1. The Draconian laws	68
3.3.2. Solon's reforms	69
3.4. Structure of ancient Greece legal system	70
3.4.1. The Judicial Organization	70
3.4.1.1. The courts	70
3.4.1.2. Other criminal jurisdictions	73
3.5. Punishment	75
3.5.1. Estimation of penalties	75
3.5.2. Conditions of application	75
3.5.3. The affirmation of individual responsibility	76
3.5.4. The application of the death penalty	76
3.5.5. Prison sentences	76
3.6. The political power in Ancient Greece	77
3.6.1. The power of Greek aristocratic families	77
3.6.2. Marital Laws	77
3. 7. Judicial Institutions	78
3. 7.1. The judicial Assembly	78

3. 7.1.1. Designation of members.....	78
3. 7.1.2. The obligations of the heliasts	79
3. 7.1.3. Salary and conditions of heliasts.....	79
3. 7.2.Areopagus	79
3. 7.3. Magistrates.....	79
3. 7.4.Arbitrators	80
3.8. The Trial Procedure.....	80
3.8.1. The Role of the Parties.....	80
3.8.2. The Water Clock	80
3.8.3. The Vote	80
3.8.4.The accusation of illegality	81
3.8.5. Procedural law	81
Glossary and Terms of Ancient Greece.....	82

Chapter 4: Ancient Roman Law

4.1. Overview of the history Roman civilization.....	87
4.1.1. Royal Rome.....	88
4.1.2. Foundation of the City	89
4.1.3. Beginnings of the Monarchy.....	90
4.1.4. Emergence of the Senate and the Assemblies	90
4.1.5. Late Monarchy	91
4.1.6. Emergence of the plebeian class.....	91
4.1.7. Reorganization of the army	92
4.1.8.The Roman Republic	92
4.1.9. External Wars.....	93
4.1.10. Struggle between the patricians and the plebeians	94
4.1.11. Conquest of Italy	95
4.2. Political institutions.....	98
4.3. The Roman Empire.....	99
4.3.1. From Augustus to the end of the Severan dynasty.....	99
4.3.2. Imperial power and cult	101
4.3.3. Imperial administration.....	103
4.3.4. Military organization	104
4.3.5.High Empire Society	104

4.3.6. Economic prosperity	105
4.4. Conquest of the new territories	106
4.4.1. Conquest of the Western Mediterranean	107
4.4.2. Domination over the Eastern Mediterranean	107
4.4.3. Crises of the Republic	108
4.4.3.1. Civil wars and the end of the Republic	108
4.4.3.2. Crisis of the Roman Empire	110
4.4.3.3. Imperial instability	111
4.4.3.4. Transformations	111
4.4.3.5. Emperors of the Late Roman Empire	112
4.4.3.6. Instruments of power	113
4.4.3.7. Military organization	113
4.5. Roman law: emergence and impact	114
4.5.1. Emergence of Roman law	115
4.5.2. The gradual separation of law and religion	115
4.5.3. The Law of the Twelve Tables	116
4.5.4. Development of legal system	118
4.5.5. The development of the law gentium	118
4.5.6. The development of various legal texts	118
4.5.7. Classical Roman Law	119
4.5.8. Post-classical law	120
4.5.9. Roman legal foundations	120
4.5.10. Public law	120
4.5.11. Private law	121
4.5.12. Roman dispute solution	121
4.6. Legacy of Roman law	123
4.6.1. Roman law in the East	123
4.6.2. Roman law in the West	124
4.6.3. Roman law today	126
Glossary and Terms of Ancient Rome	127
CONCLUSION:	129
BIBLIOGRAPHY	134

INTRODUCTION:

The history of law is the science that deals with the law of the past and the evolution of various legal systems. In addition to the history of the evolution of culture through changes in society and the evolution of ideas leading to law, its subject is the sources of law, the organization of its institutions, doctrines and dogmas, and the legal sciences themselves with their unifying theories.

However, the history of law would only achieve its true scientific status in the 19th century when it was declared that the law of the past was inscribed within historical phenomena and, as soon as the historical-critical method was adopted to recognize it. For both historians and jurists, law constituted a form of manifestation of culture.

Historical science acquired letters of nobility in the second half of the 19th century. It even sought to assimilate legal science, converting it into the historical science of law. As we know, the German Historical School recognized in law the living product of each nation's culture, which emerged silently in the common consciousness of the people and flourished in what was called the popular spirit. Belief suggests that, in the rebellious flow of history, only that which can be born is born and only that which must be saved is saved.

It must be recognized that the history of law contains elements for understanding the historical essence of law, whose normative intention is historically realized. The main reason for the existence of legal history comes from its formative power, which continues to be reinvigorated by the phases of upheaval in the legal world. A dynamic that is currently being revived by the prospect of moving towards a uniform community law that also demands an explanation that presents it as the result of a historical evolution, or, even more captivatingly, that integrates it into a historically understandable reading of a second age of common law.

The sources of the historian of law and institutions are also works of commentary and doctrine. He can then study competing legal schools (e.g., natural law, reformers of criminal law in the 18th century) and their philosophical sources, but also and above all, their evolution. It should be noted that the history of law and institutions developed in parallel with the history of ideas, the philosophy of law and the sociology of law¹.

¹ Lorton, D , "Legal and Social Institutions of Pharaonic Egypt" in Sasson, JM (ed) Civilizations of the Ancient Near East ,New York,: 2000, p 345

The most objective approach to the history of law consists of studying its explicit forms. This mainly involves establishing and studying the texts expressing legal norms: codes, customs, collections of laws. These texts can cover very diverse material realities depending on the period considered: laws have not always had the abstract organization and general formulation that they have today. Legal texts are sometimes collections of oral traditions (custom of Beauvais). In addition,

Legal history is the discipline that seeks to trace the birth and development of legal institutions and rules. It seeks to explore the different sources of law and structures of public and private law, their conditions of emergence, their evolution, and the hierarchies that can be woven between them. In addition to this attention to the processes of creation, this auxiliary science, both of law and history, aims to describe the practical functioning of institutions and the methods of interpretation, implementation, and circulation of legal rules, focusing in particular on their actors, whether they are political personnel, academic doctrine, courts, or practitioners such as lawyers and notaries.

Attention will be drawn to the formation and evolution of rules, institutions, and legal systems. A common heritage exists that should be evoked to better understand the law throughout history, the role of various actors in the creation of legal norms, and the sources of law that reveal them. Making the connection between past and present is essential to better understand the roots, issues, and solutions adopted by legal scholars, in the broadest sense.

Understanding the formation and expression of law, as well as the meaning, scope, and evolution of legal rules over a long period and in diverse spaces, is useful to the contemporary jurist. Law is not limited to rules alone. Shedding light on law through history allows for a better understanding within societies, particularly in Europe, of the place and role of legal and judicial actors, the diversity of standards, and their evolution in relation to their context.

A historical introduction to law should allow us to discover how varied and evolving the sources of law are, but also how legal actors participate in and influence the formation of legal rules across centuries and spaces. The creative forces of law are not limited to the legislature alone. Legal pluralism has marked the formation of French law, as has the affirmation of legal centrism since the 19th and the importance 19th century of codification. Legal pluralism and legal rules have thus influenced the conception of the sources of law and their contours.

Problematic:

The work in legal history is a research work par excellence, which must radically move away from speculation and even personal reflection to limit itself to reconstructing past facts, by explaining them as objectively as possible, although, in terms of teaching legal history, the challenge is to instil in students an ability to think about law and not an ability to practice law. In legal history, one can put forward hypotheses; the function of the legal historian is to undertake research at the end of which he can confirm or refute these hypotheses. It is not necessarily regrettable to note that "history is no more than a method." And what motivates the researcher is that it is possible to make discoveries in the just-historical field as in the historical field in general.

The research question is: what are the contributions of ancient legal systems to the development of law?

At the forefront of international research in comparative law, this vast fresco is nonetheless an accessible and lively general introduction to law, its history and its multiple social and political roles. However defined, is profoundly determined by its history and that of the societies in which it is intended to be applied. History therefore illuminates Law as Law illuminates History.

The objective of this research is to offer legal students a general approach to the main historical data that lead to the current state of the Law, as well as to draw their attention to the fact that the Law always and everywhere remains deeply linked to the human communities within which it is born, develops, evolves and transforms; finally, it emphasizes that the Law cannot be reduced to a pure technique or mechanism that could be studied independently of its object and out of its context.

In this educational publication intended for students in the first year of the common core, we will cover four chapters dealing with ancient legal systems in ancient Egypt, Mesopotamia, ancient Greece and ancient Rome.

Chapter 1:

The Legal System in Ancient Egypt

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Ancient Egypt was an ancient civilization of eastern North Africa and the western Middle East, concentrated along the lower Nile River in what is now Egypt. Its historical borders were shared with Canaan and Arabia to the east, Libya to the west, and Nubia to the south.

Ancient Egyptian civilization began around 3150 BC with the political unification of Upper Egypt in the south and Lower Egypt in the north under the first king and developed over more than three millennia. Its history is punctuated by a series of politically stable periods, interspersed with several more troubled intermediate periods. Ancient Egypt reached its peak during the New Kingdom and then entered a period of slow decline¹.

It was around the beginning of the Neolithic period that tribes began to gather in the fertile Nile Valley, resulting in the formation of two politically distinct kingdoms, but closely linked by a common culture: Upper Egypt in the south and Lower Egypt in the north. Tradition attributes to the southern kingdom led by Narmer the unification of the country and the establishment of the first pharaonic institutions.

The legal system in ancient Egypt was hierarchical, centered on the pharaoh, who was the divine representative of justice and law. Judicial power was decentralized, with judges appointed by the pharaoh or vizier, and local courts. Justice was based on the principle of Ma'at, balance and harmony, and not on punishment, but on the restoration of order.

Law in ancient Egypt was based on the concept of Ma'at, embodying cosmic order, justice, and equity. The Pharaoh, holder of divine power, was the guarantor of this balance. Although the state was a theocracy, the Egyptians developed a highly structured civil law, protecting property and guaranteeing women full legal capacity.

The legal system in ancient Egypt is inseparable from the concept of Ma'at (order, balance, and cosmic justice). Emanating from the Pharaoh, this justice

¹ Shupak, N ,1992, "A new source for the study of judiciary and law of ancient Egypt: The tale of the eloquent peasant" Journal of Near Eastern Studies ,2008, p18

rested on a highly structured administration (headed by the vizier) and relied on written laws, oral customs, and numerous papyri. Here is a clear, structured, and ready-to-use introduction: Introduction to the Legal System of Pharaonic Egypt 1. The Ideal of Ma'at, Foundation of Law In ancient Egypt, law was not merely a set of human rules; it was the expression of Ma'at, the goddess of order, truth, and universal justice. The Pharaoh's sacred mission was to establish Ma'at's rule on Earth to counter Isfet, who represented chaos and injustice. The application of the law thus guaranteed both social peace and cosmic harmony¹.

To ensure the impartiality of judgments, all participants had to swear an oath before the gods. The system was remarkably developed, comparable in complexity to that of ancient Greece. If you wish to explore this topic further, I can help you: Explore the organization of the courts (local vs. supreme court); Detail the specific role of the vizier in the justice system; Analyse examples of famous laws or trials.

This chapter explores the rules and principles of life in Pharaonic Egypt, considered the original breeding ground of African law. At the same time, it highlights the profound influence that ancient Egyptian law had on the legal systems that dominate the world today. By examining the law of the brilliant Egyptian civilization in terms of its intellectual approach to the problems of city organization, jurists...

1.1. Historical overview of ancient Egypt

The country suffered repeated assaults from foreign powers in this late period and the reign of the pharaohs officially ended in 30 BC, when the Roman Empire conquered Egypt to make it a province

The success of ancient Egyptian civilization stemmed in part from its ability to adapt to the conditions of the Nile Valley. The predictable flooding of the river and the control of irrigation in the valley produced surplus crops that fueled the social and cultural development of the country. This agricultural surplus provided the administration with the means to finance mining in the valley and neighboring desert regions².

¹ Aidan Dodson, *Ancient Egypt: Pyramids and Hieroglyphs: Enduring Symbols of a Great Civilization*. London: New Holland, 2006,p39

² Harris JR (ed) ,*The Legacy of Egypt* ,Oxford, 1987,p123

Egyptian society is highly stratified, and the social status of each individual is explicitly displayed. Farmers constitute the vast majority of the population, although they do not own their produce or land. Agricultural produce is held directly by the state, a temple, or a noble family that owns the land. Farmers are also subject to a labour tax and are required to work on irrigation or construction projects through a system.

The many achievements of the ancient Egyptians include mining, surveying, and construction techniques that facilitated the building of monumental pyramids, temples, and obelisks. They are also credited with the development of mathematics, medicine, irrigation, and agricultural production, the construction of the first known ships, Egyptian faience, and new forms of literature¹.

From the gathering of primitive tribes that created the first pharaonic kingdom to its absorption in the 1st century BC, ancient Egypt witnessed major events that undoubtedly influenced the culture and imagination of the peoples that followed. Its art and architecture were widely copied, and its antiquities are scattered throughout the world.

The three thousand years of ancient Egyptian history seem to contain as many changes as constants. Prosperous periods regularly alternate with periods of varying degrees of instability. Over time, however, the life of the pharaonic state appears to become more chaotic. The five centuries of prosperity of the New Kingdom were followed by seven centuries of turmoil.

Yet the most remarkable feature of ancient Egypt is its prodigious continuity. For beyond territorial changes and political upheavals, this civilization endured for more than three millennia, a unique achievement in history. From their establishment at the beginning of recorded history until their banishment with the triumph of Christianity, the great principles of Egyptian culture were maintained and preserved. During this period, the way of life along the Nile River changed very little, always governed by flooding, taxes, and the gods².

According to the Greek historian Herodotus, "Egypt is a gift from the Nile." He rightly observed that the river is inseparable from ancient Egyptian identity,

¹ Redford, DB (ed) ,2001, Oxford Encyclopaedia of Ancient Egypt vol 2 ,Oxford, 2001,p342

² Béatrix Midant-Reynes, The Prehistory of Egypt from the First Egyptians to the First Pharaohs. Oxford,UK; Malden, MA: Blackwell Publishers, 2000,p134

for without it, Egypt would not exist. It was therefore only natural that the inhabitants of the Land would make it an important god in their pantheon. This was all the more important because this god could be capricious: a bad flood and harvests were lost, leading to famine. Before the construction of the Aswan High Dam, peasants always lived in fear of this.

At the top of the hierarchy, directing everything and coordinating services, there was a single authority: the Pharaoh. The king drew his power directly from the gods. He was both their descendant and their first servant, so his authority could not be questioned. For the fate of the person who exercises the royal function is intimately linked to that of Egypt itself. Every weakening of central power is potentially a source of crisis, whereas every time a strong man occupies the throne, peace in the kingdom is assured. This could explain the ease with which the Egyptians accepted foreign kings, provided they respected ancestral traditions¹.

The system proved its strength over time. Centuries have finally revealed its limitations and weaknesses. Its slow evolution and inability to adapt to a changing environment have led it to be supplanted and dominated by its neighbors.

1.1.1 Predynastic period

In the Predynastic period, the Egyptian climate was much less arid than it is today. Large areas of Egypt were covered in wooded savannah, crossed by herds of ungulates. The flora and fauna were much more prolific, and the Nile region was home to large populations of waterfowl. Hunting was a common activity for the Egyptians, and it was also during this period that many animals were first domesticated².

In southern Egypt, the culture began to expand along the Nile River from about the fourth millennium BCE. As early as the predynastic Egyptians imported obsidian from Ethiopia to fashion blades and other objects from flakes. Over a period of about 1,000 years, the culture grew from a few small farming communities into a powerful civilization whose rulers had complete control over the population and resources of the Nile Valley. The centre of power was first

¹ Westbrook, R , "Introduction: The Character of Ancient Near Eastern Law" in Westbrook, R (ed) (2003) A History of Ancient Near Eastern Law vol 1, Leiden, p92

² Pollard, E (ed) , The Oxford Large Print Dictionary 2nd ed , Oxford, 1995, p151

established at Hierakonpolis, and later at Abydos, thus extending its control from Egypt northward. They established extensive trade with Nubia to the south, the oases of the Western Desert to the west, and the cultures of the eastern Mediterranean to the east.

1.1.2. Thinite period

According to the writings of the Egyptian priest Manetho, dating from the 3rd century BCE, the line of pharaohs in ancient Egypt is divided into thirty successive dynasties, beginning with the King Menes supposed to have unified the two kingdoms of Upper and Lower Egypt around 3200 BCE in a battle in which he emerged victorious. In reality, the transition to a unified state was probably more gradual than ancient Egyptian writers would have us believe, even though no records survive from the time of Menes. Nevertheless, some scholars now believe that the mythical Menes may actually have been the Pharaoh¹.

At the beginning of the Thinite period, around 3150 BCE, the first dynastic pharaohs from the south consolidated their control over Lower Egypt by establishing their capital at Memphis, from which they could control the labour and agriculture of the fertile delta region, as well as the strategic and lucrative trade routes to the Levant.

The growing wealth and power of the pharaohs during the Thinite period is reflected the presence of funerary cult structures at Abydos that served to celebrate the deified pharaoh after his death. The strong institution of kingship developed by the pharaohs served to legitimize state control over land, labour, and resources that were essential to the survival and growth of ancient Egyptian civilization

1.1.3. Old Kingdom

Significant advances in architecture, art, and technology were made during the Old Kingdom thanks to gains in agricultural productivity managed by a well-developed central administration .

With the rise of the central administration, a new class of educated scribes and officials emerged, to whom the pharaoh granted property as payment for their

¹ Jasnow, R , "Egypt: Middle Kingdom and Second Intermediate Period" in Westbrook, R (ed) 2003,p 231

services. Pharaohs also granted land for their mortuary cult and temples to ensure that these institutions had sufficient resources to maintain the pharaoh's cult after his death.

By the end of the Old Kingdom, five centuries of these feudal practices had slowly eroded the economic power of the pharaoh, who could no longer afford to support a large centralized administration. As the pharaoh's power waned, regional governors, called monarchs, began to challenge the pharaoh's supremacy. This situation, combined with severe droughts between 2200 and 2150 BCE, eventually caused the country to enter a 140-year period dominated by famine and unrest, known as the First Intermediate Period

1.1.4. First Intermediate Period

After the collapse of Egypt's central administration at the end of the Old Kingdom, the administration could no longer support or stabilize the country's economy. In times of crisis, regional governors could not count on the king's assistance, and the resulting food shortages turned into famines, and political disputes escalated into small civil wars. Yet despite the difficulties, local rulers who owed no tribute to the pharaoh used their newfound independence to establish a thriving culture in the provinces. As the provinces controlled their own resources, the provinces grew richer, as evidenced by larger and better burials across all social classes. In a burst of creativity, provincial artisans adopted and adapted cultural motifs once reserved for Old Kingdom royalty. At the same time, scribes developed literary styles expressing the optimism and originality of the times¹.

Freed from their loyalty to the pharaoh, local rulers began to compete for control of territory and power. By 2160 BCE, the rulers of Herakleopolitan controlled Lower Egypt, while a rival clan based in Thebes, the Antef family, took control of Upper Egypt. As the Antefs' power grew, their control extended further and further north, until a clash between the two rival dynasties became inevitable. Around 2055 BCE, Theban forces under Nebhepetre Mentuhotep II finally defeated the Herakleopolitan rulers, reuniting the two kingdoms and ushering in a period of economic and cultural renaissance known as the Middle Kingdom

¹ Pestman, PW , "L'origine et l'extension d'un manuel de droit égyptien" Journal of the Economic and Social History of the Orient , 1983, p26

1.1.5. Middle Kingdom

The Middle Kingdom rulers restored prosperity and stability to the country, stimulating a resurgence of art, literature, and monumental building projects. In addition, the army conquered Nubia, a region rich in gold quarries and mines, while workers built a defensive structure in the eastern delta, called the "Prince's Walls," to defend against foreign attack.

The last great ruler of the Middle Kingdom, the king allowed Asian settlers to settle in the Nile Delta region to provide sufficient labour for his particularly ambitious campaigns. His mining and construction campaigns, combined with the flooding of the Nile later in his reign, put a severe strain on the economy and plunged the country into a slow decline during the Second Intermediate Period. During this decline, corresponding to the 13th and 14th Dynasties, Asian settlers gradually took control of the delta region and eventually ascended the throne of Egypt, under the name of Hyksos¹.

1.1.6. Second Intermediate Period

Around 1650 BCE, as the power of the Middle Kingdom pharaohs weakened, Asian immigrants living in the eastern delta city took control of the region and forced the central government to withdraw to Thebes, where the pharaoh was treated as a vassal who owed tribute. The Hyksos imitated the Egyptian model of government and referred to themselves as pharaohs, thus incorporating Egyptian elements into their mid-Bronze Age culture².

1.1.7. New Empire

The pharaohs of the New Kingdom established a period of unprecedented prosperity by securing their borders and strengthening diplomatic ties with their neighbors. Military campaigns under Thutmose I and his grandson, Thutmose III, extended the pharaohs' influence into Syria and Nubia. They also strengthened loyalties and opened access to essential imports such as bronze and wood. The pharaohs of the New Kingdom began a large-scale campaign to promote the god Amun, whose cult was based at Karnak.

¹ David, R, Religion and Magic in Ancient Egypt ,London, ,2002,p95

² Helck, W & Otto, E, Lexicon der Ägyptologie vol 3 Wiesbaden, 1980,p46

They also built monuments to their own achievements, both real and imagined. Pharaoh Hatshepsut used this type of propaganda to legitimize her claim to the throne. Her reign was marked by the success of her trading expeditions to Punt, an elegant mortuary temple, a pair of colossal obelisks, and a chapel at Karnak. However, despite her accomplishments, Hatshepsut's nephew and son-in-law, Thutmose III, sought to erase her legacy towards the end of his reign, perhaps as retribution for usurping her throne.

Around 1279 BCE, Ramesses II ascended the throne and went on to build more temples, erect new statues and obelisks, and father more children than any other pharaoh in history. A bold military leader, Ramesses II led his army against the Hittites at the Battle of Kadesh and, after the fighting reached a stalemate, finally agreed to the first recorded peace treaty around 1258 BCE. Egypt's wealth, however, made it a prime target for invasion, particularly by the Libyans and the Sea Peoples. Initially, the army successfully repelled these invasions, but Egypt eventually lost control of Syria and Palestine.

1.1.8. Third Intermediate Period

After the death of Ramesses XI in 1078 BCE, Smendes took control of the northern part of Egypt, from the city of Tanis. The south was controlled by the high priests of Amun at Thebes, who recognized Smendes only in name. Meanwhile, the Libyans settled in the western Delta, where their leaders increasingly asserted their autonomy.

Egypt's prestige declined considerably at the end of the Third Intermediate Period. Its foreign allies fell under Assyria's sphere of influence, and from 700 BCE onward, war between the two states became inevitable. Between 671 and 667 BCE, the Assyrians began hostilities against Egypt. The reigns of Taharqa and his successor, Tanutamun, were marked by constant conflict with the Assyrians, against whom the Nubian rule¹.

1.1.9. Late Period

With no plans for permanent conquest, the Assyrians relinquished control of Egypt to a series of vassals. As early as 653 BCE, King Psamtik I drove out the Assyrians with the help of Greek mercenaries recruited to form Egypt's first naval

¹ Jasnow, R , "Egypt: Old Kingdom and First Intermediate Period" Westbrook, 2003,p342

army. Greek influence grew considerably as the city of Naucratis became the Greek centre in the Delta.

The Saite kings based in the new capital of Sais experienced a brief but vibrant economic and cultural resurgence, but in 525 BCE, the powerful Persians, led by Cambyses II, began their conquest of Egypt and ultimately captured Pharaoh Psamtik III at the Battle of Pelusium. Cambyses II then took the official title of Pharaoh, but ruled from his hometown of Susa, leaving Egypt under the control of a satrapy. Although some revolts against the Persians were successful in the 5th century, Egypt was unable to drive out the Persians permanently¹.

1.1.10.Ptolemaic Dynasty

Alexander's death in 323 BCE plunged his empire into a succession crisis. He had no heirs old enough to rule. The kingdom was then divided during the Babylonian Accord. General Ptolemy managed to unite the entire Egyptian satrapy under his tutelage. The succession crisis would extend until 306 BCE and the advent of the Diadochi and the extinction of Alexander the Great's dynasty, the Argead dynasty. In 306/305 BCE, the remaining generals, having managed to maintain their authority over a portion of Alexander's empire, would then have themselves proclaimed basileus.

To ensure the loyalty of the people, the Ptolemies supported traditions, thus ensuring that Egyptian traditions were not supplanted by Greek culture. However, this support must be qualified. The Ptolemies continued to cultivate their Greek origins. The Pharaoh thus faded into the background in favour of the Basileus; the kingdom's elite was Greek. The Greeks nevertheless reused Egypt's highly hierarchical system, relying on an ancient administration that had already proven its effectiveness.

The new power also built new Egyptian-style temples, with the support of traditional cults. Some traditions merged, such as the syncretism of the divine pantheon halfway between Greek and Egyptian deities, or traditional Egyptian motifs were influenced by Greek sculpture.

However, the development of Egyptian temples was above all a clever policy of the Lagids. Under the ancient dynasties, the temples formed a strong counter-

¹ Van Blerk, NJ , "The manifestation of justice in ancient Egyptian law, with specific reference to the tale of the eloquent peasant" Journal of Semitic Studies 2010,p584

power to the pharaoh. The Lagids then put an end to the independence of the temples, thus avoiding opposition from the latter¹.

This revival of donations then satisfied the Egyptian population, and the temples, ensuring the loyalty of this counter-power during the Wars of the Diadochi. In 260 BCE, Ptolemy II definitively imposed royal domination over the temples by reorganizing the Egyptian clergy. The various clergies were unified and placed under the responsibility of a leader, the high priest at Memphis. Ptolemy II then regulated the donation system, taxes were collected directly by the State and paid to the temples, making them dependent on Ptolemaic power².

As Rome relied more heavily on grain imports from Egypt, the Romans became increasingly interested in the political situation in the country. Continuing Egyptian revolts, the growing ambition of politicians, and powerful Seleucid opponents made the situation unstable, leading Rome to send forces to secure the country as a province of its empire

1.1.11. Roman period

Egypt became a province of the Roman Empire in 30 BCE, after the defeat of Mark Antony and Cleopatra VII by Octavian at the Battle of Actium. The Romans were heavily dependent on grain shipments from Egypt, and the Roman legion, under the control of a prefect appointed by the Emperor, suppressed revolts, strictly enforced the collection of heavy taxes, and prevented bandit attacks that were becoming increasingly widespread. Alexandria became an increasingly important centre on the trade route to the East, as Rome's demand for oriental exoticism increased.

Although the Romans had a more hostile attitude towards the Egyptians than the Greeks, some traditions such as mummification and the worship of traditional gods continued. The art of mummy portraiture flourished, and some of the Roman emperors had themselves portrayed as pharaohs, though to a lesser extent. The local administration adopted the style of the Roman administration and remained closed to the native Egyptians

¹ Versteeg, R , Law in Ancient Egypt, Durham, 2002, p342

² Wilkinson, T , Writings from Ancient Egypt , London, 2016, p231

1.2.Ancient Egyptian Law

The Egyptians, at the end of the 4th millennium BC, had already distinguished between, on the one hand, a general justice based on a cosmic order guaranteed by the king and morality, and on the other hand, a particular, individual justice, based on the judge, particularly for the equitable distribution of property. Maat, supposes to render justice fairly, by distributing the burdens and goods among the governed and by taking into account their needs.

