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ENGLISH FOR LAW

HISTORY OF LAW

TEXTBOOK

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УДК 340; ББК 67.0

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Учебник рекомендуется студентам, которые хотят расширить свой кругозор и углубить свои знания в профессиональном поле в юридической сфере.

В учебнике «History of law» подробно раскрывается содержание трех глав: Исторический экскурс в сферу право; 2. Юридическая терминология; 3. Сущность понятия «государство».

В приложение приводятся содержание и статьи Римского права.

This textbook is recommended to students who will liberalize their range of interests and deepen their knowledge in their professional field. There are three main chapters in the book: Historical survey; Law definitions; the Essence of state. In the Appendix there are articles and contents of Roman Law.

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CHAPTER I. HISTORICAL SURVEY

INTRODUCTION

Legal history or the history of law is the study of how law has evolved and why it changed.

Legal history is closely connected to the development of civilisations and is set in the wider context of social history. Among certain jurists and historians of legal process, it has been seen as the recording of the evolution of laws and the technical explanation of how these laws have evolved with the view of better understanding the origins of various legal concepts; some consider it a branch of intellectual history.

20th century historians have viewed legal history in a more contextualised manner more in line with the thinking of social historians. They have looked at legal institutions as complex systems of rules, players and symbols and have seen these elements interact with society to change, adapt, resist or promote certain aspects of civil society. Such legal historians have tended to analyse case histories from the parameters of social science inquiry, using statistical methods, analysing class distinctions among litigants, petitioners and other players in various legal processes.

By analysing case outcomes, transaction costs, number of settled cases they have begun an analysis of legal institutions, practices, procedures and briefs that give us a more complex picture of law and society than the study of jurisprudence, case law and civil codes can achieve.

The "law" cannot be spoken of as a single homogenous entity. "Law" is defined in the Concise Oxford Dictionary as “a rule or system of rules recognised by a country or community as regulating the actions of its members and enforced by the imposition of penalties”.

Beyond this the *history of law* of different communities has developed in distinct ways, reflecting the prevalent socio-political norms and values of the society which they regulate.

The history of “laws” of pre-literate African societies, for example, are significantly different from the history of laws of a developed Western democracy. This essay will consider the history of English law, and will outline how it has developed over the centuries.

The history of the law of England and Wales has developed in tandem with the peculiarly English unwritten constitution, which sets out the broad principles on which the common law is based.

The United Kingdom is virtually alone amongst modern democratic states in not having a written constitution. This means that the sources of law in England are varied, and include not only the statutes that Parliament passes, but also the judicial decisions of judges on a case by case basis.

This means that all three branches of the state, that is the executive, the legislature and the judiciary, all have a role to play in developing the history of the law.

This collaborative system has developed throughout the history of the United Kingdom, and while the lack of any major single political upheaval has been cited as the reason the UK has not found the need for a written constitution, her history reveals much about her unique legal system.

One of the fundamental doctrines that is prevalent through the history of law in England is that of the supremacy of Parliament. This means that although all three branches of the state have a role to play in making the law, Parliament (that is, the legislative body) is the highest source of law.

These laws must be applied and upheld by the courts. This doctrine is premised on the principle that Parliament is democratically elected, so should have the upper hand in making the law.

This doctrine has a sturdy historical basis, having developed since the Middle Ages, although in recent decades it has been somewhat undermined by the increase of judicial activism in making and interpreting the law, and by the increasing influence of EU jurisprudence since the UK's joining of it.

The other major source of English law that has developed through the history of law is the common law, which will now be considered.

The common law is the law made by the courts (be based on statutory law).

The historical background to the development of the law in England is significant. It should be noted that historically, England was not governed by a single system of law. Rather, prior to the Norman Conquest in the eleventh century, there were several different systems in operation.

There developed, however, a common principle of stare decisis (meaning "let the decision stand") which made the law more predictable in similar cases. The law was administered according to local laws by representatives of the Crown. Eventually this led to a "common law" throughout the country, which became the historical basis for the common law of today.

The basis of stare decisis developed into a more general system of precedent, which now manifests itself in the doctrine of binding judicial decisions (facilitated by the inception of a system of publishing the case reports of higher courts).

This, then, is the history of the common law in England, which was subsequently exported to many jurisdictions around the world, largely as a result of Britain's colonial activities. The historical development of the common law has seen different eras of activity in judicial law-making.

Until the 20th century, for example, the judiciary were generally less prepared to “legislate from the benches”. Throughout that century, and in the early years of the present one, judicial activity in this respect has generally increased.

In 1952, Lord Denning, a particularly activist judge, encouraged the judges not to be too timid in developing and adapting the law to meet the changing societal needs, in a lecture entitled "The Need for a New Equity". One can discern a change in the focus of the history of the English law towards the judiciary.

In the 1980s, Lord Scarman publicised his own view in McLoughlin v O'Brian (1982); namely that it was the courts' role to adjudicate according to principle, and Parliament's role to legislate in order to overrule any results of this that it considered to be socially unacceptable. He was concerned that if the common law remained static, it would be incapable of adapting to the changing needs of society. Particularly in the light of the Human Rights Act 1998 and the increase of European legislation, we have seen this degree of judicial influence on the law increase substantially. This was a crucial point in the history of the law. Another major aspect of the *English legal system's* history is, in the context of the criminal law, trial by jury. Historically, this was imported into English law by the French during the Norman Conquest. Jurors initially acted as witnesses, however, and often had an administrative role.

Gradually, through the *history of the law*, their function changed, and the principle emerged that jurors should know as little as possible about the case with which they are involved prior to the hearing. The historical significance of Bushell's Case (1670) cannot be overstated. This established that juries are sole judges of fact, who have the right to give verdicts according to their conscience.

The effect of this today is that juries may acquit a defendant even in circumstances where the law demands a guilty verdict. This, then, outlines the historical development of two fundamental aspects of the English law; the common law and the juries. The richness of the English law is largely the result of the long and turbulent history, without the need to establish a codified constitution along the lines of civil law countries.

Active vocabulary

Legal, law, history, common law, jury, English law, to give verdicts, to effect, major sources, development of civilisations, social history, historians of legal process, evolution of laws, origins of various legal concepts; to consider, branch of intellectual history.

Task 1. Analyze the text and use it in practice.

Task 2. Digest the information briefly in English.

TIMETABLE OF THE HISTORY OF LAW

The history of law is closely intertwined with the history of civilisation. Ever since humans first established complex societies characterised by a social hierarchy, symbolic communication forms (writing) and separation from the natural environment, an established set of rules used to govern behaviour has existed. Here's a timeline of the key developments which brought us to how law is practised today:

- 30th century B.C.
  Ancient Egyptians establish a set of civil codes based on social equality and impartiality.
- 22nd century B.C.
  The oldest known law code formulated in Sumer (modern-day Iraq).
- 18th century B.C.

King Hammurabi further develops Babylonian law by inscribing in stone. Several copies of the code are placed around the Kingdom of Babylon as stone or wooden slabs, for the public to see.

- 8th century B.C.

Ancient Greece becomes first society based on broad inclusion of its citizens. This translates to its laws, widely cited as being a major contributor to the development of democracy.

- 5th century B.C. – 6th century A.D.

Roman law always changing to reflect the dynamic nature of society. Hugely influential on European law even today as evidenced by the common use of Latin legal terms.

The Law of the Twelve Tables stands at foundation of the Constitution of the Roman Republic.

The series of definitions of private rights and procedures was written to stop magistrates applying the law arbitrarily. The Constitution of the Roman Republic informed public legislation. Many of its concepts exist today including vetoes and separation of powers.

The Romans were the first civilisation to develop a formal class of law professionals known as Jurisconsults. The profession was heavily regulated by the turn of the Byzantine Empire.

- 11th century A.D.

Roman law rediscovered after much of law code is replaced by custom and case law during the dark ages. The Dark Ages also caused the collapse of the legal profession in Western Europe.

The Royal courts develop common law in England.

A Europe-wide Law Merchant formed to trade according to a common standard.

- 12th – 13th century A.D.

Legal profession returns to prominence due to efforts by the church and state to regulate it.

The world's first university, the University of Bologna, set up as a law school. Bologna served as a model for other law schools of the medieval age.

- 16th century A.D.

By this time the legal profession could be subdivided into two distinct branches; barristers, and attorneys and solicitors. Despite there being many eminent solicitors, there were also 'pettifoggers' and 'vipers' disgracing the profession.

- 18th century A.D.
  Nationalism grows leading to Law Merchant being incorporated into many countries' local law.
- 19th century A.D. – present

Germanic and Napoleonic codes became the most influential and make up the majority of European law today.

The US legal system largely based on the English common law system.

The Law Society is formed to raise the law profession's reputation and set standards to ensure good practice initially across London, later the whole of the UK, and eventually throughout Europe.

Similar bodies are formed worldwide to regulate the profession.

Task 1. Digest the score of the information briefly in English.

EXPERIENCE OF HUMAN SOCIETY

Rules and laws – and the conventions or customs from which they are descended – have been a part of human life ever since our ancestors first began to live in large and settled groups. But our knowledge is vague of laws that were in effect before the invention of writing in about 3500 B. C.

The history of law is the history of our race, and the embodiment of its experience. It is the most unerring monument of its wisdom and frequent want of wisdom.

The best thought of people is to be found in its legislation; its daily life is best mirrored in its usages and customs, which constitute the law of its ordinary transactions. There never has existed on this planet any organization of human society, any tribe or nation however rude, any aggregation of men however savage that has not been more or less controlled by some recognized form of law.

Whether we accept the fashionable, but in this regard wholly unsupported and irrational theory of evolution that would develop civilization from barbarism, barbarism from savagery, and the existence of savage men from simian ancestry, or whether we adopt the more reasonable theory, sustained by the uniform tenor of all history. The recognition of the existence of law outside of itself, and yet binding upon him, is inherent in man's nature, and is a necessity of his being.

And this is as much as to say that the very existence of human society is dependent upon law imposed by some superior power.

While from our present standpoint the ultimate finite existence is that of the individual, and all true philosophy recognizes that society exists for the individual, and not the individual for society, yet it is also true that the individual is intended to exist in society, and that he must in many things subordinate his own will to that of society, and inasmuch as society can not exist without law, it is necessary deduction of reason that the existence of law is coeval with that of the human race.

Active vocabulary

Rules, laws, conventions, customs, human life, tenor, civilization, human society, develop, to exist, experience, unerring monument, embodiment.

Task 1. Choose the keywords and phrases that best convey the gist of the information.

Task 2. Answer the questions.

1. What is a part of human life? 2. What is the history of law like? 3. What is to be found in people's legislation? 4. What kind of theory can be adopt? 5. What is the existence of human society dependent upon? 6. What does true philosophy recognize? 7. Where do individuals intend to exist? 8. What must he do? 9. Can society exist without law? 10. What is necessary deduction of reason?

TOPICAL VOCABULARY

law – 1) а) закон (регулирующий, предписывающий акт) *Syn. canon, code, commandment, constitution, ordinance, regulation, statute* б) научный закон, научная закономерность

fair (just) law – справедливый закон
stringent law – строгий закон
unwritten law – неписаный закон
in law – по закону, законно
by (the) law – по закону, законодательно
by act of law – в силу закона
according to the law – в соответствии с законом
contrary to law – противозаконно
to go beyond the law – совершить противозаконный поступок
to keep within the law – придерживаться закона
to be governed by the law – руководствоваться законом
to lay down the law – формулировать закон
to administer (apply, enforce) a law – применять закон
to annul (repeal, revoke) a law – аннулировать, опротестовать закон
to break (flout, violate) a law – нарушить, преступить закон
to adopt (enact, pass) a law – принимать закон
to cite a law – цитировать закон
to declare a law unconstitutional – объявить закон противоречащим конституции (в США)
to draft a law – готовить законопроект
to interpret a law – толковать закон
to obey (observe) a law (be at law) – соблюдать закон, подчиняться закону
to promulgate a law – опубликовать закон
to take the law into one's own hands – расправиться без суда
to evade the law – обходить закон
equal protection of the law – равенство перед законом
disregard of law – несоблюдение закона
to break the law – нарушать закон
to be (hold) good in law – быть юридически обоснованным
required by law – требуется по закону
law in force – действующий закон
to keep within the law – не нарушать закон, держаться в рамках закона

There is no law against fishing. – Нет закона, запрещающего рыбную ловлю. It is against the law to smoke in an elevator. – По закону запрещено курить в лифте.

higher law – высший, нравственный закон
shield law – закон об охране конфиденциальности
antitrust law – антимонопольный закон

blue law – пуританский закон (закрытие театров по воскресеньям, запрещение продажи спиртных напитков в США)

conflict-of-interest law (rule) – правило служебной этики
sunset law – положение о пересмотре закона (в США)
sunshine law – закон об открытом обсуждении всех государственных вопросов (в США)
lynch law – закон или суд Линча, самосуд, линчевание
law of supply and demand – закон спроса и предложения
Mendeleyev's (periodic) law – периодическая система элементов Менделеева
Newton's laws – законы Ньютона

law of gravity – закон тяготения
law of motion – закон движения
control law – закон о надзоре
company law – законодательство, регулирующее деятельность компании
bankruptcy law – законодательство о банкротстве
application of law – применение закона
agreement law – закон о соглашениях
intellectual property law – закон об интеллектуальной собственности
bank law – законодательство о банках
3) профессия юриста
law office – контора адвокатов
law firm – юридическая фирма
law school – юридическая школа; юридический факультет
to read (study) law – изучать право, учиться на юриста
to practise law – быть юристом
4) суд, судебный процесс
act of the law – юридический акт
to go to law – подать в суд; начать судебный процесс
to be at law with smb. – судиться с кем-л.
the law – а) полиция б) полицейский, блюститель закона
to give (the) law to smb. – быть полновластным хозяином, командовать (кем-л.), навязывать свою волю (кому-л.)
to have (take) the law of smb. – подать в суд на кого-л.
to lay down the law – говорить безапелляционно; предписывать, диктовать, командовать, не допускать возражений
to put the law on smb. – возбудить против кого-л. (судебное) дело
to strain (stretch) the law – допускать натяжку в истолковании закона
to take the law into one's own hands – самочинно вершить суд и расправу
due process of law – надлежащая законная процедура
to go beyond the law – обходить закон

Task 1. Analyze the topical vocabulary, learn it and make up sentences with it.

Task 2. Explain the law-terms and make up sentences with them.

To read (study) law; to practise law; to go to law; the law; the spirit of the law; the letter of the law; to give (the) law to somebody; the law of the jungle; in the eyes of the law; law and equity; law and order; law blank; law book; law books; law breaker; law case; law charge; law agent; antitrust law; blue law; conflict-of-interest law; Mosaic law; law of supply and demand; law of gravity; labour law; law school; administrative law; business (commercial) law (law merchant); canon law; civil law; constitutional law; copyright law; corporate law; criminal law; family (marriage) law; international law; maritime law; military law; patent law; private law.

Task 3. Make up the dialogues from the topical vocabulary and carry them on.

ANCIENT EGYPTIAN LAW


Ancient Egyptian law, dating as far back as 3000 B.C., had a civil code that was probably broken into twelve books. It was based on the concept of Ma'at, characterised by tradition, rhetorical speech, social equality and impartiality. Ma'at was the ancient Egyptian concept of truth, balance, order, law, morality, and justice. Maat was also personified as a goddess regulating the stars, seasons, and the actions of both mortals and the deities, who set the order of the universe from chaos at the moment of creation. Her ideological counterpart was Islet.

The earliest surviving records indicating that Ma'at is the norm for nature and society, in this world and the next, were recorded during the Old Kingdom, the earliest substantial surviving examples being found in the Pyramid Texts of Unas (ca. 2375-2345 B.C.).

Later, as a goddess in other traditions of the Egyptian pantheon, where most goddesses were paired with a male aspect, her masculine counterpart was Thoth and their attributes are the similar.

In other accounts, Thoth was paired off with Seshat, goddess of writing and measure, who is a lesser known deity. After her role in creation and continuously preventing the universe from returning to chaos, her primary role in Egyptian mythology dealt with the weighing of souls (heart) that took place in the underworld Duat. Her feather was the measure that determined whether the souls (considered to reside in the heart) of the departed would reach the paradise of after life successfully.

Pharaohs are often depicted with the emblems of Maat to emphasise their role in upholding the laws of the Creator. Maat represents the ethical and moral principle that every Egyptian citizen was expected to follow throughout their daily lives. They were expected to act with honour and truth in manners that involve family, the community, the nation, the environment, and god.

Maat as a principle was formed to meet the complex needs of the emergent Egyptian state that embraced diverse peoples with conflicting interests. The development of such rules sought to avert chaos and it became the basis of Egyptian law. From an early period the King would describe himself as the "Lord of Ma'at" who decreed with his mouth the Ma'at he conceived in his heart.

The significance of Ma'at developed to the point that it embraced all aspects of existence, including the basic equilibrium of the universe, the relationship between constituent parts, the cycle of the seasons, heavenly movements, religious observations and fair dealings, honesty and truthfulness in social interactions. The ancient Egyptians had deep conviction of an underlying holiness and unity within the universe. Cosmic harmony was achieved by correct public and ritual life. Any disturbance in cosmic harmony could have consequences for the individual as well as the state.

An impious King could bring about famine or blasphemy blindness to an individual.

In opposition to the right order expressed in the concept of Ma'at is the concept of Isfet: chaos, lies and violence. In addition to the importance of the Ma'at, several other principles within ancient Egyptian law were essential, including an adherence to tradition as opposed to change, the importance of rhetorical skill, and the significance of achieving impartiality, and "righteous action". In one Middle Kingdom (2062 to c. 1664 B.C.) text the Creator declares "*I made every man like his fellow*".

Ma'at called the rich to help the less fortunate rather than exploit them, echoed in tomb declarations: "*I have given bread to the hungry and clothed the naked*" and "*I was a husband to the widow and father to the orphan*". To the Egyptian mind, Ma'at bound all things together in an indestructible unity: the universe, the natural world, the state, and the individual were all seen as parts of the wider order generated by Maat.

There is little surviving literature that describes the practice of ancient Egyptian law. Maat was the spirit in which justice was applied rather than the detailed legalistic exposition of rules as found in Mosaic law of the 1st millennium B.C. Ma'at represented the normal and basic values that formed the backdrop for the application of justice that had to be carried out in the spirit of truth and fairness.

From the 5th dynasty (c. 2510-2370 B.C.) onwards the Vizier responsible for justice was called the Priest of Maat and in later periods judges wore images of Maat.

Later scholars and philosophers also would embody concepts from the wisdom literature, or Sebayt. These spiritual texts dealt with common social or professional situations and how each was best to be resolved or addressed in the spirit of Ma'at. It was very practical advice, and highly case-based, so that few specific and general rules could be derived from them.

During the Greek period in Egyptian history, Greek law existed alongside Egyptian law.

The Egyptian law preserved the rights of women who were allowed to act independently of men and own substantial personal property and in time this influenced the more restrictive conventions of the Greeks and Romans. When the Romans took control of Egypt, the Roman legal system which existed throughout the Roman Empire was imposed in Egypt.

By the 22nd century BC, Ur-Nammu, an ancient Sumerianruler, formulated the first extant law code, consisting of casuistic statements ("if... then...").

Around 1760 B.C., King Hammurabi further developed Babylonian law, by codifying and inscribing it in stone. Hammurabi placed several copies of his law code throughout the kingdom of Babylon as stelae, for the entire public to see; this became known as the Codex Hammurabi. The most intact copy of these stelae was discovered in the 19th century by British Assyriologists, and has since been fully transliterated and translated into various languages, including English, German and French.

Ancient Greek has no word for "law" as an abstract concept, retaining instead the distinction between divine law (*thémis*), human decree (*nomos*) and custom (*díkē*). Yet Ancient Greek law contained major constitutional innovations in the development of democracy.

Active vocabulary

Law, to develop, to become known, law code, kingdom, to inscribe, in stone, to translate into various languages, major constitutional innovations, development of democracy.

ANCIENT WORLD

Ancient Athens, the small Greek city-state, was the first society based on broad inclusion of the citizenry, excluding women and the slave class. Ancient Greek has no word for "law" as an abstract concept, retaining instead the distinction between divine law, human decree and custom. Yet Ancient Greek law contained major constitutional innovations in the development of democracy.

Civil and criminal legislation were highly developed, and already in the Fifth Dynasty the law of private property and bequest was intricate and precise. As in our own days, there was absolute equality before the law whenever the contesting parties had equal resources and influence.

The oldest legal document in the world is a brief, in the British Museum, presenting to the court a complex case in inheritance. Judges required cases to be pled and answered, reargued and rebutted, not in oratory but in writing which compares favourably with our windy litigation.

Perjury was punished with death. There were regular Government courts, rising from local judgment-seats in the nomes to supreme courts at Memphis, Thebes, and Heliopolis.

Torture was used occasionally as a midwife to truth; beating with a rod was a frequent punishment, mutilation by cutting off nose or ears, hand or tongue, was sometimes resorted to, or exile to the mines. Or death by strangling, impaling, beheading, or burning at the stake; the extreme penalty was to be embalmed alive, to be eaten slowly by an inescapable coating of corrosive natron.

Criminals of high rank were saved the shame of public execution by being permitted to kill themselves, as in Samuraian Japan. We find no signs of any system of police; even the standing army always small because of Egypt's protected isolation between deserts and seas was seldom used for internal discipline. Law Security of life and property, and the continuity of law and government in Ancient Egypt Government, rested almost entirely on the prestige of the Pharaoh, maintained by the schools and the church. No other nation except China has ever dared to depend so largely upon psychological discipline. It was a well-organized government, with a better record of duration than any other in history.

At the head of the Government was the Vizier, who served at once as prime minister, chief justice, and head of the treasury; he was the court of last resort under the Pharaoh himself.

A tomb relief shows us the Vizier leaving his house early in the morning to hear the petitions of the poor, "to hear", as the inscription reads, "what the people say in their demands, and to make no distinction between small and great". A remarkable papyrus roll, which comes down to us from the days of the Empire, purports to be the form of address (perhaps it is but a literary invention) with which the Pharaoh installed a new Vizier: "Look to the office of the Vizier; be watchful over all that is done therein. The Vizierate is not sweet; it is bitter."

Ancient carvings show us the "Great House" from which he ruled, and in which the offices of the government were gathered; from this Great House, which the Egyptians called Pero and which the Jews translated *Pharaoh*, came the title of the emperor. Here he carried on an arduous routine of executive work. When he travelled the nobles met him at the feudal frontiers, escorted and entertained him, and gave him presents proportionate to their expectations; one lord, says a proud inscription, gave to Amenhotep II: "carriages of silver and gold, statues of ivory and ebony jewels, weapons, and works of art, 680 shields, 140 bronze daggers, and many vases of precious metal".

The Pharaoh reciprocated by taking one of the baron's sons to live with him at court a subtle way of exacting a hostage of fidelity. The oldest of the courtiers constituted a Council of Elders called Saru, or The Great Ones, who served as an advisory cabinet to the king.

20 officials collaborated to take care of his toilet: barbers who were permitted only to shave him and cut his hair, hairdressers who adjusted the royal cowl and diadem to his head, manicurists who cut and polished his nails, perfumers who deodorized his body, blackened his eyelids with kohl, and reddened his cheeks and lips with rouge.

Active vocabulary

Concept, divine law, human decree, custom, constitutional innovations, the development of democracy, cvil, criminal, legislation, to intricate, to precise, absolute equality, resources, influence, in oratory, in writing, litigation, to supreme courts, to constitute, to serve, nobles, expectations.

Task 1. Digest the information briefly in English.

Task 2. Answer the questions.

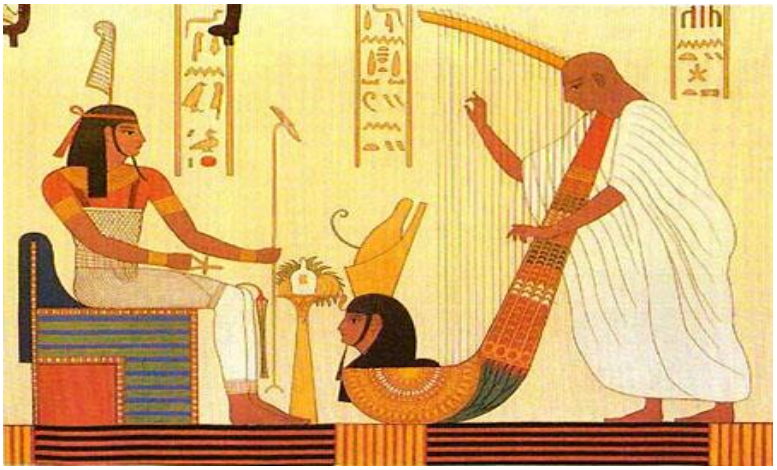
1. What was the first society based on broad inclusion of the citizenry? 2. Were there the distinction between divine law, human decree and custom in ancient world? 3. Did Ancient Greek law contain major constitutional innovations in the development of democracy? 4. Were civil and criminal legislation highly developed? 5. Was the law of private property and bequest intricate and precise? 6. What is the oldest legal document in the world? 7. What is it presenting to the court? 8. Who required cases to be pled and answered, reargued and rebutted? 9. Were there regular Government courts, rising from local judgment-seats in the nomes to supreme courts? 10. How was torture used? 11. Who was at the head of the Government? 12. How did the Vizier serve? 13. What do ancient carvings show? 14. How was the oldest of the courtiers, constituted a Council of Elders called? 15. How did they serve?

Task 3. Find synonyms in the text to following words.

