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Module: History of Law

Lecture 3: The ancient Greek Legal System

Introduction

The history of Greece can be traced back to Stone Age hunters. Later came early farmers and the Minoan and Mycenaean civilizations. This was followed by a period of wars and invasions, known as the Middle Ages. Around 1100 BC.

Ancient Greek civilization flourished from the period following Mycenaean civilization, which ended about 1200 BCE, to the death of Alexander the Great, in 323 BCE. By that time, Greek cultural influence had spread around the Mediterranean.

Greek culture influenced the Roman Empire and many other civilizations, and it continues to influence modern cultures today. The ancient Greek classical and Hellenistic eras are without doubt the most beautiful times, having left behind a myriad of ideas, concepts and the basics of what we now call "Western civilization". However, the previous two millennia leading to these ancient times are all part of the history of Greece after leaving an equally rich cultural imprint on the territory. Much of the Greek civilization has survived either directly or through changes to the present day.

1.1. The main city-states

Both Athens and Sparta as the main city-states hold historic value for Greece and the world. Athens is the capital and the largest city of Greece. It is a centre for economic, political, financial and culture life in Greece. Sparta, a town near the river Evrotas, is located in the centre of the Peloponnese in southern Greece. Sparta.

Athens and Sparta differed in their ideas of getting along with the rest of the Greek empires. Sparta considered itself as the protector of the Greek by provided its army whenever required. On the other hand, Athens wanted to take control of more and more land in Greece. The Athenian form of electing a government was a symbol of democracy. Athens was perhaps the earliest democracy, which means "rule by the people".

The Spartan form of government was an oligarchy (rule by a few. The Ancient Greek. Sparta had elements of monarchy (rule by kings).

2. Ancient Greek laws

The ancient Greek world had no single system of law; city-states instead formed their own political and legal systems, although these were arguably based largely on the same general principles.

The most widely-known Greek judicial system is that of 4th century classical Athens traditionally associated with the birth of democracy. It was primarily the abstract philosophical ideas surrounding law and justice that had the greatest impact on later societies, rather than the practical aspects of the legal system itself.

Legal systems of the ancient Greeks. Each city-state administered its own laws, many of which were laid down in written statutes. The harsh law code of Draco and the more humane one of Solon are two of the most famous.

Ancient Greek laws were the rules and regulations that governed the earlier citizens of Greece. These laws were based on Greek customs and traditions and the state enforced the laws. As opposed to modern societies, ancient Greece did not have a centralized system of government. Instead, each **city-state** had its own system of government and laws.

Ancient Greece legal system witnessed various laws such as:

2.1. Draconian laws

Traditional Athenian law code allegedly introduced by Draco c. 621 BC . The Draconian laws were most noteworthy for their harshness; they were said to be written in blood, rather than ink. Modern scholarship tends to be sceptical of the Draconian tradition. Little is known of the laws, but even the homicide laws probably underwent change by the 4th century BC.

2.2. Solonian laws

Solon's laws, constitutional and judicial reforms instituted by the Athenian statesman and poet Solon probably 20 years after he served as chief ruler in 594 BC.

Solon wanted to revise or abolish the older laws of Draco. He promulgated a code of laws embracing the whole of public and private life. Solon's legal code replaced Draco's harsh laws except for those concerning homicide.

Under Solon's reforms, all debts were abolished and all debt-slaves were freed. Solon's law reduced the power of the old aristocracy by making wealth rather than birth a criterion for holding political positions. Citizens were also divided based on their land production. The lower assembly was given the right to hear appeals, and Solon also created the higher assembly. Both of these were meant to decrease the power of the aristocratic council.

Solon's reforms, known as the debt laws, dealt with one of the immediate causes of the crisis: debt. All debts were cancelled, enslaved debtors freed, and borrowing on the security of the person forbidden. Reforms also affected the political structure of Athens.

2.3. Athenian laws

Athenian laws are typically written in the form where if an offense is made, then the offender will be punished according to said law, thus they are more concerned with the legal actions which should be undertaken by the prosecutor, rather than strictly defining which acts are prosecutable.

The Athenians did not use their laws only to provide a way to get a dispute into court. The aim of legislation was to give orders about how to act in daily life and rules about how to resolve conflicts in the courts. The aim of law was to shape the behaviour of everyone in society.

2.3.1. Pre-Trial Proceedings

Both private and criminal procedures began with the summoning of the defendant to the magistrate and the filing of a written complaint. Enforcement of a judgment was generally left to the plaintiff.

The events before the actual trial resemble what many litigants experience today. As in modern times, a case was initiated by a plaintiff bringing a complaint. The plaintiff was responsible for serving the complaint on the defendant in the presence of witnesses. The complaint was then brought before a magistrate, who was a citizen chosen by lot, who then held a preliminary hearing. In response to the complaint, a defendant could deny the allegations. At these preliminary hearings, the parties could question each other, and had to disclose the evidence they intended to present at trial, including documents and testimony of witnesses. Following the preliminary hearing, the magistrate generally sent a private case not involving homicide to an arbitrator, and a public case directly to the popular court.

2.3.2. Trials

As in modern proceedings, the plaintiff spoke first, followed by the defendant, and the parties were timed by a water clock .

Each party was expected to argue his own case before the court. When witness testimony or statutes were read to the jurors, the water clock was stopped, to be restarted when the speaker continued his speech. As part of his presentation, a party could bring in witness testimony, either to be read from a document or later, to be given in person.

However, litigants never indicated they were delivering prepared speeches, instead pretending they were speaking extemporaneously, demonstrating their skill at what we today would call rhetoric.

The magistrate conducting the trial had no role other than to preside. He did not make evidentiary rulings, permit objections, or offer instruction to the jury. At the conclusion of the parties' presentations, the jurors voted immediately and secretly, and a simple majority decided the case

The trial was also a public event, and it was common that those who had not been chosen as jurors, or men in town for the day on other business, would spend time at the courts, watching the proceedings.

3. Settlement of disputes

Despite the existence of laws, the legal system in ancient Greece was not as organized and formalized as it is in modern societies. There was no unified code of law that applied to all citizens, and there was no court system to hear cases and enforce the law. Instead, disputes were often settled through negotiation and mediation. Punishment for crimes was often left to the discretion of the victim or the victim's family. Overall, ancient Greek laws established a basic foundation for governing the people and ensuring that they coexisted peacefully. The development of written laws and legal codes in Ancient Greece laid the foundation for modern legal systems.

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