The pharaonic regime, which lived for three millennia, only knew such longevity thanks to its philosophy of Maat, by ensuring that the law was respected and justice was rendered. The king was a great organizer only on the condition that he acted in accordance with the principle of Maat which surpassed him. It designates the good balance of the whole and ensures good relations between individuals and the gods, as well as the reproduction of life and the cosmos¹.

In this sense, it opposes the chaos and death to the extent that the principle of continuity is fundamental: Maat presupposes a certain transcendence of death: on Egyptian tombs, we find inscriptions indicating whether the individual lived according to Maat.

From this perspective, there was no sentence, strictly speaking, involving guilt or fault. What mattered was that at the end of the judgment, of the balance of the situation, the integration of what had disintegrated could take place: an integration which, in most areas, took the form of arbitration rather than a sentence. As soon as the sentence decides, it contributes to the disintegration; instead of deciding, it is better that it connects, that it reconstitutes the lost solidarity, and restores the values of mutual listening that it implies.

The laws were multiple and all could be assimilated to regulations, whose sources were derived from sacred geometry: thus designated the rope used to measure the exact location of a tomb to be built. These regulations, largely derived from jurisprudence, did not, however, contain their legal authority in themselves. It was necessary that they be subsumed by the legitimate authority of the sovereign who embodied Maat.

¹ Goebis, K, "Kingship" in Wilkinson T (ed) The Egyptian World, London, p 275

Every regulation or convention was therefore true and participated in the justice of the cosmos. We can, however, distinguish, as the Egyptologist Jan Assmann⁴ does, two periods which have a different relationship to Maat.

In the first period, which corresponds to the Old Kingdom, Maat is guaranteed by the Pharaoh who embodies it: subjects must therefore obey Maat to the same extent that they must obey the authority of the latter. Survival after death is then only temporary because only the Pharaoh is immortal. In a second period, however, during the Second Kingdom, a broad socio-political crisis led to the questioning of the identification between Maat and the Pharaoh. Maat becomes a principle that directly addresses individuals who can now invoke Maat against the authorities¹.

This new configuration will induce the conception of an individual inner self, as well as a different relationship to immortality insofar as, from now on, everyone is called to obtain immortality depending on whether or not they respected Maat in the past life.

Ancient Egyptian culture flourished through its connection to tradition, and its legal system also followed this paradigm. In Egypt, fundamental laws and legal prohibitions existed as early as the Predynastic Period (c. 6000–c. 3150 BC) and continued to develop until Egypt was annexed by Rome in 30 BC. Egyptian law was based on the central cultural value of ma'at, which had been instituted by the gods at the beginning of time.

To be at peace with oneself, one's community, and the gods, one simply had to lead a life according to the principles of consideration, mindfulness, and balance, in accordance with ma'at.

The law in ancient Egypt worked much like it does in any country today: there was an agreed-upon set of rules formulated by men considered experts in the field, a judicial system that assessed evidence of violations of those rules, and police officers who enforced those rules and brought transgressors to justice.

Do we know that Egyptian law itself had a fundamental influence on the development of Roman law via Greek philosophers? The Egyptians, at the end of the 4th millennium BC, had already distinguished between, on the one hand, a

¹ Allam, S "Law" in Wilkinson T (ed) The Egyptian World London, 2007,p 274

general justice based on a cosmic order guaranteed by the king and morality, and, on the other hand, a particular, individual justice, based on the judge, particularly for the equitable distribution of property. At the top of the Egyptian judicial hierarchy was the Pharaoh, representative of the gods and their divine justice, and just below him was his vizier¹.

In Egypt, it gradually became a doctrine that was imposed on Pharaoh first and, from him, radiated to all his subjects. The principle of a judgment of Pharaoh at the moment of his death proves this requirement. Coming from the gods, Pharaoh is a god. The force of power is therefore perfect and limitless. Since Pharaoh is a god, he must act as such. The divine sovereignty of the king is therefore conceived as a function, also divine.

3For this reason, under the Old Kingdom, Pharaoh is judged by the god Ra. He has the right to eternal life if he has been just in his royal acts, that is to say if he has made the justice of Ra reign on earth, which is justice for all, since Ra, the cosmic god, enlightens all men. Justice, which is distributive, is therefore directly linked to the royal function.

The Egyptians' thirst for the absolute has already imposed an expansion of this judgment on the first subjects of the Kingdom, royal family and ministers, who obtain ever more numerous, by being buried next to the Pharaoh, this passage towards eternal life where they will reconstitute a court around their king.

Even as the disintegration of political power brought about the end of the Old Kingdom, leading to chaos and desolation during the first intermediate period, the cult of Osiris expanded to the point of being practiced by the entire population by the beginning of the Middle Kingdom. The concept of a judgment on justice, which he also knew, remained. However, the notion of justice broadened. Justice no longer stemmed from the proper application of political power alone, but from the morality with which every human being performed each of his actions.

Egypt is undoubtedly the country that has most glorified royalty, confused with divinity, and magnified the subjects of the kingdom, called to the same blissful eternity as their king. This civilization therefore offers the prospect of a study of the notion of the subject in its highest form, a qualitative notion of the subject. Of

¹ Lesko, LH , Pharaoh's Workers: The Villagers of Deir el-Medina ,Ithaca, New York, 1994,p65

course, such peaks can only be reached during periods of apogee, periods that bring together the elements necessary for community awareness and conducive to the spread of good¹.

1.2.1. Structure of the legal system

Although the specifics of their legal code are unknown, the principles derived from it are clear. Compared to other ancient civilizations, Egyptian law has provided little evidence of its institutions. It was, however, clearly governed by religious principles: the law was believed to have been transmitted to humans by the gods at the time of creation, and the gods were held responsible for establishing and perpetuating the law.

At the top of the judicial hierarchy was the king, as the representative of the gods and their divine justice, and just below him was the vizier. The Egyptian vizier had many responsibilities, one of which was the administration of justice. The vizier heard legal cases himself, but he also appointed lower magistrates and sometimes assisted local courts if circumstances required it.

The judicial system first took shape at the regional level, in individual districts where it was presided over by the governor and his steward. During the Old Kingdom, these regional courts were firmly consolidated under the authority of the king's vizier, but, as David notes, some kind of judicial system already existed before that:

Inscriptions in tombs, on stelae, and on papyri, which provide the earliest legal transactions, can be dated to the Old Kingdom. They indicate that the legal system was already well developed by that date and suggest that there had been a long period of experimentation beforehand. Egyptian law, along with Sumerian law, is the oldest surviving legal system in the world. Its complexity and state of development are comparable to those of ancient Greek and medieval law.

The earliest form of regional law was probably quite simple, but it became more bureaucratic during the Old Kingdom. However, judges at this time were often priests who consulted with their god to reach a verdict rather than examining evidence and listening to testimony. It was only during the Middle Kingdom that

¹ Allen, JP ,Middle Egyptian: An Introduction to the Language and Cultures of the Hieroglyphs Cambridge, ,2004,p53

professional judges were appointed to preside over courts and the judicial system operated according to a more rational and recognizable paradigm. It was also during this period that the first professional police force was created to enforce the law, take suspects into custody, and testify in court¹.

1.2.1.1. Administration of justice

In general, ancient Egyptians appear to have been law-abiding citizens for most of history, but there were still disputes over land and water rights and disagreements over livestock ownership or rights to certain jobs or hereditary titles. Every day, Egyptians lined up to submit their testimonies or petitions to the judges. The decisions made in these cases were based on traditional legal practices, although there must have been written codes available for study.

1.2.1.2. Judicial system

At the top of the Egyptian judicial system was officially the pharaoh, who was responsible for enacting laws, administering justice, and maintaining public order, a concept the ancient Egyptians referred to as Ma'at. Although no legal code has survived, court documents from the period show that Egyptian law was based on a common sense of right and wrong, relying primarily on conflict resolution and agreement-making rather than a complex set of laws².

Councils of elders, known as Kenbet in the New Kingdom, were responsible for adjudicating local court cases involving small claims and minor disputes.[68] The most serious cases involving murder, large real estate transactions, and tomb robbery were referred to the Great Kenbet, presided over by the vizier or pharaoh. Plaintiffs and defendants represented themselves and took an oath to tell the whole truth. In some cases, the state assumed the role of both prosecutor and judge. It was not uncommon for the accused to be beaten to obtain a confession and the names of the conspirators.

Depending on the severity of the offense, sentences for minor crimes ranged from a simple fine to facial mutilation, beatings, or exile. The most dangerous criminals, such as murderers or grave robbers, were sentenced to death, either by beheading, drowning, or impalement. In very serious cases, the penalty could even

¹ Manning, J ,2003, "Egypt: Demotic Law" in Westbrook, R (ed) A History of Ancient Near Eastern Law vol 2, Leiden, 2000, p819

² Gahlin, , "Private Religion" in Wilkinson T (ed) The Egyptian World , London, 2007, p339

be extended to the criminal's family.[68] From the New Kingdom onward, oracles played a major role in the legal system, administering justice in both civil and criminal cases¹.

1.2.2. Justice in Ancient Egypt

In ancient Egypt, major trials against those who endangered state security were placed under the jurisdiction of the Pharaoh, who delegated to his vizier, the chief magistrate, and his assessors, the responsibility of administering justice in the name of the Pharaoh.

But when it comes to minor offenses that do not seriously threaten civil peace, justice is administered by local magistrates, such as "quarrel officers"¹, or representatives of the community where the offense was committed. These courts generally resolve problems without recourse to state officials. The books of wisdom say: "Do not pay undue attention to the one who has fine clothes and do not despise the one who is covered in rags. Do not accept gifts from the powerful and do not persecute the weak for your own gain.

In reality, the poor are more disadvantaged, even if their eloquence sometimes gives them a chance to assert their rights. Corruption is another element; bribes are commonplace, especially from the end of the New Kingdom: greasing the palm is sometimes a sufficient means to gain favour. This is why artisan communities do not wish, unless a major crime is beyond their competence, to call on state officials, who are too corrupt in their eyes.

1.2.2.1. Judicial authorities

The legal system in ancient Egypt centered on the pharaoh, considered a divine being and the source of all justice. The judicial system was structured and involved the justice of "Ma'at," which represented order, truth, and justice. The courts were run by judges appointed by the pharaoh, chosen for their wisdom and integrity. Punishments varied depending on the severity of the offenses, ranging from corporal punishment to the death penalty, imposed by the pharaoh.

The judicial system included a wide range of punishments that could be inflicted on criminals. Applied only in the most serious cases, capital punishment, by impalement, cremation, beheading, or forced suicide, was pronounced solely

¹ Teeter, E , Religion and Ritual in Ancient Egypt ,Cambridge, 2011,p43

by the pharaoh. Damnatio memoriae was also pronounced by the pharaoh, most often against predecessors.

In less serious cases, cumulative punishments could include the requisition of the condemned person's labor or property, deprivation of their name or funerary rights, imprisonment, banishment, or corporal punishment, usually 100 blows with a stick or the mutilation of the nose or ears¹.

1.2.2.2. Torture

Torture undoubtedly existed in ancient Egypt, applied on three levels. First, the recalcitrant suspect was beaten with a club. Then, if he refused to confirm his involvement in the affair, he was flogged with a special rod. Finally, the wrists and ankles were twisted, a step that generally loosened the tongues of the less talkative defendants.

Torture is poorly documented in contemporary court documents; in fact, it is only explicitly mentioned in connection with the famous trial of the tomb robbers and royal temple robbers of the Theban necropolis at the end of the Ramesside period. Thus, for more than three thousand years, Egyptian writings have reminded mortals of the maxims that will make them wise. Pharaoh must therefore pursue troublemakers, whether foreign or Egyptian.

One particular case of torture, however, seems to have escaped this general prohibition: that of punishments inflicted during accountability. These scenes, which are found from the Old to the New Kingdom, all evoke an atmosphere of violence and underline the harshness with which the guards treated the presumed guilty.

In two mastabas from the 6th Dynasty, there are representations of figures tied to posts and preparing to be beaten. In both cases, the post serving as a pillory is surmounted by two heads clearly representing an Asian and an African. The symbolism is clear: just like foreign enemies, Egyptians who broke the law became emissaries of chaos, and must therefore be fought.

Ultimately, the vizier was the supreme judge, but most legal matters were handled by lower magistrates. Most cases involved property disputes after the

¹ Bedell, ED , Criminal Law in the Egyptian Ramesside Period (unpublished PhD dissertation, University of Michigan, ,2004,p234

death of a family's patriarch or matriarch. Wills did not exist in ancient Egypt, but a person could draw up a transfer document clearly stating who was to receive what portion of their property or valuables. However, then as now, these documents were often contested by family members who challenged them in court¹.

There were also cases of domestic violence, divorce, and infidelity. Women could file for divorce just as easily as men and could also initiate legal proceedings regarding land sales and business deals. Infidelity cases were brought to court by both sexes, and the penalties for perpetrators were severe.

Other civilizations may have recognized a system of law. And for good reason: every secret society has its own rules of law. Ancient Egypt practiced a form of conflict resolution. Justice was seen as a means to restore calm, with chaos being an anomaly that must be eradicated.

1.2.2.3. Crime and Punishment

Infidelity was only considered a serious offense if the people involved considered it that way. A husband whose wife was having an affair could forgive her and drop the matter or initiate legal proceedings. If he chose to sue his wife and she was found guilty, the penalty could be divorce, nose amputation, or death by burning. An unfaithful husband pursued by his wife could receive up to 1,000 lashes but did not face the death penalty. Since the nuclear family was considered the basis of a stable community, adultery was a serious offense, but only if those involved brought it to the attention of the authorities .

This same model seems to have been followed in other regions. It was the family's duty to provide offerings for their deceased loved ones, and if the family lacked the time, they could commission someone else to do so. These replacements were known as priests, who, in exchange for a certain price, offered food and drink daily at the grave.

As long as the family continued to pay, the priest retained his position and even passed it on to his son. If the family stopped paying, the priest could simply leave

¹ James, TGH , Pharaoh S People ,London, 1984,p96

or sue the family to maintain his position and receive reimbursement. The family could also sue the priest if he failed to fulfil his sworn duties¹.

There were no lawyers in ancient Egypt. The suspect was questioned by the police and the judge in court, and witnesses were brought to testify for or against the accused. Since the prevailing belief was that an accused person was guilty until proven innocent, witnesses were often beaten to ensure they told the truth. Once a person had been accused of a crime, even if they were eventually found innocent, their name was kept in the records as that of a suspect. Thus, public shaming seems to have been as effective a deterrent as any other punishment. Even if you were fully acquitted, you were still known in your community as a former suspect².

This is why people's testimony about a person's character as well as their alibi was so important, and why false witnesses were treated so harshly. A neighbor could be falsely accused of infidelity for any personal reason, and even if the accused was eventually exonerated, they remained disgraced. A false accusation was therefore considered a serious offense, not only because it dishonoured an innocent citizen, but also because it called into questions the effectiveness of the law.

If an innocent person could be punished by a system that claimed divine origin, then either the system or the gods were unjust, and the authorities had no interest in people debating the issue.

A false witness was therefore severely punished: anyone who deliberately and knowingly lied in court about a crime could expect all sorts of punishments, from amputation to death by drowning. Because of this situation, it seems that every effort was made to determine a suspect's guilt and impose the appropriate punishment.

Generally, if the crime was serious such as rape, murder, large-scale robbery, or grave robbing the penalty was death or disfigurement. Men convicted of rape were castrated or had their penises amputated. Murderers were beaten and then fed to crocodiles, burned to death, or executed in other terrible ways. Thieves

¹ Sasson, JM (ed) , Civilizations of the Ancient Near East ,New York, 1995,p94

² Muhs, B , The Ancient Egyptian Economy: 3000-30 BCE,Cambridge, 2016,p231

usually had their noses, hands, or feet amputated. David notes the punishment meted out to those who killed members of their own family¹.

1.2.2.4. Decline of the system

The tomb workers' strike in 1159 BC was the clearest evidence yet of the breakdown of a bureaucracy that had served society for millennia. These workers were regularly paid in grain, beer, and other necessities, for which they depended on the government's discretion since they lived in a remote valley outside Thebes. When the wages failed to arrive, the workers went on strike, and officials were unable to manage the situation.

The pharaoh had failed to enforce and maintain *ma'at*, which affected everyone from the top to the bottom of the Egyptian social hierarchy. Tomb raiding increased, as did false witnesses, and even law enforcement became corrupt. The testimony of a police officer was considered completely reliable, but by the end of the New Kingdom, the police could accuse someone, convict them, and then take whatever they wanted of the suspect's property.

Also during this era, tomb robbers who were caught and convicted could avoid imprisonment and sentencing by bribing a police officer, bailiff, or scribe with some of the treasure they had stolen, and then continue robbing tombs. Judges who were supposed to pass sentences might instead serve as the final holders of the stolen goods.

The viziers, who were supposed to embody and defend justice and balance, were busy enriching themselves at the expense of others. As already mentioned, the pharaoh, who was supposed to maintain the foundations of this entire civilization, was more interested in his own comfort and ego gratification than in the responsibilities of his office at this time².

Furthermore, during the later years of the New Kingdom and the following era of the Third Intermediate Period (c. 1069–525 BC), the legal system reverted to the Old Kingdom methodology of consulting a god about innocence or guilt. The cult of Amun, the most powerful in Egypt, had almost eclipsed the authority of the throne. During the Third Intermediate Period, suspects were brought before a

¹ Sweeney, D, "'Gender and conversational tactics' in the contending of Horus and Seth" *Journal of Egyptian Archaeology* ,2002,p141

² Grimal, N, *A History of Ancient Egypt* ,trl by Ian Shaw, Oxford, 2000,p 91

statue of Amun, and the god would deliver his verdict. A priest positioned inside or behind the statue would move it this way or that to give an answer. This method of administering justice was open to many abuses, of course, since cases were now heard by a priest hidden within a statue rather than by a formally appointed judge in a court¹.

Although Egypt experienced some positive moments in later periods regarding the return of law and order, the legal system would never again function as effectively as it did during the periods leading up to the New Kingdom. The Ptolemaic Period re-established the practices and policies of administrative justice of the New Kingdom as did many other aspects of this period—but these initiatives lasted little longer than the first two rulers. The latter part of the Ptolemaic Period was a long, slow decline into chaos, until the country was annexed by Rome in 30 BC and became another province of their empire.

1.2.3. Women's Rights in Ancient Egypt

In the Egypt of the pharaohs, women owned, managed, made decisions, and governed. Unlike the Greek or Roman women of antiquity, they were equal to men at least before the law. As patriarchal and hierarchical as it was, ancient Egypt allowed women to live their lives in many areas. With a prosperous economy, the country had a free hand to provide for the well-being and dignity of its subjects, including women if not equally, then at least more so than in other ancient civilizations.

While in ancient Greece, the cradle of democracy, women were worth less than slaves since they could never achieve citizenship and remained eternal minors, Egyptian women owned property, managed their assets just like men, ran businesses, practiced medicine, participated in harvests, were weavers, brewers, or scribes in the administration. They held high spiritual functions, like the worshippers of Amun, and reached senior civil service positions, up to that of vizier.

Although literature also depicts women as frivolous, capricious, or unreliable, ancient Egyptian women enjoyed a situation found only in a few societies. If common women could control their own lives and carve out a place for

¹ Kruchten, J , "Law" in Redford, DB (ed) Oxford Encyclopedia of Ancient Egypt vol 2 ,Oxford, 2001,p277

themselves in society, it was primarily because the law considered them equal to their contemporaries and their rights were defended in court on the same basis as those of men.

1.2.3.1. Protected by law

When they marry, Egyptian women retain their name at most. They keep their own property, which they administer as they see fit, even if there may also be a marriage contract. They can divorce, file a lawsuit to recover all the household assets and win the lawsuit, and then remarry. If the divorce is initiated by the husband, he must cede part of the joint property to his wife; if it is the wife who takes the initiative, she is bound by the same obligation, but to a lesser extent¹.

The husband, however, remains responsible for the well-being of the household, as a New Kingdom scribe reminds a young married man, with an emphasis that suggests abuse was not uncommon: "If you are wise, keep your house, love your wife without restraint, feed her properly, dress her well. Caress her and fulfil her desires. Do not be brutal; you will obtain much more from her through consideration than through violence. If you reject her, your marriage will fall apart. Open your arms to her, call to her; show her your love."

1.2.3.2. Women of power

To what extent did the Egyptian Empire owe its longevity and influence to the place of women in society? The fact remains that for Egyptologist and novelist Philip Kayne, the pragmatic distribution of power within the royal couple was a guarantee of stability and good governance: "The throne of Egypt was a family affair between a man and a woman, ruled by a two-headed tandem, often inseparable, where each played a joint role, a right hand and a left hand that belonged to the same body."

1.2.3.3. Queens of diplomacy

Behind the duo of Nerfertiti and Akhenaten, there is another woman: Queen Tyi, mother of Akhenaten, who introduces her daughter-in-law to monotheism and the mysteries of power. "The revered mother of the pharaoh, Tyi was, alongside her husband, a renowned minister, gifted with great diplomatic finesse

¹ Shaw, I & Nicholson, P, The British Museum Dictionary of Ancient Egypt, London, ,2008, p276

in handling foreign affairs, in particular. And when her husband began to decline, it was she who took over as head of the kingdom¹.

1.2.3.4. Pharaoh

There were female pharaohs : the ancient Egyptians distinguished between gender, starting with the great Hatshepsut, who ruled the Empire on the same footing as a man during one of the Empire's most peaceful and prosperous periods.

Hatshepsut, the daughter of a pharaoh, initially served as her nephew's regent, came to power after several deaths in her entourage—a sort of gentle "coup d'état." On ancient frescoes and reliefs, she is depicted wearing all the attributes of a pharaoh, starting with a loincloth and a false beard.

The famous Cleopatra VII, for her part, had a similar journey. Sister of a pharaoh, she ascended the throne upon the death of her brother, when she found herself alone in the power vacuum. Cleopatra, Nefertiti, Hatshepsut... When we talk about ancient Egypt, the first images that come to mind are those of these powerful women who marked their time and posterity as much as the men who were their contemporaries, if not more.

Women in Pharaonic Egypt were pioneers in securing their rights. Whether in marital life, work, clothing, or even political life, they were equal to men. Immersed in an era where Egyptian women were queens. Women have always held a special status in Egyptian society. It is not true that they began to take their rights in modern times, but rather long before. Already in Ancient Egypt, women enjoyed a high status and had equal rights with men. Rights they only recently gained in modern times.

The Ancient Egyptians imagined that the universe was created through two deities. One male, named Geb, god of the earth, and the other female, named Nut, goddess of the sky. Unlike the Greeks and Romans, Egyptian women were free, independent, and powerful. They were even equal to men before the law. At that time, Egyptian women owned, managed, made decisions, and governed.

A third of Ancient Egyptian scientists in the fields of medicine, chemistry, physics, and mathematics were women. "Later, too, women in Ancient Egypt

¹ Van Blerk, NJ , The Concept of Law and Justice in Ancient Egypt with Specific Reference to the Tale of the Eloquent Peasant (unpublished MA dissertation, University of South Africa, 2006,p312

reached the highest positions of state, up to that of vizier. They were also judges and priestesses, who lived in Thebes during the first half of the 8th century BC.

1.2.3.5. Intangible social rights

Even in social life, women in Ancient Egypt were avant-garde. They had the right to choose their husband, to separate from him, to sue to recover all household property, to win the lawsuit, and then to remarry. Girls' education was equal to that of boys, and the birth of a girl was welcomed in the same way as that of a boy. Women also had the right to inherit and distribute their property as they saw fit¹.

The Aramaic papyri of Elephantine bear witness to women's social rights in Ancient Egypt. They tell the story of a woman named Mibtahyah, born around 475 BC. Married at fifteen to a Jew from Elephantine, her father gave her a house and land as a dowry. Widowed without children thirteen years later, she became the owner of a second house given to her by her father following her marriage to an Egyptian. This time, divorced in 440 BC, she kept the houses, according to the marriage contract, and filed a lawsuit, which she won, to recover the other household assets. She married another Egyptian, who left her a widow again with two sons around 420 BC and died ten years later. These are rights for which women today are fighting.

Women's freedom is also evident in their clothing style, compared to today. "In ancient Egypt, they could dress as they pleased, wear transparent clothing, and walk freely without being teased or harassed," Badrane says, recounting that when the number of foreigners increased in Egypt, women could no longer walk freely. So, King Ramses III created a street police force and opened his palace gardens to women, so they could walk freely.

1.2.3.6. A major political role

Even in political life, women played an important role in the history of Ancient Egypt. "It can be said that Egyptian civilization owes a large part of its influence and perhaps even its longevity to women," Badrane emphasizes. Queen Teti Sheri of the 17th Dynasty played a major role in the liberation of Egypt from Hyksos colonization².

¹ McDowell, AG, Village Life in Ancient Egypt ,Oxford, 1999,p49

² Teeter, E, The Presentation of Maat, Ritual and Legitimacy in Ancient Egypt ,Michigan, 1997,p218

Glossary and Terms of Ancient Egypt

Afterlife :The place where the Ancient Egyptians believed they would go after they died.

Akhet :The season of the year when the Nile river flooded.

Amulet :A charm worn that the Ancient Egyptians thought had magical powers.

Amun :The main god of the New Kingdom.

Ankh :A symbol carried by the pharaohs and gods that meant "life".

Book of the Dead :A text that had a number of magic spells that were supposed to help a person in the afterlife.

Canopic jars :Special jars that held the organs of a mummy including the lungs, intestines, liver, and stomach.

Cedar :A tree from the land of Lebanon that produced wood that was good for building. The Egyptians used cedar wood to build their ships.

Delta :The region of land where the Nile River split into several branches before emptying into the Mediterranean Sea.

Dynasty :A period of rule when a series of kings or pharaohs all came from the same family.

Egyptologist :An archeologist who specializes in Ancient Egypt.

Eye of Horus :A good luck sign of the Sun or Moon that the Egyptians believed protected one from evil.

Giza :A place where several large pyramids and the Great Sphinx were built.

Hatshepsut :A powerful queen who became one of Egypt's most successful pharaohs.

Hieroglyphics :A type of writing used by the Ancient Egyptians that used a combination of pictures and symbols.

Hyksos :A people that conquered Lower Egypt for a time. They brought superior weapons and the chariot.

Imhotep :The architect of the first Egyptian pyramid. He was also the second in command after the pharaoh and was later made into a god.

Inundation :Another name for when the Nile would flood the lands.

Lower Egypt :The northern half of Ancient Egypt. It was called Lower Egypt because it was at the end of the Nile River where it entered the Mediterranean Sea.

Memphis :The capital city of the Old Kingdom of Egypt. It was near the border of Upper and Lower Egypt.

Mummy :A dead body that has been specially preserved using embalming so that it won't rot.

Nefertiti :A queen of Egypt who was famous for her beauty.

Obelisk :A tall pillar monument that the Egyptians generally built as pairs near the entrances to their temples.

Osiris :Egyptian god of the afterlife.

Papyrus :A plant that grew on the banks of the Nile. The Ancient Egyptians used it to make paper, boats, sandals, baskets, and rope.

Pharaoh :The supreme ruler of all of Ancient Egypt. He or she was considered a god.

Pyramid :A giant tomb built for the pharaohs of Egypt. It was made from stone and had four sides that came to a point at the top in a pyramid shape.