Society, inclusion, to serve, broad, distinction, decree, custom, influence, to plead, to answer, to rebut, private, bequest, intricate, precise, to constitute, to require, legal, divine, to reciprocate, citizenry.

Task 4. Find antonyms in the text to following words.

To permit, supreme, development, private, the oldest, to answer, regular, precise, intricate, civil, major, highly developed, democracy, constitutional, broad, in writing, human.



SOUTHERN & EASTERN ASIA

Ancient India and China represent distinct traditions of law, and had historically independent schools of legal theory and practice. The Arthashastra, dating from the 400 B.C., and the *Manusmriti* from 100 A.D. were influential treatises in India, texts that were considered authoritative legal guidance.

Manu's central philosophy was tolerance and pluralism, and was cited across South East Asia.

The Arthashastra is an ancient Indian treatise on statecraft, economic policyand military strategy, written in Sanskrit. The text was influential until the 12th century, when it disappeared. It was rediscovered in 1904 by R. Shamasastry, who published it in 1909. The first English translation was published in 1915.

"Arthashastra" is translated "the science of wealth", but the book in the Maurya Empire.

These sections include the ethics of economics and the duties and obligations of a king.

Beyond these sections on statecraft, the book outlines an entire legal and bureaucratic administration of a kingdom. These sections include descriptive cultural details on topics such as mineralogy, mining and metals, agriculture, animal husbandry, medicine and the use of wildlife.

The Arthashastra also explores issues of welfare (for instance, redistribution of wealth during a famine) and the collective ethics that hold a society together.But this Hindu tradition, along with Islamic law, was supplanted by the common law when India became part of the British Empire.

Malaysia, Brunei, Singapore and Hong Kong also adopted the common law.

The eastern Asia legal tradition reflects a unique blend of secular and religious influences.

Japan was the first country to begin modernizing its legal system along western lines, by importing bits of the French, but mostly the German Civil Code. This partly reflected Germany's status as a rising power in the late 19th century. Similarly, traditional Chinese law gave way to westernization in the form of six private law codes based mainly on the Japanese model of German law. Today Taiwanese law retains the closest affinity to the codifications from that period.

The Manusmṛti is the most important and most studied ancient legal text of Hinduism. It was one of the first Sanskrit texts translated during the British rule of India in 1794, by Sir William Jones, and used to formulate the Hindu law by the colonial government. Over fifty manuscripts of Manusmriti are now known, but the earliest discovered, most translated and presumed authentic version since the 18th-century has been the "Calcutta manuscript with Kulluka Bhatta commentary".

Active vocabulary

Distinct traditions, to represent, code, to reflect, status, rising power, traditional, westernization, to base on, to modernize, unique blend of secular and religious influences, legal system.

Task 1. Give the main idea of the text and your attitude to it.

Task 2. Make up some dialogues from the information above.

Task 3. Write all words and phrases according to the topic.

EUROPEAN LAWS

Roman law was heavily influenced by Greek teachings. It forms the bridge to the modern legal world, over the centuries between the rise and decline of the Roman Empire. Roman law, in the days of the Roman Republic and Empire, was heavily procedural and there was no professional legal class.

Instead a lay person was chosen to adjudicate. Precedents were not reported, so any case law that developed was disguised and almost unrecognized. Each case was to be decided afresh from the laws of the state, which mirrors the (theoretical) unimportance of judges' decisions for future cases in civil law systems today. During the 6th century A.D. in the Eastern Roman Empire, the Emperor Justinian codified and consolidated the laws that had existed in Rome so that what remained was one 20th of the mass of legal texts from before. This became known as the *Corpus Juris Civilis*.

As one legal historian wrote, "Justinian consciously looked back to the golden age of Roman law and aimed to restore it to the peak it had reached three centuries before."

The legal history of the Catholic Church is the history of Catholic canon law, the oldest continuously functioning legal system in the West. Canon law originates much later than Roman law but predates the evolution of modern European civil law traditions. The cultural exchange between the secular (Roman/Barbarian) and ecclesiastical (canon) law produced the *jus commun*e and greatly influenced both civil and common law. The history of Latin canon law can be divided into four periods: the *jus antiquum*, the *jus novum*, the *jus novissimum* and the *Code of Canon Law*.

In relation to the Code, history can be divided into the *jus vetus* (all law before the Code) and the *jus novum* (the law of the Code, or *jus codicis*). Eastern canon law developed separately.

In the 20th century, canon law was comprehensively codified. On 27 May 1917, Pope Benedict XV codified the 1917 Code of Canon Law. John XIII, together with his intention to call the Second Vatican Council, announced his intention to reform canon law, which culminated in the 1983 Code of Canon Law, promulgated by John Paul II on 25 January 1983. John Paul II also brought to a close the long process of codifying the legal elements common to all 23 *sui juris* Eastern Catholic Churches on 18 October 1990 by promulgating the Code of Canons of the Eastern Churches.

Active vocabulary

Legal history, code, canon law, to develop, cultural exchange, evolution, traditions, civil law, common law, to divide, period, to codify, Pope, to be common to, intention, to reform, to call.

Task 1. Render the score of the information briefly in English.

Task 2. Answer the questions.

1. What law was heavily influenced by Greek teachings? 2. What forms the bridge to the modern legal world? 3. How lonh did it continue? 4. Roman law, in the days of the Roman Republic and Empire, was heavily procedural, wasn't it? 5. Was there professional legal class? 6. Who was chosen to adjudicate? 7. How was each case to be decided? 8. When did Justinian codify and consolidate the laws? 9. What is the history of Catholic canon law? 10. What greatly influenced both civil and common law? 11. When was canon law comprehensively codified? 12. Who brought to a close the long process of codifying the legal elements?

MIDDLE AGES

During the Byzantine Empire *the Justinian Code* was expanded and remained in force until the Empire fell, though it was never officially introduced to the West. Instead, following the fall of the Western Empire and in former Roman countries, the ruling classes relied on *the Theodosian Code* to govern natives and Germanic customary law for the Germanic incomers – a system known as folk-right – until the two laws blended together. Since the Roman court system had broken down, legal disputes were adjudicated according to Germanic custom by assemblies of learned law speakers in rigid ceremonies and in oral proceedings that relied heavily on testimony.

After much of the West was consolidated under *Charlemagne*, law became centralized so as to strengthen the royal court system, and consequently case law, and abolished folk-right. Once *Charlemagne's Kingdom* definitively splintered, Europe became feudalistic, and law was generally not governed above the county, municipal or lordship level, thereby creating a highly decentralized legal culture that favoured the development of customary law founded on localized case law.

However, in the 11th century, Crusaders, having pillaged the Byzantine Empire, returned with Byzantine legal texts including the Justinian Code, and scholars at the University of Bologna were the first to use them to interpret their own customary laws. Medieval European legal scholars began researching the Roman law and using its concepts and prepared the way for the partial resurrection of Roman law as the modern civil law in a large part of the world. There was, however, a great deal of resistance so that civil law rivalled customary law for much of the latter medieval period. After the Norman conquest of England, which introduced Norman legal concepts into medieval England, the English King's powerful judges developed a body of precedent that became the common law.

In particular, Henry II instituted legal reforms and developed a system of royal courts administered by a small number of judges who lived in Westminster and travelled throughout the kingdom.

Louis IX of France also undertook major legal reforms and, inspired by ecclesiastical court procedure, extended Canon-law evidence and inquisitorial-trial systems to the royal courts.

Also, judges no longer moved on circuits becoming fixed to their jurisdictions, and jurors were nominated by parties to the legal dispute rather than by the sheriff.

In addition, by the 10th century, *the Law Merchant*, first founded on Scandinavian trade customs, then solidified by *the Hanseatic League*, took shape so that merchants could trade using familiar standards, rather than the many splintered types of local law.

Lex mercatoria ("merchant law") is the body of commercial law used by merchants throughout Europe during the medieval period. It evolved similar to English common law as a system of custom and best practice, which was enforced through a system of merchant courts along the main trade routes. It functioned as the international law of commerce. It emphasised contractual freedom and alienability of property, while shunning legal technicalities and deciding cases *ex aequo et bono*.

A distinct feature was the reliance by merchants on a legal system developed and administered by them. States or local authorities seldom interfered, and did not interfere a lot in internal domestic trade. Under lex mercatoria trade flourished and states took in large amounts of taxation.

The Hanseatic League was a commercial and defensive confederation of merchant guilds and their market towns that dominated trade along the coast of Northern Europe. It stretched from the Baltic to the North Sea and inland during the Late Middle Ages and early modern period (c. 13th to 17th centuries).The League was created to protect economic interests and diplomatic privileges in the cities and countries and along the trade routes the merchants visited.

The Hanseatic cities had their own legal system and furnished their own armies for mutual protection and aid. Despite this, the organization was not a city-state, nor can it be called a confederation of city-states. Only a very small number of the cities within the league enjoyed autonomy and liberties comparable to those of a free imperial city.

The legacy of the Hansa is remembered today in several names the German airline Lufthansa ("Air Hansa"), the Hanze University of Applied Sciences, Groningen, in the Netherlands, the Hansa Brewery in Bergen, the Hansabank in Baltic states (now Swedbank) and the Hanse Sail in Rostock. DDG Hansa was a major German shipping company from 1881 until its bankruptcy in 1980.

Historians generally trace the origins of the League to the rebuilding of the North German town of Lubeck in 1159 by the powerful Henry the Lion, Duke of Saxony and Bavaria, after Henry had captured the area from Adolf II, Count of Schauenburg and Holstein. Exploratory trading at a venture, raids and piracy had happened earlier throughout the Baltic – the sailors of Gotland sailed up rivers as far away as Novgorod, for example – but the scale of international trade economy in the Baltic area remained insignificant before the growth of the Hanseatic League.

German cities achieved domination of trade in the Baltic with striking speed over the 13th century, and Lubeck became a central node in the seaborne trade that linked the areas around the North and Baltic Seas. The 15th century saw the peak of Lubeck's hegemony. A precursor to modern commercial law, the Law Merchant emphasized the freedom of contract and alienability of property.

Active vocabulary

To expand, to remain in force, to introduce, the fall of the Western Empire, former Roman countries, the ruling classes, to rely on, to govern natives, customary law, court system, legal disputes, distinct features, domination of trade, international trade economy, modern commercial law.

Task 1. Make notes of your new knowledge about the Hanseatic League.

Task 2. Comment on the given details about the Law Merchant.

Task 3. Analyze the text above and make up the chart about

№	When	What
1.		
2.		

The Middle Ages cover about 1,000 years - from about A.D. 500 to about A.D. 1500. The change from ancient ways to medieval customs came gradually.

THE CODEX THEODOSIANUS

The Codex Theodosianus was a compilation of the laws of the Roman Empire under the Christian emperors since 312. A commission was established by Theodosius II in 429 and the compilation was published in the eastern half of the Roman Empire in 438. One year later, it was also introduced in the West by the emperor Valentinian III. On March 26, 429, Emperor Theodosius II announced to the Senate of Constantinople his intentions to form a committee to codify all of the laws (leges) from the reign of Constantine up to Theodosius II and Valentinian III.

22 scholars, working in two teams, worked for nine years starting in 429 to assemble what was to become the Theodosian Code. Their product was a collection of 16 books containing more than 2,500 constitutions issued between 313 and 437.

John F. Matthews illustrates the importance of Theodosius' Code when he said, "the Theodosian Code was the first occasion since the Twelve Tables on which a Roman government had attempted by public authority to collect and publish its leges". The code covers political, socioeconomic, cultural and religious subjects of the 4th and 5th century in the Roman Empire. A collection of imperial enactments called the Codex Gregorianus had been written in 291 and the Codex Hermogenianus, a limited collection of rescripts from 293-294, was published.

Theodosius desired to create a code that would provide much greater insight into law during the later Empire (321-429). According to Peter Stein, "Theodosius was perturbed at the low state of legal skill in his empire of the East". He apparently started a school of law at Constantinople.

In 429 he assigned a commission to collect all imperial constitutions since the time of Constantine.

The laws in the code span from 312-438, so by 438 the "volume of imperial law had become unmanageable". During the process of gathering the vast amount of material, often editors would have multiple copies of the same law. Clifford Ando notes that according to Matthews, the editors "displayed reliance on western provincial sources through the late 4th century and on central, eastern archives thereafter." After six years an initial version was finished in 435, but it was not published, instead it was improved upon and expanded and finally finished in 438 and taken to the Senate in Rome and Constantinople.

Matthews believes that the two attempts are not a result of a failed first attempt, but instead the second attempt shows "reiteration and refinement of the original goals at a new stage in the editorial process". Others have put forth alternate theories to explain the lengthy editorial process and two different commissions. Boudewijn Sirks believes that "the code was compiled from imperial copy books found at Constantinople, Rome, or Ravenna, supplemented by material at a few private collections, and that the delays were caused by such problems as verifying the accuracy of the text and improving the legal coherence of the work".

The Code was written in Latin and incorporated the terms Constantinopolitana and Roma for Constantine's capital and for the original capital in Italy. It was also concerned with the imposition of orthodoxy – the Arian controversy was ongoing – within the Christian religion and contains 65 decrees directed at heretics. Originally, Theodosius had attempted to commission leges generales beginning with Constantine to be used as a supplement for the Codex Gregorianus and the Codex Hermogenianus.

The Codex Gregorianus and Codex Hermogenianus were collections of imperial rescripts compiled in the reign of Diocletian. He intended to supplement the legal codes with the opinions and writings of ancient Roman Jurists. But the task proved to be too great, and in 435 it was decided to concentrate solely on the laws from Constantine to the time of writing. This decision defined the greatest difference between the Theodosian Code and Justinian's later Corpus Juris Civilis.

John F. Matthews observes, "The Theodosian Code differs from the work of Justinian, in that it was largely based not on existing juristic writings and collections of texts, but on primary sources that had never before been brought together".

Justinian's Code, published about 100 years later, comprised both ius "law as an interpretive discipline", and leges, "the primary legislation upon which the interpretation was based".

While the Theodosian Code may seem to lack a personal facet due to the absence of judicial reviews, upon further review the legal code can give us insight into Theodosius' motives behind the codification. Lenski quotes Matthews as noting that the "imperial constitutions represented not only prescriptive legal formulas but also descriptive pronouncements of an emperor's moral and ideological principles.

Active vocabulary

Codex, imperial constitutions, to be represented, books of constitutions, judicial reviews, primary legislation, interpretation, to be based, the time of writing, task, to be proved, to concentrate, decision, difference, laws, to intend, opinions.

Task 1. Choose the keywords that best convey the gist of the information.

Task 2. Answer the questions.

1. What was a compilation of the laws of the Roman Empire under the Christian emperors since 312? 2. When was a commission established? 3. Where was the compilation published? 4. When was it introduced? 5. Who announced to the Senate of Constantinople his intentions to form a committee to codify all of the laws? 6. How many scholars worked in two teams to assemble what was to become the Theodosian Code? 7. What was their product like? 8. Who illustrates the importance of Theodosius' Code? 9. What did he say? 10. What does the code cover? 11. Had Theodosius attempted to commission leges generales beginning with Constantine to be used as a supplement for the Codex Gregorianus and the Codex Hermogenianus.12. What did Justinian's Code comprise?

Task 3. Analyze the activity of the crusaders and make up the chart about it.

№	Activity			
	Event	When	Where	Score
1.				

Task 4. Remember that.

Blessed Charlemagne – Карл Великий.

Law Merchant – the body of rules and principles determining the rights and obligations of the parties to commercial transactions; commercial law.

Hanseatic League – a medieval association of north German cities, formed in 1241 and surviving until the 19th century. In the later Middle Ages it included over 100 towns and functioned as an independent political power.

Hawala – a traditional system of transferring money used in Arab countries and the Indian subcontinent, whereby the money is paid to an agent who then instructs an associate in the relevant country or area to pay the final recipient

Theodosius I – Roman emperor 379-95; full name Flavius Theodosius; known as Theodosius the Great. Proclaimed co-emperor by the Emperor Gratian in 379, he took control of the Eastern Empire and ended the war with the Visigoths. A pious Christian, in 391 he banned all forms of pagan worship.

Justinian Code – a compilation of Roman imperial law made by order of Justinian I, forming part of the Corpus Juris Civilis.

Ius in ancient Rome was a right to which a citizen was entitled by virtue of his citizenship.

The iura were specified by laws, so ius sometimes meant law. As one went to the law courts to sue for one's rights, ius also meant justice and the place where justice was sought.

Task 5. Analyze the information and use it in practice.

Task 6. Make up some dialogues from the information above.

Task 7. Answer the questions.

1. What Code was expanded and remained in force during the Byzantine Empire? 2. Was it ever officially introduced to the West? 3. What did the ruling classes in former Roman countries relied on? 4. How were legal disputes adjudicated since the Roman court system had broken down? 5. Who consolidated much of the West? 6. When did law become centralized? Why 7. When did Europe become feudalistic? 8. Was law generally governed above the county? 9. What favoured the development of customary law founded on localized case law? 10. When did Crusaders pillage the Byzantine Empire? 11. What did they bring with? 12. Who was the first to use the texts to interpret their own customary laws? 13. Who began researching the Roman law and using its concepts and prepared the way for the partial resurrection of Roman law? How did they do it? 14. Who instituted the Assize of Clarendon? When was it? 15. Who undertook major legal reforms and, inspired by ecclesiastical court procedure, extended Canon-law evidence and inquisitorial-trial systems to the royal courts? 16. What was the Law Merchant like?

Task 8. Pick up from the text all the details associated with laws.

THEODOSIUS II

Theodosius II commonly surnamed Theodosius the Younger, or Theodosius the Calligrapher, was the Eastern Roman or Byzantine Emperor from 408 to 450. He is mostly known for promulgating the Theodosian law code, and for the construction of the Theodosian Walls of Constantinople. He also presided over the outbreak of the great christological controversy, Nestorianism.

Theodosius was born in 401 as the only son of Emperor Arcadius and his Frankish-born wife Aelia Eudoxia. Already in January 402 he was proclaimed co-Augustus by his father, thus becoming the youngest person ever to bear this title in Roman history. In 408, his father died and the seven-year-old boy became Emperor of the Eastern half of the Roman Empire.

According to Procopius, the Sasanian king Yazdegerd I (399-420) was appointed by Arcadius as the guardian of Theodosius, who sent the latter a tutor.

Government was at first by the Praetorian Prefect Anthemius, under whose supervision the Theodosian land walls of Constantinople were constructed.

In 414, Theodosius' older sister Pulcheria was proclaimed Augusta and assumed the regency.

By 416 Theodosius was declared Augustus in his own right and the regency ended, but his sister remained a strong influence on him. In June 421, Theodosius married Aelia Eudocia, a woman of Greekorigin. The two had a daughter named Licinia Eudoxia.

A separation ultimately occurred between the imperial couple, with Eudocia's establishment in Jerusalem where she favoured monastic Monophysitism and Pulcheria reassuming an influential role with the support of the eunuch Chrysaphius. Theodosius' increasing interest in Christianity, fuelled by the influence of Pulcheria, led him to go to war against the Sassanids (421-422), who were persecuting Christians; the war ended in a stalemate, when the Romans were forced to accept peace as the Huns menaced Constantinople. In 423, the Western Emperor Honorius, Theodosius' uncle, died and the *primicerius notariorum* Joannes was proclaimed Emperor. Honorius' sister Galla Placidia and her young son Valentinian fled to Constantinople to seek Eastern assistance and after some deliberation in 424 Theodosius opened the war against Joannes.

On 23 October 425, Valentinian III was installed as Emperor of the West with the assistance of the *magister officiorum* Helion, with his mother acting as regent. To strengthen the ties between the two parts of the Empire, Theodosius' daughter Licinia Eudoxia was betrothed to Valentinian.

In 425, Theodosius founded the University of Constantinople with 31 chairs (15 in Latin and 16 in Greek). Among subjects were law, philosophy, medicine, arithmetic, geometry, astronomy, music and rhetoric. In 429, Theodosius appointed a commission to collect all of the laws since the reign of Constantine I, and create a fully formalized system of law. This plan was left unfinished, but the work of a second commission that met in Constantinople, assigned to collect all of the general legislations and bring them up to date was completed, and their collection published as the *Codex Theodosianus* in 438.

The law code of Theodosius II, summarizing edicts promulgated since Constantine, formed a basis for the law code of Emperor Justinian I, the *Corpus Juris Civilis*, in the following century. The war with Persia proved indecisive, and a peace was arranged in 422 without changes to the *status quo*.

The later wars of Theodosius were generally less successful. The Eastern Empire was plagued by raids by the Huns. Early in Theodosius II's reign Romans used internal Hun discord to overcome Uldin's invasion of the Balkans. The Romans strengthened their fortifications and in 424 agreed to pay 350 pounds of gold to encourage the Huns to remain at peace with the Romans.

In 433 with the rise of Attila and Bleda to unify the Huns, the payment was doubled to 700 pounds. When Roman Africa fell to the Vandals in 439, both Eastern and Western Emperors sent forces to Sicily, intending to launch an attack on the Vandals at Carthage, but this project failed.

Seeing the Imperial borders without significant forces, the Huns and Sassanid Persia both attacked and the expeditionary force had to be recalled.

During 443 two Roman armies were defeated and destroyed by the Huns. Anatolius negotiated a peace agreement; the Huns withdrew in exchange for humiliating concessions, including an annual tribute of 2,100 Roman pounds (ca. 687 kg) of gold.

In 447 the Huns went through the Balkans, destroying among others the city of Serdica (Sofia) and reaching Athyra (Büyükçekmece) on the outskirts of Constantinople.

During a visit to Syria, Theodosius met the monk Nestorius, who was a renowned preacher. He appointed Nestorius Archbishop of Constantinople in 428. Nestorius quickly became involved in the disputes of two theological factions, which differed in their Christology. Nestorius tried to find a middle ground between those who, emphasizing the fact that in Christ God had been born as a man, insisted on calling the Virgin Mary *Theotokos* ("birth-giver of God"), and those who rejected that title because God, as an eternal being, could not have been born.

Nestorius suggested the title *Christotokos* ("birth-giver of Christ") as a compromise, but it did not find acceptance with either faction. He was accused of separating Christ's divine and human natures, resulting in "two Christs", a heresy later called Nestorianism. Though initially supported by the emperor, Nestorius found a forceful opponent in Archbishop Cyril of Alexandria.

At the request of Nestorius, the emperor called a council, which convened in Ephesus in 431.

This council affirmed the title *Theotokos* and condemned Nestorius, who returned to his monastery in Syria and was eventually exiled to a remote monastery in Egypt.

Almost twenty years later, the theological dispute broke out again, this time caused by the Constantinopolitan abbot Eutyches, whose Christology was understood by some to mingle Christ's divine and human nature into one. Eutyches was condemned by Archbishop Flavian of Constantinople but found a powerful friend in Cyril's successor Dioscurus of Alexandria. Another council was convoked in Ephesus in 449, later deemed a "robber synod" by Pope Leo I because of its tumultuous circumstances.

This council restored Eutyches and deposed Flavian, who was mistreated and died shortly afterwards. Leo of Rome and many other bishops protested against the outcome, but the emperor supported it. Only after his death in 450 would the decisions be reversed at the Council of Chalcedon.

Theodosius died in 450 as the result of a riding accident. In the ensuing power struggle, his sister Pulcheria, who had recently returned to court, won out against the eunuch Chrysaphius. She married the general Marcian, thereby making him Emperor.

Task 1. Choose the keywords that best convey the gist of the information.

Theodosius welcomes the relics of John Chrysostom.

Notes on the text

Nestorianism [nɛˈstɔːrɪənɪz(ə)m] – the Christian doctrine that there were two separate persons, one human and one divine, in the incarnate Christ. It is named after Nestorius, patriarch of Constantinople (428–31), and was maintained by some ancient Churches of the Middle East. A small Nestorian Church still exists in Iraq.

Sassanian [saˈseɪnɪən] – relating to a dynasty that ruled Persia from the early 3rd century A.D. until the Arab Muslim conquest of 651.

Yazd [jɑːzd] – a city in central Iran: a major centre of silk weaving.

Anthemius [anˈθiːmɪəs] – (6th century AD), Greek mathematician, engineer, and artist; known as Anthemius of Tralles.

Praetorian [prɪˈtɔːrɪən] – преторианский, относящийся к претору; преторианский, относящийся к гвардии императора или охране полководца; должностное лицо, имеющее ранг претора; преторианец; 4) защитник существующей системы, власти.

Monophysite [məˈnɒfɪsʌɪt] – a person who holds that there is only one inseparable nature (partly divine, partly and subordinately human) in the person of Christ

Monastic [mə'næstɪk] – монастырский; монашеский Syn: conventual, cloistral

Eunuch ['juːnək] – евнух, скопец – a man who has been castrated, especially (in the past) one employed to guard the women's living areas at an oriental court.

Hun [hʌn] – a member of a warlike Asiatic nomadic people who invaded and ravaged Europe in the 4th–5th centuries; гунн; вандал, варвар Syn: Goth, vandal.

Sicily ['sɪsɪlɪ] – Сицилия (остров в Средиземном море; принадлежит Италии).

Carthage ['kɑːθɪʤ] – Карфаген (древний город-государство в Северной Африке)

Carthage must be destroyed. – Карфаген должен быть разрушен. (Delenda est Carthago)

An ancient city on the coast of North Africa near present-day Tunis. Founded by the Phoenicians c. 814 B.C., it became a major force in the Mediterranean Sea area and fought with Rome during the Punic Wars. It was finally destroyed by the Romans in 146 B.C.

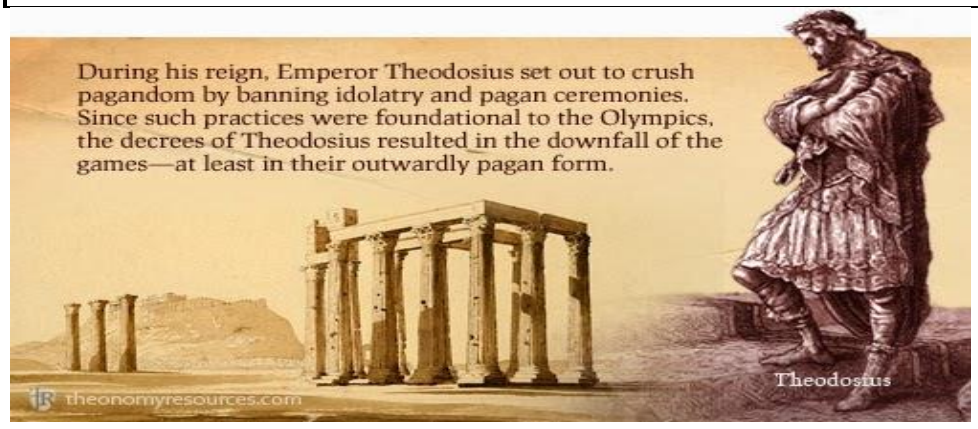
Ephesus ['efəsəs] – Эфес (древний город на западном побережье п-ова Малая Азия).

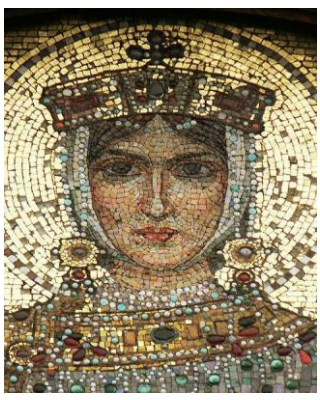
An ancient Greek city on the west coast of Asia Minor, in present-day Turkey, site of the temple of Diana, one of the Seven Wonders of the World. It was an important centre of early Christianity; St. Paul preached there and St. John is traditionally said to have lived there.

Task 1. Digest the information briefly in English.

Task 2. Analyze the activity of the Emperor and make up the chart about it.

№	Activity			
	Event	When	Where	Score
1.				





Task 3. Try to understand the score of the article.

In 1118 A.D., eight ragtag crusaders founded an order of knights in Jerusalem. Their base of operation was a palace built on the foundations of King Solomon's temple. After 8 years of rumoured excavations beneath the temple, the knights were suddenly catapulted into fame and prosperity.

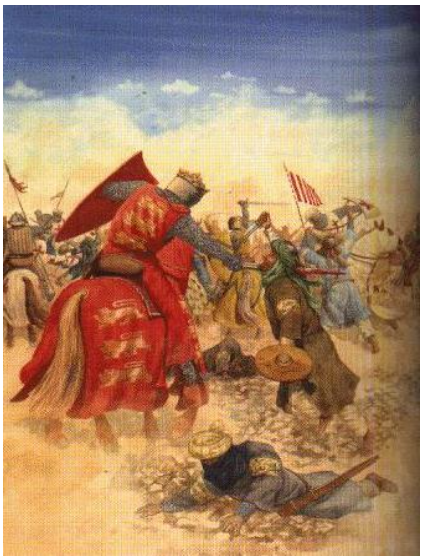
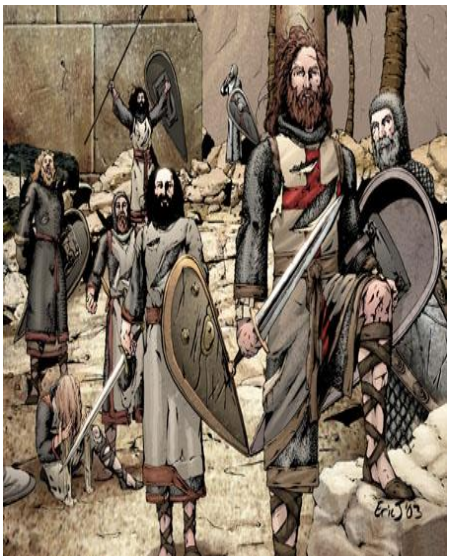
Their ranks of their order, known as the Knights Templar, swelled profusely, and within a decade the Templars became one of the most powerful and feared institutions of medieval Europe.

The Order of the Temple lasted over 200 years, until it was exterminated by the French king Philip IV on charges of heresy and blasphemy – charges that were never substantiated. It is rumoured the excavations beneath Solomon's Temple yielded something of explosive mystical and political importance – perhaps the Holy Grail itself.

But if the Templars became the custodians of the most sacred object in Christendom, why were they exterminated on vague and unelaborated charges of blasphemy and heresy? Still more rumours say the Templars were themselves founded by a secret society, a society that survives to this day.

Godfroi de Boullion, The First Duke of Lorraine, was one of the most powerful warlords of his age. Nevertheless, he gave up all his land and raised an army to answer the pope's call for a Crusade. Godfroi's grandfather is rumoured to have been none other than Lohengrin, the Grail Knight of the medieval romances. There were altogether ten Crusades covering a swath of time between the 11th through the 13th centuries.

- The First Crusade, 1095-1097, saw the taking of Jerusalem from the Muslims, the slaughter of the Muslim population of the city, and the establishment of the Crusader-run Latin Kingdom of Jerusalem (lasted until 1187).
- The Second Crusade, 1147-1149, was organized to help the Christians to recover the town of Edessa and other lands which they lost to the Turks, but it ended in dismal failure.
- The Third Crusade 1189-1192 was organized after Saladin, the Sultan of Egypt, recaptured Jerusalem. This is the Crusade in which King Richard the Lionheart figured. It failed to retake Jerusalem, but struck fear of the crusaders in the hearts of the Jihadis.
- The Fourth Crusade, 1202-1204, saw the capture of Constantinople, which at the time was occupied by Greek-speaking Eastern Orthodox Christians, who did not recognize the authority of the Roman Pope.
- The Children's Crusade, 1212, sent thousands of children for the Holy Land, where they were captured by Muslims only to be sold as slaves or to die of hunger or disease.
- The Fifth Crusade, 1217-21, was aimed at Egypt, but failed.
- Four more Crusades mounted in the 13th century failed to reverse the Muslim gains. In 1291 the last Crusader stronghold at Acco (Acre) fell.

CRUSADES

The Crusades were a series of religious wars sanctioned by the Latin Church in the medieval period. The most commonly known are the campaigns in the Eastern Mediterranean aimed at recovering the Holy Land from Islamic rule but the term "Crusades" is applied to other church-sanctioned campaigns. These were fought for a variety of reasons including suppressing paganism and heresy, the resolution of conflict among rival Roman Catholic groups, or for political and territorial advantage.

At the time of the early Crusades the word did not exist, only becoming the leading descriptive term around 1760. In 1095 Pope Urban II called for the First Crusade in a sermon at the Council of Clermont. He encouraged military support for the Byzantine Empire and its Emperor, Alexios I, who needed reinforcements for his conflict with westward migrating Turks colonising Anatolia.

One of Urban's aims was to guarantee pilgrims access to the Eastern Mediterranean holy sites that were under Muslim control but scholars disagree as to whether this was the primary motive for Urban or those who heeded his call. Urban's strategy may have been to unite the Eastern and Western branches of Christendom, which had been divided since the East-West Schism of 1054 and to establish himself as head of the unified Church.

The initial success of the Crusade established the first four Crusader states in the Eastern Mediterranean: the County of Edessa, the Principality of Antioch, the Kingdom of Jerusalem and the County of Tripoli. The enthusiastic response to Urban's preaching from all classes in Western Europe established a precedent for other Crusades. Volunteers became Crusaders by taking a public vow and receiving plenary indulgences from the Church. Some were hoping for a mass ascension into heaven at Jerusalem or God's forgiveness for all their sins. Others participated to satisfy feudal obligations, obtain glory and honour or to seek economic and political gain.

The two-century attempt to recover the Holy Land ended in failure. Following the First Crusade there were six major Crusades and numerous less significant ones. After the last Catholic outposts fell in 1291 there were no more Crusades but the gains were longer lasting in Northern and Western Europe. The Wendish Crusade and those of the Archbishop of Bremen brought all the North-East Baltic and the tribes of Mecklenburg and Lusatia under Catholic control in the late 12th-century.

In the early 13th century the Teutonic Order created a Crusader state in Prussia and the French monarchy used the Albigensian Crusade to extend the kingdom to the Mediterranean Sea.

The rise of the Ottoman Empire in the late 14th-century prompted a Catholic response which led to further defeats at Nicopolis in 1396 and Varna in 1444. Catholic Europe was in chaos and the final pivot of Christian–Islamic relations was marked by two seismic events: the fall of Constantinople to the Ottomans in 1453 and a final conclusive victory for the Spanish over the Moors with the conquest of Granada in 1492. The idea of Crusading continued, not least in the form of the Knights Hospitaller, until the end of the 18th-century but the focus of Western European interest moved to the New World.

Modern historians hold widely varying opinions of the Crusaders. To some, their conduct was incongruous with the stated aims and implied moral authority of the papacy, as evidenced by the fact that on occasion the Pope excommunicated Crusaders. Crusaders often pillaged as they travelled, and their leaders generally retained control of captured territory instead of returning it to the Byzantines.

During the People's Crusade, thousands of Jews were murdered in what is now called the Rhineland massacres. Constantinople was sacked during the Fourth Crusade. But the Crusades had a profound impact on Western civilisation: they reopened the Mediterranean to commerce and travel (enabling Genoa and Venice to flourish); they consolidated the collective identity of the Latin Church under papal leadership; and they constituted a wellspring for accounts of heroism, chivalry, and piety that galvanised medieval romance, philosophy, and literature. The Crusades also reinforced the connection between Western Christendom, feudalism, and militarism.

When Urban began preaching for the first campaign the word "Crusade" did not exist: instead, the terms *iter*, for journey, pilgrimage, were used.

Not until the word *crucesignatus*, for one who was signed with the cross, was adopted at the close of the 12th century was specific terminology developed. The Oxford English Dictionary links the etymology of the word "crusade" to the modern French *croisade*, Old French *croisée*, Provençal *crozada*, Spanish *cruzada*, Italian/medieval Latin *crociata* based on the verb "to cross", "a being crossed", "a crossing" or "marking with the cross", or "a taking the cross". The Middle English equivalents were derived from Old French; *croiserie* in the 13th-15th centuries and *croisée* in the 15-17th century.

"Croisade" appeared in English c. 1575, and continued to be the leading form until c. 1760.

Although the term "Crusade" has been adopted by historians to describe the Christian holy wars from 1095, the range of events to which it has been applied is so great that its use can create a misleading impression of coherence, particularly regarding the early Crusades.

The Crusades in the Holy Land are traditionally counted as nine distinct campaigns, numbered from the First Crusade of 1095-99 to the Ninth Crusade of 1271-72. This convention is used by Charles Mills in his *History of the Crusades for the Recovery and Possession of the Holy Land* (1820), and is often retained for convenience even though it is somewhat arbitrary.

The Fifth and Sixth Crusades led by Frederick II may be considered a single campaign, as can the Eighth Crusade and Ninth Crusade led by Louis IX. The term "Crusade" may differ in usage depending on the author. Giles Constable describes four different perspectives among scholars:

- *Traditionalists* restrict their definition of the Crusades to the Christian campaigns in the Holy Land, "either to assist the Christians there or to liberate Jerusalem and the Holy Sepulcher", during 1095-1291.
- *Pluralists* use the term Crusade of any campaign explicitly sanctioned by the reigning Pope. This reflects the view of the Roman Catholic Church (including medieval contemporaries such as Saint Bernard of Clairvaux) that every military campaign given Papal sanction is equally valid as a Crusade, regardless of its cause, justification, or geographic location. This broad definition includes attacks on paganism and heresysuch as the Albigensian Crusade, the Northern Crusades, and the Hussite Wars, and wars for political or territorial advantage such as the Aragonese Crusade in Sicily, a Crusade declared by Pope Innocent III against Markward of Anweiler in 1202, one against the Stedingers, several (declared by different popes) against Emperor Frederick II and his sons, two Crusades against opponents of King Henry III of England, and the Christian re-conquest of Iberia.
- *Generalists* see Crusades as any and all holy wars connected with the Latin Church and fought in defence of the faith.
- *Popularists* limit the Crusades to only those that were characterised by popular groundswells of religious fervour – that is, only the First Crusade and perhaps the People's Crusade.

A common term for Muslim was *Saracen*; before the 16th century, the words "Muslim" and "Islam" were rarely used by Europeans. In Greek and Latin, "Saracen" originated in the early first millennium to refer to non-Arab peoples inhabiting the desert areas around the Roman province of Arabia.

The term evolved to include Arab tribes, and by the 12th century it was an ethnic and religious marker synonymous with "Muslim" in Medieval Latin literature. *Frank* and *Latin* were used during the Crusades for Western Europeans, distinguishing them from *Greeks*.

Medieval Muslim historiographers such as Ali ibn al-Athir refer to the Crusades as the "Frankish Wars". The term used in modern Arabic "campaigns of the cross", is a loan translation of the term *Crusade* as used in Western historiography.

Active vocabulary

Crusades, military campaign, Papal sanction, to give, terms, translation, holy wars, ethnic, religious.

Task 1. Give a short characteristic of each crusade.

Task 2. Show the difference between views on crusades of generalists and popularists.

EASTERN MEDITERRANEAN

The Islamic prophet Muhammad founded Islam in the Arabian Peninsula and by his death in 632 had united much of Arabia into a single polity. Arab power expanded rapidly in the 7th and 8th centuries largely by military conquest. This influence spread to the northwest Indian subcontinent, across Central Asia, the Middle East including the capture of Jerusalem from the Byzantine Empire after a siege in 637, North Africa, southern Italy, the Iberian peninsula, and the Pyrenees.

Tolerance, trade, and political relationships between the Arabs and the Christian states of Europe waxed and waned. For example, the Fatimid caliph al-Hakim bi-Amr Allah destroyed the Church of the Holy Sepulchre in Jerusalem, but his successor allowed the Byzantine Empire to rebuild it.

The Byzantine Empire also regained territory at the end of the 10th century, with Basil II spending most of his half-century reign in conquest. Pilgrimages by Catholics to sacred sites were permitted; Christian residents in Muslim territories were given Dhimmistatus, legal rights, and legal protection.

These Christians were allowed to maintain churches, and marriages between faiths were not uncommon.[21] The various cultures and creeds coexisted and competed, but on returning to Western Europe, Catholic pilgrims and merchants reported that the frontier conditions between the Syrian ports and Jerusalem were becoming increasingly inhospitable.

Beginning in the 8th century, the Christians entered a campaign to recapture the Iberian Peninsula from the Muslims, known as the *Reconquista*. The campaign reached a turning point in 1085 when Alfonso VI of León and Castile captured Toledo. In the same period, the Muslim Emirate of Sicily was conquered by Norman adventurer Roger de Hauteville in 1091.

Europe in this period was immersed in power struggles on many different fronts.

In 1054 centuries of attempts by the Latin Church to assert supremacy over the Patriarchs of the Eastern Empire led to a permanent division in the Christian church called the East-West Schism.

Following the Gregorian Reform, an assertive, reformist papacy attempted to increase its power and influence over the laity. Beginning around 1075 and continuing during the First Crusade, the Investiture Controversy was a power struggle between Church and state in medieval Europe over whether the Catholic Church or the Holy Roman Empire held the right to appoint church officials and other clerics. Antipope Clement III was an alternative pope for most of this period, and Pope Urban spent much of his early pontificate in exile from Rome. The result was intense piety and an increased interest in religious affairs amongst the general population in Catholic Europe and religious propaganda by the Papacy advocating a just war to reclaim Palestine from the Muslims. Participation in a crusade was seen as a form of penance that could counterbalance sin.

The status quo was disrupted by the western migration of the Turkish tribes. The 1071 victory over the Byzantine army at the Battle of Manzikert, once considered a pivotal event by historians, is now regarded as one step in the expansion of the Great Seljuk Empire into Anatolia. One year later, the Turks wrested control of Palestine from the Fatimids.

Crusaders

First Crusade (1096-1099) & Aftermath

In 1095, at the Council of Piacenza, Byzantine Emperor Alexios I Komnenos requested military aid from Pope Urban II, probably in the form of a small body of mercenary reinforcements he could direct and control. Alexios had restored the Empire's finances and authority, but he still faced a number of foreign enemies, particularly the migrating Turks who had colonised the sparsely populated areas of Anatolia. At the Council of Clermont later that year, Urban raised the issue again and preached for a Crusade. Many historians consider that Urban also hoped that aiding the Eastern Church would lead to its reunion with the Western under his leadership.

Almost immediately thereafter Peter the Hermit began preaching to thousands of mostly poor Christians, whom he led out of Europe in what became known as the People's Crusade.

Peter had with him a letter he claimed had fallen from heaven instructing Christians to seize Jerusalem in anticipation of the apocalypse. Among the motivations of the Crusade was a "messianism of the poor" inspired by an expected mass ascension into heaven at Jerusalem.

In Germany the Crusaders massacred Jewish communities, an event known as the Rhineland massacresand the first major outbreak of European antisemitism.

In Speyer, Worms, Mainz, and Cologne the range of anti-Jewish activity was broad, extending from limited, spontaneous violence to full-scale military attacks. Despite Alexios' advice to await the nobles, the People's Crusade advanced to Nicaea and fell to a Turkish ambush at the Battle of Civetot, from which only about 3,000 Crusaders escaped.

Both Philip I of France and Emperor Henry IV were in conflict with Urban and declined to participate in the official crusade. However, members of the high aristocracy from France, western Germany, the Low countries, and Italy were drawn to the venture, commanding their own military contingents in loose, fluid arrangements based on bonds of lordship, family, ethnicity, and language. Foremost amongst these was the elder statesman, Raymond IV, Count of Toulouse. He was rivalled by the relatively poor but martial Bohemond of Taranto and his nephew Tancred from the Norman community of southern Italy. They were joined by Godfrey of Bouillon and his brother Baldwin I of Jerusalem in leading a loose conglomerate from Lorraine, Lotharingia, and Germany.

These five princes were pivotal to the campaign that was also joined by a Northern French army led by Robert Curthose, Stephen, Count of Blois, and Robert II, Count of Flanders.

The armies, which may have contained as many as 100,000 people, including non-combatants, travelled eastward by land to Byzantium where they were cautiously welcomed by the Emperor.

Alexios persuaded many of the princes to pledge allegiance to him and that their first objective should be Nicaea, which Kilij Arslan I had declared the capital of the Sultanate of Rum. Having already destroyed the earlier People's Crusade, the over-confident Sultan left the city to resolve a territorial dispute, enabling its capture in 1097 after a Crusader siege and a Byzantine naval assault.

This marked a high point in Latin and Greek co-operation and also the start of Crusader attempts to take advantage of political and religious disunity in the Muslim world: Crusader envoys were sent to Egypt seeking an alliance. The Crusades' first experience with the Turkish tactic of lightly armoured mounted archers occurred when an advanced party led by Bohemond and Duke Robert was ambushed at Dorylaeum. The Normans resisted for hours before the arrival of the main army caused a Turkish withdrawal. After this, the nomadic Seljuks avoided the Crusade. The factionalism amongst the Turks that followed the death of Malik Shah meant they did not present a united opposition.

Instead, Aleppo and Damascus had competing rulers. The three-month march to Antioch was arduous, with numbers reduced by starvation, thirst, and disease, combined with the decision of Baldwin to leave with 100 knights in order to carve out his own territory in Edessa.

The Crusaders embarked on an eight-month siege of Antioch but lacked the resources to fully invest the city; similarly, the residents lacked the resources to repel the invaders.

Eventually, Bohemond persuaded a tower guard in the city to open a gate and the Crusaders entered, massacring the inhabitants and pillaging the city.

Sunni Islam now recognised the threat, and the sultan of Baghdad sent a force, to recapture the city, led by the Iraqi general Kerbogha. The Byzantines provided no assistance to the Crusaders' defence of the city because the deserting Stephen of Blois told them the cause was lost.

Losing numbers through desertion and starvation in the besieged city, the Crusaders attempted to negotiate surrender, but this was rejected by Kerbogha, who wanted to destroy them permanently.

Morale within the city was boosted when Peter Bartholomew claimed to have discovered the Holy Lance. Bohemond recognised that the only option now was for open combat, and he launched a counterattack against the besiegers. Despite superior numbers, Kerbogha's army, which was divided into factions and surprised by the commitment and dedication of the Franks, retreated and abandoned the siege. The Crusaders then delayed for months while they argued over who would have the captured territory.

This ended only when news arrived that the Fatimid Egyptians had taken Jerusalem from the Turks, and it became imperative to attack before the Egyptians could consolidate their position.

Bohemond remained in Antioch, retaining the city despite his pledge that this would return to Byzantine control, while Raymond led the remaining Crusader army rapidly south along the coast to Jerusalem. An initial attack on the city failed and, due to the Crusaders' lack of resources, the siege became a stalemate. However, the arrival of craftsman and supplies transported by the Genoese to Jaffa tilted the balance in their favour. Crusaders constructed two large siege engines; the one commanded by Godfrey breached the walls on 15 July 1099.

For two days the Crusaders massacred the inhabitants and pillaged the city. Historians now believe the accounts of the numbers killed have been exaggerated, but this narrative of massacre did much to cement the Crusaders' reputation for barbarism. Godfrey further secured the Frankish position by surprising the Egyptian relief force commanded by the vizier of the Fatimid Caliph, Al-Afdal Shahanshah, at Ascalon. This relief force retreated to Egypt, with the vizier fleeing by ship.

At this point most of the Crusaders considered their pilgrimage complete and returned to Europe, leaving behind Godfrey with a mere 300 knights and 2,000 infantry to defend Palestine. Of the other princes, only Tancred remained with the ambition to gain his own princedom.

On a popular level, the First Crusade unleashed a wave of impassioned, pious Catholic fury – expressed in the massacres of Jews that accompanied the Crusades and the violent treatment of the "schismatic" Orthodox Christians of the east which occurred at Antioch.

The Islamic world seems to have barely registered the Crusade; certainly there is limited written evidence before 1130. This may be in part due to a reluctance to relate Muslim failure, but it is more likely to be the result of cultural misunderstanding. Al-Afdal and the Muslim world mistook the Crusaders for the latest in a long line of Byzantine mercenaries rather than religiously motivated warriors intent on conquest and settlement. In any case, the Muslim world was divided between the Sunnis of Syria and Iraq and the Shia Fatimids of Egypt. Even the Turks were divided, with rival rulers in Damascus and Aleppo. In Baghdad the Seljuk sultan vied with an Abbasid caliph in a Mesopotamian struggle. This gave the Franks a crucial opportunity to consolidate without any pan-Islamic counterattack.

THE 12TH CENTURY

Under the papacies of successive Popes smaller groups of Crusaders continued to travel to the Eastern Mediterranean to fight the Muslims and aid the Crusader States in the early 12th century.

The third decade saw campaigns by Fulk V of Anjou, the Venetians, and Conrad III of Germany and the foundation of the Knights Templar. The period also saw the innovation of granting indulgences to those who opposed papal enemies, and this marked the beginning of politically motivated Crusades.

The loss of Aleppo in 1128 and Edessa (Urfa) in 1144 to Imad ad-Din Zengi, governor of Mosul, led to preaching for what subsequently became known as the Second Crusade.

King Louis VII and Conrad III led armies from France and Germany to Jerusalem and Damascus without winning any major victories. As in the First Crusade, the preaching led to attacks on Jews including massacres in the Rhineland, Cologne, Mainz, Worms and Speyer amid claims that the Jews were not contributing financially to the rescue of the Holy Land. Bernard of Clairvaux, who had encouraged the Second Crusade in his preaching, was so perturbed by the violence that he journeyed from Flanders to Germany to deal with the problem.

Christian princes continued to make gains in the Iberian peninsula: the King of Portugal, Afonso I, captured Lisbon and Raymond Berenguer IV of Barcelona conquered the city of Tortosa.

In northern Europe the Saxons and Danes fought against tribes of Polabian Slavs known as Wendsin the Wendish Crusade, although no official papal bulls were issued authorising new Crusades.

The Wends were finally defeated in 1162. Egypt was ruled by the Shi'ite Fatimid dynasty from 969, independent from the Sunni Abbasid rulers in Baghdad and with a rival Shi'ite caliph – considered the successor to the Muslim prophet Mohammad. The caliph's chief administrator, called the vizier, was chiefly responsible for governance. From 1121 the system fell into murderous political intrigue and Egypt declined from its previous affluent state. This encouraged Baldwin III of Jerusalem to plan an invasion that was only halted by the payment by Egypt of a tribute of 160,000 gold dinars.

In 1163 the deposed vizier, Shawar, visited Zengi's son and successor, Nur ad-Din, atabeg of Aleppo, in Damascus seeking political and military support. Some historians have considered Nur ad-Din's support as a visionary attempt to surround the Crusaders, but in practice he prevaricated before responding only when it became clear that the Crusaders might gain an unassailable foothold on the Nile. Nur al-Din sent his Kurdish general, Shirkuh, who stormed Egypt and restored Shawar.

However, Shawar asserted his independence and allied with Baldwin's brother and successor Amalric of Jerusalem. When Amalric broke the alliance in a ferocious attack, Shawar again requested military support from Syria, and Shirkuh was sent by Nur ad-Din for a second time. Amalric retreated, but the victorious Shirkuh had Shawar executed and was appointed vizier.