Rosetta stone :A special stone that had the same inscription written both in Greek and in Egyptian hieroglyphics. It was very helpful in translating and understanding hieroglyphics.

Sarcophagus :A large stone box that held a mummy's coffin.

Scribe :An Ancient Egyptian that was specially trained to read and write.

Senet :A board game played by the Ancient Egyptians.

Sphinx :A mythological beast with the body of a lion and the head of a pharaoh or god. The Egyptians built sphinx statues to guard tombs.

Thebes :The capital city of Egypt during the period of the New Kingdom.

Tutankhamun :A pharaoh of Egypt that is famous for his tomb that was discovered. The tomb was largely untouched and was full of treasure.

Upper Egypt :The southern half of the kingdom of Egypt. It is called Upper Egypt because the Nile River flows from Upper to Lower Egypt.

Chapter 2:

The Legal System of Mesopotamia

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Mesopotamia is nicknamed the "cradle of civilization" due to the many cultural innovations and inventions that emerged there. Today, the term "Mesopotamia" is generally used in reference to the ancient history of this region, for the civilization that occupied this space until the first centuries AD.

As part of the civilizations of the ancient Near East, Mesopotamian civilization occupies a central place there, considered one of the matrices of the historical civilizations of the Middle East and Europe, alongside the civilization of ancient Egypt. Indeed, it participated in several fundamental developments in human history: the "origins" of the state, the city, institutions and administration, and imperialism can be found there. Contemporary historians and archaeologists agree that the Mesopotamians were at the origin of the first writing system created between 3400 and 3200 BC¹.

For more than twenty centuries, the people of Mesopotamia recorded the principles and practice of their justice system. Through a series of lawsuits, letters, and contracts related to legal cases, this collective work seeks to present in concrete terms how, from the 21st to the 5th century BC, law was developed and then practiced in one of the oldest known civilizations.

The cradle of civilization, Mesopotamia was the first region to formalize law in writing. Far from being a single system, it was a collection of customs and royal decrees initiated by the Sumerians and immortalized by the famous Babylonian Code of Hammurabi.

Mesopotamian law is primarily casuistic. Unlike Roman law, which relies on theoretical concepts, it takes the form of collections of court decisions and precedents. The king is seen as the guarantor of divine justice, charged with enforcing two complementary notions of order and stability.

Historical evolution From the Law of Ur-Nammu to the famous Assyrian laws, Mesopotamian law evolved towards an increasingly centralized codification. The culmination of this evolution is embodied by the Code of

¹ Bottéro, J. ,Mesopotamia: writing, reasoning, and the gods, 2nd edn. (trans. Z. Bahrani & M. van de Mieroop). Chicago & London: University of Chicago Press. 1992.p27

Hammurabi (circa 1750 BCE), a monumental stele engraved in cuneiform script that regulated family law, commerce, and criminal liability.

In this chapter , we will first analyse the sources and the religious and political foundations of Mesopotamian law. then, we will study the practical application of justice and the fundamental principles that governed daily life.

2.1. Historical overview of Mesopotamia

Mesopotamia from the Greek, means the land between the rivers was an ancient region located east of the Mediterranean, bounded to the northeast by the Zagros Mountains and to the southeast by the Arabian Plateau, corresponding mainly to today's Iraq, but also to parts of Iran, Syria and Turkey, a region called the 'Fertile Crescent', and traditionally considered the cradle of civilization.

In the 3rd millennium BC, during the period of the archaic dynasties, Mesopotamia was occupied by a group of small kingdoms, populated by populations speaking an isolated language, Sumerian, in the southern part (the country of Sumer), and others speaking Semitic languages, including Akkadian. This dual aspect was to mark the rest of Mesopotamian history, because although Sumerian was no longer spoken around 2000 BC,

Mesopotamia is structured around the two rivers to which it owes its name, the Euphrates in the west, and the Tigris in the east. They both originate in the high plateaus of eastern Anatolia, then the first flows through the arid Syro-Mesopotamian areas upon leaving the Taurus Mountains, experiencing a significant change of direction and receiving few tributaries, while the second has a shorter and more direct route towards the Gulf and receives several tributaries from the Zagros in the east, which make its flow faster. Mesopotamia was roughly similar to that observed in the 20th century¹.

The civilizations of Assyria, which gives its name to the historical discipline devoted to ancient Mesopotamia, Assyriology, were rediscovered, then that of Babylon, and finally those of Sumer and Akkad, the memory of which had

¹ McDowell, A. G. ,Jurisdiction in the Workmen's Community of Deir el-Medîna. Leiden: Nederlands Instituut voor het Nabije Oosten, 1990.,p128

completely disappeared and which were only revealed to the modern world from the discoveries of sites from the 3rd millennium BC.

Mesopotamia saw the formation, in the second half of the 4th millennium BC, of one or more of the oldest political forms referred to as states, if not the oldest, in human history. These early states are characterized by notable social stratification, distinguishing a ruling elite, a hierarchical settlement network dominated by a main city, the existence of specialization of activities, ritual practices, and a cult organized by the elites, visible in archaeology through the presence of monumental architecture, prestige objects, and art reflecting the ideology of the ruling elite.

From the establishment of the State, institutions appeared that were at the origin of the first written production and played the main role in economic activities. These were mainly palaces and temples, . They managed important domains, administered by scribes often organized into specialized "offices", who supervised fields, gardens, wooded and marshy areas, workshops, boats, etc. These resources were exploited by a dependent workforce organized into teams, which was generally remunerated in the form of maintenance rations, having the value of a salary in a pre-monetized economy, and a good part of their production went to the official cult¹.

Due to the nature of the institutions governing this system, it has been possible to speak of a "palatial economy" or a "temple economy," or even a "dominal economy." The framework structuring the society and economy of ancient Mesopotamia is the house/household terms meaning "house" with roughly the same meanings as in English.

The history of the region, and the development of the civilizations that flourished there, is more easily understood by dividing it into periods:

2.1.1. The Pre-Pottery Neolithic

Also known as the Stone Age (c. 10,000 BC, although evidence suggests human habitation much earlier) . There is archaeological evidence of rough settlements and early signs of warfare between tribes, probably over fertile land

¹ Westbrook, R. The Character of Ancient Near Eastern Law. In Westbrook, R. (ed.) A History of Ancient Near Eastern Law. Leiden: Brill: 1-90 , 2003.,p427

for crops and meadows for grazing livestock. Livestock farming was increasingly practiced during this period, with the shift from a hunter-gatherer to an agrarian culture.

There was no sudden shift from hunting and gathering to agriculture, but rather a slow process in which people increased their dependence on resources they managed directly, while supplementing their diet with hunting and wild animals. Agriculture allowed for increased settlement.

2.1.2. The Ceramic Neolithic

This period saw widespread use of clay tools and pots, and the emergence of a distinct culture in the Fertile Crescent. Researcher Stephen Bertman writes, "At this time, the only advanced technology was literally 'cutting edge,'" as stone tools and weapons became more sophisticated. Bertman further notes that "the Neolithic economy relied primarily on food production through agriculture and animal husbandry". It was more sedentary compared to the Stone Age, when communities were more mobile. Architectural advances naturally accompanied permanent settlements, as did developments in ceramic and stone tool making¹.

2.1.3. The Copper Age

Also known as the Chalcolithic Period due to the transition from stone to copper tools and weapons. This era includes the Ubaid Period (c. 5000–4100 BC), named after Tell el-Ubaid, near Ur, the location in Iraq where the largest number of artifacts have been found. The first temples in Mesopotamia and unwallled villages that developed from sporadic settlements of individual dwellings were built during this period. These villages then gave rise to the urbanization process during the Uruk Period (4100–2900 BC), when cities developed, particularly in the Sumer region, including Eridu, Uruk, Ur, Kish, Nuzi, Lagash, Nippur, and Girsu, and in Elam at the city of Susa.

This period saw the invention of the wheel (c. 3500 BC) and writing (c. 3000 BC) by the Sumerians, the establishment of kingdoms to replace the rule of priests, and the world's first recorded war, between the kingdoms of Sumer and Elam (2700 BC), which saw Sumer win. During the Early Dynastic Period (2900–

¹ Collier, M. A. & S. Quirke., *The UCL Lahun Papyri: Religious, Literary, Legal, Mathematical, and Medical*. Oxford: Archaeopress International Series, 2004,p193

2334 BC), all the advances of the Uruk period were developed, and cities, and government in general, were stabilized .

2.1.4. Early Bronze Age

During this period, bronze supplanted copper for the manufacture of tools and weapons. The **rise** of the city-state laid the foundation for the economic and political stability that would eventually lead to the Akkadian Empire (2334-2218 BC) and the rapid growth of the cities of Akkad and Mari, two of the most prosperous urban centers of the time. The cultural stability necessary for artistic creation in the region led to more complex designs in architecture and sculpture, as well as the following inventions or improvements:

a number of specific and major inventions: the plow and the wheel, the chariot and the sailing ship, and the cylinder seal, the most distinctive art form of ancient Mesopotamia and a ubiquitous demonstration of the importance of property and business in the daily life of the country.

Sargon's Akkadian Empire was the world's first multinational kingdom, and Sargon's daughter, Enheduanna (2285–2250 BC), was the first known literary author. Mari's library contained over 20,000 cuneiform tablets (books), and its palace was considered one of the finest in the region.

2.1.5. Middle Bronze Age

The expansion of the Assyrian kingdoms (Ashur, Nimrud, Dur-Sharrukin, and Nineveh) and the rise of the Babylonian Dynasty (centered on Babylon and Chaldea) created an atmosphere conducive to trade and, with it, to the intensification of warfare. The Gutti tribes, fierce nomads who succeeded in overthrowing the Akkadian Empire, dominated Mesopotamian politics until they were defeated by the allied forces of the kings of Sumer¹.

Hammurabi, King of Babylon, emerged from relative obscurity to conquer the region and reign for 43 years. Among his many accomplishments was his famous code of laws, inscribed on the Stele of the Gods. Babylon became a leading center during this era for intellectual inquiry and the high level of its artistic and literary

¹ Richardson, M. E. J. ,Hammurabi's Laws: Text, Translation and Glossary. Sheffield: Sheffield Academic Press, 2000.,p95

achievements. This cultural centre was not to last, however; it was sacked and plundered by the Hittites.

2.1.6. Late Bronze Age

The rise of the Kassite Dynasty (a tribe originating in the Zagros Mountains of present-day western Iran) led to a shift in power and an expansion of culture and education after their conquest of Babylon. The Bronze Age Collapse followed the discovery of how to mine and use iron, a technology that the Kassites, and before them, the Hittites, used particularly for warfare.

The Hittite and Mitanni tribes consolidated their respective powers during this period, leading to the rise of the Neo-Hittite and Neo-Babylonian Empires. King Nebuchadnezzar II (r. 605–562 BC) of Babylon destroyed Jerusalem (r. 588 BC) during this period and forced the people of Israel into the 'Babylonian Exile'. He was also responsible for extensive construction in Babylon, creating famous buildings such as the Ishtar Gate and the Great Ziggurat (the 'Tower of Babel'). The fall of Babylon to the Persian Cyrus II in 539 BCE brought an end to Babylonian culture¹.

2.1.7. Classical Antiquity

After Cyrus II (died 530 BC) captured Babylon, most of Mesopotamia became part of the Achaemenid Persian Empire, and this period saw a rapid cultural decline in the region, notably the loss of knowledge of cuneiform writing. Alexander the Great's conquest of the Persians in 331 BC brought the Hellenization of culture and religion, but although Alexander tried to make Babylon an important city again, its glory days were now over.

After his death, Alexander's general Seleucus took control of the region and founded the Seleucid Dynasty, which ruled until 126 BC, when the country was conquered by the Parthians, who were in turn dominated by the Sassanids (a people of Persian origin). Bertman writes: "Under Sassanid rule, Mesopotamia

¹ Davies, B. G. ?Egyptian Historical Inscriptions of the Nineteenth Dynasty. Jonsered: Paul Åströms förlag,. 1997,p234

2.2. The structure and law of Mesopotamian society

Mesopotamian society was structured around a strict hierarchy dominated by the king and the elite, while its law was based on collections of legal precedents such as the famous Code of Hammurabi. This casuistic system structured the state, the economy, and the family according to well-defined social statuses. Society was divided into distinct legal classes.

The king is on the top of the hierarchy. He held absolute power as the representative of the gods, surrounded by the royal family, high officials, and priests. The class of Freemen included wealthy landowners, merchants, and scribes. The Dependent citizens were free but did not own land. They often depended on the palace or temples for their livelihood. The base of the pyramid included the Slaves who constituted the lowest class, often composed of prisoners of war or debtors.

Mesopotamian law was not conceived as abstract laws, but rather as case-by-case rulings, based on collections of jurisprudence and royal decrees. Justice revolved around two complementary concepts.

2.2.1. Justice and law

The exercise of justice is one of the main prerogatives of the sovereign, the judicial authority of last resort, who, according to Mesopotamian conceptions, was to be both the guarantor of the established order and the one who repairs unjust situations. Kings promulgated legislative texts, such as the famous Code of Hammurabi, whose exact legal scope remains debated, as well as shorter edicts dealing with a specific subject, such as general remissions of debts in times of crisis.

In practice, justice is administered by non-permanent bodies, including professional or non-professional judges, before whom individuals can bring disputes that they cannot resolve amicably, and who rule by analysing the evidence: written documents, testimonies of third parties, or failing that, oaths taken before the gods¹.

¹ Langdon, S. & A. H. Gardiner. The Treaty of Alliance between Hattusili, King of the Hittites, and the Pharaoh Ramesses II of Egypt. *Journal of Egyptian Archaeology* 6(3): 179-205, 1990, p43

The oldest known legal text is the Code of Ur-Nammu, written around 2100 BC, but it has only come down to us in pieces. The Code of Hammurabi (1750 BC), which is considered the oldest legal text to have come down to us, is in reality the first almost complete legal text to have come down to us.

The Code of Hammurabi is a system addressing everyday concerns (marriage, theft, contracts, the status of slaves, etc.) with a predominance of the law of retaliation in criminal matters. It is divinely inspired but not religious.

2.2.2. Armies and diplomacy

States regularly clashed in conflicts, wars of conquest or resistance, border wars, and civil wars, the scale of which could vary greatly. The armies of the city-states of the 3rd millennium BC relied on a base of infantrymen protected by shields and armed with spears, daggers, or axes, arranged in a sort of phalanx, with heavy chariots providing support. Archers seem to have become especially important under the Akkadian Empire, which appears to have favoured light infantry.

2.2.3. Origins and general features

The end of the prehistoric period of Mesopotamia saw the development of settlements of increasing size and specific social functions, which gradually differentiated them from villages, especially because they were centers of power dominated by increasingly imposing monumental groups. 165 The phenomenon was generally detected in the south, where Uruk is commonly presented as the first city, around the middle of the 4th millennium BC, but recent studies indicate the presence of large settlements in the north at the same time and even earlier..

The city is therefore an essential characteristic of Mesopotamian civilization, the main towns are quickly endowed with a prestige that crosses the ages. However, the city is never really conceptualized at this period, the terminology knowing only general terms to define the towns,

2.2.4. Women's conditions

The image of the ideal woman, established by male writers of literary texts since the Sumerian era, is that of a humble, modest, hardworking, and well-organized person, a wife and mother who takes care of her husband and their offspring, has the qualities of a cook and a weaver, and more generally of a

manager of domestic affairs. Those who do not meet these characteristics are not worthy representatives of the female gender and femininity, and are exposed to criticism and punishment.

Women's work is therefore primarily carried out within the household, as illustrated by the well-known case of the wives of the merchants of Assur in the 19th century BC, who produced clothing and fabrics that could then be sold by their husbands. Outside the home, it was common for women to work in the service of institutions in textile activities, and also in food processing (milling), a particularly grueling job, or in the sale of drinks. Thus, women's activities, whether carried out domestically or professionally, are generally linked to textile and food production.

However, there are cases where women dependent on institutions are mobilized for hard labour, which, as in other ancient societies, was not reserved for men. In other cases, elite women are more autonomous economic actors, not necessarily lacking in means of action and silent in cuneiform documentation. They could be called upon to manage palace and temple estates, and these were generally managed by female staff. There were women scribes or at least literate women to carry out this type of activity.

Mesopotamia was home to numerous civilizations spanning thousands of years, each contributing significantly to world culture and progress. Many aspects of daily life familiar to us today, such as writing, the wheel, sailing, the concept of the 24-hour day, irrigation, and civil rights, all first appeared in the vast land between the two rivers.

2.2.5. The Cradle of Civilization

Unlike the more unified civilizations of Egypt or Greece, Mesopotamia was a collection of diverse cultures whose only real connections were their writing, their gods, and their attitudes toward women. The social customs, laws, and even the language of Akkad, for example, cannot be said to correspond to those of Babylon. It does seem, however, that women's rights, the importance of literacy, and the pantheon of gods were truly shared throughout the region (although the gods had different names in different regions and eras). Mesopotamia should more accurately be understood as a region that produced several empires and civilizations rather than a single civilization. Even so, it is known as the 'cradle of

civilization,' primarily because of two developments that occurred there, in the region of Sumer, in the 4th millennium BC¹.

2.2.6. The emergence of the city

The invention of the wheel is also attributed to the Mesopotamians. Other important inventions or developments attributed to the Mesopotamians include: the domestication of animals, agriculture and irrigation, sailing, common tools, the chariot, sophisticated weapons, the division of time into hours, minutes and seconds, religious rites. These include².

Archaeological excavations beginning in the 1840s have revealed human settlements dating back to 10,000 BC in Mesopotamia, indicating that the fertility of the land between two rivers allowed an ancient hunter-gatherer people to settle in the country, domesticate animals, and turn to agriculture. Trade soon followed, and with prosperity came urbanization and the birth of cities. Writing is generally thought to have been invented for trade, the need for long-distance communication, and for the accurate recording of accounts.

2.2.7. Education and Religion

Mesopotamia was known in ancient times as a seat of learning, and Thales of Miletus, known as the 'first philosopher,' is thought to have studied there. Since the Babylonians believed that water was the 'primordial principle' from which all else flowed, and Thales is known for this very assertion, it seems likely that he studied in the region.

The beginning of the world, they believed, was a victory of the gods over the forces of chaos, but even if the gods had won that did not mean that chaos could not return. Through daily rituals, attention to the deities, proper funerary practices, and simple civic duty, the people of Mesopotamia believed they helped maintain balance in the world and ward off the forces of chaos and destruction.

¹ Lorton, D. The Treatment of Criminals in Ancient Egypt: Through the New Kingdom. *Journal of the Economic and Social History of the Orient* 20(1): 2-64, 1997,p69

² Sethe, K. H. 1924. *Ägyptische Lesestücke zum Gebrauch im akademischen Unterricht*. Leipzig: J. C. Hinrichs'sche Buchhandlung.

2.2.8. Jobs

Both men and women worked, and "because ancient Mesopotamia was fundamentally an agrarian society, the main occupations were farming and livestock breeding. Other occupations included scribe, healer, craftsman, weaver, potter, shoemaker, fisherman, teacher, and priest or priestess.

At the head of society were kings and priests, served by the numerous palace and temple staff. With the institution of standing armies and the spread of imperialism, military officers and professional soldiers took their place in the diverse and expanding workforce of Mesopotamia¹.

Women enjoyed roughly equal rights with men and could own land, file for divorce, own their own businesses, and enter into commercial contracts. The first healers in the community were originally women. These professions were later taken over by men, apparently when it became apparent that they were lucrative businesses. The task performed was never simply considered work, however, but was also seen as a contribution to the community and, by extension, to the gods' efforts to maintain peace and harmony in the world.

2.2.9. Construction and Government

The temple, at the centre of each city (often on a raised platform), symbolized the importance of the city's patron deity, who was to be worshipped by all communities under the city's presidency. Mesopotamia gave rise to the world's first cities, largely built of sun-dried bricks.

The architecture of Mesopotamia was born from its soil. Unlike Egypt, Mesopotamia—especially the south—was devoid of stone that could be quarried for construction. The country also lacked trees for timber, so people turned to other natural resources that were abundantly available: clay from river banks and rushes and reeds growing in the marshes. With these materials, the Mesopotamians created the world's first columns, arches, and roofed structures.

Simple houses were built from bundles of reeds tied together and inserted into the ground, while more elaborate ones were constructed from sun-dried clay

¹ Kákosy, L.. Orakel. In Helck, W., E. Otto & W. Westendorf (eds.) *Lexicon der Ägyptologie* (vol. 4): 600-606. Wiesbaden: Harrassowitz Verlag, 1995,p129

bricks. Cities and temple complexes, with their famous ziggurats, were all built using kiln-baked clay bricks that were then painted¹.

The role of the king was established around 3600 BC, and unlike the priest-kings who preceded him, the king dealt directly with the people and clearly expressed his will through laws of his own making. Before the concept of the king, priest-kings were believed to have dictated the law according to religious precepts and received divine messages through signs and omens. The king, while honoring and appeasing the gods, was considered a powerful enough representative of those gods to be able to express their will through his personal pronouncements, using his own voice.

Yet even highly effective rulers, such as Sargon of Akkad, faced perpetual revolts and uprisings by rebel factions, or uprisings by entire regions challenging the king's legitimacy. Because Mesopotamia was a vast region, with so many different cultures and ethnicities within its borders, a single ruler attempting to enforce the laws of a central government invariably encountered resistance from a segment of the population.

2.3. Legal rules in Mesopotamia

This innovative civilization not only invented the state and writing. It also wrote the first codes of justice, which already punished homicide, rape... and financial crimes!

2.3.1. Pecuniary penalties and blood punishments

The rediscovery of Mesopotamia during the 19th century revolutionized our worldview. Rarely has a civilization been so innovative: the birth of agriculture, the emergence of the city and the state, the invention of writing... the list is long. But, a lesser-known fact, it was also at the origin of the collections of laws, and thus the first, as early as the 3rd millennium BC, to attempt to take the measure of a human society prey to the difficulty of living together. This puts the all-too-often Eurocentric approach to contemporary man into perspective: while

¹ Tobin, V , "Maat and Dike: Some comparative considerations of Egyptian and Greek thought" Journal of American Research Center in Egypt , 1987,p113

"enlightened," 21st-century humans remain slaves to the same baseness as their distant ancestors in Iraq and Syria¹.

Historians have gradually brought to light a civilization aware of the evils that plague it, becoming more judicial over time. This includes the essential discovery, in Susa, during the winter of 1902, of the "code" of Hammurabi, a Babylonian king from the beginning of the 2nd millennium (1792-1750): beyond the grandiose appearance of the stele that bears it.

This system of repression testifies to a civilization perfectly capable of assessing the relative gravity of a situation, but also of adapting to any circumstance. The notions of criminality do not exist in the vocabulary of the Mesopotamians,. However, they distinguished very clearly between civil wrongs and criminal offenses. Certain misdeeds, such as homicide or theft, were perceived as 'criminal' in essence; others, on the contrary, seem to us to have been judged as such because of the punishment applied to them: physical mutilation or the death penalty.

In criminal matters, however, the sentences handed down are mostly monetary. A trend far removed from the fantasies of violence and bloodshed that often fuel our imagination. Frequently cited in the legislation of the 3rd and 2nd millennia, corporal punishment was not actually systematically applied, as the study of judicial documentation reveals; except for political crimes, they even disappear from sources from the 1st millennium.

Among the punishments considered, imprisonment is, however, relatively common. One case mentioned in a text from North Babylonia at the end of the 18th century BC remains particularly famous: a woman imprisoned because of her father's debts realizes, upon her release, that her husband has taken a new wife... While the situation inspires pity, it is also very instructive: a punishment can be transmitted to the relatives of the perpetrator of an offense. From the

¹ Černý, J. ,Egyptian Oracles. In Parker, R. A. (ed.) A Saite Oracle Papyrus from Thebes in the Brooklyn Museum [Papyrus Brooklyn 47.218.3]: 35-48. Providence: Brown University Press. 1992,p342

murderer to the merchant fleeing taxes, the prison population is relatively diverse¹.

2.3.2. Victims put in irons for fear

More broadly, Mesopotamian justice seems to have operated on two levels: the first supported by local institutions (councils of elders, neighbourhood councils, etc.); the second placed under the authority of royal power.

, such as homicide, automatically fell under the king's jurisdiction, while other offenses, punishable by a fine, depended essentially on "lower" courts. A sort of complementarity of legal authorities, probably due to the gradual integration of local institutions into an increasingly developed and centralized state judicial apparatus (professional judges, governors, etc.). In any case, we still have much to learn: certain professions, such as those of lawyer and police officer, remain very little known, as they are barely documented.

The process reveals a reality very different from our own: "The role of the temples of the god Shamash in the judicial sphere in no way means that Syro-Mesopotamian justice was a religious justice.

Once cuneiform could be read, the ancient world of Mesopotamia opened up to the modern era and transformed people's understanding of world history and themselves. The discovery of the Sumerian civilization and the texts on the cuneiform tablets encouraged a new freedom of intellectual inquiry in all areas of knowledge. It was now understood that the biblical accounts were not original works, and that the world was clearly older than the Church had claimed. Civilizations had risen and fallen long before that of Egypt, and if these assertions of the Church authorities and the schools had been proven false, perhaps others had been as well.

2.4. The contribution of Mesopotamia in the legal field

In Mesopotamia, the terms *kittum* and *mîšarum* were two complementary ways of denoting "justice." The first word, *kittum*, derives from a root KûN meaning "to be stable": it is justice as a guarantor of order, for example, that which obliges

¹ Kruchten, J-M.. *Le Décret d'Horemheb: Traduction, commentaire épigraphique, philologique et institutionnel*. Brussels: Université de Bruxelles, 1981,p64

the debtor to repay his creditor. The second term, *mîšarum*, derives from the root *YŠR* meaning "to go straight": it is justice that redresses unbearable situations, preventing the rich from crushing the poor and leading kings to forgive the weakest the arrears of their taxes and debts. In 17th-century Babylonia, justice was thus experienced in two different ways¹.

2.4.1. Babylon

Unlike Egypt, Babylonian Mesopotamia provided considerable legal documentation, spanning a period as long as that of ancient Egyptian history. This law, preserved by texts in cuneiform writing, is for this reason often called "cuneiform law." The geographical area of cuneiform law extends far beyond Babylonia and even Mesopotamia. It extends as far as Asia Minor and the eastern coasts of the Mediterranean. Due to the chance of excavations, our information is very uneven depending on the region and the period. Mesopotamia and especially Babylon benefit from a privileged situation here.

The law-making kings invoke the patronage of the gods. It is possible that, in the oldest conception, the law appeared as the work of the gods. In historical times, it is the king who "exercises" legislative power, but under the inspiration of the gods. The stele of Hammurabi shows the Sun god dictating the law to the king, and the latter declares in the epilogue of his code: "It is I to whom Samaš has presented the laws." Because of the origin of royal power, the source of legislative power is necessarily divine.

2.4.2. Legacy

The legacy of Mesopotamia continues today through many of the most basic aspects of modern life, such as the sixty-second minute and the sixty-minute hour. Because the well-being of the community depended on careful observation of natural phenomena, scientific activities occupied a large part of the priests' time. For example, the Sumerians believed that each of the gods was represented by a number, and the number sixty, sacred to the god An, was their basic unit of calculation. The minutes of the hour and the degrees of division of the circle were Sumerian concepts.