Barely two months later he died, to be succeeded by his nephew, Yusuf ibn Ayyub, who has become known by his honorific "Salah al-Din", "the goodness of faith", which in turn has become westernised as Saladin. Nur al-Din died in 1174. He was the first Muslim to unite Aleppo and Damascus in the Crusade era. Some Islamic contemporaries promoted the idea that there was a natural Islamic resurgence under Zengi, through Nur al-Din to Saladin although this was not as straightforward and simple as it appears. Saladin imprisoned all the caliph's heirs, preventing them from having children, as opposed to having them all killed, which would have been normal practice, to extinguish the bloodline.

Assuming control after the death of his overlord, Nur al-Din, Saladin had the strategic choice of establishing Egypt as an autonomous power or attempting to become the preeminent Muslim in the Eastern Mediterranean – he chose the latter.

As Nur al-Din's territories became fragmented after his death, Saladin legitimised his ascent by positioning himself as a defender of Sunni Islam subservient to both the Caliph of Baghdad and Nur al-Din's son and successor, As-Salih Ismail al-Malik. In the early years of his ascendency, he seized Damascus and much of Syria, but not Aleppo.

After building a defensive force to resist a planned attack by the Kingdom of Jerusalem that never materialised, his first contest with the Latin Christians was not a success. His overconfidence and tactical errors led to defeat at the Battle of Montgisard. Despite this setback, Saladin established a domain stretching from the Nile to the Euphrates through a decade of politics, coercion, and low-level military action. After a life-threatening illness early in 1186, he determined to make good on his propaganda as the champion of Islam, embarking on heightened campaigning against the Latin Christians.

King Guy responded by raising the largest army that Jerusalem had ever put in the field.

However, Saladin lured the force into inhospitable terrain without water supplies, surrounded the Latins with a superior force, and routed them at the Battle of Hattin. Saladin offered the Christians the option of remaining in peace under Islamic rule or taking advantage of 40 days' grace to leave.

As a result, much of Palestine quickly fell to Saladin including, after a short five-day siege, Jerusalem. According to Benedict of Peterborough, Pope Urban III died of deep sadness in 1187 on hearing of the defeat. His successor as Pope, Gregory VIII issued a papal bull titled *Audita tremendi* that proposed a further Crusade later named the Third Crusade to recapture Jerusalem.

On 28 August 1189 King Guy of Jerusalem besieged the strategic city of Acre, only to be in turn besieged by Saladin. Both armies could be supplied by sea so a long stalemate commenced.

Such were the deprivations of the Crusaders that at times they are thought to have resorted to cannibalism. The journey to the Eastern Mediterranean was inevitably long and eventful. Travelling overland, Frederick I, Holy Roman Emperor, drowned in the Saleph River, and few of his men reached the Eastern Mediterranean. Travelling by sea, Richard the Lionheart, King of England conquered Cyprus in 1191 in response to his sister and fiancée, who were travelling separately, being taken captive by the island's ruler, Isaac Komnenos. Philip II of France was the first king to arrive at the siege of Acre; Richard arrived on 8 June 1191. The arrival of the French and Angevin forces turned the tide in the conflict, and the Muslim garrison of Acre finally surrendered on 12 July. Philip considered his vow fulfilled and returned to France to deal with domestic matters, leaving most of his forces behind.

But Richard travelled south along the Mediterranean coast, defeated the Muslims near Arsuf, and recaptured the port city of Jaffa. He twice advanced to within a day's march of Jerusalem before judging that he lacked the resources to successfully capture the city, or defend it in the unlikely event of a successful assault, while Saladin had a mustered army. This marked the end of Richard's crusading career and was a calamitous blow to Frankish morale.

A three-year truce was negotiated that allowed Catholics unfettered access to Jerusalem.

Politics in England and illness forced Richard's departure, never to return, and Saladin died in March 1193. Emperor Henry VI initiated the German Crusade to fulfil the promises made by his father, Frederick, to undertake a Crusade to the Holy Land. Led by Conrad, Archbishop of Mainz, the army captured the cities of Sidon and Beirut. However, in 1197 Henry died and most of the Crusaders returned to Germany to protect their holdings and take part in the election of his successor as Emperor.

THE 13TH CENTURY

Pope Innocent III also began preaching what became the Fourth Crusade in 1200, primarily in France but also in England and Germany. After gathering in Venice, the Crusade was used by Doge Enrico Dandolo and Philip of Swabia to further their secular ambitions. Dandolo's aim was to expand Venice's power in the Eastern Mediterranean, and Philip intended to restore his exiled nephew, Alexios IV Angelos, along with Angelos's father, Isaac II Angelos, to the throne of Byzantium.

This would require overthrowing the present ruler, Alexios III Angelos, the uncle of Alexios IV.

When an insufficient number of knights arrived in Venice, the Crusaders were unable to pay the Venetians for a fleet, so they agreed to divert to Constantinople and share what could be looted as payment. As collateral, the Crusaders seized the Christian city of Zara.

Innocent was appalled, and promptly excommunicated them. However, the French Crusaders eventually had their excommunications lifted.When the original purpose of the campaign was defeated by the assassination of Alexios IV Angelos; they conquered Constantinople, not once but twice.

Following upon their initial success, the Crusaders captured Constantinople again and this time sacked it, pillaging churches and killing many citizens.

The Fourth Crusade never came within 1,000 miles of its objective of Jerusalem.

The 13th century saw popular outbursts of ecstatic piety in support of the Crusades such as that resulting in the Children's Crusade in 1212. Large groups of young adults and children spontaneously gathered, believing their innocence would enable success where their elders had failed.

Few, if any at all, journeyed to the Eastern Mediterranean. Though little reliable evidence survives for these events, they provide an indication of how hearts and minds could be engaged for the cause. Following Innocent III's Fourth Council of the Lateran, crusading resumed in 1217 against Saladin's Ayyubid successors in Egypt and Syria for what is classified as the Fifth Crusade.

Led by Andrew II of Hungary and Leopold VI, Duke of Austria, forces drawn mainly from Hungary, Germany, Flanders, and Frisia achieved little. Leopold and John of Brienne besieged and captured Damietta but an army advancing into Egypt was compelled to surrender.

Damietta was returned and an eight-year truce agreed. Frederick II, Holy Roman Emperor, was excommunicated for breaking a treaty obligation with the Pope that required him to lead a crusade. However, since his marriage to Isabella II of Jerusalem gave him a claim to the kingdom of Jerusalem, he finally arrived at Acre in 1228.

Frederick was culturally the Christian monarch most empathetic to the Muslim world, having grown up in Sicily, with a Muslim bodyguard and even a harem. His great diplomatic skills meant that the Sixth Crusade was largely negotiation supported by force. A peace treaty was agreed upon, giving Latin Christians most of Jerusalem and a strip of territory that linked the city to Acre, while the Muslims controlled their sacred areas. In return, an alliance was made with Al-Kamil, Sultan of Egypt, against all of his enemies of whatever religion. The treaty and suspicions about Frederick's ambitions in the region made him unpopular, and he was forced to return to his domains when they were attacked by Pope Gregory IX. While the Holy Roman Empire and the Papacy were in conflict, it often fell to secular leaders to campaign. What is sometimes known as the Barons' Crusade was led by Theobald I of Navarre and Richard of Cornwall; it combined forceful diplomacy and the playing of rival Ayyubid factions off against each other. This brief renaissance for Frankish Jerusalem was illusory, being dependent on Ayyubid weakness and division following the death of Al-Kamil.

In 1244 a band of Khwarezmian mercenaries travelling to Egypt to serve As-Salih Ismail, Emir of Damascus, seemingly of their own volition, captured Jerusalem en route and defeated a combined Christian and Syrian army at the Battle of La Forbie. In response, Louis IX, king of France, organised a Crusade, called the Seventh Crusade, to attack Egypt, arriving in 1249. It was not a success. Louis was defeated at Mansura and captured as he retreated to Damietta.

Another truce was agreed upon for a ten-year period, Louis was ransomed.

Louis remained in Syria until 1254 to consolidate the Crusader states. From 1265 to 1271, the Mamluk sultan Baibars drove the Franks to a few small coastal outposts.

Late 13th-century politics in the Eastern Mediterranean were complex, with a number of powerful interested parties. Baibars had three key objectives: to prevent an alliance between the Latins and the Mongols, to cause dissension between the Mongols particularly between the Golden Horde and the Persian Ilkhanate, and to maintain access to a supply of slave recruits from the Russian steppes.

In this he developed diplomatic ties with Manfred, King of Sicily, supporting him against the Papacy and Louis IX's brother Charles of Anjou. The Crusader states were fragmented, and various powers were competing for influence. In the War of Saint Sabas, Venice drove the Genoese from Acre to Tyre where they continued to trade happily with Baibars' Egypt. Indeed, Baibars negotiated free passage for the Genoese with Michael VIII Palaiologos, Emperor of Nicaea, the newly restored ruler of Constantinople. The city of Acre fell in 1291, and its Latin Christian population was killed or enslaved.

The French, led by Charles, similarly sought to expand their influence; Charles seized Sicily and Byzantine territory while marrying his daughters to the Latin claimants to Byzantium. To create his own claim to the throne of Jerusalem, Charles executed one rival and purchased the rights to the city from another. In 1270 Charles turned his brother King Louis IX's last Crusade, known as the Eighth Crusade, to his own advantage by persuading Louis to attack his rebel Arab vassals in Tunis.

Louis' army was devastated by disease, and Louis himself died at Tunis on 25 August. Louis' fleet returned to France, leaving only Prince Edward, the future king of England, and a small retinue to continue what is known as the Ninth Crusade. Edward survived an assassination attempt organised by Baibars, negotiated a ten-year truce, and then returned to manage his affairs in England. This ended the last significant crusading effort in the Eastern Mediterranean.

The 1281 election of a French pope, Martin IV, brought the full power of the papacy into line behind Charles. He prepared to launch a crusade against Constantinople but, in what became known as the Sicilian Vespers, an uprising fomented by Michael VIII Palaiologos deprived him of the resources of Sicily, and Peter III of Aragon was proclaimed king of Sicily.

In response, Martin excommunicated Peter and called for an Aragonese Crusade, which was unsuccessful. In 1285 Charles died, having spent his life trying to amass a Mediterranean empire; he and Louis had viewed themselves as God's instruments to uphold the papacy.

The causes of the decline in Crusading and the failure of the Crusader States is multi-faceted.

Historians have attempted to explain this in terms of Muslim reunification and Jihadi nthusiasm but Thomas Asbridge, amongst others, considers this too simplistic. Muslim unity was sporadic and the desire for Jihad ephemeral. The nature of Crusades was unsuited to the conquest and defence of the Holy Land. Crusaders were on a personal pilgrimage and usually returned when it was completed.

Although the philosophy of Crusading changed over time, the Crusades continued to provide short lived armies without centralised leadership led by independently minded potentates.

What the Crusader states needed were large standing armies. Religious fervour enabled amazing feats of military endeavour but proved difficult to direct and control. Succession disputes and dynastic rivalries in Europe, failed harvests and heretical outbreaks, all contributed to reducing Latin Europe's concerns for Jerusalem. Ultimately, even though the fighting was also at the edge of the Islamic world, the huge distances made the mounting of Crusades and the maintenance of communications insurmountably difficult. It enabled Islam, under the charismatic leadership of Nur al-Din and Saladin as well as the ruthless Baibars to use the logistical advantages from proximity to victorious effect. The mainland Crusader states of the *outremer* were finally extinguished with the fall of Tripoli in 1289 and Acre in 1291. Many Latin Christians were evacuated to Cyprus by boat, were killed or enslaved.

Task 1. Make a chart about the crusades in the 13th century.

Task 2. Give the main idea of the information above.

NORTHERN CRUSADES

The success of the First Crusade inspired 12th-century popes such as Celestine III, Innocent III, Honorius III, and Gregory IX to call for military campaigns with the aim of Christianising the more remote regions of northern and north-eastern Europe.

These campaigns are known as the Northern Crusades. The Wendish Crusade of 1147 saw Saxons, Danes, Poles attempt to forcibly convert the tribes of Mecklenburgand Lusatia, who were Polabian Slavs or "Wends". Celestine III called for a Crusade in 1193, but when Bishop Berthold of Hanover responded in 1198, he led a large army into defeat and to his death. In response, Innocent III issued a bull declaring a Crusade, and Hartwig of Uthlede, Bishop of Bremen, along with the Brothers of the Sword brought all of the north-east Baltic under Catholic control.

Konrad of Masoviagave Chelmno to the Teutonic Knights in 1226 as a base for a Crusade against the local Polish princes. The Livonian Brothers of the Sword were defeated by the Lithuanians, so in 1237 Gregory IX merged the remainder of the order into the Teutonic Order as the Livonian Order. By the middle of the century, the Teutonic Knights completed their conquest of the Prussians before conquering and converting the Lithuanians in the subsequent decades.

Albigensian Crusade

Pope Innocent III excommunicating the Albigensians (left), and an Albigensian massacre by Crusaders. The Albigensian Crusade (1209-1229) was a campaign against heretics that Innocent II launched to eradicate Catharism, which had gained a substantial following in southern France.

The Cathars were brutally suppressed and the autonomous County of Toulouse formally submitted to the crown of France. The county's sole heiress Joan was engaged to Alphonse, Count of Poitiers, a younger brother of Louis IX of France. The marriage was childless so that after Joan's death the county fell under the direct control of Capetian France which was in part one of the motivations of the Crusaders.

Bosnian Crusade

The Bosnian Crusade was a campaign against the independent Bosnian Church, which was accused of Catharism (Bogomilism). However, it was also possibly motivated by Hungarian territorial ambitions. In 1216 a mission was sent to convert Bosnia to Rome but failed.

In 1225 Honorius III encouraged the Hungarians to crusade in Bosnia. This ended in failure after the Hungarians were defeated by the Mongols at the Battle of Mohi. From 1234 Gregory IX encouraged further crusading, but again the Bosniaks repelled the Hungarians.

Reconquista

In the Iberian Peninsula, Crusader privileges were given to those aiding the Templars, the Hospitallers, and the Iberian orders that merged with the orders of Calatrava and Santiago.

The Christian kingdoms pushed the Muslim Moors and Almohads back in frequent Papal-endorsed Iberian Crusades from 1212 to 1265. The Emirate of Granada held out until 1492, at which point the Muslims and Jews were finally expelled from the peninsula.

Task 1. Remember that.

Crusader – крестоносец, участник крестового похода. *Crusading* – участие в крестовом походе; участие в общественной кампании; крестовый (о походах крестоносцев).

Crusading wars – крестовые походы войны.

Task 2. Try to understand.

Crusade – each of a series of medieval military expeditions made by Europeans to recover the Holy Land from the Muslims in the 11th, 12th, and 13th centuries; a war instigated for alleged religious ends; a vigorous campaign for political, social, or religious change leads or takes part in a vigorous campaign for social, political, or religious change.

THE 14TH-16TH CENTURIES

Minor Crusading efforts lingered into the 14th century, and several Crusades were launched during the 14th and 15th centuries to counter the expansion of the Ottoman conquest of the Balkans.

In 1309 as many as 30,000 peasants gathered from England, north-eastern France and Germany proceeded as far as Avignon but disbanded there. Peter I of Cyprus captured and sacked Alexandria in 1365 in what became known as the Alexandrian Crusade; his motivation was as much commercial as religious. Louis II led the 1390 Barbary Crusade against Muslim pirates in North Africa; after a ten-week siege, the Crusaders signed a ten-year truce.

The Ottomans had conquered most of the Balkans and reduced Byzantine influence to the area immediately surrounding Constantinople after victory at the Battle of Kosovo in 1389.

Nicopolis was seized from the BulgarianTsar Ivan Shishman in 1393 and a year later Pope Boniface IX proclaimed a new Crusade against the Turks, although the Western Schism had split the papacy. This Crusade was led by Sigismund of Luxemburg, King of Hungary.

Many French nobles joined Sigismund's forces, including the Crusade's military leader, John the Fearless (son of the Duke of Burgundy). Sigismund advised the Crusaders to adopt a cautious, more defensive strategy, when they reached the Danube; instead they besieged the city of Nicopolis.

The Ottomans defeated them in the Battle of Nicopolison 25 September, capturing 3,000 prisoners.

The Hussite Wars, also known as the Hussite Crusade, involved military action against the Bohemian Reformationin the Kingdom of Bohemia and the followers of early Czech church reformer Jan Hus, who was burned at the stake in 1415. Crusades were declared five times during that period: in 1420, 1421, 1422, 1427, and 1431. These expeditions forced the Hussite forces, who disagreed on many doctrinal points, to unite to drive out the invaders. The wars ended in 1436 with the ratification of the compromise Compacts of Basel by the Church and the Hussites.

As the Ottomans pressed westward, Sultan Murad II destroyed the last Papal-funded Crusade at Varna on the Black Sea in 1444 and four years later crushed the last Hungarian expedition.

In 1453 they extinguished most of the remains of the Byzantine Empire with the capture of Constantinople. John Hunyadi and Giovanni da Capistrano organised a 1456 Crusade to oppose the Ottoman Empire and lift its Siege of Belgrade.[126] Æneas Sylvius and John of Capistrano preached the Crusade, the princes of the Holy Roman Empire in the Diets of Ratisbon and Frankfurt promised assistance, and a league was formed between Venice, Florence, and Milan, but nothing eventually came of it. In April 1487 Pope Innocent VIII called for a Crusade against the Waldensians of Savoy, the Piedmont, and the Dauphiné in southern France and northern Italy because they were unorthodox and heretical. The only efforts undertaken were in the Dauphiné, resulting in little change.

Venice was the only polity to continue to pose a significant threat to the Ottomans in the Mediterranean, but it pursued the "Crusade" mostly for its commercial interests, leading to the protracted Ottoman-Venetian Wars, which continued, with interruptions, until 1718. The end of the Crusading in terms of at least nominal efforts by Catholic Europe against Muslim incursion came in the 16th century, when the Franco-Imperial wars assumed continental proportions. Francis I of France sought allies from all quarters, including from German Protestant princes and Muslims. Amongst these, he entered into one of the capitulations of the Ottoman Empire with Suleiman the Magnificent while making common cause with Hayreddin Barbarossa and a number of the Sultan's North African vassals.

Task 1. Analyze the information and make up a chart on events in it.

№	When	What
1.		

CRUSADER STATES

After the First Crusade's capture of Jerusalem and victory at Ascalon the majority of the Crusaders considered their pilgrimage complete and returned to Europe. Godfrey was left with only 300 knights and 2,000 infrantry to defend the territory won in the Eastern Mediterranean.

Only Tancred of the crusader princes remained with the aim of establishing his own lordship.

At this point the Franks held only Jerusalem and two great Syrian cities; Antioch and Edessa but not the surrounding country. Consolidation in the first half of the 12th-century established four Crusader States: the County of Edessa (1098-1149), the Principality of Antioch (1098-1268), the Kingdom of Jerusalem (1099-1291), and the County of Tripoli (1104-1289, although the city of Tripoli itself remained in Muslim control until 1109). These states were the first examples of "Europe overseas". They are generally known as *outremer*, from the French *outre-mer* ("overseas" in English).

The Fourth Crusade established a Latin Empire in the east and allowed the partition of the Byzantine's European territory by its participants. The Latin emperor controlled one-fourth of the Byzantine territory, Venice three-eighths (including three-eighths of the city of Constantinople), and the remainder was divided among the other leaders of the Crusade. This began the period of Greek history known as *Frankokratia* or *Latinokratia* ("Frankish [or Latin] rule"), when Catholic Western European nobles – primarily from France and Italy – established states on former Byzantine territory and ruled over the Orthodox Byzantine Greeks. In the long run, the sole beneficiary was Venice.

Crusades were expensive, and as the wars increased in number, their costs escalated. Pope Urban II called upon the rich to help First Crusade lords such as Duke Robert of Normandy and Count Raymond of Toulouse, who subsidised knights in their armies. The total cost to King Louis IX of France of the 1284-85 Crusades was estimated at six times the king's annual income.

Rulers demanded subsidies from their subjects, and alms and bequests prompted by the conquest of Palestine were additional sources of income. The popes ordered that collection boxes be placed in churches, beginning in the mid-12th century, granted indulgences in exchange for donations and bequests. The military orders such as the Knights Hospitaller and the Knights Templar provided Latin Christendom's first professional armies in support of the Latin Kingdom of Jerusalem and the other Crusader states. The Hospitallers (Order of Knights of the Hospital of Saint John of Jerusalem) had been founded in Jerusalem before the First Crusade but added a martial element to its ongoing medical functions to become a much larger military order.

The Poor Knights of Christ (Templars) and their Temple of Solomon were founded around 1119 by a small band of knights who dedicated themselves to protecting pilgrims en route to Jerusalem. The Hospitallers and the Templars became supranational organisations as Papal support led to rich donations of land and revenue across Europe.

This in turn led to a steady flow of new recruits and the wealth to maintain multiple fortifications across the Outremer. In time, this developed into autonomous power in the region.

After the fall of Acre the Hospitallers first relocated to Cyprus, then conquered and ruled Rhodes (1309-1522) and Malta (1530-1798), and continue in existence to the present day.

Philip IV of France probably had financial and political reasons to oppose the Knights Templar, which led to him exerting pressure on Pope Clement V. The Pope responded in 1312, with a series of papal bulls including *Vox in excelso* and *Ad providam* that dissolved the order on the alleged and probably false grounds of sodomy, magic, and heresy. The Kingdom of Jerusalem was the first experiment in European colonialism creating a 'Europe Overseas' or Outremer.

The raising, transportation, and supply of large armies led to flourishing trade between Europe and the *outremer*. The Italian city states of Genoa and Veniceflourished, creating profitable trading colonies in the Eastern Mediterranean. This trade was sustained through the middle Byzantine and Ottoman eras, the communities were often assimilated and known as Levantines or Franco-Levantines.

The Crusades consolidated the papal leadership of the Latin Church, reinforcing the link between Western Christendom, feudalism, and militarism and increased the tolerance of the clergy to violence. The growth of the system of indulgences became a catalyst for the Protestant Reformationin the early 16th century. The Crusades had a role in the creation and institutionalisation of the military and the Dominican orders as well as the Medieval Inquisition.

The behaviour of the Crusaders appalled the Greeks and Muslims, creating a lasting barrier between the Latin world and both the Islamic and Orthodox religions. It was an obstacle to the reunification of the Christian church and created a perception of Westerners as defeated aggressors.

Many historians argue that the interaction between the western Christian and Islamic cultures was a significant, ultimately positive, factor in the development of European civilisation and the Renaissance. The many interactions between Europeans and the Islamic world across the entire length of the Mediterranean Sea led to improved perceptions of Islamic culture, but also make it difficult for historians to identify the specific source of various instances of cultural cross-fertilisation.

The art and architecture of the Outremer show clear evidence of cultural fusion but it is difficult to track illumination of manuscripts and castle design back to their sources.

Textual sources are simpler, and translations made in Antioch are notable but considered secondary in importance to the works emanating from Muslim Spain and the hybrid culture of Sicily.

In addition, Muslim libraries contained classical Greek and Roman texts that allowed Europe to rediscover pre-Christian philosophy, science and medicine. Jonathan Riley-Smith considers that much of the popular understanding of the Crusades derives from the novels of Walter Scott and the French histories by Joseph François Michaud. The Crusades provided an enormous amount of source material, stories of heroism, and interest that underpinned growth in medieval literature, romance, and philosophy.

Historical parallelism and the tradition of drawing inspiration from the Middle Ages have become keystones of Islamic ideology. Secular Arab Nationalism concentrates on the idea of Western Imperialism. Gamal Abdel Nasser likened himself to Saladin and imperialism to the Crusades.

In his *History of the Crusades* Sa'id Ashur emphasised the similarity between the modern and medieval situation facing Muslims and the need to study the Crusades in depth. Sayyid Qutb declared there was an international Crusader conspiracy. The ideas of Jihad and a long struggle have developed some currency.

Active vocabulary

Crusaders, to develop, medieval, to provide, enormous amount of source material, importance, interactions, Papal support, traditions, to consolidated, papal leadership, Latin Church.

Task 1. Summarize the information briefly in English.

The Latin and Byzantine Empires in 1205.

HISTORIOGRAPHY

In his 1106-07 *Historia Iherosolimitana*, Robert the Monk wrote that Urban asked western Roman Catholic Christians to aid the Orthodox Byzantine Empire because "Deus vult" ("God wills it") and promised absolution to participants; according to other sources, the pope promised an indulgence.

In these accounts, Urban emphasises reconquering the Holy Land more than aiding the emperor, and lists gruesome offences allegedly committed by Muslims. Urban wrote to those "waiting in Flanders" that the Turks, in addition to ravaging the "churches of God in the eastern regions", seized "the Holy City of Christ, embellished by his passion and resurrection – and blasphemy to say it – have sold her and her churches into abominable slavery". Although the pope did not explicitly call for the reconquest of Jerusalem, he called for military "liberation" of the Eastern Churches.

During the 16th century Reformation and Counter-Reformation, Western historians saw the Crusades through the lens of their own religious beliefs. Protestants saw them as a manifestation of the evils of the papacy, and Catholics viewed them as forces for good.

18th century Enlightenment historians tended to view the Middle Ages in general, and the Crusades in particular, as the efforts of barbarian cultures driven by fanaticism.

These scholars expressed moral outrage at the conduct of the Crusaders and criticised the Crusades' misdirection – that of the Fourth in particular, which attacked a Christian power (the Byzantine Empire) instead of Islam. The Fourth Crusade had resulted in the sacking of Constantinople, effectively ending any chance of reconciling the East-West Schism and leading to the fall of the Byzantine Empire to the Ottomans. In *The History of the Decline and Fall of the Roman Empire,* 18th-century English historian Edward Gibbon wrote that the Crusaders' efforts could have been more profitably directed towards improving their own countries.

Historians in the 20th century often echoed Enlightenment-era criticism: Runciman wrote during the 1950s, "High ideals were besmirched by cruelty and greed ... the Holy War was nothing more than a long act of intolerance in the name of God". According to Norman Davies, the Crusades contradicted the Peace and Truce of God supported by Urban and reinforced the connection between Western Christendom, feudalism, and militarism. The formation of military religious orders scandalised the Orthodox Byzantines, and Crusaders pillaged countries they crossed on their journey east.

Violating their oath to restore land to the Byzantines, they often kept the land for themselves.

The Fourth Crusade is widely considered controversial in its "betrayal" of Byzantium.

Similarly, Norman Housley viewed the persecution of Jews in the First Crusade – a pogrom in the Rhineland and the massacre of thousands of Jews in Central Europe – as part of the long history of anti-Semitism in Europe. With an increasing focus on gender studies in the early 21st century, studies have examined the topic of "Women in the Crusades". An essay collection on the topic was published in 2001 under the title *Gendering the Crusades*.

In an essay on "Women Warriors", Keren Caspi-Reisfeld concludes that "the most significant role played by women in the West was in maintaining the *status quo*", in the sense of noble women acting as regents of feudal estates while their husbands were campaigning.

The presence of individual noble women in Crusades has been noted, such as Eleanor of Aquitaine (who joined her husband, Louis VII). The presence of non-noble women in the Crusading armies, as in medieval warfare in general, was mostly in the role of logistic support ("washerwomen"), while the occasional presence of women soldiers was recorded by Muslim historians.

The Muslim world exhibited little interest in European culture until the 16th century and in the Crusades until the mid-19th century. Muslim thinkers, politicians and historians have drawn parallels between the Crusades and modern political developments such as the French Mandate for Syria and the Lebanon, Mandatory Palestine, and the United Nations mandated foundation of the state of Israel.

Task 1. Analyze the contents of the information.

THE ORIGINS OF ISLAMIC LAW

Islamic law represents one of the world's great legal systems. Like Judaic law, which influenced western legal systems, Islamic law originated as an important part of the religion.

Sharia, an Arabic word meaning "the right path," refers to traditional Islamic law. The Sharia comes from the Koran, the sacred book of Islam, which Muslims consider the actual word of God.

The Sharia also stems from the Prophet Muhammad's teachings and interpretations of those teachings by certain Muslim legal scholars. Muslims believe that Allah (God) revealed his true will to Muhammad, who then passed on Allah's commands to humans in the Koran.

Since the Sharia originated with Allah, Muslims consider it sacred. Between the 7th century when Muhammad died and the 10th century, many Islamic legal scholars attempted to interpret the Sharia and to adapt it to the expanding Muslim Empire. The classic Sharia of the 10th century represented an important part of Islam's golden age. From that time, the Sharia has continued to be reinterpreted and adapted to changing circumstances and new issues. In the modern era, the influences of Western colonialism generated efforts to codify it. Before Islam, the nomadic tribes inhabiting the Arabian Peninsula worshiped idols. These tribes frequently fought with one another.

Each tribe had its own customs governing marriage, hospitality, and revenge. Crimes against persons were answered with personal retribution or were sometimes resolved by an arbitrator.

Muhammad introduced a new religion into this chaotic Arab world. Islam affirmed only one true God. It demanded that believers obey God's will and laws. The Koran sets down basic standards of human conduct, but does not provide a detailed law code. Only a few verses deal with legal matters.

During his lifetime, Muhammad helped clarify the law by interpreting provisions in the Koran and acting as a judge in legal cases. Thus, Islamic law, the Sharia, became an integral part of the Muslim religion. Following Muhammad's death in A.D. 632, companions of Muhammad ruled Arabia for about 30 years. These political-religious rulers, called caliphs, continued to develop Islamic law with their own pronouncements and decisions. The first caliphs also conquered territories outside Arabia including Iraq, Syria, Palestine, Persia, and Egypt. As a result, elements of Jewish, Greek, Roman, Persian, and Christian church law also influenced the development of the Sharia.

Islamic law grew along with the expanding Muslim Empire. The Umayyad dynasty caliphs, who took control of the empire in 661, extended Islam into India, Northwest Africa, and Spain.

The Umayyads appointed Islamic judges, *kadis*, to decide cases involving Muslims.

(Non-Muslims kept their own legal system.) Knowledgeable about the Koran and the teachings of Muhammad, *kadis* decided cases in all areas of the law. Following a period of revolts and civil war, the Umayyads were overthrown in 750 and replaced by the Abbasid dynasty. During the 500-year rule of the Abbasids, the Sharia reached its full development. Under their absolute rule, the Abbasids transferred substantial areas of criminal law from the *kadis* to the government. The *kadis* continued to handle cases involving religious, family, property, and commercial law.

The Abbasids encouraged legal scholars to debate the Sharia vigorously. One group held that only the divinely inspired Koran and teachings of the Prophet Muhammad should make up the Sharia.

A rival group, however, argued that the Sharia should also include the reasoned opinions of qualified legal scholars. Different legal systems began to develop in different provinces.

In an attempt to reconcile the rival groups, a brilliant legal scholar named Shafii systematized and developed what were called the "roots of the law." Shafii argued that in solving a legal question, the *kadi* or government judge should first consult the Koran. If the answer were not clear there, the judge should refer to the authentic sayings and decisions of Muhammad. If the answer continued to elude the judge, he should then look to the consensus of Muslim legal scholars on the matter. Still failing to find a solution, the judge could form his own answer by analogy from "the precedent nearest in resemblance and most appropriate" to the case at hand. Shafii provoked controversy.

He constantly criticized what he called "people of reason" and "people of tradition."

While speaking in Egypt in 820, he was physically attacked by enraged opponents and died a few days later. Nevertheless, Shafii's approach was later widely adopted throughout the Islamic world.

By around the year 900, the classic Sharia had taken shape. Islamic specialists in the law assembled handbooks for judges to use in making their decisions.

The classic Sharia was not a code of laws, but a body of religious and legal scholarship that continued to develop for the next 1,000 years. The following sections illustrate some basic features of Islamic law as it was traditionally applied. Cases involving violations of some religious duties, lawsuits over property and business disputes, and family law all came before the *kadis*. Most of these cases would be considered civil law matters in Western courts today.

Family law always made up an important part of the Sharia. Below are some features of family law in the classic Sharia that would guide the *kadi* in making his decisions.

- Usually, an individual became an adult at puberty.
- A man could marry up to four wives at once.
- A wife could refuse to accompany her husband on journeys.
- The support of an abandoned infant was a public responsibility.
- A wife had the right to food, clothing, housing, and a marriage gift from her husband.
- When the owner of a female slave acknowledged her child as his own, the child became free. The child's mother became free when the owner died.
- In an inheritance, a brother took twice the amount as his sister. (The brother also had financial responsibility for his sister.)
- A husband could dissolve a marriage by repudiating his wife three times.
- A wife could return her dowry to her husband for a divorce. She could also get a decree from a *kadi* ending the marriage if her husband mistreated, deserted, or failed to support her.
- After a divorce, the mother usually had the right of custody of her young children.

The classic Sharia identified the most serious crimes as those mentioned in the Koran. These were considered sins against Allah and carried mandatory punishments. Some of these crimes and punishments were:

- adultery: death by stoning;
- highway robbery: execution; crucifixion; exile; imprisonment; right hand and left foot cut off;
- theft: right hand cut off (second offense: left foot cut off; imprisonment for further offenses);
- slander: 80 lashes;
- drinking wine or any other intoxicant: 80 lashes.

Officials of the caliph carried out the penalties for these crimes. Crimes against the person included murder and bodily injury. In these cases, the victim or his male next of kin had the "right of retaliation" where this was possible. This meant, for example, that the male next of kin of a murder victim could execute the murderer after his trial (by cutting off his head with a sword).

If someone lost the sight of an eye in an attack, he could retaliate by putting a red-hot needle into the eye of his attacker who had been found guilty by the law.

But a rule of exactitude required that a retaliator must give the same amount of damage he received. If, even by accident, he injured the person too much, he had broken the law and was subject to punishment. The rule of exactitude discouraged retaliation. The injured person or his kinsman would agree to accept money or something of value ("blood money") instead of retaliating.

In a third category of less serious offenses such as gambling and bribery, the judge used his discretion in deciding on a penalty. Punishments would often require the criminal to pay reparation to the victim, receive a certain number of lashes, or be locked up. The victim of a criminal act or his kinsman ("the avenger of the blood") was personally responsible for presenting a claim against the accused criminal before the court. The case then went on much like a private lawsuit.

No government prosecutor participated although certain officials brought some cases to court.

The classic Sharia provided for due process of law. This included notice of the claim made by the injured person, the right to remain silent, and a presumption of innocence in a fair and public trial before an impartial judge. There were no juries. Both parties in the case had the right to have a lawyer present, but the individual bringing the claim and the defendant usually presented their own cases.

At trial, the judge questioned the defendant about the claim made against him. If the defendant denied the claim, the judge then asked the accuser, who had the burden of proof, to present his evidence. Evidence almost always took the form of the direct testimony of two male witnesses of good character (four in adultery cases). Circumstantial evidence and documents were usually inadmissible.

Female witnesses were not allowed except in cases where they held special knowledge, such as childbirth. In such cases, two female witnesses were needed for every male witness.

After the accuser finished with his witnesses, the defendant could present his own. If the accuser could not produce witnesses, he could demand that the defendant take an oath before Allah that he was innocent. "Your evidence or his oath" the Prophet Muhammad taught. If the defendant swore he was innocent, the judge dismissed the case. If he refused to take the oath, the accuser won.

The defendant could also confess to a crime, but this could only be done orally in open court.

In all criminal cases, the evidence had to be "conclusive" before a judge could reach a guilty verdict. An appellate system allowed persons to appeal verdicts to higher government officials and to the ruler himself.

Islamic Law today

In the 19th century, many Muslim countries came under the control or influence of Western colonial powers. As a result, Western-style laws, courts, and punishments began to appear within the Sharia. Some countries like Turkey totally abandoned the Sharia and adopted new law codes based on European systems. Most Muslim countries put the government in charge of prosecuting and punishing criminal acts. In the area of family law, many countries prohibited polygamy and divorce by the husband's repudiation of his wife. Modern legislation along with Muslim legal scholars who are attempting to relate the will of Allah to the 20th century has reopened the door to interpreting the Sharia. This has happened even in highly traditional Saudi Arabia, where Islam began.

Since 1980, some countries with fundamentalist Islamic regimes like Iran have attempted to reverse the trend of westernization and return to the classic Sharia. But most Muslim legal scholars today believe that the Sharia can be adapted to modern conditions without abandoning the spirit of Islamic law or its religious foundations. Even in countries like Iran and Saudi Arabia, the Sharia is creatively adapted to new circumstances.

Active vocabulary

Islamic law, to rpreesent, legal systems, to influence, to originate, religion, traditional, Koran, to consider, to stem, teachings, interpretations, scholars, Muslims, to believe, to reveal, humans, will, to punish, family law, criminal law, legislation, to happen, regimes, to abandon, religious foundations.

Task 1. Give the main idea of the information.

Task 2. Choose the topic for discussion and writing.

- How did the Sharia develop differently than Western law systems like our own?
- What differences do you see between the criminal law and court procedures of the classic Sharia and the criminal justice system in the United States today? What similarities are there?
- Which features of the classic Sharia do you agree and disagree with the most? Why?


ISLAMIC LAW

One of the major legal systems developed during the Middle Ages was Islamic law and jurisprudence.

A number of important legal institutions were developed by Islamic jurists during the classical period of *Islamic law* and jurisprudence. One such institution was the *Hawala*, an early informal value transfer system, which is mentioned in texts of Islamic jurisprudence as early as the 8th century.

Hawala itself later influenced the development of the Aval in French civil law and the Avallo in Italian law. Hawala or Hewala is an informal value transfer system based on the performance and honour of a huge network of money brokers, primarily located in the Middle East, North Africa, the Horn of Africa, and the Indian subcontinent, operating outside of, or parallel to, traditional banking, financial channels, and remittance systems. The transfer of debt, which was "not permissible under Roman law but became widely practiced in medieval Europe, especially in commercial transactions", was due to the large extent of the "trade conducted by the Italian cities with the Muslim world in the Middle Ages".

The agency was also "an institution unknown to Roman law" as no "individual could conclude a binding contract on behalf of another as his agent". In Roman law, the "contractor himself was considered the party to the contract and it took a second contract between the person who acted on behalf of a principal and the latter in order to transfer the rights and the obligations deriving from the contract to him". On the other hand, Islamic law and the later common law "had no difficulty in accepting agency as one of its institutions in the field of contracts and of obligations in general".

Hawala is believed to have arisen in the financing of long-distance trade around the emerging capital trade centres in the early medieval period. In South Asia, it appears to have developed into a fully-fledged money market instrument, which was only gradually replaced by the instruments of the formal banking system in the first half of the 20th century.

Today, Hawala is probably used mostly for migrant workers' remittances to their countries of origin. In the most basic variant of the Hawala System, money is transferred via a network of hawala brokers, or hawaladars. It is the transfer of money without actually moving it. In fact, a successful definition of the Hawala System that is used is "money transfer without money movement".

Active vocabulary

County, municipal, lordship level, legal scholars, judges, to moved on circuits, trials by combat, legal reforms, jurisdictions, jurors, to influenced.

Notes on the text

Sharia [ʃəˈriːə] – Islamic canonical law based on the teachings of the Koran and the traditions of the Prophet (Hadith and Sunna), prescribing both religious and secular duties and sometimes retributive penalties for lawbreaking. It has generally been supplemented by legislation adapted to the conditions of the day, though the manner in which it should be applied in modern states is a subject of dispute between Muslim traditionalists and reformists.

Islamic law – исламское право, шариат (совокупность поведенческих норм, опирающаяся на Коран и сунны; содержит предписания об основных религиозных обязанностях мусульман.

Task 1. Analyze the score of the classic sharia and early Islamic society.

Laws can tell us much about a culture. They can inform us about the society's government, economy, geography, family relations, religious beliefs, technology, and much more. Listed below are seven statements concerning the classic Sharia of the 10th century. Form small groups. Assign each group one of the statements. Members of each group should:

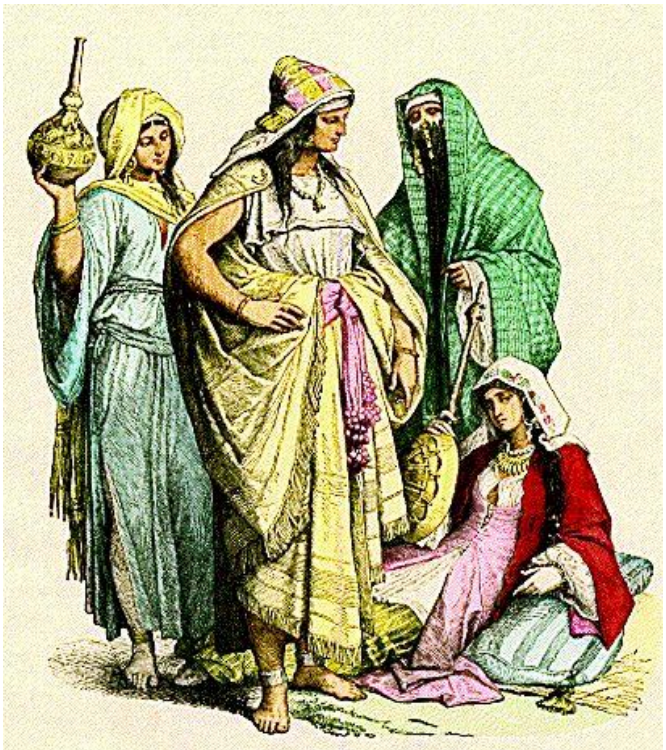
- Examine their assigned statement and any other material relating to it in the article.
- Write down as many facts about early Islamic society as they can infer from the statement.
- Report the facts they have discovered to the rest of the class in order to develop a picture of early Islamic society.

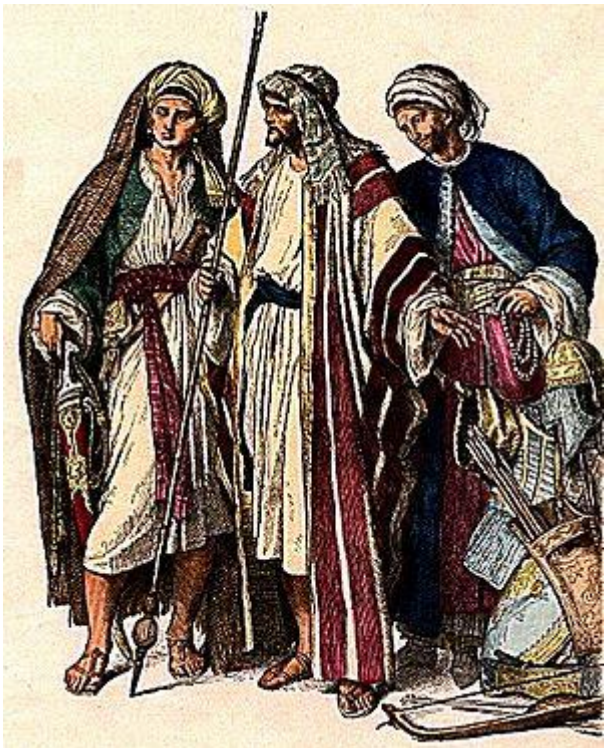
Task 2. Try to understand the statements from the classic sharia.

- A Muslim could be tried and punished for not performing his religious duties.
- A woman counted as one-half a man if called as a witness in a trial.
- When the owner of a female slave acknowledged her child as his own, the child became free. The mother became free when her owner died.
- The most serious crimes included adultery, highway robbery, theft, and drinking alcohol.
- Islamic criminal courts exercised due process of law.
- If witnesses were not produced, the defendant could be asked to take an oath before Allah that he was innocent.
- Punishments included death by sword and stoning, mutilation, lashes, retaliation, "blood money", reparation, and imprisonment.

Task 3. Digest the information briefly in English.

One of the most important developments in Muslim politics in recent years has been the spread of movements calling for the implementation of shari`a or Islamic law. Shari`a Politics maps the ideals and organization of these movements and examines their implications for the future of democracy, citizen rights, and gender relations in the Muslim world. These studies of eight Muslim-majority societies, and state-of-the-field reflections by leading experts, provide the first comparative investigation of movements for and against implementation of shari'a. These essays reveal that the Muslim public's interest in shari`a does not spring from an unchanging devotion to received religious tradition, but from an effort to respond to the central political and ethical questions of the day.





HAWALA

Hawala – is a popular and informal value transfer system based on the performance and honour of a huge network of money brokers ("Hawaladars"). While Hawaladars are spread throughout the world, they are primarily located in the Middle East, North Africa, the Horn of Africa, and the Indian subcontinent, operating outside of, or parallel to, traditional banking, financial channels, and remittance systems. Hawala follows Islamic traditions but its use is not limited to Moslems.

The hawala system has existed since the 8th century between Arabic and Muslim traders alongside the Silk Road and beyond as a protection against theft. It is believed to have arisen in the financing of long-distance trade around the emerging capital trade centers in the early medieval period. In South Asia, it appears to have developed into a fully-fledged money market instrument, which was only gradually replaced by the instruments of the formal banking system in the first half of the 20th century. "Hawala" itself influenced the development of the agency in common law and in civil laws, such as the *aval* in French law and the *avallo* in Italian law.

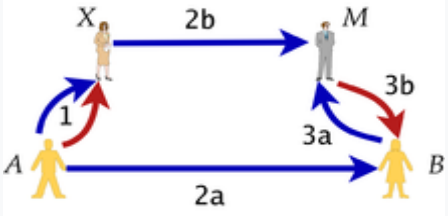
The words *aval* and *avallo* were themselves derived from *hawala*. The transfer of debt, which was "not permissible under Roman law but became widely practiced in medieval Europe, especially in commercial transactions", was due to the large extent of the "trade conducted by the Italian cities with the Muslim world in the Middle Ages". The agency was also "an institution unknown to Roman law" as no "individual could conclude a binding contract on behalf of another as his agent".

In Roman law, the "contractor himself was considered the party to the contract and it took a second contract between the person who acted on behalf of a principal and the latter in order to transfer the rights and the obligations deriving from the contract to him".

On the other hand, Islamic law and the later common law "had no difficulty in accepting agency as one of its institutions in the field of contracts and of obligations in general".

Today, hawala is probably used mostly for migrant workers' remittances to their countries of origin. In the most basic variant of the hawala system, money is transferred via a network of hawala brokers, or *hawaladars*. It is the transfer of money without actually moving it.

In fact, a successful definition of the hawala system that is used is "money transfer without money movement". According to author Sam Vaknin, while there are large Hawaladar operators with networks of middlemen in cities across many countries, most Hawaladars are small businesses who work at Hawala as a sideline or moonlighting operation.



The figure shows how hawala works: (1) a customer (*A*, left-hand side) approaches a hawala broker (*X*) in one city and gives a sum of money (red arrow) that is to be transferred to a recipient (*B*, right-hand side) in another, usually foreign, city. Along with the money, he usually specifies something like a password that will lead to the money being paid out (blue arrows).

(2b) The hawa calls another hawala broker *M* in the recipient's city, and informs *M* about the agreed password, or gives other disposition of the funds. Then, the intended recipient (*B*), who also has been informed by *A* about the password (2a), now approaches *M* and tells him the agreed password (3a). If the password is correct, then *M* releases the transferred sum to *B* (3b), usually minus a small commission. *X* now basically owes *M* the money that *M* had paid out to *B*; thus *M* has to trust *X*'s promise to settle the debt at a later date. The unique feature of the system is that no promissory instruments are exchanged between the hawala brokers; the transaction takes place entirely on the honour system.

As the system does not depend on the legal enforceability of claims, it can operate even in the absence of a legal and juridical environment. Trust and extensive use of connections are the components that distinguish it from other remittance systems. Hawaladars networks are often based on membership in the same family, village, clan, or ethnic group, and cheating is punished by effective ex-communication and "loss of honour" – leading to severe economic hardship.

Informal records are produced of individual transactions, and a running tally of the amount owed by one broker to another is kept. Settlements of debts between hawala brokers can take a variety of forms (such as goods, services, properties, transfers of employees, etc.), and need not take the form of direct cash transactions. In addition to commissions, hawala brokers often earn their profits through bypassing official exchange rates. Generally, the funds enter the system in the source country's currency and leave the system in the recipient country's currency. As settlements often take place without any foreign exchange transactions, they can be made at other than official exchange rates.

Hawala is attractive to customers because it provides a fast and convenient transfer of funds, usually with a far lower commission than that charged by banks. Its advantages are most pronounced when the receiving country applies unprofitable exchange rate regulations or when the banking system in the receiving country is less complex (e.g., due to differences in legal environment in places such as Afghanistan, Yemen, Somalia).

Moreover, in some parts of the world it is the only option for legitimate fund transfers, and has even been used by aid organizations in areas where it is the best-functioning institution.

Dubai has been prominent for decades as a welcoming hub for hawala transactions worldwide.

A 1951 hundi of Bombay Province for Rs 2500 with a pre-printed revenue stamp.

The *hundi* is a financial instrument that developed on the Indian sub-continent for use in trade and credit transactions. Hundis are used as a form of remittance instrument to transfer money from place to place, as a form of credit instrument or IOU to borrow money and as a bill of exchange in trade transactions. The Reserve Bank of India describes the Hundi as "an unconditional order in writing made by a person directing another to pay a certain sum of money to a person named in the order."

The word *angadia* means courier in Hindi, but also designates those who act as hawaladars within India. These people mostly act as a parallel banking system for businessmen. They charge a commission of around 0.2-0.5% per transaction from transferring money from one city to another.

According to the CIA, with the dissolution of Somalia's formal banking system, many informal money transfer operators, arose to fill the void. It estimates that such *hawaladars*, *xawilaad* or *xawala* brokers, are now responsible for the transfer of up to $1.6 billion per year in remittances to the country, most coming from working Somalis outside Somalia.

Such funds have in turn had a stimulating effect on local business activity. The 2012 Tuareg rebellion left Northern Mali without an official money transfer service for months. The coping mechanisms that appeared were patterned on the hawala system. Some government officials assert that hawala can be used to facilitate money laundering, avoid taxation, and move wealth anonymously. As a result, it is illegal in some U.S. states, India, Pakistan, and some other countries.

After the September 11 terrorist attacks, the American government suspected that some hawala brokers may have helped terrorist organizations transfer money to fund their activities, and the 9/11 Commission Report stated that "Al Qaeda frequently moved the money it raised by hawala".

As a result of intense pressure from the U.S. authorities to introduce systematic anti-money laundering initiatives on a global scale, a number of hawala networks were closed down and a number of hawaladars were successfully prosecuted for money laundering. However, there is little evidence that these actions brought the authorities any closer to identifying and arresting a significant number of terrorists or drug smugglers. Experts emphasized that the overwhelming majority of those who used these informal networks were doing so for legitimate purposes, and simply chose to use a transaction medium other than state-supported banking systems.

Today, the hawala system in Afghanistan is instrumental in providing financial services for the delivery of emergency relief and humanitarian and developmental aid for the majority of international and domestic NGOs, donor organizations, and development aid agencies. In November 2001, the Bush administration froze the assets of Al-Barakat, a Somali remittance hawala company used primarily by a large number of Somali immigrants.