¹ Roth, M. T. *Law Collections from Mesopotamia and Asia Minor*, 2nd edn. Atlanta: Scholars Press, 1997, p28

The highly developed agricultural system and the sophisticated irrigation and water control systems that enabled Sumer to increase its production also led to the growth of large cities¹.

Urbanization, the wheel, writing, astronomy, mathematics, wind power, irrigation and other agricultural developments, animal husbandry, and also the stories that would eventually be rewritten as the Hebrew Scriptures and provide the basis for the Christian Old Testament, all came from the land of Mesopotamia.

2.5. The Code of Hammurabi

A tall black basalt stele engraved with text and topped with a bas-relief, discovered in 1901, the Code of Hammurabi is one of the earliest examples of the legislative capabilities of human societies. It was created during the reign of Hammurabi, king of Babylon, in Mesopotamia. It contains 282 laws, which cover almost all areas of daily life in Babylonian society at the time. This legal treatise on civil and commercial law served as a model for the schools of scribes who copied it for over a thousand years.

2.5.1. The Principles of the Code of Hammurabi

An emblem of Mesopotamian civilization, the Code of Hammurabi is one of the earliest legal codes in history. This famous text, which attests to a desire to unify society, is also the one that first mentions the law of retaliation.

King Hammurabi was a great lawgiver, to whom we owe the code that bears his name, now preserved in the Louvre Museum. It is a Babylonian legal text, whose inscription, written in Akkadian, is the longest known in cuneiform script. Discovered at Susa, it originally stood at Sippar, and a copy must have appeared in the principal temples of Babylonia. At the top of the stele is depicted a scene in which the god Shamash hands the insignia of royalty to Hammurabi.

2.5.1.1. A royal code

Hammurabi's code does not change all existing rules, but it examines cases requiring modification or confirmation of previous provisions. Instead of stating a general principle, it considers cases and their solution. The king seeks to unify

¹ Dodson, A. & D. Hilton,. The Complete Royal Families of Ancient Egypt. London: Thames & Hudson, 2004,p161

existing legislation and subjects conquered territories to the same rules, which gives the code its importance. It also addresses posterity: "Let in the future, forever, every king who exists in the land respect the words of justice that I have inscribed on my stele. Let him not change the judgments of the land that I have rendered nor the verdicts of the land that I have decided¹.

2.5.1.2. Law of Retaliation

This code reveals the structure of a heterogeneous society, which is trying to organize itself. It is not exhaustive, but is supplemented by custom, the main source of Near Eastern law. It primarily protects the family, property, and commerce. It sets the rules for marriage, divorce, remarriage, legitimate or adoptive filiation, and inheritance. It punishes incest, rape, adultery, and abortion. It protects the owner against theft of his movable and immovable property. It governs trade and the economy through the activities of merchants, interest-bearing loans, agricultural loans, and leasing and the rental of palm groves.

Criminal law includes monetary penalties and corporal punishment, up to and including death. It applies the law of retaliation, which consists of punishing with an evil identical to that which constitutes the offense. It remains surprisingly modern in certain aspects, such as the notion of "quality control," which must be carried out by the company building a house .

Greek culture has played a major role in Western civilization, whether in philosophy (with Socrates, Plato, or Aristotle) or in science. From a legal perspective, several central concepts emerged: the notion of democracy (from *dêmos*, people, and *krátos*, power), born in Athens around the 5th century BC, or the very notion of law, as a rule detached from its religious origins, deliberated and voted on by men and for men².

The Code of Hammurabi is a legal text written around 1750 BC by the Babylonian king Hammurabi. It is the most comprehensive legal text known from Mesopotamian civilization.

¹ Kitchen, K. A. ,*Ramesside Inscriptions: Historical and Biographical: Vol. I.* Oxford: Blackwell, 1990,p342

² Quirke, S. *Manuscript for the Health of Mother and Child.* London: University College London, 2002,p91

In order to unify his empire, Hammurabi wrote a great code regulating the lives of the Babylonians. This is how the Code of Hammurabi was born.

However, it is important to know that the Code of Hammurabi is not the first legal text in history. Indeed, the first Mesopotamian code of laws was the Code of Urukagina (around 2400 BC). We can also cite the Code of Ur-Nammu which was the first king of the Empire of Ur, which dominated Mesopotamia for about a century.

2.5.2. The contents of the Code of Hammurabi

The Code of Hammurabi contains 282 articles covering various aspects: criminal law, family law, commercial law, etc.

2.5.2.1. Aspects of criminal law

The penalties differed depending on the social status of the people involved in the case (Babylonian society distinguished between free men and slaves). For example, Articles 196 and 197 of the Code of Hammurabi provide, respectively, that "if a man puts out the eye of a free man, his eye shall be put out" and that "if he breaks a bone of a free man, his bone shall be broken." But Article 199 provides that "if he puts out the eye of a free man's slave or breaks a bone of a free man's slave, he shall pay half the price."

Furthermore, we note that the law of retaliation, according to which the guilty party must suffer the same damage as that which he inflicted on his victim, is mentioned in several articles (notably in articles 196 and 197 which we discussed previously).

2.5.2.2. Family law aspects

Articles 127 to 195 of the Code of Hammurabi concern family matters: relations between spouses, relations between parents and children, divorce, adoption, etc.

Generally speaking, the Babylonian family was monogamous. However, the husband could take concubines. Furthermore, if his wife could not bear him a child or if her conduct left something to be desired, he could take a secondary wife: "If the wife of a man who resides with this man was willing to go out, caused division, wasted her house and neglected her husband, she shall be brought before him, and if her husband declares that he wishes to divorce her, he may divorce her and shall not give her any divorce price. If her husband declares that he does not

wish to divorce her, he may marry another woman, and this first wife shall remain in her husband's house as a slave¹.

Furthermore, the Code of Hammurabi enshrines the authority of the father over his children (but not that of the mother). For example, while Article 195 states that "if a child strikes his father, his hands shall be cut off," there is no similar article for the case where the child strikes his mother.

2.5.2.3. Commercial law aspects

With regard to commercial law, the Code of Hammurabi deals, among other things, with commercial loans, the repayment of debts and related liability, tariffs in force in commercial relations, the status of merchants and partnerships.

In any case, it contains essential information for understanding various aspects of Babylonian society in the 18th century BC: judicial organization and practices, family and property law, social status, economic activities, among others. It is often appropriate to supplement this information with that provided by the numerous cuneiform tablets from the same period unearthed on the sites of the kingdom of Babylon to better understand the content of the text.

The Code of Hammurabi was written during the so-called "Paleo-Babylonian" (Old Babylonian) period, under the First Dynasty of Babylon, more precisely towards the end of the reign of King Hammurabi, who commissioned it and probably formulated it in large part. He would have reigned from 1792 to 1750 BC according to the "middle chronology" which is the most commonly used, but it is possible that it should be placed at a more recent date (1728 - 1686 BC according to the proponents of the "low chronology"), the absolute dating being imprecise for such a remote period².

When Hammurabi succeeded his father Sin-muballit on the throne of Babylon, his kingdom was small but already dominated important cities such as Kish and Sippar. It was surrounded by powerful kingdoms: Larsa to the south, Eshnunna and Ekallatum then Mari to the north. After a militarily inactive first half of his reign, Hammurabi succeeded in defeating and annexing his neighbors, thus

¹ van de Mieroop, M. A History of the Ancient Near East ca. 3000-323BC, 2nd edn. Oxford: Blackwell, 2007,p186

² Gaballa, G. AThe Memphite Tomb Chapel of Mose. Warminster: Aris & Phillips, . 1987,p113

dominating most of Mesopotamia. He is thus the true founder of the Babylonian kingdom as a leading political power in the history of the ancient Near East.

This structure is shared with the two other known "codes" of ancient Mesopotamia, the Code of Ur-Namma king of Ur, written around 2100 BC¹⁹, and the Code of Lipit-Ishtar king of Isin, written around 1930 BC²⁰. As a legislative text, the Code of Hammurabi shares common features with other texts of law books that are not framed by a prologue and epilogue and are therefore not called codes of Laws ..

The short epilogue of the Code concludes the glorification of Hammurabi initiated in the prologue and expresses the desire that the text be taken as an example in the future, allowing the name of the sovereign to endure. It is followed by several curses in which the great Babylonian gods are invoked to curse those who would alter the text, a common occurrence in royal inscriptions, especially those intended to commemorate the construction of temples.

The question of the extent to which Hammurabi's Code was applied in legal practice has been and still is a source of much discussion. While it is generally accepted that it was not a legal code in the modern sense of a systematic and exhaustive text (because it does not cover all aspects of Babylonian law at the time), the discussions focus mainly on whether it laid down a legal standard for the cases discussed that was intended to be strictly applied in the courts of the Babylonian kingdom. At the very least, it was intended to have a model value, providing examples of legal decisions that could be used as inspiration for the administration of justice, both in Hammurabi's time and in the future¹.

¹ Peden, A. J. *Egyptian Historical Inscriptions of the Twentieth Dynasty*. Jonsered: Paul Åströms förlag, 1994,p361

Glossary and Terms of Ancient Mesopotamia

Akkadian :A language spoken by most of Mesopotamia. It replaced Sumerian as the primary language.

Akkadian Empire :The Akkadian Empire was the world's first empire. It formed when Sargon the Great conquered many of the Sumerian city-states and united them under one leader.

Aqueduct :A man-made channel built to carry water from one location to another.

Ashur or Assur :Assur was the original capital city of the Assyrian Empire. It was also the name of the primary god in the Assyrian religion.

Assyrian Empire :An empire known for their fierce warriors, the Assyrian Empire rose and fell several times to rule over much of Mesopotamia and the Middle East.

Babylonian Empire :The Babylonian Empire ruled much of Mesopotamia from the city of Babylon. The empire rose and fell over the course of ancient history.

Chariot :The chariot was a two wheeled vehicle pulled by horses. It was typically used for warfare and was one of the strengths of the Assyrian army.

City-state :A city-state is an independently governed region that is centered around a single powerful city. The civilization of the Sumer was governed by many independent city-states.

Civilization :A civilization is an advanced state of human society. Typically a civilization is marked by advanced government, agriculture, science, and culture.

Code of Hammurabi :A written code of law from 1772 BC. It was put in place by Babylonian King Hammurabi. It is one of the oldest detailed recordings of a code of law in world history.

Cuneiform :One of the earliest forms of writing invented by the Sumer. It uses wedge shaped marks to make picture symbols on clay tablets.

Cylinder seal :An engraved stone cylinder used to create a seal or signature on clay tablets.

Dynasty :When one family rules a kingdom or empire for a period of time, passing down the reign to the next generation.

Empire :A large number of states or regions that are ruled by a single leader called the emperor or empress.

Fertile Crescent :A large area of land in the Middle East that is shaped like a crescent on a map. It runs from the Persian Gulf, along the Tigris and Euphrates rivers, over to the Mediterranean Sea, and down the Nile River Valley of Egypt.

Gilgamesh :A Sumerian King of the city-state of Uruk. He later became known in mythology as a demigod with superhuman strength.

Irrigation :Watering crops through man-made efforts such as ditches and canals.

Lyre :A stringed instrument shaped like a small harp.

Marduk :The primary god of the Babylonians.

Mesopotamia :A term used to describe the lands between and near the Tigris and Euphrates Rivers. It is mostly located in present day Iraq and Syria.

Mina :A unit of weight equal to 60 shekels or around 1.25 pounds.

Nebuchadnezzar :A famous king of Babylon, Nebuchadnezzar rebuilt much of the city including the famous Hanging Gardens of Babylon.

Persian Empire :The last major empire of Ancient Mesopotamia, the Persian Empire conquered much of the Middle East.

Scribe :A person trained in writing cuneiform script. They were well-respected in Mesopotamian society.

Shekel :A standard unit of weight first used in Mesopotamia.

Siege weapons :Weapons used to capture cities and take down walls. The Assyrians were experts at using siege weapons such as battering rams and siege towers.

Stylus :A writing tool made from a reed that scribes used to make wedge shaped symbols on clay tablets.

Sumer :The first human civilization in world history, the Sumer began to form towns in 5000 BC.

Ziggurats :Large temples usually located at the center of a Mesopotamian city. Ziggurats looked like pyramids with a flat top.

Zoroastrianism :The main religion of the Persian Empire, it followed the teachings of Zoroaster

Chapter 3:

The Legal System of Ancient Greece

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The Legal System of Ancient Greece

Ancient Greece is a civilization of ancient Greek-speaking and Greek-cultured peoples that developed in Greece and western Asia Minor, and then, following several phases of expansion, in Cyprus, around the Black Sea, Sicily, southern Italy, Cyrenaica, Egypt, Palestine, and Syria, constituting settlements as far away as present-day Spain and France in the west and as far away as the territory of present-day Afghanistan in the east.

This civilization of Greek culture took shape during the "dark ages" (c. 1200-800 BC), from the ruins of the Mycenaean civilization, and developed in particular during the Archaic period (c. 800-480 BC), and fully flourished during the Classical period (480-323 BC) and the Hellenistic period (323-31 BC). The Roman conquest marked the end of Greek political independence, but ancient Greek culture retained a real dynamism under Roman domination, gradually evolving towards Byzantine civilization from the 4th century¹.

The legal system in ancient Greece was not unified, but divided among hundreds of autonomous city-states like Athens. Unlike the Romans, the Greeks did not develop an independent legal science, but instead intertwined law with political and religious philosophy. Written law became the cornerstone of citizen democracy. The organization of justice rested on several distinct pillars: Popular justice: In Athens, justice was not administered by professional magistrates, but by popular juries chosen by lot

The absence of lawyers: Citizens had to defend themselves, although they could call upon professional speechwriters, the logographers. The distinction between offenses: A clear separation existed between private matters (offenses between individuals) and public matters crimes threatening the city. In this chapter we will examine the different of the legal system in ancient Greece:

¹ Cartledge, Paul, and Matt Edge. , "Rights," Individuals, and Communities in Ancient Greece. In *A Companion to Greek and Roman Political Thought*. Ed. Ryan K. Balot, 149–63. Oxford: Blackwell, p319

3.1. Historical overview of ancient Greece

The sources used to reconstruct ancient Greek history are varied, mixing the fields of history, archaeology and art history, which tend to be increasingly combined under the term sciences of Antiquity.

Literary sources are traditionally the preferred means of access to ancient Greek civilization. These are secondary sources, of a varied nature: histories, theatre, poetry, philosophy, scientific treatises. The majority of writings political or historical from these periods that have come down to us come from the Athenian sphere. This is particularly the case for authors such as Thucydides, Xenophon, Demosthenes, Plato, Aristotle. This is why the history of Athens partially obscures that of other cities such as Corinth, Sparta or Thebes, which are often poorly known in detail. In addition, many sources have disappeared or have only partially come down to us¹.

Modern scholarship generally considers that the Greek language did not originate in Greece, but it has not reached a consensus on the date of arrival of groups speaking "proto-Greek," which occurred during prehistoric phases for which there are no texts indicating which languages were spoken. The earliest written texts in Greek are the Linear B tablets from the Mycenaean period, in the 14th century BC, which indicates that people speaking a Greek dialect were present in Greece at the latest during this period².

The times of arrival of the first speakers of a Greek language in this country have generally been sought during the transition phases between prehistoric cultures, seen as phases of rupture that could be attributable to population movements. Therefore, it has been possible to propose: the end of the Middle Bronze Age

¹ Paltseva, L. A. The Court in Homeric and Hesiod epics. In E. D. Frolov (ed.), *Mnemon. Research and publications on the history of the ancient world*, 21-32. St. Petersburg, 2002, p128

² Atkins, E. M., and R. J. Dodaro, eds. , *Augustine: Political Writings*. Cambridge: Cambridge University Press, 2001. p123

3.1.1. Bronze Age

At the beginning of the 2nd millennium BC, during the Middle Bronze Age, the first complex culture of Greece emerged, the Minoan civilization, which developed from Crete. It owes its name to the mythical Cretan king Minos, known from later Greek tradition, who may have preserved a distant memory of this civilization. It is a civilization often referred to as "palatial," the first period being called "protopalatial", because it saw the appearance of a group of buildings considered to be palaces, even if their exact function is debated (they seem to have an important ritual function). The political organization of the period is unknown, although it is clear that it was inspired by those of the Near Eastern and Egyptian cultures of the time. Urban centres are formed, crafts develop¹.

3.1.2. Dark Ages

The material characteristics of Mycenaean civilization gradually disappeared during the 12th century BC (the "post-palatial" period), and then settlement and economic activities experienced a sharp decline. This was followed by a period without written documentation and with much less abundant archaeological documentation, consisting mainly of burials, without any trace of complex political organization, often referred to as a dark age, which is especially aptly named for the period from about 1150 to 1000 BC².

The following period, which saw the development of the geometric ceramic tradition, saw a resumption of trade and a new phase of formation of political entities, visible especially in Crete, but also on the continent. This period was the beginning of the Iron Age, with the working of this metal developing rapidly. Contacts with the Near East were renewed.

3.1.3. Archaic period

In the 8th century BC, the pace of change accelerated, and some did not hesitate to speak of a renaissance of the Greek world, even if the recent tendency is to re-evaluate the advances made during the second part of the "dark ages". It is during

¹ Berman, Harold J. ,Law and Revolution. The Formation of the Western Legal Tradition. Cambridge, MA: Harvard University Press, 1983,p235

² Bessone, F. ,Polis, Court, Empire: Greek Culture, Roman Society, and the System of Genres in Statius' Poetry. Flavian Poetry and its Greek Past. Brill, 2014,p 233.

this period that the beginning of the Archaic period is situated, often placed symbolically in 776 BC, the supposed date of the first Olympic Games. Its end occurred at the latest during the Second Persian War, in 480-479 BC.

The main signal of the establishment of a new world at the end of the Dark Ages was the adoption of writing, this time from the Phoenician alphabet, around 800 BC, which led to the emergence of the Greek alphabet. On the socio-political level, this was accompanied by the formation of a new type of entity, the "city-state", polis, which was gradually adopted in the southern part of the Aegean world, between central Greece and the western coast of Asia Minor, passing through the islands, including Crete, which still played a pioneering role during the first archaic centuries, before fading away.

The country was then divided into a multitude of small independent communities, a situation imposed by Greek geography, where each island, valley or plain was completely cut off from its neighbours by the sea or the mountains. The phenomenon of city formation was quickly accompanied by a process of expansion outside the Aegean world, Greek colonization, after 750 BC, which saw the founding of cities on the shores of the Mediterranean, notably in Sicily and on the Italian peninsula, where "Greater Greece" was formed.

3.1.4. Classical period

The Classical period runs from the end of the Persian Wars in 480/479 BC until the death of Alexander the Great in 323 BC. It therefore roughly covers the 5th and 4th centuries BC. It is traditionally seen as the "golden age" of Greek city-states (at least in the political and military spheres), and a cultural benchmark.

The end of the Persian Wars left Greece divided between the two victors, Athens and Sparta, each of whom established their own sphere of domination, the former taking control of the seas, the latter of the lands. For half a century they clashed mainly indirectly. Athens experienced a strong expansion, constituting a sort of "empire" organized around the Delian League, an alliance of which it had the leadership and which was supposed to serve in principle to combat the influence of the Persians, but gradually became an instrument serving its domination, especially after the conclusion of the Peace of Callias with the Iranian

power in 450 BC. In the West, the rich Greek cities of Sicily and Italy experienced their own struggle against an external power, Carthage¹.

3.2. The Foundations of Law in Ancient Greece

The intrigues of a bustling Agora, the voices echoing from the Areopagus Hill, and the majestic shadow of the Acropolis—these form the living theater of justice in fifth-century BC Athens. A time when the ever-changing law began to take the form of an organized structure that could almost be called modern. In this article, we will explore this fascinating world through various aspects, from the legal diversity of Greek city-states to the organization of the judiciary, not to mention the social issues underlying the legal system. Come discover how the wisdom of lawmakers such as Socrates, Plato, and Aristotle influenced the evolution of fundamental legal principles, and how these teachings still resonate today. Cruise to Greece

The development of law in ancient Greece is a journey through the centuries, marked by the transformation of magico-religious precepts into secular laws. In an era dominated by mythical figures and described in Homeric poems, justice emerged as a central virtue, embodied by Themis, the goddess representing divine order. However, the shadow of invisibility still hovers over these early times, as written and legal archives are rare and fragmentary.

From the 5th and 4th centuries BC, major changes characterized the Classical period, in which Athens distinguished itself by its ability to organize itself legally. Indeed, unity and diversity coexisted in the Greek world; on the one hand, through money, which demonstrated a shared cultural community, and on the other, through politics, through the plurality of cities, masters of their own legislation, as explained here².

For Athens, this was a period of great legal creativity. Like its democratic institutions, Athens implemented several mechanisms ahead of their time, such as the ability for citizens to appeal to the Heliaea. Created by Solon, this popular tribunal allowed for appeals against the judiciary. The development of the Heliaea

¹ Van Thiel, H.. *Homeri Odyssea*. Recognovit H. van Thiel. Hildesheim–Zürich–New York: G. Olms, 1991, p 188

² Akhsanul, I. *Euclidean Geometry's Problem Solving Based on Metacognitive in Aspect of Awareness*. IEJME-Mathematics Education, 2016, p974.

constituted a significant advance in access to justice for free citizens. Mendacity, compensation for harm, and individualized punishment were also very modern concepts for the time. Cruise in Greece

3.2.1.The Influence of Philosophers on the Legal System

Philosophy is closely linked to the development of legal ideas and practices. Socrates, for example, emphasized the need to question the morality behind every rule of law, leading the Athenians to reflect on the ethical implications of their laws. For Plato, justice was an ideal concept, a perfect form toward which human institutions should strive. In the real world, however, the application of Platonic principles was limited by the political and social realities of the time.

Aristotle, a pragmatic thinker trained at the Lykeion, brought a systematic approach to law, classifying political regimes and analyzing different typologies of justice. His work influenced legal education, believing that civic virtue could be achieved through education and legal training. He also emphasized the importance of logic and rhetoric in public speaking, which Demosthenes mastered perfectly.

3.2.2.The Plurality of Legal Systems of Greek Cities

In the mosaic of Greek city-states, or polis, each entity was distinguished by its own legal system. The idea of a uniform unity of ancient Greek law is an illusion; on the contrary, each city developed its laws according to its traditions and political needs. [Learn more about ancient city-states here.](#)

For example, while Athens was celebrated for its direct democracy and popular courts, Sparta was known for its austerity, militarism, and dual kingship system, which influenced its laws. Spartan legislation was more focused on social cohesion and rigid control of the population.

These legal diversities allowed for a rich cultural interaction, where the traveller could discover different forms of justice and legislation by crossing simple city-state borders. It should be noted that not all Greek city-states adopted the same forms of government. Some cities practiced monarchy throughout their history, while others adopted a more or less advanced form of democracy. The

variety of forms of government in Greek city-states reflects the complexity of ancient Greek political history. The most famous Greek cities¹.

3.2.2.1. Athens

Famous for its democratic system, which has inspired many other states over the centuries, Athens is also a major cultural center. The Acropolis, the Parthenon, Socrates, Plato, and Aristotle are all symbols of the city's cultural wealth.

3.2.2.2. Sparta

Known for its oligarchic political system, this Greek city is renowned for its military discipline and rigorous training. Spartan society is organized around war and militarism, and women play an important role in training young warriors.

3.2.2.3. Corinth

A prosperous Greek city known for its trade and maritime activities, Corinth is also famous for its artistic achievements, particularly in sculpture and ceramics.

3.2.2.4. Ephesus

Located on the west coast of Asia Minor (present-day Turkey), the Greek city of Ephesus is an important trading center and home to one of the Seven Wonders of the Ancient World, the Temple of Artemis.

3.2.3. The political organization of a democratic city

Greek city-states were independent political entities, each with its own political system, laws, and culture. Not all operated on the democratic model of Athens. Although these city-states were often in conflict with each other, they also established economic, cultural, and political ties that contributed to the richness and diversity of ancient Greece.

The term "polis" refers to both the urban center and the rural area surrounding it. It also describes the place where political life takes place and where residents can take refuge in the event of war or invasion. The city is surrounded by ramparts that protect it in the event of attack. These urban walls appeared as early as the 8th century and multiplied at the beginning of the Classical period, that is,

¹ Sacks, D., Murray, O., & Brody, L. R.. Encyclopedia of the ancient Greek world, Third Edition. Sign In for Pricing: Infobase Publishing, 2014,p 938

between the 5th and 4th centuries. These walls no longer surrounded only the acropolis but protected the entire inhabited area¹.

Although the cities had their own political regimes, we can nevertheless distinguish three main types of government in ancient Greece:

Monarchy: The monarchy is the form of government where power is held by a king. This form of government, inherited from the Mycenaean monarchy, gradually declined and transformed during the Archaic period. The monarchical regime persisted in new forms. Indeed, Sparta retained a monarchy but with two kings. This dual royalty was based on two great families, the Agiads and the Eurypontids. The kings benefited from the prestige of the gods but remained subject to human control.

While they possessed political, judicial, military, and priestly power, they had to deal with the assembly of free-born Spartans as well as the Gerousia (also called the Council of Elders) and the Ephors. The latter symbolized the democratic nature of the Spartan constitution. This survival of the monarchy with democratic overtones made it possible to avoid the establishment of tyranny, as was the case in Athens in 510 BC.

Oligarchy: Oligarchy is a form of government where power is held by a small elite of citizens (the aristocrats) who dominate the life of the city. This political regime is based on a system of exclusion of a majority of citizens. We find this regime in Corinth or occasionally in Athens, as during the coup d'état of the Five Thousand in 411 BC².

Democracy: Democracy is a form of government in which power is exercised by the people, that is, the entire civic population of the city. This form of government is, in the collective mind, inextricably linked to Athens. It was gradually established in this city at the turn of the 6th and 5th centuries BC.

Athens is the democracy whose functioning is best known thanks to the sources that have been preserved. While a draft of democracy emerged with Solon in 594-

¹ Westbrook, R. The trial scene in the Iliad. Harvard Studies in Classical Philology, 1992. p76

² Lapteva, M. U. ,Law and court in archaic Ionia. In V. V. Dementyeva (ed.), City in antiquity and middle ages: the pan-European context: the reports of the international scientific conference dedicated to the 1000th anniversary of Yaroslavl. Volume 2, 6-9. Yaroslavl, 2010. P54

593 BC, it was not until the fall of the tyranny of Pisistratus and his sons in 509 that democracy truly took root. The reforms of Cleisthenes and then Pericles allowed democracy to take lasting root as the preferred mode of government.

3.3. Evolution of Greek Law

In the heart of ancient Athens, the history of law begins on the cobblestones where citizens' lives passed. While myths often attribute the origins of certain laws to semi-legendary figures, it was primarily through concrete reforms that Greek justice took shape. When discussing the first written laws, the names of Draco and Solon inevitably come up, each with their indelible mark on the historical record.

3.3.1. The Draconian laws

In the 7th century, a more or less mythical legislator, Draco, broke the solidarity of the family, its supremacy, its sovereignty, by imposing the supremacy of the State and its arbitration:

For religious reasons: crime defiles the entire city, which must seek out the culprit and punish him, to free itself and avoid collective punishment. Dracon limits the number of combatants: judicial duel and co-juration (multiple oaths: parents, friends, witnesses swear for one of the parties; the one who has obtained the most oaths wins); submission of the judgment to public opinion.

It breaks the solidarity of families: only certain degrees of kinship can prosecute the aggressor; in the case of involuntary homicide, the consent of a single member of the family is enough to bring the guilty party back from exile. The penalty is personal, except in the case of a crime against the State or against the gods.