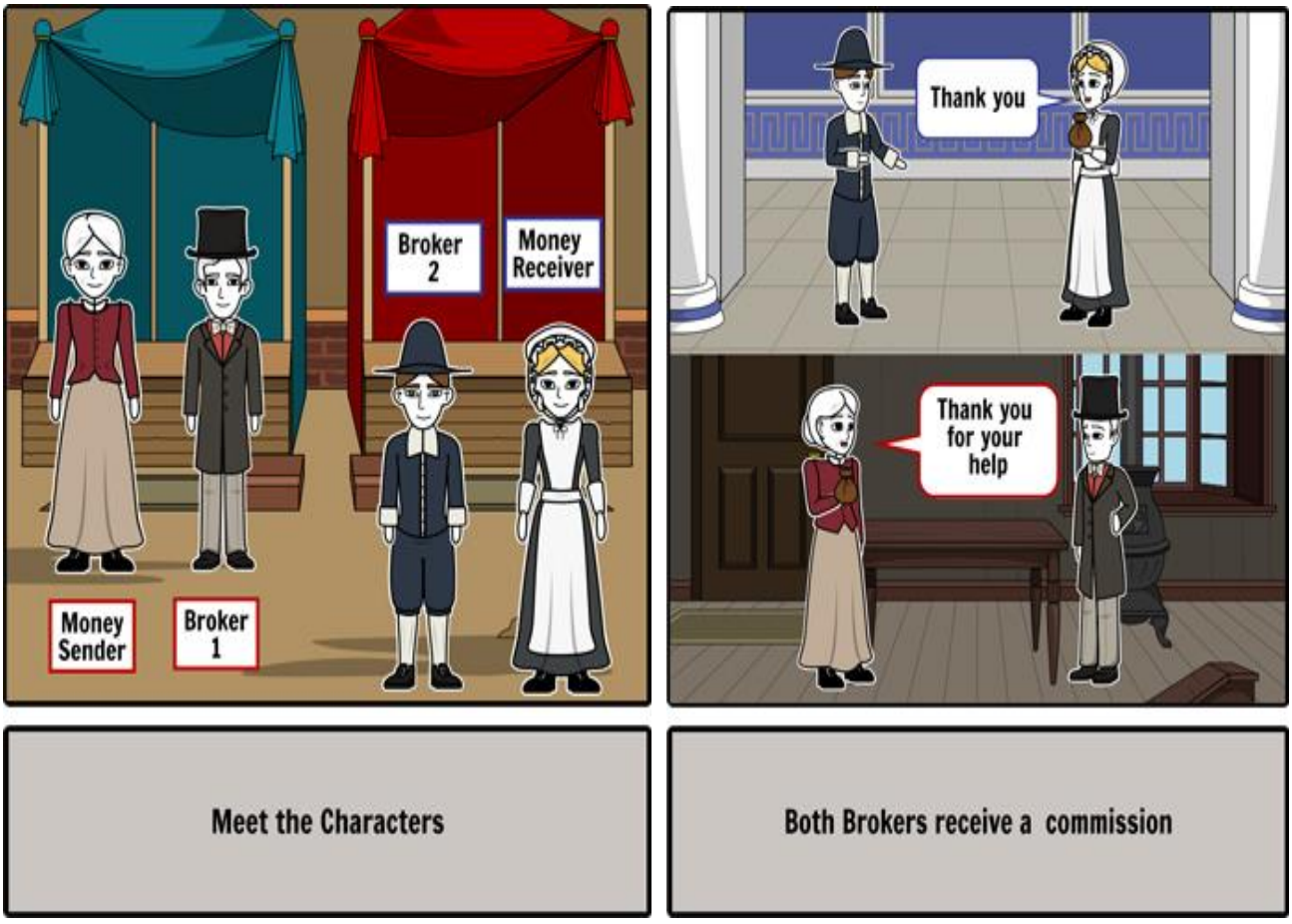
Many of its agents in several countries were initially arrested, though later freed after no concrete evidence against them was found. In August 2006 the last Al-Barakat representatives were taken off the U.S. terror list, though some assets remain frozen. The mass media has speculated that pirates from Somalia use the hawala system to move funds internationally, for example into neighboring Kenya, where these transactions are neither taxed nor recorded.

In January 2010, the Kabul office of New Ansari Exchange, Afghanistan's largest hawala money transfer business, was closed following a raid by the Sensitive Investigative Unit, the country's national anti-political corruption unit, allegedly because this company was involved in launderingprofits from the illicit opium trade and the moving of cash earned by government allied warlords through extortion and drug trafficking. Thousands of records were seized, from which links were found between money transfers by this company and political and business figures and NGOs in the country, including relatives of President Hamid Karzai. In August 2010, Karzai took control of the task force that staged the raid, and the US-advised anti-corruption group, the Major Crimes Task Force. He ordered a commission to review scores of past and current anti-corruption inquests.

Active vocabulary

Finance system, trafficking, money transfer business, to investigate, informal networks, banking system, instrument in providing financial services, to facilitate money laundering, to avoid taxation, to move wealth anonymously.

Task 1. Analyze the contents of the information.



DIALOGUE

What does Havala mean?

The word *"Hawala"* means trust. It is an alternative or parallel remittance system, which works outside the circle of banks and formal financial systems. Hawala is an ancient system of money transfer which originated in South Asia and is now being used across the globe.

Where did this system develop?

This system mainly developed in India, before the introduction of western banking practices. It is also sometimes referred to as *"*Underground Banking*"*. Though it is being used across the world to remit funds, but it is not a legal system. It works on the basis of many middle men called the hawaldars or the hawala dealers. The reason, why Hawala is extensively used inspite of the fact that it is illegal, is the inseparable element of trust and extensive use of family or regional affiliations.

How does Hawala work?

Hawala works by transferring money without actually moving it. In a hawala transaction, no physical movement of cash is there. Hawala system works with a network of operators called Hawaldars or Hawala Dealers. A person willing to transfer money, contacts a Hawala operator at the source location. The hawala operator at that end collects the money from that person who wishes to make a transfer. He then calls upon his counterpart or the other Hawala operator at the destination place/country was the transfer has to be made. Now the hawala operator at the tranferee's end, hands over the cash to the intended recipient after deducting a certain amount of commission.

Is Hawala illegal?

Yes, Hawala has been made illegal in many countries, as it is seen to be a form of money laundering and can be used to move wealth anonymously. As hawala transactions are not routed through banks they cannot be regulated by the government agencies and have thus emerged as a major cause of concern. This network is being used extensively across the globe to circulate black money and to provide funds for terrorism, drug trafficking and other illegal activities. In India, FEMA (Foreign Exchange Management Act) 2000 and PMLA (Prevention of Money Laundering Act) 2002 are the two major legislations which make such transactions illegal.

What's the origin of Hawala?

The hawala system has existed since the 8th century between Arabic and Muslim traders alongside the Silk Road. The practice started as a way to protect traders from theft. It became more prevalent after the development of long-distance trade around the emerging capital trade centers in the early medieval period. In South Asia, it appears to have developed into a fully-fledged money market instrument (easily liquid-able), which was only gradually replaced by the instruments of the formal banking system in the first half of the 20th century.

Why do people use this system today?

Inspite of the fact that hawala transactions are illegal, people use this method because of the following reasons:

- The commission rates for transferring money through hawala are quite low.
- No requirement of any proof and disclosure of source of income is there.
- It has emerged as a reliable and efficient system of remittance.

As there is no physical movement of cash, hawala operators provide better exchange rates as compared to the official exchange rates. It is a simple and hassle free process when compared to the extensive documentation being done by the banks. It is the only way to transfer unaccounted income.

So, the next time you come across the word Hawala, I am sure you will be able to draw a picture about the transaction in your mind.

How can you recognize hawala money laundering?

In mid-1997, several people were convicted of conspiracy to launder as well as laundering the proceeds of the sale of Pakistani heroin and opium and possession of currency. Hawala is actually quite simple; much of the complexity associated with and ascribed to hawala money laundering comes from the nearly infinite number of variations that are encountered in hawala transactions.

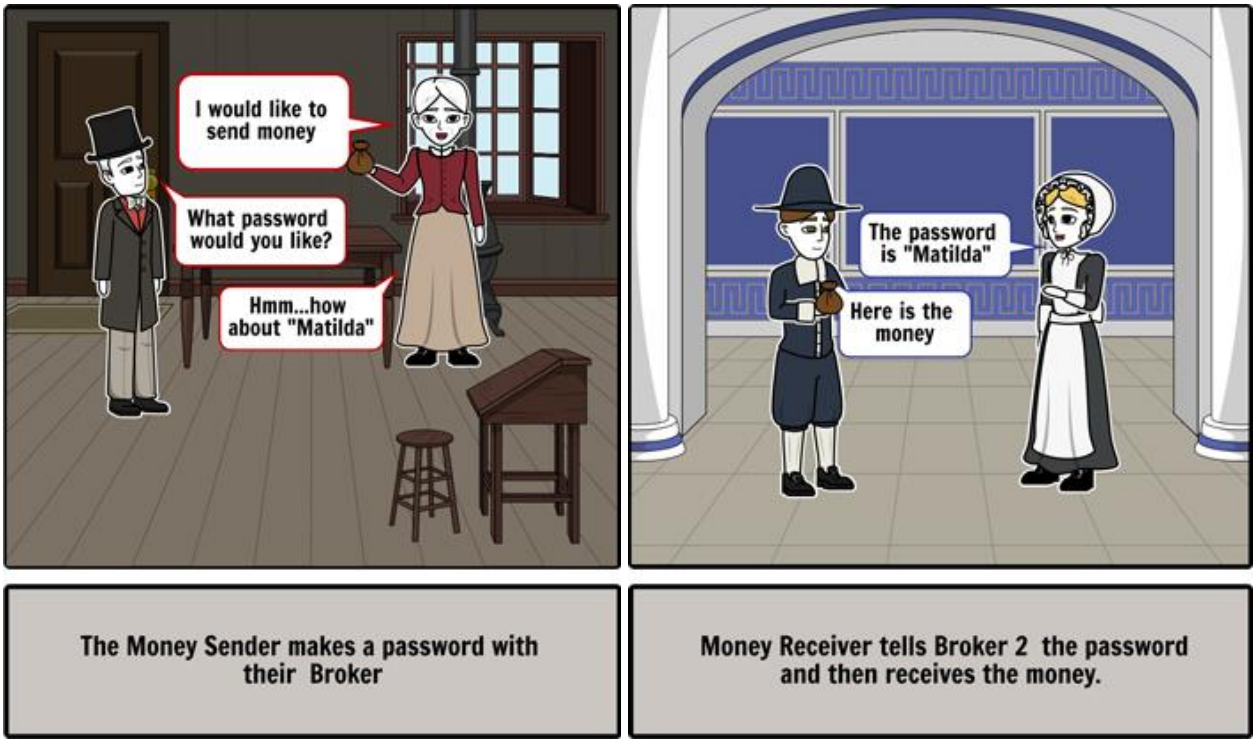
This complexity of variation makes it nearly impossible to lay out a straightforward guide to recognizing hawala money laundering as part of a criminal undertaking.

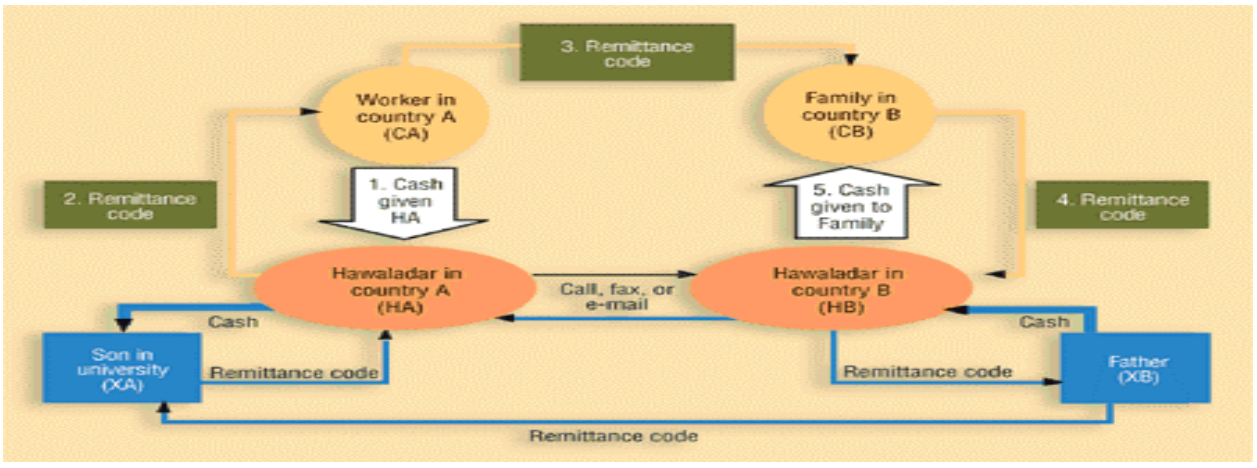
It is, however, possible to provide a few indicators that may be useful. One of the most consistent and valid indicators of hawala activity in investigations conducted in the United States is seen in bank accounts. A hawala bank account almost always shows significant deposit activity, usually in the forms of cash and checks, which are often from one or more ethnic communities (e.g. Afghan, Bangladeshi, Indian, Pakistani, Somali) associated with the hawaladar. These checks may be made out to the primary account holder, or some secondary entity (outside the USA) somehow associated with the account. Hawala bookkeeping emphasizes keeping track of how much money is owed to whom.

Task 1. Read dialogue, learn it by heart and then carry it out with your classmate.

Task 2. Give the contents of the dialogue in Indirect Speech in English.

Task 3. Comment on the given details about Havala system.





ISLAM & INTERNATIONAL HUMANITARIAN LAW

With armed conflicts taking place in so many parts of the Muslim world, the Islamic law of war is as indispensable as ever for the protection of civilians and other persons hors de combat.

Over the centuries, classical Muslim jurists have provided an impressive legal literature, which, just as international humanitarian law (IHL), brings humanity in war. Emphasizing the universality of IHL's principles, which transcend legal traditions, civilizations and cultures, is absolutely essential for improving respect and protection for victims of armed conflict in the Muslim world.

The emergence of Islam, in 610 A.D., threatened the religious, political, economic, and social systems then in place in Arabia. Hostility towards the followers of the new religion gradually rose, and they were forced to flee the birthplace of Islam, Mecca, twice: first to Abyssinia (today, Ethiopia) in 615 A.D. and then to Yathrib, now Medina in Saudi Arabia, in 622 A.D.

This hostility continued even after the flight to Medina, and there were a number of violent encounters, including battles, between Muslims and their enemies. This aspect of Islamic history is dealt with briefly in the Qur'ān; it is recorded in great detail in the sīrah literature, (biography of the Prophet, early Islamic history) which gives the numbers of the dead and those taken prisoner, and sometimes their full names as well.

The hadith literature (sayings, deeds, and tacit approvals of the Prophet) also contains thousands of reports on this subject. In order to fully understand these bodies of literature and to derive laws from them, even experts have also to study and examine other bodies of literatures, including tafsīr (exegeses of the Qur'ān), and hadith methodology; they have to do this in order to determine the reliability of the various narrators and the authenticity of the various reports from this period.

Studying the points of correspondence between Islamic law and modern IHL is not a matter of intellectual luxury: it is of strategic importance in ensuring that IHL principles are observed in armed conflict. All these bodies of literature constituted the material, or the texts, from which the fuqahā', or jurists, developed the Islamic law of war in the literature of fiqh, or Islamic law, under such headings as al-jihād, al-siyar, al-maghāzī; to these headings, contemporary Muslim scholars add those of akhlāq al-ḥarb (the ethics of war) and al-qanūn al-dawlī al-insānī fī al-Islām (international humanitarian law, or IHL, in Islam). This brief introduction shows where, in what sources, the Islamic law of war can be studied. It also explains how differences in interpretation of these sources are among the reasons why there are contradictory regulations, and major violations, in connection with the use of force by Muslims.

A five-volume monumental legal treatise by the Iraqi jurist Al-Shaybānī (d. 805), with extensive commentary by Al-Sarakhsī (d. 1090) on Islamic international law and Islamic law of armed conflict.
Golden shield on the door of the Nabawi Mosque in Medina, Saudi Arabia.

It is worth adding here that in Islam, a treaty is binding unless it blatantly violates the dictates of the religion in some way. It is a matter of some significance that since the seventh century, Islamic law has been developed by individual, and independent, Muslim legal scholars who belonged to either the Sunni or the Shi'ite sect. In addition, each of these scholars was an adherent of one of numerous schools of law: of these schools, four are now most prominent in the Sunni world.

Because the development of the Islamic law of war rested on specific texts dealing with 7th-century contexts of war, and because of the nature of the tools involved in the law-making process, Islamic regulations on the use of force frequently contradict each other.

These contradictions are also partly owing to the fact that Islamic law remained uncodified throughout Islamic history, apart from 20th-century codifications of what was mainly family law.

Moreover, as a consequence of European colonialism, Islamic law was replaced, in all but a handful of Muslim countries, by the French or the English legal systems; because of this, Islamic law in most areas, including the law of armed conflict, has remained a purely academic matter.

With regard to international law, including IHL, a consensus has existed since the founding of the United Nations, among scholars and States in the Muslim world, that these bodies of law are in consonance with the true spirit and ultimate objectives of Islam, but not necessarily with all the rules developed in the past by classical Muslim jurists operating in a very different political context. This is why all Muslim countries have signed the Geneva Conventions and other relevant international treaties.

However, in recent times, serious violations of IHL have been justified by selectively invoking certain classical juristic opinions or interpretations of the scriptures, or simply through analogy to certain classical situations of war – in order, for instance, to justify the killing of civilians. It should also be noted, however, that some other non-State Muslim armed groups have drawn up codes of conduct that are based on Islamic law and that are also in harmony with modern IHL principles. This shows that Islamic law is being both used and abused in contemporary armed conflict in the Muslim world.

Studying the points of correspondence between Islamic law and modern IHL is therefore no longer just a matter of intellectual luxury; it is a subject of strategic importance and of great value in ensuring that IHL principles are observed, to the greatest extent possible, in this specific context of armed conflict. Because of the uniqueness of the texts and sources, and the contexts (past and present), from which it is derived, the Islamic law of war – which is used to regulate the conduct of hostilities in armed conflicts – has a number of characteristics that should be taken into consideration:

- religious basis: because Islamic regulations on the conduct of hostilities are derived from the Islamic scriptures;
- religious motivations: it encourages believers to follow Islamic regulations on the conduct of hostilities in order to be rewarded by God in the Hereafter and also to avoid God's punishment, let alone the State's;
- self-imposed: for the reasons given above and regardless of the conduct of adversaries though jurists sometimes used the principle of reciprocity to lift restrictions on certain weapons or tactics; (It should be kept in mind that there were no international treaties governing the use of force when the Islamic law of war was formulated.)
- contextually and textually based: obviously, throughout Islamic history, jurists differed on the interpretation of texts and contexts in connection with the Islamic law of war, which led to
- regulations on the use of force that contradicted each other. These contradictory rulings were also a result of the jurists having to balance Islamic restrictions on the use of certain indiscriminate weapons and methods of warfare – to humanize armed conflict, so to speak – with the military necessity of winning a war. This explains
- the wide gap between theory and practice: while Islamic law includes detailed regulations that are, remarkably, largely in agreement with modern IHL principles, serious violations of IHL are now being committed by some Muslims.

Because of these characteristics, the Islamic law of armed conflict will continue to be used, or at least referred to, by Muslims who use Islam as their source of reference. Moreover, because of its contextual and sometimes contradictory rulings, the Islamic law of war is sometimes erroneously used to justify harming protected persons and objects.

On the other hand, and as shown below, the similarities between IHL principles and the Islamic law of war suggest that these two legal traditions have the same objectives and that modern IHL principles are of great practical help in directing conduct of hostilities during contemporary situations of conflict. Emphasizing the universality of IHL principles, which transcend legal traditions, civilizations and cultures, is absolutely essential for ensuring compliance with IHL.

Classical Muslim jurists had in mind more or less the same philosophy and principles that inform modern IHL. Interestingly classical Islamic legal literature distinguished between international and non-international armed conflicts. The significance here is twofold:

- first, the rules on the use of force in non-international armed conflicts are much stricter and more humane than those for international armed conflicts;
- second, because of certain precedents in early history, Islamic law identified four different categories of non-international armed conflicts which have different regulations on the use of force.

The Islamic law of war sought to humanize armed conflict by protecting the lives of non-combatants, respecting the dignity of enemy combatants, and forbidding damage to an adversary's property except when absolutely required by military necessity or when it happens unintentionally, as collateral damage.

The following are the core principles of Islamic international humanitarian law.

Protection of civilians & non-combatants

Islamic law makes it abundantly clear that all fighting on the battlefield must be directed solely against enemy combatants. Civilians and non-combatants must not be deliberately harmed during the course of hostilities. According to the Qur'ān 2:190: "*And fight in the way of God those who fight against you and do not transgress, indeed God does not like transgressors*".

Several reports attributed to the Prophet in which he specifically mentioned five categories of people who are afforded non-combatant immunity under Islamic law: women, children, the elderly, the clergy, and, significantly, the "usafā" (slaves or people hired to perform certain services for the enemy on the battlefield, but who take no part in actual hostilities).

The "usafā's" various duties on the battlefield at the time included such things as taking caring of the animals and the personal belongings of the combatants. Their equivalent in the context of modern warfare would be medical personnel – military and civilian – military reporters and all other categories of people in the army of the adversary party that do not take part in actual hostilities; these people, too, cannot be targeted. The companions of the Prophet and succeeding generations of jurists grasped the logic guiding the prohibition against targeting these 5 categories of people, and provided non-combatant immunity for other categories of people as well, such as the sick, the blind, the incapacitated, the insane, farmers, traders, and craftsmen. Members of these categories of protected people will lose their non-combatant immunity if they take part in hostilities.

Classical Muslim jurists investigated various interesting cases involving participation by such protected people in hostilities and deliberated on the permissibility of targeting these people.

These cases included the following: a woman who actually fights on the battlefield or throws stones at Muslim army soldiers or patrols the enemy's forces or uses her own money to finance the enemy's army; encountered during combat. Other cases involved a child or an elderly person taking part in direct hostilities, and an elderly person brought to the battlefield to plan the enemy's operations.

Regardless of the nuances of their deliberations and their different rulings on the permissibility of targeting these protected people, the mere fact that they investigated these cases and reflected on them proves beyond doubt that the principle of distinction and the doctrine of non-combatant immunity were major concerns for the majority of classical Muslim jurists.

Prohibition against indiscriminate weapons

In order to preserve the lives, and the dignity, of protected civilians and non-combatants – and even though the weapons used by Muslims in the 7th and 8th centuries were primitive and their destructive power limited – classical Muslim jurists discussed the permissibility of using indiscriminate weapons of various kinds, such as mangonels (a weapon for catapulting large stones) and poison-tipped or fire-tipped arrows. It should be added here that the permissibility of using such indiscriminate weapons was investigated in connection with situations other than those involving combat between individuals. Jurists considered whether such weapons may be used against an enemy fighting from fortified positions. In situations like these, it would obviously be extremely difficult to avoid causing incidental harm to protected people and objects. All this again goes to show that the principle of distinction was the rationale for discussing the permissibility of using these indiscriminate weapons.

Balancing this humanitarian principle with that of military necessity, most of the jurists permitted shooting at the enemy fortifications with mangonels, but they disagreed sharply on the permissibility of shooting fire-tipped arrows at enemy fortifications: one group prohibited it, another expressed its dislike for this method of warfare, and a third permitted it in those instances when military necessity called for it or when it was retaliation in kind. Conflicting rulings of this kind create major difficulties when the Islamic law of war is used as the source of reference in contemporary armed conflicts, because they can be used selectively to justify attacks against protected civilians and objects.

Prohibition against indiscriminate attacks

Motivated by the same concerns that led them to investigate the rightness of using mangonels and poison-tipped or fire tipped-arrows (means of warfare), classical Muslim jurists also discussed the permissibility of two potentially indiscriminate methods of warfare that could result in the killing of protected persons and damage to protected objects: al-bayāt (attacks at night) and al-tatarrus (the use of human shields). The rationale for studying the lawfulness of night fighting – an issue that first arose during a discussion between the Prophet and his companions – was that it did not involve fighting between individuals because they cannot see each other at night.

Mangonels and similar weapons were mainly used against an enemy at night, which increased the risk of protected persons and objects being harmed. Similarly, they found that attacking human shields might also cause incidental harm in two instances they studied: to persons protected from the enemy or to Muslim prisoners of war. Time and again, the need to balance the humanitarian principles of distinction, proportionality and precaution with the principle of military necessity, led the jurists to make contradictory rulings: some of them prohibited attacks made at night or against human shields, others disliked these methods, and still others were willing to permit them, but only when absolutely required by military necessity. They also disagreed about what constituted military necessity.

There was no difference of opinion among them on the fundamental point: that protected persons and objects were not to be deliberately harmed.

Protection of property

In the Islamic worldview, everything in this world belongs to God, and human beings – as His vicegerents on earth – are entrusted with the responsibility of protecting His property and contributing to human civilization. Hence, even during the course of hostilities, wanton destruction of enemy property is strictly prohibited. The 8th-century jurist Al-Awzāʿī declared: "it is prohibited for Muslims to commit any sort of takhrīb, wanton destruction, [during the course of hostilities] in enemy territories".

Such destruction was forbidden because it constituted – as the crime of terrorism does under Islamic law – the criminal act described metaphorically in the Qur'ān as destruction in the land.

It is interesting to note that few jurists distinguished between inanimate and animate property owned by the enemy. The eponymous founder of the Shāfiʿī school of law, said that all living creatures were capable of feeling pain and therefore any harm to them amounted to unjustifiable torture.

While for Ibn Qudāmah harming living creatures fell within the bounds of destruction. Targeting horses and similar animals during the course of hostilities was permitted, but only if enemy soldiers were mounted on them while fighting. There are numerous examples in classical Islamic legal literature of regard for the sanctity of an adversary's private and public property. It may be enough to mention one example here. Classical Muslim jurists considered the lawfulness of consuming an enemy's food supplies or using his fodder to feed one's own animals; they concluded that this was permissible, but only in the quantities absolutely required by military necessity, thereby confirming the inviolability of enemy property. Therefore, as a rule (except when required by military necessity) attacks against enemy property must be carried out with two aims in mind: to force the enemy to surrender or to put an end to the fighting; to avoid deliberately seeking to cause the destruction of property.

Prohibition against mutilation

Islamic law strictly prohibits mutilation. The Prophet's instructions on the use of force include these injunctions: "*do not steal from the booty, do not betray and do not mutilate*". The Prophet also instructed Muslims to avoid deliberately attacking an enemy's face. Abu Bakr's written instructions to the governor of Hadramaut, Yemen, included the following: "*Beware of mutilation, because it is a sin and a disgusting act*". Such regard for human dignity requires that dead enemy soldiers be buried or their bodies handed over to one's adversary after the cessation of hostilities.

Early Islamic historical and legal literature records that the Prophet had the bodies of dead soldiers buried without asking whether they belonged to the Muslim army or its adversaries.

The Andalusian jurist Ibn Ḥazm stressed that Muslims had an obligation to bury the dead bodies of their enemies and that failure to discharge this obligation was tantamount to mutilation.

Treatment of prisoners of war

Some of the characteristics of Islamic law discussed above are very much to the fore in the matter of prisoners of war (POWs). There are two main issues here: what to do with POWs and how they should be treated. The rules in both cases are based on scriptural and historical material and on certain precedents in early Islamic history. In the matter of what should be done with POWs, classical Muslim jurists fell into three groups. The first, basing their position on the Qur'ān 47:4, maintained that POWs must be released unilaterally or in exchange for captured Muslim soldiers.

The second group, made up of some Ḥanafī jurists, argued that the State should decide, based on its best interests, whether to execute or enslave POWs; but a few others from the same school said that the POWs may be freed, but must remain in the Muslim State because permitting them to return to their country will strengthen the enemy's forces.

The third group, the majority of the jurists, also argued that the State should decide, based on its best interests; however, they also said that POWs may be executed, enslaved, set free unilaterally or in exchange for captured Muslim soldiers, or be freed but forced to remain in the Muslim State.

It should be noted here that the jurists who permitted the execution of POWs based their conclusion on reports that three POWs had been executed in the wars between the Muslims and their enemies during the Prophet's lifetime. Examination of the historical record, however, shows that if all or some of these reports were true, these three POWs were singled out because of crimes they had committed before joining the war. Emphasizing the universality of IHL principles, which transcend legal traditions, civilizations and cultures, is absolutely essential for ensuring compliance with IHL.

As for the treatment of POWs, Islamic law requires that they be respected and treated humanely.

They must be fed and given water to drink, clothed if necessary, and protected from the heat and the cold and from cruel treatment. Torturing POWs to obtain military information is prohibited, as indicated by Mālik, the eponymous founder of the Mālikī school of law.

Task 1. Choose the keywords that best convey the gist of the information.

Task 2. Make up some dialogues from the information above.

Safe conduct & Quarter

The subject of amān (safe conduct & quarter) gives a number of interesting insights into the Islamic law of war. Amān, in the sense of safe conduct, refers to the protection and specific rights that are granted to non-Muslim nationals of an enemy State who are temporarily living in or making a brief visit to the Muslim State in question for business, tourism, education or other peaceful purposes.

Because of the nature of their profession, diplomats have enjoyed the privileges of amān since the pre-Islamic era. Classical Islamic legal literature may be said to define amān, in the sense of quarter, as "*a contract of protection, granted during the actual acts of war, to cover the person and property of an enemy belligerent, all of a regiment, everyone inside a fortification, the entire enemy army or city*". Amān has the same objective, in some respects, as the hors de combat status: in the words of the classical jurists, this is ḥaqn al-damm (prevention of the shedding of blood, protection of life). Therefore, if enemy combatants request amān on the battlefield during the course of hostilities – whether verbally or in writing, or through a gesture or by some other indication they are laying down their arms – they must be granted it. Afterwards, they must be protected and granted the same rights as civilian temporary residents of the Muslim State in question. They must not be treated as POWs; nor must their lives be restricted in any other way during their stay in the Muslim State. This protection remains in effect until their safe return to their home country.

In brief, the amān system makes it unambiguously clear that enemy combatants must not be targeted if they are not actually fighting. It goes without saying that perfidy is strictly prohibited under the Islamic law of war; however, ruses are permitted, as the Prophet held that “war is ruse.”

The uniqueness of Islamic law – its origins and sources, and its methods of creating and applying laws – should be clear from the foregoing description.

Indeed classical Muslim jurists have succeeded in providing an impressive legal literature that humanizes armed conflicts. They also showed a great deal of concern for non-combatants and civilians, as well as for specific civilian objects: they argued that all of these must be protected, and that no incidental harm to any of them was justified except in cases of absolute military necessity.

Nonetheless, some Islamic rules on the use of force pose challenges to humanizing armed conflicts. That is because the Islamic law of armed conflicts was not codified at any point in Islamic history, and also because no punishments for violating it were formulated. However, because treaties are binding in Islamic law, and because modern IHL principles are in agreement with the Islamic law of war, IHL fills this gap – the repression of violations – particularly well.

ROMAN REPUBLIC

The Constitution of the Roman Republic was a set of guidelines and principles passed down mainly through precedent. The constitution was largely unwritten and uncodified, and evolved over time. Rather than creating a government that was primarily a democracy (Ancient Athens), an aristocracy (ancient Sparta), or a monarchy (as was Rome before and, in many respects, after the Republic), the Roman constitution mixed these three elements, thus creating three separate branches of government.

The democratic element took the form of the legislative assemblies, the aristocratic element took the form of the Senate, and the monarchical element took the form of the many term-limited consuls. The ultimate source of sovereignty in this ancient republic, as in modern republics, was the *demos* (people). The people of Rome gathered into legislative assemblies to pass laws and to elect executive magistrates.

Election to a magisterial office resulted in automatic membership in the Senate (for life, unless impeached). The Senate managed the day-to-day affairs in Rome, while senators presided over the courts. Executive magistrates enforced the law, and presided over the Senate and the legislative assemblies. A complex set of checks and balances developed between these three branches, so as to minimize the risk of tyranny and corruption, and to maximize the likelihood of good government.

However, the separation of powers between these three branches of government was not absolute; and moreover, several constitutional devices that were out of harmony with the Roman constitution were used frequently.

A constitutional crisis began in 133 B.C., as a result of the struggles between the aristocracy and the common people. This crisis ultimately led to the collapse of the Roman Republic and its eventual subversion into a much more autocratic form of government, the Roman Empire.

Active vocabulary

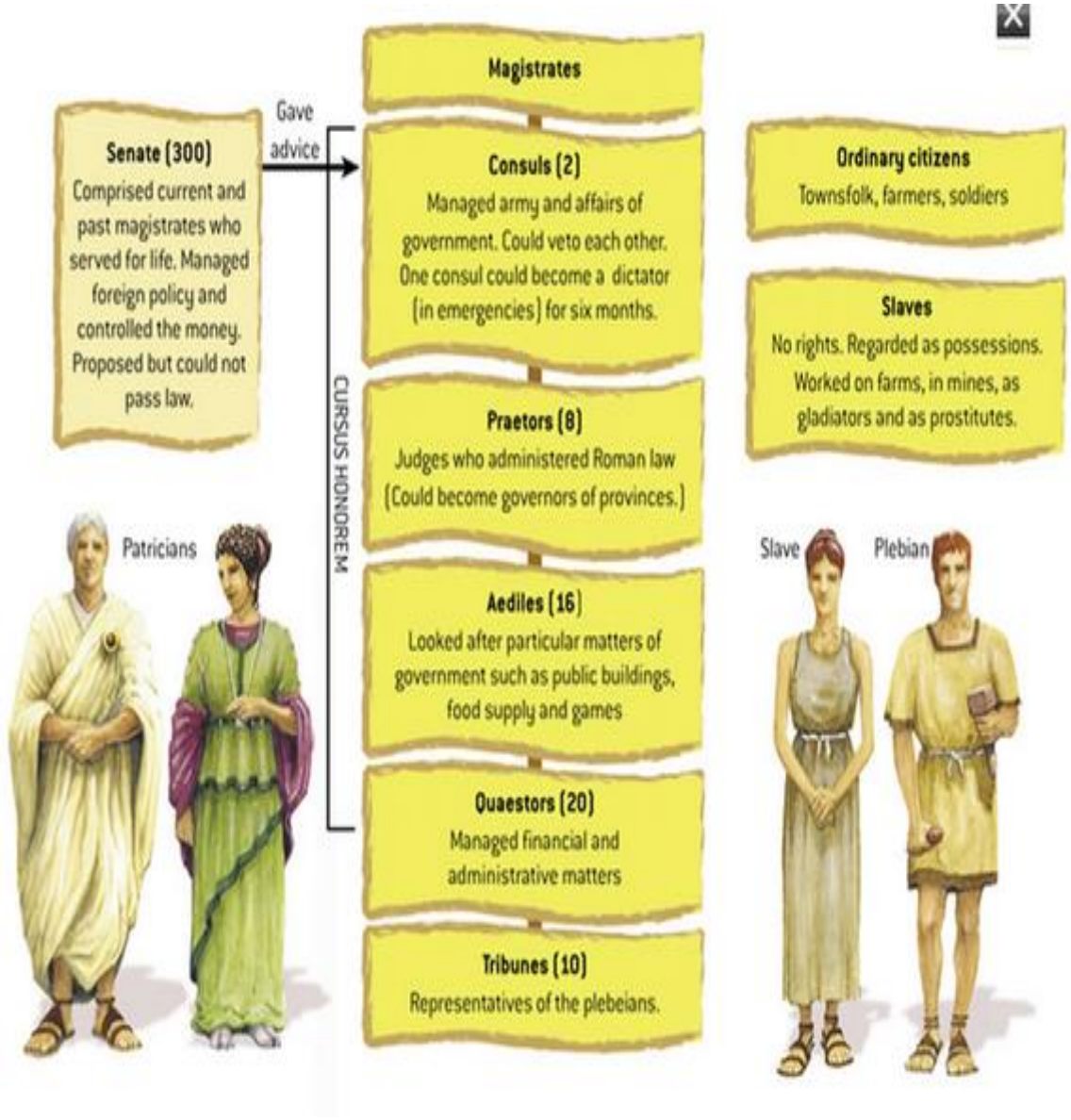
Constitution, branches of government, through precedent, the legislative assemblies, democratic, ancient republic, election, tyranny, corruption.

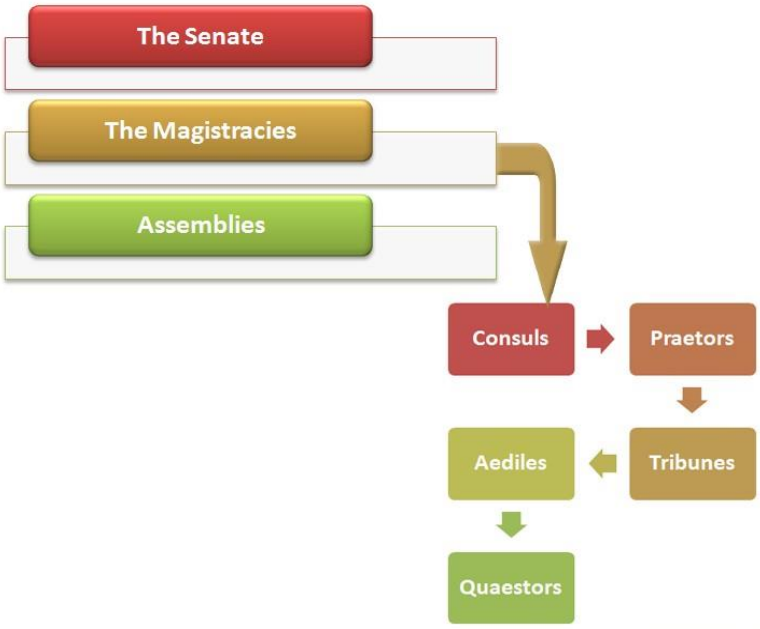
Task 1. Digest the information briefly in English.

Task 2. Characterize the main features of the Roman Republic briefly in English.

Task 3. Analyze the information and make a chart about it.

№	Activity			
	Events	When	Where	Score
1.				


Magistrates
Senate (300)
Comprised current and past magistrates who served for life. Managed foreign policy and controlled the money. Proposed but could not pass law.
Gave advice
Consuls (2)
Managed army and affairs of government. Could veto each other. One consul could become a dictator (in emergencies) for six months.
Praetors (8)
Judges who administered Roman law (Could become governors of provinces.)
Aediles (16)
Looked after particular matters of government such as public buildings, food supply and games
Quaestors (20)
Managed financial and administrative matters
Tribunes (10)
Representatives of the plebeians.
CURSUS HONOREM
Ordinary citizens
Townsfolk, farmers, soldiers
Slaves
No rights. Regarded as possessions. Worked on farms, in mines, as gladiators and as prostitutes.
Patricians
Slave
Plebian


The Senate
The Magistracies
Assemblies
Consuls
Praetors
Aediles
Tribunes
Quaestors

HISTORY OF THE ROMAN REPUBLIC

The constitutional history of the Roman Republic can be divided into five phases.

The first phase began with the revolution which overthrew the monarchy in 509 B.C. The final phase ended with the transition that transformed the Republic into what would effectively be the Roman Empire, in 27 B.C. Throughout the history of the Republic, the constitutional evolution was driven by the conflict of the orders between the aristocracy and the ordinary citizens.

Patrician Era (509-367 B.C.)

According to legend, Lucius Tarquinius Superbus was overthrown in 509 B.C. by a group of noblemen led by Lucius Junius Brutus. Tarquin is said to have made a number of attempts to retake the throne, including the Tarquinian conspiracy, the war with Veii and Tarquinii and finally the war between Rome and Clusium, all of which failed to achieve Tarquin's objectives.

The historical monarchy, as the legends suggest, was probably overthrown quickly, but the constitutional changes which occurred immediately after the revolution were probably not as extensive as the legends suggest. The most important constitutional change probably concerned the chief executive. Before the revolution, a king would be elected by the senators for a life term. Now, two consuls were elected by the citizens for an annual term. Each consul would check his colleague, and their limited term in office would open them up to prosecution if they abused the powers of their office.

Consular political powers, when exercised conjointly with a consular colleague, were no different from those of the old king. In the immediate aftermath of the revolution, the Senate and the assemblies were as powerless as they had been under the monarchy.

In 494 B.C., the city was at war with two neighboring tribes. The plebeian soldiers refused to march against the enemy, and instead seceded to the Aventine Hill. The plebeians demanded the right to elect their own officials. The patricians agreed, and the plebeians returned to the battlefield.

The plebeians called these new officials "plebeian tribunes". The tribunes would have two assistants, called "plebeian aediles". From 375 B.C. to 371 B.C., the republic experienced a constitutional crisis during which the Tribunes of the People used their vetoes to prevent the election of senior magistrates. In 367 B.C. a law was passed, which required the election of at least one plebeian aedile each year. In 443 B.C., the censorship was created, and in 366 B.C., the praetorship was created. Also in 366 B.C., the curule aedileship was created. Shortly after the founding of the Republic, the Comitia Centuriata ("Assembly of the Centuries") became the principal legislative assembly.

In this assembly, magistrates were elected, and laws were passed.

During the 4th century B.C., a series of reforms were passed. The result of these reforms was that any law passed by the Plebeian Council would have the full force of law. This gave the tribunes (who presided over the Plebeian Council) a positive character for the first time. Before these laws were passed, the only power that the tribunes held was that of the veto.

Conflict of the Orders (367-287 B.C.)

After the plebeian aedileship had been created, the patricians created the curule aedileship.

After the consulship had been opened to the plebeians, the plebeians were able to hold both the dictatorship and the censorship. Plebiscites of 342 B.C. placed limits on political offices; an individual could hold only one office at a time, and ten years must elapse between the end of his official term and his re-election. Further laws attempted to relieve the burden of debt from plebeians by banning interest on loans. In 337 B.C., the first plebeian praetor was elected. During these years, the tribunes and the senators grew increasingly close. The Senate realized the need to use plebeian officials to accomplish desired goals. To win over the tribunes, the senators gave the tribunes a great deal of power and the tribunes began to feel obligated to the Senate. As the tribunes and the senators grew closer, plebeian senators were able to secure the tribunate for members of their own families.

In time, the tribunate became a stepping stone to higher office.

Around the middle of the 4th century B.C., the Concilium Plebis enacted the "Ovinian Law".

During the early republic, only consuls could appoint new senators. The Ovinian Law, however, gave this power to the censors. It also required the censor to appoint any newly elected magistrate to the Senate. By this point, plebeians were already holding a significant number of magisterial offices.

Thus, the number of plebeian senators probably increased quickly.

However, it remained difficult for a plebeian to enter the Senate if he was not from a well-known political family, as a new patrician-like plebeian aristocracy emerged. The old nobility existed through the force of law, because only patricians were allowed to stand for high office.

The new nobility existed due to the organization of society. As such, only a revolution could overthrow this new structure. By 287 B.C., the economic condition of the average plebeian had become poor. The problem appears to have centered around widespread indebtedness.

The plebeians demanded relief, but the senators refused to address their situation. The result was the final plebeian secession. The plebeians seceded to the Janiculum hill. To end the secession, a dictator was appointed. The dictator passed a law (the "Hortensian Law"), which ended the requirement that the patrician senators must agree before any bill could be considered by the Plebeian Council.

This was not the first law to require that an act of the Plebeian Council have the full force of law. The Plebeian Council acquired this power during a modification to the original Valerian Law in 449 B.C. The significance of this law was in the fact that it robbed the patricians of their final weapon over the plebeians. The result was that control over the state fell, not onto the shoulders of voters, but to the new plebeian nobility. The plebeians had finally achieved political equality with the patricians.

However, the plight of the average plebeian had not changed. A small number of plebeian families achieved the same standing that the old aristocratic patrician families had always had, but the new plebeian aristocrats became as uninterested in the plight of the average plebeian as the old patrician aristocrats had always been.

Supremacy of the New Nobility (287-133 B.C.)

The great accomplishment of the Hortensian Law was in that it deprived the patricians of their last weapon over the plebeians. Thus, the last great political question of the earlier era had been resolved. As such, no important political changes would occur between 287 B.C. and 133 B.C.

The critical laws of this era were still enacted by the Senate. In effect, the plebeians were satisfied with the possession of power, but did not care to use it. The Senate was supreme during that era because the era was dominated by questions of foreign and military policy. This was the most militarily active era of the Roman Republic. The final decades of this era saw a worsening economic situation for many plebeians. The long military campaigns had forced citizens to leave their farms to fight, only to return to farms that had fallen into disrepair. The landed aristocracy began buying bankrupted farms at discounted prices. As commodity prices fell, many farmers could no longer operate their farms at a profit. The result was the ultimate bankruptcy of countless farmers. Masses of unemployed plebeians soon began to flood into Rome, and thus into the ranks of the legislative assemblies. Their economic state usually led them to vote for the candidate who offered the most for them. A new culture of dependency was emerging, which would look to any populist leader for relief.

From the Gracchi to Caesar (133-49 B.C.)

The prior era saw great military successes, and great economic failures. The patriotism of the plebeians had kept them from seeking any new reforms. Now, the military situation had stabilized, and fewer soldiers were needed. This, in conjunction with the new slaves that were being imported from abroad, inflamed the unemployment situation further. The flood of unemployed citizens to Rome had made the assemblies quite populist. The Crisis of the Roman Republic refers to an extended period of political instability and social unrest that culminated in the demise of the Roman Republic and the advent of the Roman Empire, from about 134 B.C. to 44 B.C.

ROMAN REPUBLIC

KING

DESCENDANTS OF WEALTHY LANDOWNERS

PATRICIANS

MERCHANTS FARMERS CRAFTWORKERS SOLDIERS

PLEBEIANS

1. MADE LAWS
2. ELECTED REPRESENTATIVES

ASSEMBLY

REPRESENTED PEBEIANS ON THE SENATE

TRIBUNE

TO BLOCK A LAW

VETO

SENATE

ADVISED CONSULS

CONSULS

ACTED AS:
1. JUDGES
2. GENERALS

DRAG THE NAMES OF THE PARTS OF THE ROMAN REPUBLIC TO THEIR DEFINITIONS TO COMPLETE THE TREE DIAGRAM. MAY CAESAR GUIDE YOU!

The exact dates of the Crisis are unclear because, "Rome teetered between normalcy and crisis" for many decades. Likewise, the causes and attributes of the crises changed throughout the decades, including the forms of slavery, brigandage, wars internal and external, land reform, the invention of literally excruciating new punishments, the expansion of Roman citizenship, and even the changing composition of the Roman army. Modern scholars also disagree about the nature of the crisis. Traditionally, the expansion of citizenship (with its all rights, privileges, and duties) was looked upon negatively by Sallust, Gibbon, and others of their schools, because it caused internal dissension, disputes with Rome's Italian allies, slave revolts, and riots.

However, today's scholars point out that the whole purpose of the Republic was to be res publica – the essential thing of the people – and thus poor people can not be blamed for trying to redress their legitimate and legal grievances. The censor was an officer in ancient Rome who was responsible for maintaining the census, supervising public morality, and overseeing certain aspects of the government's finances. The censors' regulation of public morality is the origin of the modern meaning of the words "censor" and "censorship".

Tiberius Gracchi

By the middle of the 2nd century B.C., the economic situation for the average plebeian had declined significantly. In 133 B.C., Tiberius Gracchus was elected Plebeian Tribune, and attempted to enact a law to distribute land to Rome's landless citizens. Tiberius's law was vetoed by an aristocrat named Marcus Octavius. The aristocrats, who stood to lose an enormous amount of money, were bitterly opposed to this proposal. Tiberius submitted this law to the Plebeian Council, but the law was vetoed by a tribune named Marcus Octavius.

Tiberius then used the Plebeian Council to impeach Octavius. The theory, that a representative of the people ceases to be one when he acts against the wishes of the people, was counter to Roman constitutional theory. If carried to its logical end, this theory would remove all constitutional restraints on the popular will, and put the state under the absolute control of a temporary popular majority. His law was enacted, but Tiberius was murdered when he stood for reelection to the tribunate.

Tiberius' brother Gaius was elected tribune in 123 B.C. Gaius Gracchus' ultimate goal was to weaken the Senate and to strengthen the democratic forces. In the past, for example, the Senate would eliminate political rivals either by establishing special judicial commissions or by passing a senatus consultum ultimum ("ultimate decree of the Senate"). Both devices would allow the Senate to bypass the ordinary due process rights that all citizens had.

Gaius outlawed the judicial commissions, and declared the senatus consultum ultimum to be unconstitutional. Gaius then proposed a law which would grant citizenship rights to Rome's Italian allies. By this point, however, a part of Rome deserted him. He stood for election to a third term in 121 B.C., but was defeated and then murdered. The Senate was weakened significantly.

In 88 B.C., an aristocratic senator named Lucius Cornelius Sulla was elected consul, and soon left for glory in the east. When a tribune revoked Sulla's command of the war, Sulla brought his army back to Italy, marched on Rome, secured the city, and left for the east again.

In 83 B.C. he returned to Rome, and captured the city a second time. In 82 B.C., he made himself dictator, and then used his status as dictator to pass a series of constitutional reforms that were intended to strengthen the Senate.

In 80 B.C. he resigned his dictatorship, and by 78 B.C. he was dead. While he thought that he had firmly established aristocratic rule, his own career had illustrated the fatal weakness in the constitution: that it was the army, and not the Senate, which dictated the fortunes of the state.

In 70 B.C., the generals Pompey Magnus and Marcus Licinius Crassus were both elected consul, and quickly dismantled Sulla's constitution.

In 62 B.C. Pompey returned to Rome from battle in the east, but found the Senate refusing to ratify the arrangements that he had made.

Thus, when Julius Caesar returned from his governorship in Spain in 61 B.C., he found it easy to make an arrangement with Pompey. Caesar and Pompey, along with Crassus, established a private agreement, known as the First Triumvirate.

Under the agreement, Pompey's arrangements were to be ratified, Crassus was to be promised a future Consulship, and Caesar was to be promised the Consulship in 59 B.C. and then the governorship of Gaul (modern France) immediately afterwards. Caesar became consul in 59 B.C., and, when his term as consul ended, he took command of four provinces.

Eventually, the triumvirate was renewed, and Caesar's term as governor was extended for five years. In 54 B.C., violence began sweeping the city. The triumvirate ended in 53 B.C. when Crassus was killed in battle. In 50 B.C., near the end of his term as governor, Caesar demanded the right to stand for election to the Consulship *in absentia.* Without the protection afforded to him by the Consulship or his army, he could be prosecuted for crimes he had committed.

The Senate refused Caesar's demand, and in January 49 B.C., the Senate passed a resolution which declared that if Caesar did not lay down his arms by July of that year, he would be considered an enemy of the republic. In response, Caesar quickly crossed the Rubicon with his veteran army, and marched towards Rome. Caesar's rapid advance forced Pompey, the Consuls and the Senate to abandon Rome for Greece, and allowed Caesar to enter the city unopposed.