Involuntary manslaughter and self-defense are entrusted to the Ephesians: the crime is now judged according to its motives and not only in itself. It is no longer just a private matter but concerns the entire city. The first comer can demand satisfaction for an offended third party: attack on the procedures for composition between families; strengthening of the authority and competence of state justice. The Areopagus, already weakened in the 7th century by the creation of the

Ephètes, saw its role diminished by the birth of the Heliaea. It also lost the power to appoint the Archons¹.

Written in the 7th century BC, were renowned for their severity. Dracon, the lawgiver, introduced the first written codification at a time when custom dominated. His reputation for harshness, still embodied by the term "draconian," stems from the severity of his punishments, often inflicted for crimes now considered less serious. This rigor aimed to reduce conflict by establishing a universal standard and to deter any form of public disorder.

3.3.2. Salon's reforms

This first step was followed by Solon's reforms in the early 6th century BC. His contributions were more balanced and humane, inspiring a system of fairer rights for citizens. Solon, aware of growing social dissension, sought to dismantle the excessive privileges of the aristocracy and free citizens enslaved by debt. He initiated burden relief, cancelling all debts and prohibiting debt slavery. Draco had inscribed the law on wooden tablets that were difficult for the people to access, Solon promoted knowledge of rights and, above all, the beginnings of judicial democracy with a tribunal of heliasts, composed of citizens chosen by lot. With these reforms, Solon created the first stones of the democratic edifice in Athens, a system subject to the consent of the citizens and framed by law².

Discover the legal systems of ancient Greece, their fascinating laws, and the famous trials that have marked history. Immerse yourself in the world of justice through an analysis of the courts, judges, and emblematic cases of this era. In 487, the Archons will be recruited from expanded lists in the two upper classes. The creation of ostracism against threats of tyranny; creation of 10 elected strategists

Absolute sovereignty of the people, but some precautions have been taken against their own excesses. The Heliaea holds judicial power. Unlike the Ecclesia, it represents a part of the people.

¹ West, M. L. Hesiod, Works and Days. Edited with Prolegomena and Commentary by M. L. West. Oxford: Clarendon Press, 1978. p422.

² Osborne, R., 28 May). Greek History: The Basics Paperback. Routledge, 2014,P148

3.4. Structure of ancient Greece legal system

The structure of the ancient Greek legal system (Athenian model) revolved around the various elements. Law as the supreme norm which in the Greek view of law, the rule was synonymous with the law voted on by the community. Custom was largely disregarded. Equality before the law: The system guaranteed that all citizens were subject to the same rules. Codification initiated from the Archaic period onward, renowned legislators (such as Draco, and later Solon in Athens) codified laws in writing to limit the arbitrary power of aristocratic judges.

The Athenian model contrasted with other, more rigid systems, such as that of Sparta. Sparta implemented a system characterized by a strong military oligarchy and absolute state control over citizens' lives, relegating individual legal procedures to a secondary role.

3.4.1. The Judicial Organization

Athens, the true judicial capital of ancient Greece, boasted a functional and sophisticated judicial system. Its leadership was dominated by several key institutions, including the Areopagus, an ancient court responsible for the most serious crimes such as murder and arson, and the Heliaea, a more popular and important court responsible for the majority of civil and criminal cases. Cruise in Greece. The history of Greek law is a tale of constant evolution. Solon is often seen as the initiator of crucial reforms, abolishing debt bondage and enacting laws promoting political equality, marking the beginning of balanced legislation between different social classes. His work laid the foundations for the path toward a more just and unified society¹.

Solon is also known for pioneering legal innovations that would inspire future legislators in their thinking about the nature of law and its application. His legacy is reflected in the many effects his laws have had over time.

3.4.1.1. The courts

Athenian justice has been the subject of much criticism and ridicule due to the inflated number of cases, giving the image of a litigious and argumentative city. In a famous passage from Aristophanes' *Clouds*, Strepsiades, to whom a disciple of Socrates shows Athens on a world map, does not recognize his city because he

¹ Hadas, M.. A history of Greek literature. Columbia University Press. Routledge, 2013,p 244

does not see any judges in session! We find the same criticism in the pamphlet of the old oligarch, who believes that the Athenians alone bring more lawsuits than all the other Greeks combined.

These observations are certainly not without foundation, but a convinced democrat can also consider that, if lawsuits were more numerous in Athens than elsewhere, it is because individual rights made it possible to seek redress for injustices that would never have been the subject of complaints in other cities.

In the 4th and 5th centuries, two main courts coexisted: the Areopagus and the Heliaea. It is also worth mentioning a series of subsidiary courts, sometimes located far from the Agora and dealing mainly with criminal matters.

Before the oligarchic interludes of the late 5th century, it therefore appeared to be nothing more than a venerable institution devoid of any power. The Four Hundred and the Thirty, during the brief oligarchic interludes of the late 5th century, attempted to restore its original power, but the undertaking was short-lived. The Areopagus was never abolished, however, and it retained its prestige throughout the 4th century. Its members, the Areopagites, were recruited from among the former archons, but most of them continued to belong to the wealthiest classes. In Aristotle's time, it had jurisdiction over cases of poisoning, arson, murder, and premeditated injury for which the accused could not present any mitigating circumstances¹.

It is because crime involves a defilement of the community that we see archaic features being maintained in the classical period for the treatment of criminal cases. Several judicial institutions were established:

In thriving Athens, democracy was not just a nice idea; it was implemented through institutions that encouraged every citizen to actively engage. The Athenian courts, with their unique organization, embodied the most vivid expression of this direct democracy.

The administration of justice in Athens relied on a complex structure comprising several types of courts and magistrates. Among them, the Ecclesia, the people's assembly, played a decisive role in promulgating laws and

¹ Zaykov, A. V. Roman law in systematic representative. Moscow: University Library, ,2012,p 422

supervising the functioning of other institutions. The most famous tribunal was probably that of the Heliaea, where judges were chosen by lot from among citizens aged at least thirty. This approach ensured broad representation of the population, thus reducing class or ethnic bias.

Each case was brought before the citizens, systematically bringing together between 200 and 1,500 jurors depending on the issue at stake. The pleadings took place in the open air, in the agora or at the foot of the Acropolis, giving each debate a theatrical and educational dimension. This public staging of disputes not only offered a spectacle, but was also a way of involving each inhabitant in the exercise of judicial power. The functioning of these courts was governed by carefully preserved laws, alongside administrative archives, the tablets of the law.

The principle of citizen involvement echoed the democratic ideal that the people are sovereign and must therefore be actors in their own justice. However, such an organization was not without its challenges. Heated debates were not uncommon, and sometimes popular passions took precedence over reason, which could result in hasty and harsh judgments. In this context, the speeches of Demosthenes, the ancient lawyers, were eloquent and persuasive¹.

Nevertheless, this massive participation in judicial decisions educated citizens about their rights and responsibilities, creating a sense of belonging and civic responsibility. Thus, Athenian democracy, despite its imperfections, provided its citizens with a true lesson in civic responsibility.

Explore justice and law in ancient Greece, delving into innovative legal systems and discovering famous trials that shaped modern legal thinking. A captivating journey into the values and institutions of the time.

The link between the legal and the political was therefore omnipresent, each citizen was both an actor and a witness to what was happening on the public stage, forming an opinion whose echo would resonate well beyond the borders of Athens.

Trials in ancient Greece were sometimes real events, captivating attention both for their stakes and for the personalities involved. One of the most famous trials

¹ Grundy, G. B. ,A History of the Greek and Roman World (Routledge Revivals). Routledge, 2014. p234

in Greek history, and perhaps in all of human history, remains that of Socrates in 399 BC. Cruise in Greece

Accused of corrupting the youth and disrespecting the gods of the city, Socrates was tried by his peers in a tense atmosphere. The philosopher accepted his fate with stoicism, preferring to drink hemlock rather than deny his ideas, thus marking the philosophical and legal debates that would follow in the centuries that followed. His way of defending himself, through questions rather than assertions, is remembered not as a judicial failure, but as a victory of reason over dogmatism. Read more about the major trials

Antigone's trial, though more mythological than real, also left an indelible mark on the idea of resistance to unjust laws. By defying King Creon to give her brother a proper burial, she embodies the struggle against authoritarian power through the strength of individual conscience. This story, transmitted through tragic theater, still resonates, legitimizing the debate on the legitimacy of laws in the face of universal moral values. Learn more about tragic theater

These cases also reveal the power and limits of the law in the face of personal choices, questioning the individual's place in society. These stories are carried not only by the force of events but also by the oratory of those who seized them, like Cicero later, who, inspired by these examples, perfected the art of advocacy.

3.4.1.2. Other criminal jurisdictions

Involuntary manslaughter, or those for which a citizen could claim a legitimate excuse was not within the jurisdiction of the Areopagus, as was the murder of a slave or a metic. The location of these courts is uncertain. The first two were evidently located near or within the precincts of sanctuaries dedicated to Athena. The third was perhaps adjacent to the Prytaneum, on the Agora. As for the fourth, it was on the coast, near Piraeus, in a place called Phreattys. In this last tribunal, Aristotle tells us, the accused had to present his defense from a ship anchored near the shore.¹

¹ Kofanov, L. L.. *Lex et ius. The Emergence and Development of Roman Law in the EighthThird Centuries B.C.E. [Lex et ius: iuris Romani origo et augmen VIII-III Saeculis A.C.]*. Moscow: "Nauka" Publishing House, 2006,p 538

The jury was composed of citizens chosen by lot: the ephetes ;The number and status of these jurors is not well known and it is not known whether they should be classified among the magistrates or considered as heliasts.

In ancient Greece, the distinction was limited to common law and private law trials. Jurisdiction was divided among several courts. Common law trials were marked by archaism and established a strict separation between free and unfree men. Political trials only concerned citizens; their organization was gradually unified.

The Areopagus Council It is a small council that brings together all the former archons. In the 4th century, it must have included 150 people. This tribunal was competent to hear cases of premeditated murder, or violence committed with the intention of causing death. The Ephetes included 51 jurors drawn at random. They will sit in three criminal courts.

The multiplicity of courts was bound to hamper the effectiveness of justice; in some cases, they were expeditious, in others, they were hampered by all sorts of practices. Indeed, sometimes specific magistrates had the right to execute without trial (this was the case for thieves caught in the act), but on the other hand, it was not always possible to bring an action for murder: it could go unpunished if no one as a private person sought justice, or even if the victim had forgiven the murderer before dying¹.

The initiative for prosecution therefore fell to the closest relatives, and even then the law provided that the matter could be settled by a financial arrangement. If legal action was finally decided upon, the relatives went to the burial site and planted a spear there to demand revenge; the accused was excluded by the archon king from access to the Agora and the temples: until the day of the trial, he was considered defiled².

On the day of the trial, both parties are heard and must decide on guilt. In the event of a tie, the doubt favors the accused, who benefits from Athena's suffrage.

¹ Ridgeway, W.. The early age of Greece. Cambridge University Press, 2014,p23

² Brown, Eric. ,The Emergence of Natural Law and the Cosmopolis. In The Cambridge Companion to American Political Thought. Ed. Stephen Salkever, 331–63. New York, NY: Cambridge University Press, 2009.p123

In these cases, the accused must perform expiatory sacrifices before being reinstated into the civic community.

Archaic justice is marked by relative flexibility: the founding principle of this justice: punishment must be exemplary and contribute to correcting the wrongdoer. In the event of a repeat offense, the penalties are cumulative, and conversely, there are mitigating circumstances: passion, ... The husband who kills his wife's lover is acquitted if he can prove that the crime was not premeditated.

3.5. Punishment

These penalties could be combined for serious offenses such as sacrilege, treason, or corruption. The punishment varied in intensity and nature depending on the individual's status. Indeed, in the absence of a penal code, the Athenian system was unique in its estimation of penalties.

3.5.1. Estimation of penalties

In some cases, a distinction is made between trials with and without an estimated sentence. Without an estimated sentence, a case is one in which the penalty is set by law; its application is then automatic, although an additional sentence may be added.

With estimation, the severity of the punishment, whether financial or monetary, is assessed. The prosecutor proposes an estimate, to which the accused responds with another estimate. The jury members must then vote in favor of one estimate or the other, without being able to decide on a middle ground.

This system is thus flexible, since it allows the reasonable accused to obtain a reduction in the proposed sentence. E.g.: Socrates in 399 is accused of impiety, which is then equated with sacrilege. His accuser proposes the death penalty; Socrates, in counter-estimation, proposes to obtain the supreme reward: to be kept for life in the Prytaneum!

3.5.2. Conditions of application

Athenian legislation on murder dates back to the 5th century, and is due to the legislator Draco. Homicide, even premeditated, was not always followed by the death penalty; sometimes only exile if the victim was a foreigner or a slave.

Conversely, the Eleven, chosen by lot and assisted by the public executioner, can execute a thief caught in the act without trial. Nevertheless, there is a

development between the archaic and classical periods: the affirmation of individual responsibility¹.

3.5.3. The affirmation of individual responsibility

During the Archaic period, the death sentence of an individual also applied to members of his family. This is the principle of collective responsibility. One of the methods then used was stoning. This was an expeditious procedure, without a trial, which was applied for the last time in 480 in Salamis, where the Athenian authorities had taken refuge: a bouleute had shown himself favorable to the proposals of an envoy of the Persian general in Attica. He was considered responsible for treason; the Athenians stoned him, then the women rushed to his home to stone women and children...

The evolution of democracy led to a gradual abandonment of this principle. For the classical period, the modalities of the application of the death penalty were completely different.

3.5.4. The application of the death penalty

Execution took several forms, depending on the individual and the nature of their offense. For slaves, a kind of crucifixion was practiced outside the city: the victim was tied naked to a post with five spikes. Death followed after a few days. This torture was practiced until the end of the 4th century.

Less violent, throwing oneself into an abyss is applied in cases of sacrilege and treason. It is also necessary to add an originality: a citizen is allowed to die in an honorable manner by transforming his death into suicide: he drinks hemlock (see Socrates).

3.5.5. Prison sentences

Out of respect for the citizen's freedom, he was not given a prison sentence; however, they were imposed on convicts who delayed paying their fines and, more rarely, on a defendant or a person sentenced to death awaiting sentencing. For example, Socrates remained in prison for religious reasons: he could not be

¹ Burckhardt, J. History of Greek culture. Courier Corporation. Routledge, 2013,p 346

executed before the return of the trireme that had taken the members of a sacred delegation to Delos¹.

These programs were obviously never implemented, but their existence proves the interest in thinking about the death penalty.

3.6. The political power in Ancient Greece

Political power in ancient Greece revolved around the poleis (city-states), which were independent entities. It was primarily organized according to four systems: democracy (power to the people, as in Athens), oligarchy (power to the wealthy and aristocrats, as in Sparta or Corinth), monarchy (the rule of one), and tyranny. The ancient Greeks experimented with a wide variety of political regimes, often shifting from one system to another depending on crises or wars.

3.6.1. The power of Greek aristocratic families

In the shadow of the shepherds peacefully traversing the rocky hills of Greece, we discover the echo of the powerful aristocratic families who once shaped Greek political history. Their influence, sometimes benevolent, sometimes oppressive, has spanned the centuries.

3.6.2. Marital Laws

In Greek society, even though the family occupied a central place, the role of women in ancient law remained a minority. Women, under the tutelage of a father, guardian, husband, or even son, had no political rights and could only defend their interests through a man. That being said, laws regarding marriage and matrimonial rights had their own specificities in each city. It is interesting to note that marriages between relatives were often encouraged to maintain wealth within the same line².

¹ Pelloso, C. The Myth of the Priority of Procedure over Substance in the Light of Early Greek Epos. *Rivista di Diritto Ellenico*, 2013, P 275

² Harris, E. M., Leao, D. F. & Rhodes, P. J. *Law and drama in ancient Greece*. Bloomsbury Academic: A&C Black, 2013, p 192

3. 7. Judicial Institutions

The judicial institutions of ancient Greece, and particularly in Athens during the 4th century BC, relied on citizen juries rather than professional lawyers or judges. This system was based on direct democratic participation. Hundreds of randomly selected citizens listened to arguments and voted on guilt and punishment.

The legal landscape of ancient Greece varied from city-state to city-state, but the most complete records we have come from the Athenian popular courts. Key elements of this system included the following:

3. 7.1. The judicial Assembly

The main judicial body, where a group of 6,000 citizens was selected annually. On trial days, grand juries were chosen by lot using the kleroterion, a complex randomization machine designed to prevent corruption. It was the supreme popular court of Athens. It had 6,000 jurors chosen by lot each year. Cases were judged by juries of varying sizes to prevent corruption. It is a political and democratic body. It may seem surprising to consider a court as a political body since we today consider the existence of a judicial power independent of political power to be essential.

In ancient times, this distinction did not exist: most vile cases were judged by magistrates. The Heliae exercised unlimited control over the Ecclesia, the Boule, the magistrates, and generally over all those who ran the affairs of the city.

It is no coincidence that it is found only in a democratic regime: according to Aristotle, *Politics*: the citizen of a democracy is defined by his participation in the Assembly and his right to be a member of a jury. The very functioning of the people's court is inspired by the concern for democracy¹.

3. 7.1.1. Designation of members

The heliasts must be at least 30 years old; this is to avoid excesses due to being too young and to ensure a certain seriousness. As with the important meetings of the Assembly, the Heliasts, drawn by lot each year, must number a total of 6,000. There is thus a parallel between the Ecclesia, the political assembly, and the Heliae, the judicial assembly. Each member of the Heliae, the judicial assembly.

¹ Aesop. *Fables*. In *Early Greek Political Thought from Homer to the Sophists*. Trans. Michael Gagarin and Paul Woodruff, 145–9. Cambridge: Cambridge University Press, 1995, p48

Each member of the Heliaea then receives an identification plaque bearing their full name, essential for carrying out their activity. Several of these plaques have been found in tombs, which proves the pride associated with them.

3. 7.1.2. The obligations of the heliasts

A citizen's appointment becomes final when he or she takes an oath. This oath commits him or her to respecting laws and decrees, and to judging in all conscience after listening to both parties. It is sacred: Zeus, Apollo, and Demeter are called to witness. Certainly, the vote was secret, however, the moral significance of the oath is so great that the verdict of Heliaeus was considered superior to a decision of the

3. 7.1.3. Salary and conditions of heliasts

It is not surprising then that the institution of the *misthos heliastikos* appeared, the first *misthos* whose initiative would go back to Pericles. Now the payment of jurors is a characteristic of radical democracy, of which Athens is the model. Initially fixed at 2 obols, it increased to 3 obols at the end of the 3rd century. It is a small compensation that nevertheless allows one to eat. It is in fact much less for a full day than the compensation for participation in the *Ecclesia* whose sessions last half a day¹.

Thus, not everyone who had a job had an interest in being a candidate. A large proportion of the heliasts were therefore unemployed, disabled, and elderly. This Heliaea system therefore obviously has serious shortcomings.

3. 7.2. Areopagus

an elite council of major historical importance, gathered elders on a hill dedicated to Ares. It had jurisdiction over serious crimes such as premeditated murder and sacrilege. • The Areopagus: This court, composed of former magistrates (the archons), was historically powerful. In the Classical period, its jurisdiction was limited to cases of premeditated murder, poisoning, and arson.

3. 7.3. Magistrates

Magistrates had specific powers and managed the procedural aspects of filing complaints and organizing trials (particularly for settling family and inheritance matters). However, they did not render judicial decisions. Lawsuits by private individuals: There was no official state police force, professional prosecutors, or

¹ Colaiaco, James A. ,Socrates against Athens: Philosophy on Trial. London: Routledge, 2001,p193

lawyers. Lawsuits were brought by citizens. Litigants had to represent themselves and often hired professional speechwriters, called logographers, to develop persuasive arguments.

3. 7.4.Arbitrators

To alleviate the burden on the courts, there were public arbitrators, often elderly citizens chosen by lot, who attempted to reconcile the parties before a trial in the Heliiaia.

3.8. The Trial Procedure

In Mesopotamia, justice was a highly structured and formalized institution. The core of the law was based on private matters. Disputes were heard by local courts or panels of judges. The procedure unfolded in several stages. Private initiative: Since crimes and offenses were considered private matters, it was up to the victim or their representative to initiate legal action and plead their case themselves, as there were no lawyers. To prove their claims, the parties presented witnesses, written documents, and seals. If the evidence was insufficient, the judge often required one of the parties to swear an oath before the gods, usually in the name of the sun god Shamash. Perjury was severely punished, and refusing to swear an oath resulted in losing the case¹.

3.8.1. The Role of the Parties

Plaintiffs and defendants had to plead their own cases. However, they could hire professional speechwriters, known as logographers, to prepare their arguments.

3.8.2. The Water Clock

Speaking time was strictly timed using a water clock, ensuring equal time for the prosecution and the defense.

3.8.3. The Vote

The jury voted directly using bronze tokens (solid or hollow) to determine guilt and, if necessary, to set the sentence.

¹ Bobzien, Susanne, *Determinism and Freedom in Stoic Philosophy*. Oxford: Oxford University Press, 1998,p239

3.8.4.The accusation of illegality

Any citizen can initiate such an action; they simply have to swear by oath that a decree is contrary to the spirit of the constitution. For a proposed decree, the debate is adjourned; in the second case, the decree is suspended. The accuser must then write a report and send it to the six Thesmothetes. From now on, if he abandons his pursuit, he is liable to a heavy fine.

An unconstitutional decree is characterized either by formal defects (a citizen proposing it while under sentence) or by its inappropriate or even harmful nature.

When the construction sites of history mingle with legendary tales, they tell not only the glorious past of a civilization, but also the foundations of our present. Ancient Greece, with its city-states resonating with philosophers and orators, made a decisive contribution to the development of modern justice. This article explores this fascinating interweaving of laws, trials, and legal thought, evoking emblematic figures and defining moments. Come discover how the wisdom of lawmakers like Solon shaped not only the lives of Athenians but also the legacy of justice throughout the world. Cruise to Greece¹.

3.8.5. Procedural law

In the 4th century, trials multiplied: the Peloponnesian War had impoverished the population, notably because of the disastrous tactics of Pericles, who, locked within the Long Walls, had allowed the Attic land to be devastated. The fields lay fallow, land speculation raged, accentuating the concentration of property and the impoverishment of the people. They sought support in political life: an increase in trials, the appearance of sycophancy: if the accused was condemned, and his property confiscated, one part went to his accuser, the other to the judges. The 4th century was that of the Attic orators.

¹ Atkins, Margaret, Cicero. In *The Cambridge History of Greek and Roman Political Thought*. Ed. Christopher Rowe and Malcolm Schofield, 477–516. Cambridge: Cambridge University Press, . 2000,p91

Glossary and Terms of Ancient Greece

Acropolis :An acropolis is a fortified citadel within a larger city. It is usually located on top of a hill and at the center of the city. The most famous acropolis is the Acropolis of Athens.

Agora :The agora was the central meeting place in Ancient Greek cities. Democracy was born at the agora in Athens.

Alexander the Great :A ruler of Ancient Greece who conquered much of the civilized world from Greece to India including Egypt.

Archaic Period :The historical period of Ancient Greece from 800 BC to 480 BC. During this time the city-states of Athens and Sparta began to form. Greek philosophy and theatre began to develop as well.

Aristotle :A Greek philosopher who introduced the idea of observing and recording nature. He also tutored Alexander the Great and began his own school in Athens.

Assembly :In Athens the Assembly consisted of the group of citizens who showed up to vote.

Athens :One of the most powerful Greek city-states, Athens was the birthplace of democracy.

Chiton :A type of clothing worn by the Greeks. It was often made from a single piece of cloth with a belt at the waist.

City-state :A city-state consisted of a large city and the surrounding areas. Ancient Greece consisted of a number of independent city-states such as Athens, Thebes, and Sparta.

Classical Period :The historical period of Ancient Greece from 480 BC to 323 BC. During this time Athens was ruled by democracy. Also, Sparta and Athens fought the Peloponnesian War. It ended with the rise of Alexander the Great.

Cuirass :A piece of armor, usually made from metal, that covered the front of the torso.

Delian League :A group of Greek city-states that joined together to fight against the Persian Empire.

Democracy :A form of government where citizens have a say in how they are ruled including choosing their leaders and deciding on laws.

Ephors :The ephors were five leaders in Sparta who were chosen to oversee the Spartan kings. They were elected annually.

Helots :The helots were the serfs or slaves that worked for the Spartans. The majority of the people who Sparta ruled were helots.

Hellenistic Period :The Hellenistic Period of Ancient Greece lasted from 323 BC when Alexander the Great came to power to 146 BC when Rome conquered Greece.

Homer :A Greek epic poet who wrote the Iliad and the Odyssey.

Hoplite :The hoplites were the citizen-soldiers of the Greek city-states.

Macedonia :A region of northern Ancient Greece, Macedonia was home to the Greek kings Philip II and Alexander the Great.

Oligarchy :A type of government where the power is held by a few people.

Olympics :An athletic event held by the Ancient Greeks every four years.

Peloponnese :A large peninsula located in southern Greece. Many powerful Greek city-states were located here including Sparta, Argos, and Corinth.

Pericles :A leader of Athens during its golden age, Pericles promoted the arts and literature in the city. He also had many of the major structures built including the Parthenon.

Plato :A Greek philosopher who founded the Academy in Athens and wrote many philosophical dialogues.

Polis :The Greek name for a city-state.

Socrates :A Greek philosopher who is considered to be the founder of western philosophy.

Sparta :A power Greek city-state and rival to Athens, Sparta's culture was based around warfare and preparing for battle.

Stadion :The original Olympic event, the stadion was a running race the length of the stadium.

Strategos :The name for the general of the Athenian army.

Titans :The Titans were the first Greek gods. They were overthrown by their children, the Olympians.

Trireme :A type of boat used by the Ancient Greeks. It had three rows of oars on each side.

Tyrant :The ruler of a Greek city-state, a tyrant was like a king. Today the word tyrant is used to describe a ruler who rules unfairly or unjustly.

Chapter 4:

Ancient Roman Law

Chapter 4:

Ancient Roman Law

Roman civilization was the first to establish a legal system that has come down to us. Roman law can therefore be considered the first recognized legal system. Roman law clearly defined legal terms and categories. This is human law which evolves alongside divine law. Political life is organized by law. However, "Rome was not built in a day" and it is difficult to precisely date the beginning of Roman legal thought.

Ancient Rome is both the city of Rome and the state it founded in Antiquity. The idea of ancient Rome is inseparable from that of Latin culture. This grouping of villages in the 8th century BC came to dominate the entire Mediterranean world and Western Europe from the 1st to the 5th century through military conquest and the assimilation of local elites.

Its domination has left important archaeological traces and numerous literary testimonies. Alongside ancient Greece, it still shapes the image of Western civilization today. During these centuries, Roman civilization evolved from a royalty to an oligarchic republic and then to an autocratic empire.

Roman civilization is often included in Classical Antiquity along with Ancient Greece, a civilization that inspired much of ancient Rome's culture. In addition to its model of power, which countless princes sought to imitate or were inspired by, ancient Rome contributed greatly to the development of law, institutions and laws, warfare, art and literature, architecture and technology, as well as languages in the Western world. This chapter deals with the ancient Roman legal system.

Roman law is the foundation of Western legal systems. It arose from a slow evolution, progressing from religious customs to a secular science, formalized in three major stages and immortalized by the Corpus Juris Civilis of Emperor Justinian.

The Pillars of the Roman Legal System: The transition to writing: the Law of the Twelve Tables. Promulgated around 450 BC, it constitutes the first written legislative text of Rome. It guaranteed the publicity of laws and limited the arbitrary power of magistrates. From the 3rd century BC, secular jurists devoted

themselves to the study and interpretation of the law. Their opinions, based on fairness and logic, became a major source of law¹.

The praetors published an edict each year specifying the situations they would protect through legal action. This allowed the law to evolve pragmatically, complementing existing laws. Imperial Constitutions: Under the Empire, the emperor became the supreme source of law. His decisions (constitutions) had the force of law. .

This system structured almost all continental European civil codes and introduced fundamental concepts still used today, such as the distinction between public and private law, and the notion of the State. In this chapter we investigate the foundations of the Roman law and its contribution to develop the main principles of Roman law.

This chapter examines the main characteristics and foundation of the Roman legal system and its impacts.

4.1. Overview of the history Roman civilization

Ancient Rome refers both to the city of Rome and the state it founded in antiquity . The concept of ancient Rome is inseparable from that of Latin culture. This grouping of villages in the 8th century BC managed to dominate the entire Mediterranean world and Western Europe from the 1st to 5th centuries through military conquest and the assimilation of local elites. Its domination left significant archaeological traces and numerous literary accounts.

Alongside ancient Greece , it continues to shape the image of Western civilization today . During these centuries, Roman civilization transitioned from a monarchy to a republic, oligarchic and then to an empire autocratic ².

The image of a city progressing continuously does not fully capture the complexity of the situation. Its history was not one of uninterrupted growth: periods of progress (at highly varied paces) were followed by stagnation and sometimes even decline. But the Romans managed to resolve the internal

¹ Armstrong, J. *War and Society in Early Rome: From Warlords to Generals*. Cambridge: Cambridge University Press, 2016, p208

² Gabba, E.. "Maximus Comitatus." *Athenaeum* 65:203–5, 1991. Dionysius and "The History of Archaic Rome." Berkeley: University of California Press, 1987, p34

difficulties arising from the conquest under the Republic by transforming their republican institutions. The founding of the Empire by Augustus marks the beginning of a period in which Roman conquest reached the limits of the known world at the time.

Roman civilization, partly influenced by the Greeks, had a lasting impact on the conquered regions. From the 3rd century onward, the Roman world suffered major invasions by barbarians from Northern Europe and Asia. To resist them, the Empire needed to create a new bureaucratic and military structure. It was within this framework that the brilliant revival of the 4TH century took place , along with the establishment of Christianity as the state religion. After the separation of East and West in 395 , further invasions brought an end to the Western Roman Empire in 476 .

Beset by internal instability and attacks from mostly Germanic peoples, the western part of the Empire (including Hispania , Gaul , Britain , North Africa , and Italy) split into independent kingdoms at the end of the 5TH century . The eastern part of the Empire , governed from Constantinople, survived this crisis. Despite the loss of Syria and Egypt to the nascent Arab-Islamic empire , the Eastern Roman Empire continued to develop until it was finally destroyed by the Ottoman Empire .

Roman civilization is often grouped with ancient Greece in Classical Antiquity, a civilization that inspired much of ancient Roman culture. Besides its model of exercising power, which countless princes sought to emulate or draw inspiration from, ancient Rome made significant contributions to the development of law , institutions and legal systems, warfare , art and literature , architecture and technology, as well as languages in the Western world ¹.

4.1.1. Royal Rome

Archaeology shows that Rome is older than ancient authors would have us believe, who were keen to place the origin of their city in a legendary past . The first human communities were established permanently on the site of Rome,

¹ Lanfranchi, T. Les tribuns de la plebe et la formation de la République ro-maine, 494–287 avant J.-C. Rome: École française de Rome , 2015,p189

which was originally infested with marshes and subject to the floods of the Tiber particularly on the Palatine Hill and other Roman hills.

The early Romans were organized into hereditary groups called *gentes* or "clans." For a long time, this kind of division was familiar to most Indo-Europeans. Each clan consisted of a group of families living under the authority of a patriarch. Each gens constituted a self-governing unit, and each member of a particular gens shared the same rights and responsibilities as the other members.

Each clan governed itself either democratically or aristocratically. Well before the traditional date of the founding of Rome, a community coalesced into a confederation, with the city of Alba Longa serving as its rallying point. Nevertheless, after some time, the headquarters of this confederation moved to Rome.

4.1.2. Foundation of the City

The city of Rome is located in the center of the Italian Peninsula, in southern Europe, and in a central position within the Mediterranean basin. The city's very site, with its seven hills and a marshy area on the banks of the Tiber River in the Latium plain, was conducive to trade. The first Romans probably settled on the left bank of the Tiber, about 20 km from the river's mouth. The first independent village was certainly located on the Palatine Hill.

The birth of Rome is recounted in legendary tales told by Virgil, Livy, and Dionysius of Halicarnassus, among others. In the *Aeneid*, a long poem in praise of the emperor Augustus, Virgil tells the story of the Trojan Aeneas, son of Venus¹.

After many adventures and a thwarted love affair with Dido, the queen of Carthage, he lands in Latium, where he founds the city of Lavinium. His son Ascanius founds Alba Longa. This legend allows Julius Caesar and his heir Augustus to have a divine origin since they present themselves as descendants of Ascanius.

Having reached adulthood, they restored their grandfather Numitor's throne and decided to found a new city. They consulted the auspices to determine which

¹ Piacentin, S. *Financial Penalties in the Roman Republic: A Study of Con-fiscations of Individual Property, Public Sales, and Fines (509–58. BC)*. Leiden: Brill, 2022, p297

of them would rule the city, but a dispute arose between the two brothers. During the quarrel, Romulus killed Remus . This legend took its definitive form at the end of the 4TH century BC. According to tradition, the founding of Rome dates back to 753 BC.

Archaeological research has uncovered shepherds' huts on the Palatine Hill dating from the mid- 8th century BC , which corresponds to the legendary date of the birth of Rome . The remains found show that from this time onwards, the city experienced continuous development.

4.1.3. Beginnings of the Monarchy

The Monarchy can be divided into two periods. The first sees the reign of the first four legendary kings. Rome engaged in several wars of conquest. It was during this period that the port of Ostia was supposedly founded and the first bridge over the Tiber was built.

According to tradition, the ancient Romans were divided into three groups or: the Tities , the Ramnes , and the Luceres . The origin and composition of these tribes remain a subject of debate among historians . Families belonging to one of these three groups constituted the first patrician families . In order to organize the city, these patrician families divided it into units called curiae , although, according to legend, this organization is attributed to the first king, Romulus . Each of the three tribes was divided into ten curiae¹ .

4.1.4. Emergence of the Senate and the Assemblies

Some of the clans are governed democratically, with each member having the right to vote. Others are governed aristocratically, organized around a council of elders. When these clans merged to form a larger community, both methods of governance were retained.

The early Romans expressed themselves democratically through an assembly. The two main assemblies formed were known as the comitia and the comitia . The comitia embodied the democratic tendencies of the early clans. To better reflect the form of direct democracy used by the confederated clans, the two comitia were organized to best reflect the tribal divisions of the city. Members of each of the

¹ Flower, H.. Ancestor Masks and Aristocratic Power in Roman Culture. Oxford: Oxford University Press, 1996,p56

three tribes were assigned to a specific curia, with each group divided into ten curiae.

The aristocratic equivalent of assemblies took the form of a municipal council of elders. While the councils of each clan were composed of elders from the clan's ruling families, the municipal council was composed of elders from the city's ruling clans, a council that would later become the Senate . The people and the elders recognize the need for a single political leader, called the rex . The people elect the king while the elders advise him.

4.1.5. Late Monarchy

The second period, richer in events than the first, saw the reign of the last three legendary kings, the significant expansion of Roman territory, and the development of the plebeian class with its partial integration into the city's political structure. Finally, this second period saw the only foreign kings to have reigned over Rome, with their successions based on hereditary succession. The three kings Semi-legendary Etruscans embark on a policy of conquest. Without examining in detail the degree of veracity of these legends, it is very likely that such conquests did indeed take place at the end of the Monarchy . It then becomes necessary to determine what should be done with the conquered peoples.

The first Etruscan king of Rome, Tarquin the Elder , succeeded Ancus Marcius . It has been suggested that Rome was invaded by the Etruscans , although this remains unlikely. The city is situated in an easily defensible position, and its rapid expansion attracts people from all over the region. The city's liberal policies present an opportunity for a capable ruler to gain the throne¹ .

4.1.6. Emergence of the plebeian class

Most often, the inhabitants whose cities have been conquered remain there. Their daily lives and system of government remain the same, but their cities lose their independence from Rome. Nevertheless, a number come to Rome. To acquire a viable and legal economic status, the newcomers must accept dependence on a patrician family or on the king they then become clients of a

¹ Daguet-Gagey, A. Splendor Aedilitatum: L'Édilité à Rome (Ier s. avant J.-C.-IIIe s. après J.-C.). Rome: École Française de Rome , 2015,p43

patrician family. Eventually, those who had attached themselves to the king are freed from their dependence. These latter then constitute the first plebeians.

As Rome expanded, more and more soldiers were needed for conquests. Non-patricians belonged to the same curia as their patrons . At that time, the army was organized on the basis of curiae, so individuals dependent on families had to fight. However, when they were freed from their dependence, they left the curia to which their patron belonged. They were then no longer obliged to fight, but they lost all political or economic status .

To bring these plebeians back into the army, the patricians had to make concessions, the exact nature of which is not known. One consequence was that the plebeians now had the right to own their own land. They now had every incentive to defend the city: if it were conquered, they would lose all their land. Nevertheless, they were given no political power. All these factors that were put in place would lead to the conflict of the orders under the Republic.

4.1.7. Reorganization of the army

To bring plebeians back into the army, King Servius Tullius abolished the old system that organized armies based on curiae and replaced it with a system based on land ownership.. The army was divided into centuries. Future reorganizations would be more efficient if based on tribes. The centuries assembled in a new assembly called the comitia At its creation, this assembly had no political or legislative power. It was simply used as a meeting point for the army¹.

4.1.8. The Roman Republic

The word «republic comes from Latin res publica , meaning "the public thing. Governing the city is therefore a public and collective affair. It symbolizes the union of the Roman Senate , originally composed of patrician families , and all Roman citizens . Indeed, the Romans were divided into two groups: the patricians and the plebeians . The latter formed the mass of artisans and peasants. They lived outside the patrician organization and did not honor any particular ancestors.

The patricians often owned vast cultivated estates . They belonged to famous families, the genets . Each group had its own cults, including ancestor worship,

¹ Bradley, G. Early Rome to 290 BC: The Beginnings of the City and the Rise of the Republic. Edinburgh: Edinburgh University Press, 2020,p172

and its own traditions. The gentes comprised a greater or lesser number of clients who owed obedience to their "patron" and received, in return, aid and assistance when needed.

The early history of the Republic is very obscure: apart from archaeological discoveries, which only exceptionally allow for a narrative of events, we possess no contemporary sources from this period. Its history can therefore only be written based on the historical accounts given by the Romans themselves, accounts that are often imprecise, sometimes contradictory, where legend and rewriting for political ends are intertwined with the memory of the most ancient events. Nevertheless, although it is evident that tradition embellishes the facts so as not to cast Rome in a negative light, it is now accepted that Roman tradition is based on historical facts, even if it is very difficult and often impossible to separate truth from falsehood.

Modern authors question all the various obscure events recounted by Roman historians, particularly the episode of Porsenna. However, many Latin cities freed themselves from Etruscan rule. The tyrant then took refuge in Tusculum, where he promoted his son-in-law Octavius Mamilius at war. Allied with the Latins, he leads the final battle against Rome at Lake Regillus where he is defeated, then dies a few years later at Cumae ¹.

Some legends suggest that the monarchy differed radically from the nascent republic. It is more likely that there was a more gradual transition. There may have been a rapid overthrow of the monarchy, but the only immediate change at that time was the replacement of the king with a dual-headed magistracy with a limited term. Other changes probably occurred more gradually than tradition suggests.

4.1.9. External Wars

The war and the siege lasted ten years, until 396 BC, when the Etruscan city fell to the Romans led by the dictator Camillus in 396 BC. This war and conquest were a major event in Roman history: for the first time, peasant-soldiers remained in the army for more than a full year, without returning home for the winter, and for the first time, in compensation, they received pay from a new tax levied on

¹ Fronda, M. P. ,Between Rome and Carthage: Southern Italy during the Second Punic War. Cambridge: Cambridge University Press, 2010,p182

landowners. Roman territory nearly doubled in size, and Rome gained the upper hand in the Eternal Alliance of Equals concluded with the Latin League , dominating the other cities. Thus, Rome had never been so strong, and no Latin or Etruscan city seemed able to overshadow it.

The sack of Rome was only a minor event in a war between the tyrants of Syracuse , Dionysius the Elder, allied with the Gauls whom they perhaps used as mercenaries (hypothesis of the historian Marta Sordi and the Etruscans of Caere who were targeted by the Gallic attack, and who suffered serious losses like Rome.

4.1.10. Struggle between the patricians and the plebeians

In the aftermath of the monarchy 's fall , the Senate , and especially the two magistrates, regained supreme power, and the system transitioned from monarchical to oligarchic . This change of government benefited only a minority, the new elite: the patriciate . Many plebeians were heavily indebted and thus subject to the patriciate's rule.

The first secession of the plebeians This took place in 495 BC, and the plebeians obtained the creation of the magistracy of the tribunate of the plebs , forbidden to patricians , tasked with defending their interests. The tribunes of the plebs were inviolable.

Next, they demand that the laws be written down, through the Lex project. Terentilia , around which Rome was torn apart for a decade , until an extraordinary commission, the decemvirs , was established to draft written laws. The Law of the Twelve Tables was written in two stages. The second commission of decemvirs attempted to maintain its absolute power, but faced with the secession of the plebeians , who withdrew to the Sacred Mount¹ .

A series of laws was then passed, by which the plebiscites promulgated by the assemblies of the plebs had the force of law, subject to ratification by the Senate ; the right of appeal to the people was restored; and the sacrosanct and inviolable nature of the tribunes of the plebs was proclaimed .

¹ Cifani, G. ,The Origins of the Roman Economy: From the Iron Age to the Early Republic in a Mediterranean Perspective. Cambridge: Cambridge University Press, 2020,p148

The Senate , in response to the demand that the consulship be opened to plebeians , proposes the creation of a military tribunate with consular powers , open to all, and possessing almost all the powers of the consulship , except those granted to a new magistracy. patrician censorship. At first, the patricians monopolized the new magistracy , but little by little, more and more plebeians gained access to the military tribunate with consular power , which became almost systematic, replacing the consulate .

In 376 BC, a series of laws were proposed to improve the situation of the plebeians in Rome. These were political, economic, and social laws aimed at sharing supreme power between plebeians and patricians , and at combating the patricians' appropriation of the recently annexed lands around Rome .

The publicus and the deduction of interest already paid from the principal and the spreading of debt repayment over three years, as well as the abolition . The three laws, united into one for voting, were approved. The plebeian consulship implicitly opened access to the dictatorship and censorship . Throughout this period, the Roman Republic faced a multitude of enemies and was constantly at war with the Italic peoples , often resorting to the election of a dictator to deal with external threats, and came close to catastrophe several times.

4.1.11. Conquest of Italy

It represents a major turning point in the history of Rome, as it laid the foundations for the expansion that followed, extending Roman territory as far as Campania , despite the strong resistance of the Samnite mountain peoples . Contemporary historians identify several factors that explain these changes: the trauma of the Gallic invasions and the ensuing difficulties with their neighbors seem to have persuaded the Romans to no longer accept threats and to embark on an expansion that can sometimes be described as "defensive imperialism"¹.

The period following the passage of the Licinian-Sextian Laws saw the emergence of alarming trends, such as the continued rapprochement between the tribunes and the senators .. The closer relationship between the tribunes and the

¹ Bergk, A. "The Development of the Praetorship in the Third Century BC." In *Consuls and the Res Publica: Holding High Office in the Roman Republic*, ed. H. Beck, A. Duplá, M. Jehne, and F. Pina Polo, 61–74. Cambridge: Cambridge University Press, 2011,p75

Senate facilitated the creation of a new plebeian aristocracy: most plebeians elected to magistracies came from one of these plebeian families.

In 390 BC, Rome was captured by the Gauls and suffered its first sack . For the Romans, this episode was experienced as a national catastrophe. The city did not take long to recover from this disaster. After some skirmishes with its neighbors, notably the defeated Etruscans of Tarquinii and some rebellious Latin cities, and after facing further Gallic raids, Rome began the conquest of Italy.

Rome had managed to overcome its social divisions and could therefore offer an attractive political model to the aristocracies of other Mediterranean cities , a significant diplomatic advantage. Indeed, diplomacy played a role in Roman conquest that is often overlooked in favor of purely military aspects. . In any case, an essential mechanism for future conquests was put in place: Rome relied on local aristocracies, or a segment of them, to expand its territory; In return, it offered these aristocracies political stability and a prestigious place within a larger system, access to a higher social ladder.

The Latin Wars ensued , pitting Rome against the Latin League , which partially surrounded Roman territory. An attempt by the Latin peoples to gain independence from Rome was the primary cause of the war. The Latin defeat led to the dissolution of the Latin League and the incorporation of its territories into the Roman sphere of influence¹.

Rome emerged from the Samnite Wars as master of central Italy and in direct contact with the Greek cities bordering the southern coasts of the peninsula, which controlled a portion of Mediterranean trade. Tarentum appealed to the young king of Epirus , Pyrrhus I , to slow the Roman advance

At this time, the Roman Republic now dominated a large part of Italy, allowing the peninsula to stabilize and prosper for the first time in its history. The Roman and Italian economies flourished. In Rome itself, institutions consolidated and diversified, the conflict between the orders ended, and the state found a single master of power: the Senate.

¹ Capogrossi Colognesi, L. ,Law and Power in the Making of the Roman Commonwealth. Trans. Laura Kopp. Cambridge: Cambridge University Press, 2014,p73

Following the fall of Tarentum in 272 BC, all the lands of the Italian peninsula south of the Arno River were under more or less direct Roman rule. Of all these peoples and cities, none managed to resist the Roman advance for long, and no coalition strong enough to form to resist Roman forces was able to do so, because all these peoples and cities were disunited in peacetime.

All the Italian populations and cities were divided before Rome established its dominance, and Rome managed to maintain these differences, dealing with each city and each people under different conditions and for different statuses. Of all central and southern Italy, only "the Romans, the Latins, and the Italian allies" remained, the only ones to be free men within the Roman community. This therefore encompassed Rome and the peoples or cities that had been fully integrated, the semi-integrated territories, and Rome's allies, initially through

There were two types of Roman citizenship : full citizens, who enjoyed all the rights and duties, including the right to vote and be elected, to own property, to receive military pay, as well as the duty to serve in the armed forces and to pay taxes; and those who had the same rights and duties except for the right to vote and to be elected as magistrates. A portion of the ancient Latins who formed the Latin League were incorporated into Rome with citizenship.

Rome, in concert with the Latins, would found numerous Latin colonies in strategic locations throughout Roman territory. This system of Latin colonies, where colonists were not Roman citizens but possessed a number of rights within the colony, which was virtually independent of Rome, would endure for a long time, to the advantage of both Rome and the colonists. Finally, the allies were at the bottom of the Roman administrative structure¹.

They were most often bound to Rome by an unequal alliance, and in all cases, these allies had to provide Rome with a certain number of troops and military supplies, without Rome having to pay for them, which relieved the Roman citizens. Thus, Rome was able to create around them, among a mosaic of statuses, a certain balance and above all a prosperity that Italy had not known before, partly erasing the inequalities within the Roman organization.

¹ Drogula, F. K. "Imperium, Potestas, and the Pomerium in the Roman Re-public." *Historia* 56:419–52, 2007.,p28

4.2. Political institutions

Consuls initially held power in the early Republic; the Senate gradually emerged and established itself within Roman institutions. The assembly became permanent and consolidated its authority over Roman magistrates by the end of the 4TH century BC , evolving from a council of elders into the principal organ of power, to which the magistrates were subordinate. The Roman Senate was primarily focused on foreign policy. Although its role in armed conflicts was theoretically limited to that of an advisor, the Senate eventually came to oversee these conflicts.

The Senate also manages civil administration within the city. While the Senate can influence the promulgation of laws, it does not officially make those laws. The legislative assemblies , which are considered the embodiment of the people of Rome, make the domestic laws that govern the people. The Senate issues decrees called *senatus. consultum* . Officially, these are "advice" given to magistrates , although in practice, these decrees are often followed to the letter by them .

Throughout the Republic, citizens were divided into centuries for military purposes and tribes for civil purposes. Each group assembled for legislative, electoral, and judicial matters. The Centuriate Assembly was organized in a highly aristocratic manner. According to this system, the upper classes controlled enough centuries to secure a majority in every vote. Only the Centuriate Assembly could elect consuls, praetors, and censors, declare offensive war, or validate property qualifications¹.

The Plebeian Council did not represent the entire population, as patricians were excluded. The Plebeian Council elected its own representatives , who were considered magistrates. Indeed, the plebeian council is the assembly of the plebeian tribes while the tribal assemblies are the assembly of the " patrician - plebeian .

Magistrateships are elective and serve for an annual term, with the exception of the censorship and the dictatorship . All magistrates hold a certain rank of power. Dictators possess more power than any other magistrate, followed by the

¹ Forsythe, G. A Critical History of Early Rome. Berkeley: University of California Press, 2005,p347

consuls and praetors , the ordinary magistrates. Each magistrate can only veto an action taken by a magistrate of equal or lower rank.

Consequently, no magistrate can veto the decisions of the Senate or the assemblies . As the tribunes of the plebs and the plebeian aediles are not strictly speaking magistrates, they are not subject to the distribution of "major powers." In general, this makes them independent magistrates.

4.3. The Roman Empire

The Senate then conferred upon Octavian the title of Augustus. While maintaining the functions of the old magistracies and the Senate, Augustus concentrated all power in his own hands. His successors, the emperors...

4.3.1. From Augustus to the end of the Severan dynasty

Augustus, the first emperor of Rome, was granted proconsular power for ten years. He divided the Empire into senatorial (pacified) and imperial provinces (where the armed forces were stationed). He assumed absolute control of the army, ensuring its funding and providing it with permanent protection through the Praetorian Guard . The Senate retained or received significant prerogatives in the areas of civil administration, finance, justice, and currency.

Augustus intended for it to be, alongside the army, the only civilian element that mattered in the state. Under Augustus's rule, Rome was divided into fourteen "regions ." Works were undertaken to stabilize the banks of the Tiber . To combat the fires, which were quite frequent in the capital, a corps of watchmen was established, and new aqueducts were built. Many other monuments were built during his reign¹ .

The early years of Nero's reign are known as examples of good administration, then numerous scandals erupted, including the Great Fire of Rome . Advised by the wrong people, he made poor decisions and demanded the suicide (the final straw) of the excellent general Corbulo , provoking a rebellion among several of his peers..

¹ Ibbetson, D. "Sources of Law from the Republic to the Dominate." In *The Cambridge Companion to Roman Law*, ed. D. Johnson, 25–44. Cambridge: Cambridge University Press, 2015,p22

Vespasian , an Italian and commander of the Eastern army , who became emperor, thus giving rise to the Flavian dynasty . He restored order and peace to Rome, as well as to the rebellious provinces. To consolidate his power, the emperor drew inspiration from the Augustan model, adopting the major themes of his reign and monopolizing the higher magistracies. At the imperial level, he pursued a policy of both continuity and innovation.

Like his predecessors, he commissioned numerous public works, notably the Colosseum . Furthermore, he introduced genuine innovations in the financial sphere. The borders of the Empire stabilized and were fortified with the construction of a defensive system to monitor the barbarian tribes beyond the Rhine and Danube.

The Roman presence in Britain and Germania was significantly strengthened. But the situation quickly deteriorated on the Danube. The Dacians had just united, and Domitian personally intervened with the Praetorian Guard to drive them out. Finally, after setbacks suffered by Roman generals, Domitian preferred to negotiate and made peace with the Dacian king, Decebalus , who became a client king and received subsidies. At the beginning of his reign, Domitian appeared liberal and just. He was praised for his sense of justice and religion.

The Senate had already designated a successor in the person of Nerva , who founded the Antonine dynasty . It adopted his successor , Trajan , a Roman from Hispania . Five of the six notable emperors chose their successors during their lifetimes, as they had no sons; however, the choice always fell on close relatives. The reigns of Trajan and his successor Hadrian correspond to the zenith of the Roman Empire¹.

Continuing an effort begun by other emperors, he sought to promote the integration of provincials, notably through the creation of honorary colonies: whereas the term colony most often referred to the settlement of Roman colonists, it was now an honorary title granted to a city and which gave Roman citizenship to all its inhabitants.

The reign of Antoninus Pius was not marked by conquests, but rather by a desire to consolidate the existing state. It is traditionally during his reign that the

¹ Metzger, E. "Roman Judges, Case Law, and Principles of Procedure." *Law and History Review* 22:243–75, 2004,p185

Roman Empire is considered to have reached its zenith, due to the absence of war and major provincial revolts . However, it was this defensive and cautious policy that foreshadowed the financial and military difficulties of the Roman Empire. Marcus Aurelius and Lucius Verus succeeded Antoninus.

The latter died after an eight-year reign, without any significant achievements. The former is known as a Stoic philosopher-emperor. Domestically, he accomplished significant legislative work. He spent 15 years on the Danube front fighting the Barbarians . The Empire was indeed entering a much less favorable period: its neighbors on the borders seemed more powerful, and the Empire had to contend with agrarian difficulties, famines, and the Antonine Plague epidemic,. Marcus Aurelius chose his son, Commodus , as his successor. The assassination of Commodus, who had behaved like a tyrant for much of his reign, brought an end to the Antonine dynasty .

. He is known for having issued, in 212 , the famous edict that bears his name, granting Roman citizenship to all free men of the Empire. He was assassinated on the Parthian front on the orders of the Praetorian Prefect . Macrinus, who only managed to take his place for a short time. He appointed his own son Diadumenian Caesar and then Augustus.

4.3.2. Imperial power and cult

The emperors held the title of imperator , supreme commander of the armies. Throughout the Roman Empire, victory was a powerful factor in consolidating power. A defeated emperor could easily have his power challenged by another ambitious general. All emperors made it a practice to be elected consul to demonstrate the continuity between republican institutions and the participate. This also conferred upon them imperium , the power to compel and be obeyed by all¹ .

They also possessed proconsular imperium , which gave them the power to govern all the provinces. As holders of tribunician power, they possessed intercessio , that is, the right to oppose any decision of the magistrates of the Empire. Like Julius Caesar , they held the title of pontifex maximus , which made

¹ Holloway, R. R. "Who Were the Tribuni Militum Consulari Potestate,L'Antiquité Classique 77:107–25, 2008,p238

them the leaders of the Roman religion. They received a personal oath of allegiance from all the inhabitants of the Empire.

Until the end of the Byzantine Empire , succession to the throne from a family member was not automatic. Power belonged neither to an individual nor to a dynasty. Thus, there was a significant risk of civil war at the end of each reign. The Antonine period , when the emperor chose his successor from outside his family and when there was no unrest during the new emperor's accession, was an exception .

They therefore readily accepted the idea that a descendant of the reigning prince would succeed his father. One of the duties of every emperor was to prepare for the peaceful transfer of his throne.

The most logical choice, even in the eyes of the Romans, was to designate one's son or adopt one. In times of crisis, a general carried in triumph by his soldiers could seize supreme power by force of arms. The Praetorian Guard, responsible for the emperors' safety, played an increasingly important role in the plots and assassinations that marked the imperial period.

He also involved the entire community in the cult of the family genius, thus becoming the father of all, hence his title of Father of the Fatherland. Augustus refused to be deified during his lifetime. However, he allowed temples to be built in his honor, particularly in the East, which was accustomed to considering its rulers as living gods, provided that his name was associated with that of a deified Rome.

The movement continued after his death. All emperors placed themselves under the protection of a god. Gradually, they were assimilated to living gods throughout the Empire. After death, they received apotheosis . The Antonines adopted Jupiter Capitolinus as their supreme god. During Hadrian 's reign , the deification of the living emperor progressed further in the East¹.

The imperial cult also served to accustom the inhabitants of the Empire, so diverse in culture and beliefs, to respecting the power of Rome through a deified emperor. Throughout the Empire, temples dedicated to the imperial cult were

¹ Humm, M. "Le Comitium du forum romain et la réforme des tribus d'Appius Claudius Caecus." MEFRA 111:625–94, 1999,p364

restored or built. Ceremonies were organized in honor of the emperor. These events provided opportunities for the community to come together in processions, to witness sacrifices, banquets, and all sorts of spectacles.

4.3.3. Imperial administration

In senatorial provinces, the governor, a proconsul or proprator , is appointed by the Senate . These provinces are at peace and no legions are permanently stationed there. In imperial provinces, the governor is a legate . The proprator , or procurator , was appointed by the emperor. Egypt was governed by a prefect chosen from the equestrian order and appointed by the emperor. However, the emperor retained powers of control in all provinces. He could appoint extraordinary legates to the senatorial provinces. Throughout the Empire, imperial estates, indirect taxes, and mines were administered by a procurator appointed by the emperor. Italy enjoyed a privileged status. It was exempt from land tax and administered directly by the Senate.

Governors were appointed for a term of four to six years. They maintained close ties with the central government through extensive correspondence. Their responsibilities included taxation, public order, censuses, and the protection of property. They had a very small administration. In fact, their involvement in provincial affairs primarily concerned judging Roman citizens, suppressing major public disturbances, and resolving the financial difficulties of cities.

Most administrative matters were handled at the local level within the framework of the city-state . For the Romans, the city-state represented the ideal living environment. Where such entities did not exist, primarily in the West, the Romans created them.

In the capital, the sovereign was surrounded by organizations and individuals who assisted him in governing. The prince's council, which he consulted to make crucial decisions, was composed of men chosen for their military, legal, or diplomatic expertise. The council gradually became permanent and assumed a dominant role in the government of the Empire. The Praetorian Prefect was the most important figure in the imperial entourage. He commanded the Praetorian

Guard and served as second-in-command during military campaigns. He eventually even posed a threat to imperial power¹.

4.3.4. Military organization

Until the mid- 2nd century, the army remained an army of conquest. Augustus annexed Illyria and unsuccessfully attempted to conquer Germania . He fixed the borders of the Empire at the Rhine and the Danube . Claudius conquered Britain , Trajan conquered Dacia and Arabia . He made the short-lived conquest of Parthia . From Hadrian onward , the most important thing was to maintain the Empire and no longer to conquer new territories. One of Hadrian's priorities was to enclose Roman territory behind a wall intended to protect the Empire from barbarians. He is responsible for the famous Hadrian's Wall in northern.

Soldiers were increasingly recruited from the least Romanized provinces, although in the 2nd century , the Praetorian Guard and officers were still recruited from among Italians. Italy also remained the primary source of recruitment for the formation of new legions, as was the case under Marcus Aurelius. The Roman army had nevertheless become a professional army that amalgamated the various peoples of the Empire.

Its unity stemmed from an esprit de corps fostered by rigorous training, an iron discipline elevated to the status of a god, a specific camp religion centered on the traditional Roman gods and the imperial cult , and high-quality leadership. The military engineers were responsible for the construction of canals, roads , aqueducts , and the fortification of cities. The army's presence on the frontiers was a major factor in the economic development of these areas and a powerful instrument of Romanization² .

4.3.5.High Empire Society

The 80 million inhabitants of the Empire belonged, by birth or wealth, to different social groups. One was born a slave, a freeman, or a Roman citizen.

¹ Hopkins, J. N. "Tarquins, Romans and Architecture at the Threshold of the Republic." In *The Age of Tarquinius Superbus: Central Italy in the Late 6th Century*, ed. P. S. Lulof and C. J. Smith, 135–42. Leuven: Peeters Publishers, 2017,p234

² Crawford, M. H., ed. *Roman Statutes*. *Bulletin of the Institute of Classical Studies Suppl.* 64. London: Institute of Classical Studies, 1996,p49

Slaves had no rights. They led a very harsh life on large estates or in mines. In the cities, their lot was more favorable. They worked as servants, artisans, and even teachers or artists, for the more educated. Some ran shops and paid their masters a fee to be able to work. This allowed them to pay for their manumission. Subjects of the Empire were freemen who were not Roman citizens. They could testify in court. However, they had to pay an additional tax: the *Tributum* .

One became a Roman citizen by birth, by decree, or after 25 years of military service. Most citizens held small jobs. In Rome, there were 200,000 poor citizens for whom the free distribution of grain was vital.

At the beginning of the Empire, society was not static. Slaves, especially urban ones, could easily be freed by their masters. Gradually, all free men gained citizenship. The Edict of Caracalla , in 212 , made all free men Roman citizens, which "strengthened the moral unity of the Empire" .

Thus, in Volubilis , isolated peasants and the semi-nomadic tribes near the city remained subjects of the Empire, except for a few chiefs who were thus rewarded for their support [148] . But little by little, distinctions emerged between the *honestiores* , the powerful, and the *humiliores* , the humble. They are treated unequally before the law: the legal distinction between citizen and non-citizen has been replaced by a social distinction between rich and poor.

4.3.6. Economic prosperity

As a general rule, most of the wealth produced came from the countryside and agriculture . Under the High Empire, the trend toward land concentration was confirmed. The nobility and the temples of the East owned vast estates. But the largest landowner in the Empire was the emperor himself, who expanded his holdings by confiscating those of his opponents. The center of the large estate, or *latifundium*, was the *villa* , the lord's residence with its outbuildings. While the stated ideal was that of autarky, since land ownership and self-sufficiency were the foundation of social dignity, there were also significant regions dedicated to cash crops¹.

¹ Harries, J. *Law and Crime in the Roman World*. Cambridge: Cambridge University Press, 2007,p127

The main crop was cereals, which fed all the inhabitants of the estate. Roman agronomists advised reserving a portion of the land for cash crops such as grapes and olives. Smallholdings did not disappear entirely. They remained the ideal of Roman society, but their importance diminished. While agriculture under the Empire evolved little, it did disseminate certain practices technically. Some authors do not rule out the possibility of productivity gains.

The main craft activities took place in the countryside, but also in the towns: textile production, toolmaking and maintenance, and pottery production. For a very long time, historians conceived of ancient cities as solely consumer centers; after significant debate, this view has been considerably revised. Important mining regions existed in Spain and the Danube region. But there, too, technological progress was minimal. Manual labor and mercantile activity were, for the educated classes, a source of contempt, something reserved for the lower classes and slaves.

The existence of slaves may also have been an obstacle to the development of technological progress. However, recent archaeological research also significantly challenges previous judgments on certain topics: for example, archaeologists and historians now agree on the widespread and early adoption of the watermill in the Roman Empire.

The peace and prosperity of the High Empire led to an increase in commercial activity. The Mediterranean, at the heart of the Roman Empire, saw intense traffic. Piracy was greatly reduced thanks to the emperors' war fleets, which patrolled constantly. Ships increasingly ventured into the open sea to shorten crossing times. However, for short or medium-distance voyages, sailors preferred coastal navigation.

4.4. Conquest of the new territories

The Roman conquest unfolded over several centuries, transforming a modest city-state into a vast empire. Thanks to a powerful professional army, Rome subjugated the entire Mediterranean basin and a large part of Europe, integrating these conquered territories through alliances, wars, and Romanization. Roman expansion can be divided into three major historical phases: Rome gradually subjugated its neighbors on the Italian peninsula, alternating military victories and

alliances. The three Punic Wars against Carthage marked a turning point. Rome annexed Sicily, Hispania, and Greece¹.

4.4.1. Conquest of the Western Mediterranean

Beginning in 264 BC, the great conflict against Carthage began, marking a turning point in Roman history. Carthage, a former Phoenician colony, had developed first trading posts, then strongholds and colonies throughout the western Mediterranean, particularly west of Sicily, thanks to its entrepreneurial spirit. Rome was wary of Carthaginian ambitions in Sicily. This led to the First Punic War, which lasted nearly twenty-five years.

The Carthaginians first captured the city of Messina, which was then retaken by surprise by the Romans, triggering the start of the war. Twenty years of warfare ensued, with varying fortunes. The first victories were Roman, then the Carthaginians rallied and halted the Roman advance. Finally, Rome gained control of the seas, and the naval victory off the Aegadian Islands forced Carthage to sign a humiliating peace treaty. She abandons Sicily, then Sardinia and Corsica afterwards, and pays a heavy tribute.

Among the reasons for Roman success, we can cite the refusal of the Roman political class to ever admit defeat, even if it was divided on the strategy to adopt, offensive or defensive; the Roman recruitment capacity, constantly making up for its losses, at the cost of exhausting pressure on its allies; maritime mastery, and the loyalty of the allied peoples surrounding Rome with a protective buffer zone and most of the ports of Southern Italy.

4.4.2. Domination over the Eastern Mediterranean

During the Second Punic War, Philip V of Macedon allied himself with Hannibal. It was an indecisive conflict until the Roman victory at the Battle of Cynoscephalae in 197 BC. In 194 BC, Rome declared Greece "free" and withdrew completely from the Balkans.

After the death of Philip V of Macedon in 179 BC, his son Perseus launched the Third Macedonian War. Initially, the Roman forces struggled against the Macedonian forces, but in 168 BC, the Romans crushed their opponents at Pydna.

¹ Lintott, A. W. *The Constitution of the Roman Republic*. Oxford: Oxford University Press, 1999, p23

. Macedon was divided into four republics ruled by puppet states under Rome's control ¹.

Throughout the Second Punic War , apart from a few defections in the south, the Latin territories and Rome's allies remained loyal to the Republic and contributed significantly to the war effort, both in terms of manpower and resources. However, Roman citizenship was very limited, and resentment and reasons for revolt accumulated against the blind central power in Rome. The general organization of Italy had not evolved for nearly two centuries, while Roman territory now extended over a large part of the Mediterranean basin. This deadlock would lead to a terrible civil war at the beginning of the 1ST century BC , known as the " Social War ," between the Romans and their allies .

The Republic found itself the sole master of a large part of the Mediterranean basin, where territories were flourishing. The conquest of Greece and part of Asia increased the influx of wealth throughout the Republic. The number of slaves multiplied, and their property was acquired by Rome. The financial gain resulting from all these wars and absorbed territories was extremely significant. Slavery became the driving force of Roman society after the Second Punic War , when wealthy Romans began to create large estates (Latifundia) in the conquered provinces .

4.4.3. Crises of the Republic

The end of the Republic was marked by numerous civil and external wars that had considerable repercussions on the Roman economy and society . Republican political institutions were gradually emptied of their substance, to the benefit of generals at the head of armies of devoted veterans.

4.4.3.1.Civil wars and the end of the Republic

War primarily benefits the wealthy. The ranks of small landowners have thinned, especially during the Second Punic War . Consequently, there are fewer farmers. The countryside becomes covered with vast pastures. Wheat imported from Sicily competes with that of small Latin producers who, ruined, sell their land cheaply to large landowners and leave for Rome to join the urban plebeians

¹ Mousourakis, G, The Historical and Institutional Context of Roman Law. Hampshire: Taylor & Francis, . 2003,p62

. The great families thus acquire immense estates, the latifundia , where landless peasants, the coloni, and numerous slaves are settled¹ .

They form the nobilitas , the nobility that monopolizes the magistracies and fills the Senate . Alongside this landed nobility, a new class of businessmen emerges, enriching themselves through trade, banking, and credit. Their wealth allows them to hold an important place in the equestrian order . The nobility and the equestrians agree to exploit the nascent empire, which is divided into provinces. Businessmen and magistrates from the nobility enrich themselves by plundering them, often systematically.

Germanic tribes invaded Gaul and repeatedly crushed the Roman armies . A profound military reform was initiated, admitting proletarians—that is, non-landowner citizens—into the army's ranks, who had previously been barred from the legions . An army of the poor and non-citizens thus succeeded the armies of landowning citizens, but it was a professional army, ready to devote itself to its leader and pave the way to power for him, especially if he was generous. The new army enabled Rome and Marius to triumph over two threats .

Subsequently, Sulla succeeded in defeating the last remaining cities. At the end of the Social War, the Italians thus obtained the right to Roman citizenship, and Italy was unified under a single legal status. But the problems persisted. The republican institutions struggled to function normally. The knights and the nobility clashed over the exploitation of the provinces.

This led to civil wars between Sulla and Marius, who alternately massacred their opponents in the streets of Rome, and ultimately to Sulla 's dictatorship . He then implemented significant political reforms, strengthening the power of the aristocrats and diminishing that of the tribunes of the plebs . He subsequently withdrew from political life.

Crassus was killed fighting the Parthians at Carrhae in 53 BC. Pompey then took advantage of Julius Caesar 's absence to be appointed sole consul by the Senate in 52 BC, putting an end to the incessant political unrest that was shaking

¹ Perelló, C. F. A. “The Twelve Tables and the leges regiae: A Problem of Validity.” In *Roman Law before the Twelve Tables*, ed. S. W. Bell and P. J. Du Plessis, 57–76. Edinburgh: Edinburgh University Press, 2020,p242

the city. In late 50 or early 49 BC, the Roman nobility entrusted Pompey with the mission of protecting Italy¹.

Upon the death of Julius Caesar , Octavian , his great-nephew and adopted son, Mark Antony , his lieutenant and the current consul, and Lepidus , the late dictator's Master of the Horse , agreed to share power. They formed the Second Triumvirate . Their first objective was to avenge Caesar's death . Cassius and Brutus were killed in 42 BC at the Battle of Philippi . Octavian obtained the title of Imperator and several territories (Corsica, Sardinia, etc.) in 38 BC, although the five-year triumvirate was renewed by the Treaty of Tarentum the same year.

After Octavian deposed the triumvir Lepidus , the latter and Mark Antony found themselves facing each other. Conflict was inevitable. Mark Antony, allied with Cleopatra, was defeated at Actium in 31 BC. Octavian then methodically pursued the conquest of the East until August 30 BC. When Mark Antony and Cleopatra committed suicide, Octavian remained the sole ruler of Rome. Moreover, public opinion was weary of the disorder and civil wars , and demanded a stable regime, even if it was authoritarian .

4.4.3.2. Crisis of the Roman Empire

Historians still debate the reasons for the profound crisis that gripped the Roman Empire in the 3rd century . This powerful, well-structured , and aggressive empire exerted constant pressure on the Asian provinces within the area theoretically under Roman control. In northeastern Europe, the East Germanic tribes living in the Baltic Sea region began a slow migration towards southern and southeastern Europe.

In doing so, they drove out other tribes in the territories they crossed. These tribes sought refuge in the Roman Empire, hoping to find new lands and rich plunder . Their incursions highlighted the weakness of the Roman defensive strategy. Indeed, the legions were massed on the borders. Once across the border region, the barbarians could ravage the provinces with almost no hindrance. Internal difficulties stemmed from the growing alienation of the military, who were willing to impose heavy sacrifices on civilians to protect the Empire from

¹ Brennan, T. C. *The Praetorship in the Roman Republic*. 2 vols. Oxford: Oxford University Press, 2000,p329

the threat of invasion, and of the propertied class, which resented the increase in its tax burden¹.

4.4.3.3. Imperial instability

The period between 235 and 268 is rather poorly documented. Sixteen emperors succeeded one another, made and unmade by the fortunes of war. The emperors were created by a new group, the army's general staff. It chose the new emperor, who was then ratified by the Senate. The imperial rank became, in the eyes of the military, the highest rank in the officer hierarchy.

At the end of 238, Gordian III, the grandson of Gordian I, became emperor. He was assassinated at the instigation of the Praetorian Prefect, Philip the Arab, who had to eliminate several rivals before being killed in a battle against Decius. Decius was the first emperor killed by barbarians, during Abrittus's crushing defeat by the Goths in 251.

He abandoned Dacia, conquered by Trajan, which had become too difficult to defend, and fixed the empire's border along the Danube. However, he faced numerous usurpations, including those of Macrianus and Quietus in the East, Regalian in Pannonia, and Postumus in Gaul, who proclaimed the Gallic Empire.

4.4.3.4. Transformations

Gallienus initiated a profound transformation of military strategy. He distributed the means of defense far and wide by placing detachments of the frontier legions at the main road junctions of Illyria. He established a large cavalry force with an independent command. He excluded senators from military positions and replaced them with knights. He incorporated defeated barbarians into the army, thereby initiating the "barbarization" of the army. The army absorbed an ever-increasing share of state resources².

¹ Laurendi, R. "The leges regiae through Tradition, Historicity and Invention: A Comparison of Historico-Literary and Jurisprudential Sources." In *Roman Law before the Twelve Tables*, eds. S. W. Bell and P. J. Du Plessis, 97–110. Edinburgh: Edinburgh University Press; 2020, p381

² Naglak, M. C., and N. Terrenato. "Central Italian Elite Groups as Aristocratic Houses in the Ninth to Sixth Centuries BCE." In *Roman Law before the Twelve Tables*, ed. S. W. Bell and P. J. Du Plessis, 25–40. Edinburgh: Edinburgh University Press, 2020, p276

The functions of commander-in-chief and victorious war leader, traditionally held by the emperor, were reinforced during these periods of incessant warfare.. The emperors, however, attempted to establish legitimacy by transforming the imperial cult . Aurelian was deified during his lifetime. His coins bear the inscription *deus et dominus* .

The opposition between the *nobilitas* and the new man is more pronounced than ever. The Empire passes into the hands of families who have never held imperial office. The new emperors bequeath the nobility to their families as an inheritance. The *honestiores* of the western provinces and the rulers of the neighboring barbarian peoples also acquire the *nobilitas* , which incorporates them into the highest strata. As for the Roman nobility, it retains immense social prestige but loses almost all of its political authority .

4.4.3.5. Emperors of the Late Roman Empire

A few months after coming to power, Diocletian realized he could not rule the Empire alone and entrusted Maximian with the responsibility of governing the West, first as Caesar and then as Augustus . In 293 , he appointed Constantius Chlorus as Maximian's deputy, who bore the title of Caesar , and Galerius as his own . Thus, the needs of the Empire inadvertently gave rise to the Tetrarchy , that is, power shared by four. There was no territorial division of the Roman Empire, but the four men shared command of the troops and the sectors in which they operated. Diocletian, however, remained at the top .

This new organization made it possible to eliminate the usurpers who were sowing discord in Gaul and to repel the barbarians. The victory over the Sassanids allowed for a strengthening of the Roman presence in Mesopotamia with the creation of five new provinces [160] . Diocletian 's domestic policy was in line with that of the 3RD - century emperors . He reinforced the deification of the imperial office. He unleashed the last and most violent persecution of Christians.

Constantius II died the following year. Julian , the deceased emperor's cousin, renounced Christianity out of love for Greek thought, hence his nickname "the apostate ." He attempted to restore the old religions by reopening temples and

persecuting many converts . He died after an 18-month reign, in 363 , in a skirmish on his return from a campaign against the Persians¹.

His successors, Jovian and Valentinian I in the West, and Valens in the East , returned to absolute religious neutrality. The Eastern Roman Emperor Valens, brother of Valentinian I , had to manage the difficulties caused by the presence of the Goths beyond the Danube . Valentinian I left his power to his two young sons, Gratian and Valentinian II . After Valens' death at the Battle of Adrianople in 378 , Gratian chose a new colleague for the East, Theodosius the Younger . Gratian was assassinated in 383.

4.4.3.6. Instruments of power

Constantine did not seek to assert divine lineage. Rather, he claimed to have been invested by the Christian god to rule the Empire. Coinage of the time depicted a hand emerging from heaven and offering him a crown. The emperor acted like a cleric in his exercise of power. In Constantinople , he built his palace as if it were a church; he claimed to have received a vision of Christ as if he were an apostle ; he acted like a bishop at the Council of Nicaea , which he himself convened, but he was not one .

4.4.3.7. Military organization

Marius ' reform at the end of the 2nd century BC. It fell from 6,000 to 5,000 during the High Empire and was certainly around 2,000 at the beginning of Diocletian 's reign. Diocletian increased the number of soldiers. He entrusted the defense of the limes to soldiers, often of barbarian origin, the *limitanei*. The maneuver legions were smaller *legionaries* but more numerous than in the previous period.

Their numbers increased from 39 to 60. They were tasked with intercepting barbarians who had managed to cross an increasingly fortified frontier. The need to defend the Empire justified abandoning Rome as the imperial residence in favor of cities closer to the frontiers: Trier , Milan , Sirmium , and Nicomedia . Constantine completed the transformation of the army and established the

¹ Mouritsen, H. "The Roman Empire: The Republic." In *The Oxford Handbook of the State in the Ancient Near East and Mediterranean*, ed. P. F. Bang and W. Scheidel, 383-411. Oxford: Oxford University Press, 2013, p49

comitatus , the field army. Its command was entrusted to a magister peditum for the infantry and a magister equitum for the cavalry¹.

Diocletian and Constantine I recruited auxiliaries of barbarian origin to guard the limes . These men had little in common with the Roman spirit. The distinction between comitatus and limitanei gave rise to the Roman army of the Late Empire.

At the beginning of the 5th century, the Western army theoretically comprised 200,000 men on the frontiers, limitanei almost all of barbarian origin, and 50,000 men in the maneuver army, the comitatus . The paradox of this army is that the frontiers are defended by soldiers from peoples who seek to invade the Empire.

4.5. Roman law: emergence and impact

Roman law refers to the law enacted in the Roman Republic and the Roman Empire , as well as the texts of the jurists that relate to it . Due to its centuries-long influence and its integration into European legal systems , the expression is also used to refer to the legal technique stemming from this Romanist tradition.

Roman law is considered one of the earliest legal systems in history. It is not separate from custom: Roman civil law was both unwritten (customs) and written . Several periods can be distinguished in the evolution of Roman law. The oldest layers remain subject to controversy and speculation. Initially, in fact, it was hardly distinguishable from worship and religion , and remained almost exclusively a matter of oral tradition . Gradually, a corpus of laws and written legal texts was established, which would form the basis of the Roman legal tradition.

Roman legal experience, strictly speaking, spans more than a millennium, from the Law of the Twelve Tables around 450 BC to the Corpus Juris. civilis of Emperor Justinian around 530. Roman legislation, preserved by the "Justinian compilations", a gigantic compilation of the texts of jurists and imperial

¹ Raaflaub, K. "From Protection and Defense to Offense and Participation: Stages in the Conflict of the Orders." In *Social Struggles in Archaic Rome: New Perspectives on the Conflict of the Orders*, 2nd ed., ed. K. A. Raaflaub, 185–222. Malden, Mass.: Blackwell, 2005, p155

constitutions, became the legal basis of the Byzantine Empire , and later of continental Europe and beyond¹ .

4.5.1. Emergence of Roman law

Roman law is sometimes considered the first legal system in history , although this point is occasionally contested, particularly by anthropologists . Thus, according to the legal historian Aldo Schiavone , "if we owe the birth of ' politics ' to the Greeks , we owe the birth of 'legal' to the Romans ". This complex debate revolves around the question of defining law as such and what allows it to be characterized as a set of prescriptive rules, as distinct from social or religious rules.

Nevertheless, compared to other older testimonies of normative laws, such as the Code of Ur- Nammu (2100-2050 BC), the Code of Hammurabi of Babylon (1750 BC), those belonging to the tradition of Chinese or Hindu law , and the laws that may have existed in ancient Greece , Roman law is notoriously characterized by an exceptionally high level of technicality, by the role of a specialized class of jurists, who exercise their legal science in theory.

4.5.2. The gradual separation of law and religion

Latin term is usually translated as "law" ius (or jus), which will give ius civile or ius gentium , although the two concepts do not exactly overlap. The ius civile or ius civile Quiritium , based on the law of the Twelve Tables, applies only to Roman citizens.

While Roman law permeated all aspects of Roman culture, it appears to have been truly applied only to a small elite. This legal system was firmly linked to religion and was not highly developed, exhibiting characteristics of strict formalism, symbolism, and conservatism, as exemplified by the practice of mancipatio , a highly ritualized verbal contract. The jurist Sextus Pomponius said: "At the beginning of our city, the people began these first activities without the slightest law or written right: all things were governed despotically by the kings "

The archaic ius of the monarchical period was thus both deeply imbued with religion and distinct from Greek, Hebrew , or Hindu legal models , which

¹ Rowe, G. Review of The Praetorship in the Roman Republic. Two vols., by T. C. Brennan. BMCR, August 2001,p342

attributed a revealed origin to laws. Roman tradition seemed to consider that the will of the gods never manifested itself in a general way, in the form of laws, but only in a particular way, relative to specific situations. Thus, the pontiff, who read a prayer, and performed a sacrifice before delivering his sentence, sought to know the will of the gods.

Thus, although the various laws of the Roman Republic and later the Empire provide fundamental sources for the study of Roman law, the major contribution of the latter to European legal culture does not consist in the enactment of well-drafted legal texts, but in the emergence of a class of professional jurists and of legal science, originally developed as casuistry, that is to say a set of rules prescribed orally to resolve a given case¹.

4.5.3. The Law of the Twelve Tables

After eight years of struggle, the plebeians succeeded in persuading the patricians to send a delegation to Athens to copy Solon's laws. In addition, they sent delegations to other Greek cities to learn about their legislation. In 451 BC, ten Roman citizens were appointed to write down the laws; they were consequently called the decemviri legibus scribundis. No pontiff was part of it. While they carried out their duties, they were granted supreme political power in public and military matters.

Despite this initial success for the plebeians, the project of the Twelve Tables ultimately failed: the priests, who were now tasked with interpreting the law in light of these written laws, enclosed the text within a complex web of interpretations, giving precedence to the *responsa* over the law. Legislation

In short, the domain of law thus covered what was called *ius publicum*. In general, few laws were actually passed and promulgated during Antiquity, with the Augustan period being one of the most prolific in this regard. Thus, only a few hundred provisions were enacted during the entire Republican period.

This is how most of the provisions of the Twelve Tables were repealed, notably the right of retaliation or the right to kill a thief at night; certain laws, such as

¹ Rawlings, L., "Condottieri and Clansmen: Early Italian Raiding, Warfare and the State." In *Organised Crime in Antiquity*, ed. K. Hopwood, 97–127. London: Richardson, J. H. 2008. "Ancient Political Thought and the Development of the Consulship." *Latomus* 67:627–33, 1999, p137

agrarian laws, the Lex Voconia (en) and other sumptuary laws became obsolete without even being officially repealed by this process of *desuetudo*¹.

The role of law was thus restricted to the public sphere, while jurists, operating outside of any institutional power or the authority of magistrates, developed the rules governing social and economic life, which contained the prerequisites for citizenship and the authority.

Moreover, even the *Corpus Juris civilis*, often called the "Justinian Code", differs considerably from what is referred to today as codification. This text, assembled in the 6th century, is in fact as much a compilation of earlier texts, an effort to gather together, from a memorial and historical perspective, scattered texts threatened with disappearance, as a legal code in the strict sense of the term.

More or less legendary, dating from the monarchical era, the first legal text whose content is known to us in some detail is the Law of the Twelve Tables, dated to the mid- 5th century BC. The original text was probably destroyed during the sack of Rome in 390 BC, but it is known to us indirectly, notably through the jurist.

The surviving fragments show that this was not a "law code" in the modern sense. It does not provide a complete and coherent system of all applicable rules, nor does it offer legal solutions to every possible case. A large part is devoted to "private law" and civil procedure. This is by no means a "constitutional charter" or an organization of public powers. A significant portion concerns crimes and punishments.

The city found itself indeed faced with two hypotheses of normative organization and social ordering, two alternative models of sovereignty, we might say: one based on the specifically Roman paradigm of *ius*; the other on the Greek and Mediterranean paradigm of *lex*. It can be said without exaggeration that the conflict had incalculable consequences: the invention of the 'legal form' in the course of Western history.

After eight years of struggle, the plebeians succeeded in persuading the patricians to send a delegation to Athens to copy Solon's laws. In addition, they sent delegations to other Greek cities to learn about their legislation. In 451 BC, ten Roman citizens were appointed to write down the laws; they were consequently called the *decemviri legibus scribundis*: no pontiff was part of

¹ Mitchell, R. E. "Roman History, Roman Law, and Roman Priests: The Common Ground." *University of Illinois Law Review* 1984:541–60, 1984,p167

it. While they carried out their duties, they were granted supreme political power in public and military matters (*imperium*), and the powers of other magistrates were restricted. In 450 BC, the decemvirs published laws in ten tables, but these were considered unsatisfactory by the plebeians¹.

4.5.4. Development of legal system

Roman law underwent a true revolution between 201 BC, the end of the Second Punic War against Carthage, and 27 BC, the beginning of the reign of Augustus, the first Roman emperor. This revolution was marked by a relaxation of the norms derived from the highly ritualized *ius civile*: the judicial procedure of the *actio* was characterized by the obligation, imposed on those involved in the proceedings, to perform certain gestures and use certain words, the omission or even the slightest alteration of which rendered the case null and void.

It is within the framework of this law that it was in the *honorarium* that the principles of *aequitas* developed, which allowed praetors to depart from the rigid and ritualized rules of *ius civile* in the name of a principle of equity between the parties.

4.5.5. The development of the law *gentium*

In tandem with Rome's expansion, Roman law incorporated more flexible norms to meet the demands of commerce. This evolution was driven by the praetors. In 242 BC, at the end of the First Punic War, a law was passed establishing the position of praetor. The *peregrinus*, or praetor for "foreigners" (called *peregrini*). Until then, the *ius* had only applied to disputes between Roman citizens. With the invention of this figure, praetors developed a "commercial law" applicable to disputes between citizens and *peregrini*, called the *ius gentium* because it could be applied to all Mediterranean populations.

4.5.6. The development of various legal texts

Traditionally, the origins of "legal science" are attributed to Gnaeus Flavius. He is said to have published, around 300 BC, the formulas to be recited, typical of the ritualized nature of *ius civile*, without which a legal procedure could not

¹ Cornell, T. J.. The Beginnings of Rome. London: Routledge. . 2000. "The Lex Ovinia and the Emancipation of the Senate." In The Roman Middle Republic: Politics, Religion, and Historiography c. 400–133 BC, ed. C. Bruun, 69–89. Rome: Institutum Romanum Finlandiae., 1995,p196

be valid. Previously, these formulas had been kept secret and known only to the pontiffs religious authorities. Their publication made it possible for non- priests to explore the workings of these legal texts¹.

Rome thus developed a very sophisticated legal system and a refined legislative culture when the Roman Republic was replaced by the monarchical system of the Principate in 27 BC.

4.5.7. Classical Roman Law

The first 250 years of the current era represent the period during which Roman law and Roman legal science reached their highest degree of "perfection," according to the Romanist tradition: this is referred to as the classical period of Roman law . However, the Roman emperor Hadrian gradually absorbed the sources of law, and the praetor 's edict ceased to be a dynamic source, becoming instead static.

Legal experts served in various capacities: they provided legal opinions on petitions from private parties (the function of *cavere* , or counsel); they advised magistrates responsible for administering justice, especially praetors ; and they assisted the latter in drafting their edicts, in which they publicly announced, at the beginning of their term, how they would exercise their powers, and the forms according to which specific procedures would be conducted. Some jurists also held important administrative or legal positions themselves.

They also produce all sorts of legal commentaries and treatises. Around 130 AD , the jurist Salvius Iulianus drafted a standard form of praetorian edicts, which was subsequently used by all praetors. This codified edict contained detailed descriptions of all the cases in which the praetor authorized legal action and granted a defense. The standard edict thus functioned as a comprehensive legal code, even though it did not officially have the force of law. It outlined the requirements for a successful legal claim. The edict therefore became the basis

¹ Rocco, M. "The *leges regiae* in Livy: Narratological and Stylistic Strategies." In *Roman Law before the Twelve Tables*, eds. S. W. Bell and P. J. Du Plessis, 77–96. Edinburgh: Edinburgh University Press, 2020,p435

for the extensive legal commentaries of later classical authors such as Paul and Ulpian ¹.

4.5.8. Post-classical law

By the mid- third century , the conditions for the flourishing of a refined legal culture had become less favorable. The general political and economic situation had deteriorated. Emperors assumed direct control over all aspects of political life. The political system of the Principate , which had retained some links with the institutions of the Roman Republic , began to transform into the absolute monarchy of the Dominate . The existence of legal scholarship and jurists who viewed law as a science, and not as an instrument for achieving political objectives set by the absolute monarch, was no longer the norm.

While legal scholarship and legislative education persisted to some extent in the eastern part of the Empire , most of the subtleties of classical law were neglected and eventually forgotten in the West . Classical law was replaced by common law. Where the writings of classical jurists are still known, they are modified and simplified to remain practical.

4.5.9. Roman legal foundations

The *ius publicum* also refers to mandatory legal rules (today called *ius*) The term "cogens" is used in modern international law to refer to peremptory norms (that is, rules from which no derogation is permitted). These rules cannot be modified or excluded by agreement. Rules that, on the contrary, can be changed are referred to in French as "rules that are not of public order." They are now called " common law" rules. *ius dispositivum* , and they are used when the parties share something and are not in opposition.

4.5.10. Public law

Roman institutions and the *mos maiorum* ("customs of the ancestors") constitute an unwritten set of rules and principles transmitted primarily through jurisprudence. Many of its concepts are found in modern constitutions : term limits, regular elections, a lawmaking process, balances and checks between

¹ Crumley, C. "Building an Historical Ecology of Gaulish Politics." In *Celtic Chieftdom, Celtic State: The Evolution of Complex Social Systems in Prehis-toric Europe*, ed. B. Arnold and B. Gibson, 26–33. Cambridge: Cambridge University Press, 1995,p73

different constituted bodies, including control of appropriations, veto and obstruction, the quorum, and impeachment. Even less important concepts, such as those used in the American electoral system, have their origins in the Roman constitution¹.

The organization of the Roman Republic was neither formal nor even official. It was largely unwritten and constantly evolving throughout the Republic. During the 1ST century BC, the power and legitimacy of Roman institutions gradually eroded. Even Roman institutionalists, such as the senator, were affected. Cicero, at the end of the Republic, lost the will to resist illegal ambitions. The Republic itself was transformed in the years following the Battle of Actium. After Caesar, Augustus became the first Roman emperor. He and his successors superimposed an imperial system onto the republican facade. The belief in a republican survival persisted throughout the High Roman Empire.

4.5.11. Private law

Stipulation is the basic form of contract in Roman law. It is structured as a question and answer. The precise nature of the contract is disputed, as can be seen below.

Rei vindicatio is a legal action by which the plaintiff demands that the defendant return property belonging to them. This can only be requested when the plaintiff owns the property and the defendant is somehow obstructing their ownership. The plaintiff can also establish an *actio furti* (which is a personal action) to punish the defendant. If the property cannot be recovered, the plaintiff can claim damages from the accused with the aid of the *condictio furtiva*.

4.5.12. Roman dispute solution

Ancient Rome had no public prosecution service, like the French public prosecutor's office, so citizens had to bring cases themselves, sometimes for a paltry sum: this was called an "action." However, magistrates often brought these cases, which was perceived as a public service.

¹ Roselaar, S. *Public Land in the Roman Republic: A Social and Economic History of ager publicus in Italy, 396–89 BC*. Oxford: Oxford University Press. Rosenstein, N. 2011. "War, Wealth and Consuls." In *Consuls and the Res Publica: Holding High Office in the Roman Republic*, eds. H. 2010., p382

The trial is divided into two phases: one where the facts are transcribed in legal terms, under the supervision of a magistrate, the other where it is decided by a second judge, based on the legal presentation made.

Originally, this was done by means of an oral summons, rather than a written accusation. However, later, cases could be initiated by written method, known as formula : this is *agere per formulas* , originally restricted to the framework of *ius honorarium* , and which allows, among other things, for a departure from the highly ritualized nature of the *lege actio* , where the slightest error in the performance of the rituals, both gestural and oral, of the procedure is sufficient to invalidate it. After the case is initiated, a judge is appointed and then the case is decided¹.

Under the Republic and until the "bureaucratization" of judicial procedures, the judge was generally a private individual (*iudex (privatus)*). He must be a male Roman citizen . The parties agree on a judge, or choose one from a list called the *album iudicum* . They go through the list until both parties agree on the judge's name. In cases where major public interests were at stake, a court of five judges was formed. First, the parties choose seven from a list, and from these seven, five are chosen randomly. These are called *recuperatores* .

No one is legally obliged to judge a case. However, there is a moral obligation to do so: it is an *officium* (lit. office, which can be interpreted as a kind of mission carried out in the public interest, in a way analogous to the modern jury

The judge has considerable discretion in how they conduct litigation. They consider all the evidence and decide what they deem most just. Since the judge is not a lawyer or legal expert, a lawyer is consulted beforehand to provide technical guidance, but the judge is not obligated to follow the lawyer's suggestions. At the end of the proceedings, if matters are not clear to them, they can refuse to render a judgment, swearing that the situation is not clear to them. They also have a time limit for deciding on a judgment, which depends on certain technical aspects of the case .

Later, with bureaucratization and the rise of the empire , the procedure gradually faded and then disappeared, replaced by the extraordinary procedure,

¹ Dyck, A. "On the Interpretation of Cicero, *De Republica*." *Classical Quarterly* 48:564–8, 1998,p196

which had more restrictive mechanisms for the judge. The entire case was reviewed by a magistrate in a single phase. The magistrate was obligated to judge and render a decision, and this decision could be appealed to a higher-ranking magistrate¹.

4.6. Legacy of Roman law

Roman law does not only refer to the legal system of ancient Rome , but also to the laws that were applied throughout much of Western Europe until the end of the 18th century .

In some countries, such as Germany , the practical application of "Roman law," as reinterpreted by medieval scholasticism and later by modern thinkers, lasted even longer, at least until Bismarck . For these reasons, many modern civil codes in continental Europe and elsewhere are heavily influenced by Roman law. This is particularly true in the field of private law .

Even the common Anglo-Saxon law owes a debt to Roman law, although the latter has had, at least on the surface, less influence on the English legal system than on the legal systems of the continent. The influence of Roman law is felt in the richness of its legal terminology, such as the rule of precedent , culpa in contrahendo or the rule pacta sunt servanda .

Paradoxically, the countries of Eastern Europe , long under the influence of the Byzantine Empire , from which the Corpus Juris originates civilis , are not significantly under the influence of Roman law, Byzantine law having moved away from it.

4.6.1. Roman law in the East

When the center of the Empire shifted to eastern Greece in the 4th century , many legal concepts of Greek origin appeared in official Roman legislation. This influence is even visible in personal and family law, which is traditionally the area

¹ Di Fazio, M. "Figures of Memory. Aulus Vibenna, Valerius Poplicola and Mezentius between History and Legend." In *Omnium Annalium Monumenta: Historical Writing and Historical Evidence in Republican Rome*, ed. K. Sandberg and C. J. Smith, 322–48. Leiden: Brill, 2018, p72

of law that changes the least. It apparently makes concessions to the much stricter concept of paternal authority in accordance with Greek-Hellenistic law¹.

The Codex Theodosianus is a codification of Constantinian laws. Later emperors went even further, until Justinian finally decreed only one child sub potestate becomes the owner of everything he acquires, except when he gets something from his father.

The Pandects , or recapitulations of codes, compiled under Justinian , particularly the Digest (529–534), a compilation of classical law, continued to form the basis of the legal system in the Empire throughout what is known as Byzantine history . Leo III the Isaurian published a new code, the Ecloga , during the first half of the 8TH century . At the end of the 9th century , THE emperors Basil I the Macedonian and Leo VI the Wise undertook the revision and recodification of Roman law.

The laws were grouped subject by subject in specific volumes and then translated into Greek , the only language then understood by the people and officials. This code became known as the Basilica . Roman law was preserved in the Justinian Codes and the Basilica and remained the basis of legal procedure in Greece and in the courts of the Orthodox Church even after the fall of the Byzantine Empire and its conquest by the Turks.

4.6.2. Roman law in the West

Justinian 's authority did not extend beyond certain regions of the Italian and Hispanic peninsulas. Legal codes were issued by the Germanic kings; however, the influence of early Byzantine codes is quite evident in some of them. In many cases, the descendants of Roman citizens continued to be governed by Roman law for quite some time, even while members of various Germanic tribes were governed by their own rules.

This is the system of the personality of laws, which the Romans themselves had applied to conquered peoples. The Code and the Institutes are themselves known in Western Europe and serve as a model for the development of some Germanic codes, but the Digest is largely ignored for centuries².

¹ For example, Constantine I began to place restrictions on the ancient Roman concept of patria. potestas , assuming that the persons sub Potestates can have property rights.

² Around 1070 , a manuscript of the Digest is rediscovered in Italy. This is mainly thanks to the work of glossators, who write commentaries between the lines, or in the margin). From

Students taught Roman law in Bologna (and later in many other places) found that many Roman law rules were better suited to regulating complex economic transactions than customary law, which was applicable throughout Europe. For this reason, Roman law, or at least some provisions borrowed from it, began to be reintroduced into legal procedure centuries after the fall of the Western Roman Empire .

This process was actively supported by many kings and princes who hired university-trained lawyers as advisors and court officials and sought to take advantage of rules such as the famous *Princeps legibus*.

There are several reasons why Roman law spread during the Middle Ages : the legal protection of property, the equality of legal subjects and their wills, and also the possibility for legal subjects to dispose of their property by will.

By the mid- 16th century , rediscovered Roman law dominated the legal procedures of most European countries. A legal system emerged in which Roman law was blended with elements of canon law and Germanic customs, especially feudal law . This legal system, which was widespread throughout continental Europe, is known as *ius commune* , and legal systems based on it are called Romano-Germanic, or civil law in English-speaking countries.

England alone was largely unaffected by Roman law. One reason for this is that the English legal system was more developed than its continental counterparts where Roman law was prevalent. Consequently, the practical advantages of Roman law were less obvious to English practitioners than to continental jurists. Another reason is that, being far from Rome, England was less influenced by Roman legal culture, and the barbarians who settled there quickly eradicated the legacy, not even preserving the Roman language, which was at least maintained administratively on the continent.

common law system developed alongside civil law, which was based on a vernacular Roman law. Elements of Romano-canonical law were present in England in ecclesiastical courts and, less directly, in the development of the equitable system. Furthermore, some concepts from Roman law were introduced into common law. Especially at the beginning of the 19th century , English

¹that point on, scholars began to study the legal texts of ancient Rome and teach others what they had learned. The center of these studies was located in Bologna .

lawyers and judges were willing to borrow rules and ideas from continental jurists and directly from Roman law.

The practical application of Roman law and the era of European *ius commune* ended with the creation of national codifications. In 1804, the French Napoleonic Civil Code came into force. During the 19th century, many European states adopted the French model or drafted their own codes. In Germany, the political situation made the creation of a national code of laws impossible. Since the 17th century¹,

4.6.3. Roman law today

Today, Roman law is no longer applied in legal proceedings, although the legal systems of some states, such as South Africa and San Marino, and to some extent Scotland, are still based on the *ius commune*. However, even where the law is codified, many rules derive from the application of Roman law: no code has completely broken with the Roman tradition. Rather, the provisions of Roman law are incorporated into a more coherent system and expressed in the national language. For this reason, knowledge of Roman law is useful for understanding today's legal systems.

As the unification of private law is undertaken among the members of the European Union, the old *ius commune*, which is everywhere the basis of legal practice, but which can take into account the various local customs, is seen by many as a model.

¹ Roman law in Germany has been greatly influenced by domestic law, known as *usus modernus Pandectarum*. In some regions of Germany, Roman law continued to be applied until the German code came into force in 1900.

Glossary and Terms of Ancient Rome

Aqueduct :A manmade channel used for delivering water to Roman towns. Public fountains and baths made water available to everyone. Wealthy Romans had running water in their homes.

Barbarian :A term used by the Romans to refer to people who lived outside the Roman Empire.

Censor :A government official who counted the people of Rome. He also was responsible for public morality and some of the government finances.

Century :A division of the Roman army made up of 80 soldiers and led by a centurion.

Circus :A large oval shaped stadium used for chariot races.

Citizen :A Roman citizen had certain rights and privileges including the right to vote. Only freeborn men were fully Roman citizens.

Cohort :A cohort was a division of the Roman army. It was made up of six centuries or 480 men. There were 10 cohorts in a Roman legion.

Consul :The highest position in the Roman government. There were two consuls elected each year for a one year term.

Dictator :A ruler that has absolute power.

Dynasty :When a family passes down the leadership of a country from generation to generation.

Emperor :The leader of an empire. The first emperor of Rome was Augustus.

Forum :The area of a Roman town that was the center of Roman life. Government meetings, public speeches, and business all took place in the forum.

Fresco :A painting made on a freshly plastered wall. The paint would be absorbed into the plaster as it dried.

Gaul :What the Romans called the lands to the north and west of Italy.

Gladiator :A person who fought for the entertainment of Roman audiences. Gladiators sometimes fought to the death.

Gladius :A short sword used by Roman soldiers.

Legion :The main unit of the Roman army. It generally had around 5400 soldiers and was divided up into groups of men called cohorts and centuries.

Mosaic :A type of art using small tiles made of glass or stone to create a picture.

Orator :A talented public speaker. This was an important skill for Roman leaders.

Paterfamilias :The man who was leader of the Roman family. He had complete power over his wife and children.

Patrician :A member of the original elite land-owning families of Rome.

Plebeian :A common person or person not of the patrician class.

Praetor :A high ranking official in the Roman government.

Province :An area of the Roman empire that was outside Italy.

Quaestor :An official of the Roman government who supervised various financial affairs.

Republic :A country where the government is run by elected officials rather than by a king or emperor.

Rhetoric :The art of public speaking used to inform, motivate, or persuade an audience.

Senate :A group of prestigious men who advised the consuls. In most cases the consuls did what the Senate recommended.

Tribune :An elected representative of the Plebeian Council. Tribunes could veto laws made by the Senate.

Toga :A long robe worn by Roman citizens. It was generally white with color markings for high ranking officials.

CONCLUSION:

For a very long time, philosophers and jurists have sought to grasp the concept of law. It has been the subject of study using specific methods and a scholarly construction allowing the formation and formulation of a body of reasoned and organized knowledge. A science of law has emerged. It has had a significant influence at various periods in Western legal history. Looking back to the past and the foundations of law, we see that the contours of law were first defined with regard to both religion and morality.

One cannot speak of an ancient law, and it would be futile to attempt an impossible synthesis of sometimes contradictory trends. However, one should not ignore the possibility of influences from one legal system on another. Archaeology increasingly confirms the frequency and importance of exchanges at all periods in the history of the ancient Mediterranean world, and the history of art provides multiple testimonies to this.

We do not disdain a purely scholarly conception of legal history, which is of inestimable interest in itself, and not only for a small group of specialists dedicated to the scientific explanation of this important portion of reality, since it also serves the jurist who is committed to historically enriching his cultural nest egg, often necessary to illustrate a convincing argumentative rhetoric.

But within the framework of a structured core of a law school, our discipline must be obligatory and, in the embarrassment of a break, it is appropriate to discern a perspective that can offer a critical and relativist angle of attack on the law in force whose more or less close foundations deserve special zeal. This means that, nowadays, the history of law cannot impose itself through hidden treasures. It must shine to be recognized as gold.

The course in the history of contemporary law aims to extend this familiarization with the world of law for the contemporary period (from the Revolution to today) by focusing on the issues and techniques of public law.

We must understand the history of law in order to make it understood. This is the noblest task of teaching. It must always be linked to a discernment that consolidates it in a positive way. The worst image that can represent it is that of a group of discouraged and dissatisfied intellectuals. Dissatisfied with the present time, they would take refuge in erudition and the dust of legal archaeology. The

history of law does not deserve this, regardless of the direction we want to give it. Let us recognize that this compromises it as a discipline of a historical nature.

One point left no doubt. Legal history was written to elucidate the legal forms of the past. Each era corresponded to a specific conceptualist atmosphere. The legal historian should consider legal facts and forms in harmony with the spirit of the system to which they belonged.

However, his main mission is not based on clarifying facts or phenomena through the genetic or sociological causal relationships that would animate them, but by "tracing them back to the root of the last connections with the whole spirit of the legal system as a whole, in which they are framed and on the logical plane of the legal concepts and conceptions of the era or period under consideration.

Institutions and men must be understood in the light of history. There are a thousand threads that bind the law, in every era, to the human cultural universe. It would be unbearably frivolous to ignore the facts that have profoundly influenced the movement of law, because otherwise, the jurist would be deprived of a clear understanding of the correlation of law with the real world in which it finds its justification and the conditions of possibility.

The history of law is far from being limited to moments of conceptualization and systematization. Nothing that might be capable of being related to the integral and Omni comprehensible panorama of legal experience should be dismissed as useless or inoperative. It is not uncommon for loose notations, emerging from a fragmentary and chaotic whirlwind of facts and ideas, to help reconstruct the atmosphere of an era.

They acquire value and meaning for this universe of legal experience, as Orestan expresses with the beautiful image of those small stones in a great mosaic in the process of being executed and which only gradually reveal the design of the whole and which, barely integrated into a whole, conquer a unitary function.

There is an irrefutable overall coherence in every era. Law must be understood according to a historically integrated whole. As Castanheira de Neves clearly noted, "this whole being a historical synthesis, through this same whole and its unity, we will recognize the correlative coherence of the plurality of elements, or dimensions that constitute them - some make the others comprehensible and are comprehensible thanks to these others. An integral coherence that will even allow us to speak here of a historical need: each of the elements finds its necessity .

The Research on the legal systems of antiquity reveals that these civilizations laid the foundations of modern justice. Egypt and Mesopotamia combined law and divine order, while Greece and Rome introduced rationalization, written codification, and civic participation.

Key Research Findings:

Here the results of our courses concerning the ancient legal systems:

- The Egyptian legal system was deeply religious and centralized, embodied by Ma'at, which represented cosmic order, truth, justice, and balance.
- The Pharaoh: He was considered the supreme legislator and the guarantor of divine justice on Earth.
- Absence of a single code: Unlike Mesopotamia, Egypt never compiled a single code of laws. Decisions were based on royal decrees and jurisprudence.
- The Vizier: He managed the administration, oversaw the courts (the Kenbet), and appointed magistrates.
- Legal documents: Contracts, wills, and administrative records served as written evidence in a highly hierarchical society.

Mesopotamia is famous for developing the earliest written law codes in history;

- The Code of Ur-Nammu: Dating from Sumer (c. 2100 BCE), this is the oldest known law code.
- The Code of Hammurabi: Issued around 1750 BCE, this Babylonian corpus is famous for the law of retaliation (an eye for an eye, a tooth for a tooth). It regulated civil matters, commerce, and family law.
- Private nature: Most offenses were considered private infringements on property rights, requiring the victim to bring the case before local courts.
- Evidence and contracts: Sentences were handed down by assemblies of judges, often supported by sealed clay tablets proving commercial transactions or marriages. Greek law was based on the idea of the city-state (the polis). Rather than relying on custom, the Greeks identified the rule of law with written law voted on by the citizens.

-Athenian democracy: The assembled citizens participated directly in the drafting of laws (the *nomos*) and the functioning of the popular courts (the *dikasteria*).

- The *Heliaia*: The great popular court of Athens was composed of thousands of citizens chosen by lot who judged civil and criminal cases.

- Absence of professional jurists: There were neither lawyers nor professional judges. Those brought before the courts had to plead their own cases before a jury.

-Natural justice: Greek philosophers, notably Aristotle, conceptualized the distinction between conventional laws and natural justice.

The Roman system was the most sophisticated of Antiquity. It served as a major foundation for modern civil law.

- The Twelve Tables: Promulgated in 450 BC, this first written codification guaranteed the publicity of laws and the formal equality of plebeian and patrician citizens before them.

- Legal Science (Jurisprudence): Roman jurists developed a scientific and analytical approach to law, creating major concepts of private law such as absolute property and contractual liability.

-The *Corpus Juris Civilis*: Under Emperor Justinian (6th century), Roman law was compiled and systematized, a work that still influences many contemporary civil codes.

- Evolution of Procedures: The actions of the law (rigid procedures of the early days) evolved into the formulary system, allowing for a more flexible and equitable justice system.

To explore these topics further, you can consult academic resources such as the detailed presentation of, or the analysis of the origins and sources of, this corpus on the portal.

To effectively teach ancient legal systems (Roman law, canon law, customary law) to law students, it is essential to make them engaging and relevant.

Here is a structured pedagogical approach to conveying these fundamental subjects: Recommendations and Research Trends:

-Studying legal texts in conjunction with archaeology and socio-economic contexts to understand law in action and not just theoretical laws.

- Analysing how law served as an instrument of domination and the maintenance of social hierarchies.
- Exploring legal pluralism to delve deeper into how empires such as Greco-Roman Egypt managed the coexistence of multiple legal traditions local customs, Hellenic law, etc.

Recommendations:

- Conducting an effective study of ancient legal systems (Egypt, Mesopotamia, Greece, and Rome) requires a rigorous interdisciplinary approach, combining legal history, archaeology, and philology.
- Incorporating private archives, diplomatic correspondence, and literary or philosophical texts.
- Contextualizing the socio-political and religious foundations.
- Understanding the source of law in Mesopotamia and Egypt, law is often a divine emanation;
- Considering the political structure, such as pharaonic centralization in Egypt or the organization into city-states in Greece.
- Utilizing the comparative method. Identify cross-influences and Roman legal development.
- Analysing the place of the courts, the role of judges, and the nature of evidence in collections of studies such as the Ancient Procedural Law section.
- Drawing on academic resources and databases and use the guides on the Legal History portal to access databases specializing in ancient law.

To effectively teach ancient legal systems, adopt a comparative and evolutionary approach. This involves avoiding the pitfall of anachronism by placing each legal system within its cultural context, while illustrating the slow transition from religious custom to rational legal conceptualization.

Best teaching practices revolve around several axes and methods: from divine will. Teaching this system requires addressing the theocratic foundations of

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