Populares & Optimates

In 118 B.C., King Micipsa of Numidia (current-day Algeria and Tunisia) died. He was survived by two legitimate sons, Adherbal and Hiempsal, and an illegitimate son, Jugurtha. Micipsa divided his kingdom between these three sons.

Jugurtha, however, turned on his brothers, killing Hiempsal and driving Adherbal out of Numidia. Adherbal fled to Rome for assistance, and initially Rome mediated a division of the country between the two brothers. Eventually, Jugurtha renewed his offensive, leading to a long and inconclusive war with Rome. He also bribed several Roman commanders, and at least two tribunes, before and during the war. His nemesis, Gaius Marius, a legate from a virtually unknown provincial family, returned from the war in Numidia and was elected consul in 107 B.C. over the objections of the aristocratic senators.

Marius invaded Numidia and brought the war to a quick end, capturing Jugurtha in the process.

The apparent incompetence of the Senate, and the brilliance of Marius, had been put on full display. The populares party took full advantage of this opportunity by allying itself with Marius.

Several years later, in 88 B.C., a Roman army was sent to put down an emerging Asian power, king Mithridates of Pontus. The army, however, was defeated. One of Marius' old quaestors, Lucius Cornelius Sulla, had been elected consul for the year, and was ordered by the Senate to assume command of the war against Mithridates. Marius, a member of the "populares" party, had a tribune revoke Sulla's command of the war against Mithridates.

Sulla, a member of the aristocratic ("optimates") party, brought his army back to Italy and marched on Rome. Sulla was so angry at Marius' tribune that he passed a law intended to permanently weaken the tribunate. He then returned to his war against Mithridates. With Sulla gone, the populares under Marius and Lucius Cornelius Cinna soon took control of the city.

During the period in which the populares party controlled the city, they flouted convention by re-electing Marius consul several times without observing the customary ten year interval between offices. They transgressed the established oligarchy by advancing unelected individuals to magisterial office, and by substituting magisterial edicts for popular legislation.

Sulla soon made peace with Mithridates. In 83 B.C., he returned to Rome, overcame all resistance, and recaptured the city. Sulla and his supporters then slaughtered most of Marius' supporters.

Sulla, having observed the violent results of radical popular reforms, was naturally conservative. As such, he sought to strengthen the aristocracy, and by extension the Senate. Sulla made himself dictator, passed a series of constitutional reforms, resigned the dictatorship, and served one last term as consul.

He died in 78 B.C. In 77 B.C., the Senate sent one of Sulla's former lieutenants, Gnaeus Pompeius Magnus ("Pompey the Great"), to put down an uprising in Spain.

By 71 B.C., Pompey returned to Rome after having completed his mission. Around the same time, another of Sulla's former lieutenants, Marcus Licinius Crassus, had just put down the Spartacus led gladiator/slave revolt in Italy. Upon their return, Pompey and Crassus found the populares party fiercely attacking Sulla's constitution. They attempted to forge an agreement with the populares party.

If both Pompey and Crassus were elected consul in 70 B.C., they would dismantle the more obnoxious components of Sulla's constitution. The two were soon elected, and quickly dismantled most of Sulla's constitution. Around 66 B.C., a movement to use constitutional, or at least peaceful, means to address the plight of various classes began. After several failures, the movement's leaders decided to use any means that were necessary to accomplish their goals. The movement coalesced under an aristocrat named Lucius Sergius Catilina. The movement was based in the town of Faesulae, which was a natural hotbed of agrarian agitation.

The rural malcontents were to advance on Rome, and be aided by an uprising within the city.

After assassinating the consuls and most of the senators, Catiline would be free to enact his reforms. The conspiracy was set in motion in 63 B.C. The consul for the year, Marcus Tullius Cicero, intercepted messages that Catiline had sent in an attempt to recruit more members.

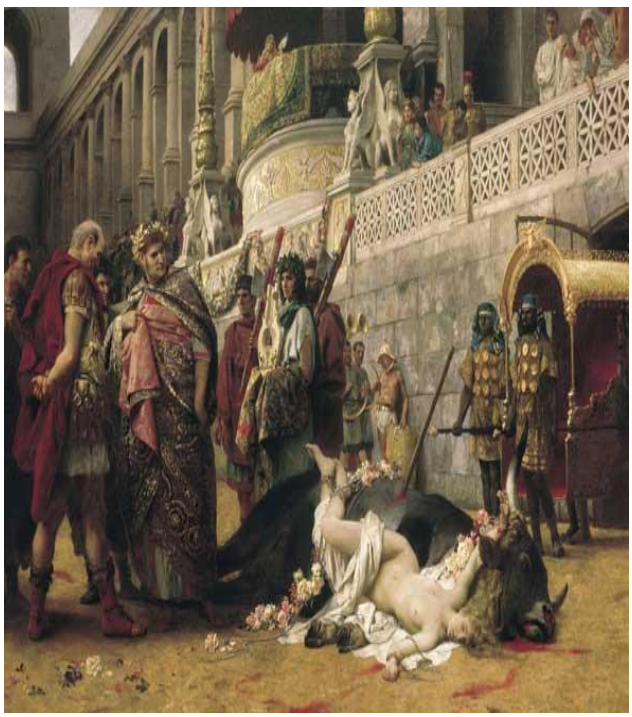
As a result, the top conspirators in Rome (including at least one former consul) were executed by authorisation (of dubious constitutionality) of the Senate, and the planned uprising was disrupted.

Cicero then sent an army, which cut Catiline's forces to pieces. The most important result of the Catilinarian conspiracy was that the populares party became discredited. The prior 70 years had witnessed a gradual erosion in senatorial powers. The violent nature of the conspiracy, in conjunction with the Senate's skill in disrupting it, did a great deal to repair the Senate's image.

Active vocabulary

Consuls, senators, conspirators, to witness, conspiracy, to execute, senatorial powers, the movement's leaders, to decide, constitutional, to address the plight of various classes, to dismantl, malcontents, to re-elect, to return, to use, means.

Task 1. Explain the score of some notions in English.



SOME LAW DEFINITIONS

The *Plebiscitum Ovinium* was an initiative by the Plebeian Council that transferred the power to revise the list of members of the Roman Senate from consuls to censors. Since Appius Claudius Caecus is said to have changed the membership of the senate during his censorship in 312 B.C., the law must have been passed by then, but not much earlier because the censors of 319 removed a man from his tribe, but not from the senate.

The patricians did not recognize the validity of the *Plebiscitum Ovinium*, but nevertheless did not attempt to prevent the *lectio senatus* being carried out by the censors rather than the consuls.

The *Hortensian Law* was a law passed in Ancient Rome in 287 B.C. which made all resolutions passed by the Plebeian Council, known as *plebiscita*, binding on all citizens. It was passed by the dictator Quintus Hortensius in a compromise to bring the plebeians back from their secession to the Janiculum hill. It was the final result of the long struggle between patricians and plebeians, where the plebeians would periodically secede from the city in protest (*secessio plebis*) when they felt they were deprived of their rights. The law contained similar stipulations of the two earlier laws, the *lex Valeria-Horatia* of 449 B.C. and *lex Publilia* of 339 B.C.

Unlike the prior two laws, however, *lex Hortensia* eliminated the requirement that the Senate ratify, in the case of the *lex Valeria-Horatia*, or give its prior approval to, in the case of the *lex Publilia*, plebiscites before becoming binding on all citizens. Its passage secured the end of the Conflict of the Orders, and secured theoretically equal political rights between patricians and plebeians.

The passage of the Hortensian law ended a significant chapter in the Conflict of the Orders, centuries long political conflict between the plebs and the patricians. It also cemented the pre-eminence of the Tribal Assembly and the Plebeian Council in legislation, with primarily minor and procedural laws passed in the late Republic. The law cemented the authority of the Roman people, making plebeians and their tribunes, important political players, which previous laws had failed to do.

The *Valerian* and *Porcian laws* were Roman laws passed between 509 B.C. and 184 B.C.

They exempted Roman citizens from degrading and shameful forms of punishment, such as whipping, scourging, or crucifixion. They also established certain rights for Roman citizens, including Provocatio, the right to appeal to the tribunes of the plebs. The Valerian law also made it legal to kill any citizen who was plotting to establish a tyranny. This clause was used several times, the most important of which was its usage by Julius Caesar's assassins.

The first Valerian Law was enacted by Publius Valerius Publicola in 509 B.C., a few years after the founding of republican Rome. It allowed a Roman citizen, condemned by a magistrate to death or scourging, the right of appeal to the people, that is, to the people composed of senators, patricians, and plebeians. Thus the consuls had no longer the power of pronouncing sentence in capital cases against Roman citizens, without the consent of the people. The Valerian Law consequently divested the consuls of the power to punish crimes, thereby abolishing the vestiges within the Roman government of that unmitigated power that was the prerogative of the Tarquin kings.

Nonetheless, the Valerian law was not kept on the books throughout the five hundred years of the Roman republic. Indeed, Titus Livius (Livy) states that the Valerian law was enacted again, for the third time, in 299 B.C. Andrew Lintott surmises that the effect of this third Valerian Law was to regularize the *provocatio*: appeals to the people had been a fact of life with which magistrates had to deal prior to the law, but now magistrates were ordered to yield to the decisions of the people in capital cases. Livy notes that in all three cases the law was enacted by the Valerius family.

Furthermore, Livy notes that, should a magistrate disregard the Valerian Law, his only reproof was that his act be deemed unlawful and wicked. This implies that the Valerian Law was not so very effective in defending the plebs.

Task 1. Digest the information briefly in English.

CODE OF JUSTINIAN

By the 1100's, the Justinian Code had reached western Europe, where it became the basis of law for both the Roman Catholic Church and medieval rulers.

Even today, international law is influenced by Justinian's Code. The policies and reforms of Emperor Justinian and Empress Theodora helped make the Byzantine Empire STRONG!

The Byzantine Empire reached its peak under the Emperor Justinian, who reigned from 527 to 565 C.E. Justinian was an autocrat, a single ruler with complete authority.

Emperor Justinian is best known for his code of law. Justinian was a strong leader who controlled the military, made laws and was supreme judge. Justinian's order and rules were never questioned! He was Judge, Jury and Executioner; all in one…He was the law!

Justinian's wife, the Empress Theodora, helped him run his empire. Theodora, a former actress, was intelligent, strong willed and she was a great judge of character, constantly helping Justinian choose government officials. Theodora also convinced him to give women more rights…for the first time; a Byzantine wife could own land! If she became a widow, she now had the income to take care of her children.

Theodora, a former actress, was intelligent, strong willed and she was a great judge of character, constantly helping Justinian choose government officials.

In 532 Theodora helped save her husbands throne…angry tax payers threatened to overthrow Justinian and actually stormed his palace. Justinian's advisers urged him to leave Constantinople…

Theodora however, told him to stay and fight. Justinian took his wife's advice, stayed in the city and crushed the uprising. By doing this, Justinian not only restored order to his city, it also strengthened his power to rule. Justinian wanted to reunite the Roman Empire and bring back Rome's former glory! To do this, he had to conquer Western Europe and Northern Africa…He ordered a General named Belisarius to strengthen and lead the Byzantine army.

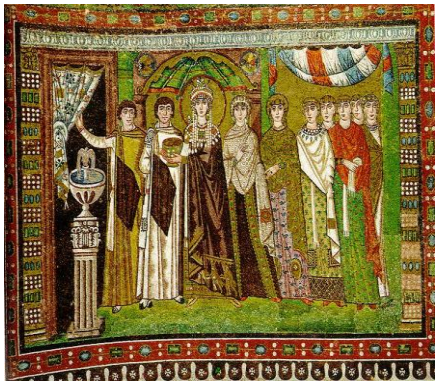
When Belisarius took command, he reorganized the Byzantine Army. Instead of foot soldiers, the Byzantine army came to rely on a Calvary, soldiers mounted on horse back.

Under Belisarius, the Byzantine military conquered most of Italy, Northern Africa and Persia in the east. However, Justinian conquered too much land, too quickly and they were just unable to control all of the new territory. On November 14, 565 C.E. Justinian died of natural cause.

After he died, the Empire did not have enough money to maintain an army large enough to hold the territory in the west… so it eventually folded. Justinian decided that the empire's laws were disorganized and too difficult to understand. He ordered a group of legal scholars headed by Tribonian to reform the laws of the Byzantine Empire into a more Roman code.

Emperor Justinian set up a team of scholars to gather and organize the ancient laws of Rome.

His collection became the "body of civil law" known today as Justinian's Code. His code included Roman laws, legal writings and even a student handbook. Later emperors continued to update the code. The group's new simplified code became known as the Justinian Code. Officials, business people and citizens could now understand the empire's laws with great ease. These laws had been published in the Corpus Juris Civilis (Book). The document consists of four parts: the Codex, a collection of laws.



Code of Justinian**,** Latin Codex Justinianus, formally Corpus Juris Civilis ("Body of Civil Law"), the collections of laws and legal interpretations developed under the sponsorship of the Byzantine Emperor Justinian I from A.D. 529 to 565. The work as planned had three parts: the *Code* (*Codex*) is a compilation, by selection and extraction, of imperial enactments to date; the *Digest* or *Pandects* (the Latin title contains both *Digesta* and *Pandectae*) is an encyclopedia composed of mostly brief extracts from the writings of Roman jurists; and the *Institutes* is a student textbook, mainly introducing the *Code*, although it has important conceptual elements that are less developed in the *Code* or the *Digest*.

All three parts, even the textbook, were given force of law.

They were intended to be, together, the sole source of law; reference to any other source, including the original texts from which the *Code* and the *Digest* had been taken, was forbidden.

Nonetheless, Justinian found himself having to enact further laws and today these are counted as a fourth part of the Corpus, the *Novellae Constitutiones* (*Novels*, literally *New Laws*).

The work was directed by Tribonian, an official in Justinian's court. His team was authorized to edit what they included. How far they made amendments is not recorded and, in the main, cannot be known because most of the originals have not survived.

The text was composed and distributed almost entirely in Latin, which was still the official language of the government of the Byzantine Empire in 529-534, whereas the prevalent language of merchants, farmers, seamen, and other citizens was Greek. By the early 7th century, the official government language had become Greek during the lengthy reign of Heraclius (610-641).

How far the *Corpus Juris Civilis* or any of its parts was effective, whether in the east or (with reconquest) in the west, is unknown. However, it was not in general use during the Early Middle Ages.

After the Early Middle Ages, interest in it revived. It was "received" or imitated as private law and its public law content was quarried for arguments by both secular and ecclesiastical authorities. This revived Roman law, in turn, became the foundation of law in all civil law jurisdictions.

The provisions of the *Corpus Juris Civilis* also influenced the canon law of the Roman Catholic Church: it was said that *ecclesia vivit lege romana* – the church lives by Roman law. Its influence on common law legal systems has been much smaller, although some basic concepts from the Corpus have survived through Norman law – such as the contrast, especially in the *Institutes*, between "law" (statute) and custom. The Corpus continues to have a major influence on public international law.

Its four parts thus constitute the foundation documents of the Western legal tradition.

Strictly speaking, the works did not constitute a new legal code. Rather, Justinian's committees of jurists provided basically two reference works containing collections of past laws and extracts of the opinions of the great Roman jurists. Also included were an elementary outline of the law and a collection of Justinian's own new laws. The Justinian code consists of four books: (1) Codex Constitutionum, (2) Digesta, or Pandectae, (3) Institutiones, and (4) Novellae Constitutiones Post Codicem.

Work on the Codex Constitutionum began soon after Justinian's accession in 527, when he appointed a 10-man commission to go through all the known ordinances, or "constitutions", issued by the emperors, weed out the contradictory and obsolescent material, and adapt all provisions to the circumstances of that time. The resultant 10-book Codex Constitutionum was promulgated in 529, all imperial ordinances not included in it being repealed. In 534 a new commission issued a revised Codex (containing 12 books; the revisions were based partly on Justinian's own new legislation.

The Digesta was drawn up between 530 and 533 by a commission of 16 lawyers, under the presidency of the jurist Tribonian. They collected and examined all the known writings of all the authorized jurists; extracted from them whatever was deemed valuable, generally selecting only one extract on any given legal point; and rephrased the originals whenever necessary for clarity and conciseness.

The results were published in 50 books, each book subdivided into titles. All juridical statements not selected for the Digesta were declared invalid and were thenceforth never to be cited at law.

The Institutiones, compiled and published in 533 under Tribonian's supervision.

They were relying on such earlier texts as those of Gaius, was an elementary textbook, or outline, of legal institutions for the use of first-year law students. The Novellae Constitutiones Post Codicem (Novels) comprised several collections of new ordinances issued by Justinian himself between 534 and 565, after publication of the revised Codex. Latin was the language of all the works except the Novels, which were almost all published in Greek, though official Latin translations existed for the western Roman provinces.

The "Codex" was the first part to be finished, on 7 April 529. It contained in Latin most of the existing imperial *constitutiones* (imperial pronouncements having force of law), back to the time of Hadrian.

It used both the *Codex Theodosianus* and the fourth-century collections embodied in the *Codex Gregorianus* and *Codex Hermogenianus*, which provided the model for division into books that were themselves divided into titles. These works had developed authoritative standing.

This first edition is now lost; a second edition was issued in 534 and is the text that has survived. At least the second edition contained some of Justinian's own legislation, including some legislation in Greek. It is not known whether he intended there to be further editions, although he did envisage translation of Latin enactments into Greek.

Numerous provisions served to secure the status of Christianity as the state religion of the Empire, uniting Church and state, and making anyone who was not connected to the Christian church a non-citizen. The very first law in the Codex requires all persons under the jurisdiction of the Empire to hold the Christian faith. This was primarily aimed against heresies such as Nestorianism. This text later became the springboard for discussions of international law, especially the question of just what persons are under the jurisdiction of a given state or legal system.

Other laws, while not aimed at pagan belief as such, forbid particular pagan practices. For example, it is provided that all persons present at a pagan sacrifice may be indicted as if for murder.

The *Digesta* or *Pandectae*, completed in 533, is a collection of juristic writings, mostly dating back to the second and third centuries. Fragments were taken out of various legal treatises and opinions and inserted in the Digest. In their original context, the statements of the law contained in these fragments were just private opinions of legal scholars – although some juristic writings had been privileged by Theodosius II's Law of Citationsin 426. The Digest, however, was given complete force of law. As the *Digest* neared completion, Tribonian and two professors, Theophilus and Dorotheus, made a student textbook, called the *Institutions* or *Elements*. As there were four elements, the manual consists of four books. The *Institutiones* are largely based on the *Institutiones* of Gaius.

Two thirds of the *Institutiones* of Justinian consists of literal quotes from Gaius.

The new *Institutiones* were used as a manual for jurists in training from 21 November 533 and were given the authority of law on 30 December 533 along with the *Digest*.

The Novellae consisted of new laws that were passed after 534. They were later re-worked into the *Syntagma*, a practical lawyer's edition, by Athanasios of Emesa during the years 572–77.

The term *Byzantine Empire* is used today to refer to what remained of the Roman Empire in the Eastern Mediterranean following the collapse of the Empire in the West. This Eastern Empire continued to practice Roman Law and formalized it via the Corpus Juris Civilis. The law was modified to be adequate for the new social relationships in the Middle Ages, and to account for the language shift of the empire's administration from Latin to Greek. Thus the tradition of Byzantine law was created.

New Greek legal codes, based on Corpus Juris Civilis, were enacted. The most known are: Ecloga (740) – enacted by emperor Leo the Isaurian, Proheiron (c. 879) – enacted by emperor Basil the Macedonian and Basilika (late 9th century) – started by Basil the Macedonian and finished by his son emperor Leo the Wise. The Basilika was a complete adaptation of Justinian's codification.

At 60 volumes it proved to be difficult for judges and lawyers to use. There was need for a short and handy version. This was finally made by Constantine Harmenopoulos, a Byzantine judge from Thesaloniki, in 1345. He made a short version of Basilika in six books, called *Hexabiblos*.

This was widely used throughout the Balkans during the following Ottoman period, and along with the Basilika was used as the first legal code for the newly independent Greek state in the 1820s.

Serbian state, law and culture were built on the foundations of Rome and Byzantium.

Therefore, the most important Serbian legal codes: Zakonopravilo (1219) and Dušan's Code (1349 and 1354), transplanted Roman-Byzantine Law included in Corpus Juris Civilis, Prohiron and Basilika. These Serbian codes were practised until the Serbian Despotate fell to the Turkish Ottoman Empire in 1459. After the liberation from the Turks in the Serbian Revolution, Serbs continued to practise Roman Law by enacting Serbian civil code in 1844. It was a short version of Austrian civil code (*Allgemeines bürgerliches Gesetzbuch*), which was made on the basis of Corpus Juris Civilis.

Justinian's *Corpus Juris Civilis* was distributed in the West but was lost sight of; it was scarcely needed in the comparatively primitive conditions that followed the loss of the Exarchate of Ravenna by the Byzantine Empire in the 8th century.

A two-volume edition of the Digest was published in Paris in 1549 and 1550, translated by Antonio Augustini, Bishop of Tarragona, who was well known for other legal works.

The only western province where the Justinianic code was effectively introduced was Italy, following its recovery by Byzantine. But a continuous tradition of Roman law in medieval Italy has not been proven. Historians disagree on the precise way it was recovered in Northern Italy about 1070: legal studies were undertaken on behalf of papal authority central to the Gregorian Reform of Pope Gregory VII, which may have led to its accidental rediscovery. Aside from the Littera Florentina (a 6th-century codex of the Pandectsthat was preserved at Pisa) there may have been other manuscript sources for the text that began to be taught at Bologna, by Pepo and then by Irnerius.

Irnerius' technique was to read a passage aloud, which permitted his students to copy it, then to deliver an excursus explaining and illuminating Justinian's text, in the form of glosses.

Irnerius' pupils, the so-called Four Doctors of Bologna, were among the first of the "glossators" who established the curriculum of medieval Roman law. The tradition was carried on by French lawyers, known as the Ultramontani, in the 13th century. The merchant classes of Italian communes required law with a concept of equity, and law that covered situations inherent in urban life better than the primitive Germanic oral traditions. The provenance of the Code appealed to scholars who saw in the Holy Roman Empire a revival of venerable precedents from the classical heritage.

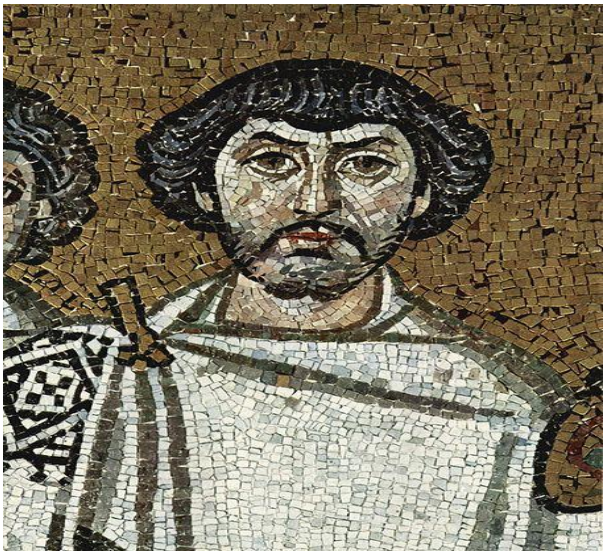
The new class of lawyers staffed the bureaucracies that were beginning to be required by the princes of Europe. The University of Bologna, where Justinian's Code was first taught, remained the dominant centre for the study of law through the High Middle Ages.

Referring to Justinian's Code as *Corpus Juris Civilis* was only adopted in the 16th century, when it was printed in 1583 by Dionysius Gothofredusunder this title.

The legal thinking behind the *Corpus Juris Civilis* served as the backbone of the single largest legal reform of the modern age, the Napoleonic Code, which marked the abolition of feudalism. The *Corpus Juris Civilis* was translated into French, German, Italian, and Spanish in the 19th century.

However, no English translation of the entire *Corpus Juris Civilis* existed until 1932 when Samuel Parsons Scott published his version *The Civil Law*. Unfortunately, Scott did not base his translation on the best available Latin versions, and his work was severely criticized. Fortunately Fred. H. Blume did use the best-regarded Latin editions for his translations of the Code and of the Novels. A new English translation of the Code, based on Blume's, was published in October 2016.

During the Middle Ages the Justinian Code was used only by the Catholic Church, which made it part of church laws and handed it down through the centuries. Though the Roman Empire ceased to exist, the Justinian Code continues to influence laws in most European countries… it also is the basis of state law in Louisiana in the United States. Though the Roman Empire ceased to exist, the Justinian Code continues to influence laws in most European countries… it also is the basis of state law in Louisiana in the United States. The Justinian Code continues to influence laws in most European countries.




MAXIMIANVS

FIRST TRIUMVIRATE

In 62 B.C., Pompey returned victorious from Asia. The Senate, elated by its successes against Catiline, refused to ratify the arrangements that Pompey had made. Pompey, in effect, became powerless.

Thus, when Julius Caesar returned from a governorship in Spain in 61 B.C., he found it easy to make an arrangement with Pompey. Caesar and Pompey, along with Crassus, established a private agreement, now known as the First Triumvirate. Under the agreement, Pompey's arrangements would be ratified. Caesar would be elected consul in 59 B.C., and would then serve as governor of Gaul for five years. Crassus was promised a future consulship.

Caesar became consul in 59 B.C. His colleague, Marcus Calpurnius Bibulus, was an extreme aristocrat. Caesar submitted the laws that he had promised Pompey to the assemblies.

Bibulus attempted to obstruct the enactment of these laws, and so Caesar used violent means to ensure their passage. Caesar was then made governor of three provinces. He facilitated the election of the former patrician Publius Clodius Pulcher to the tribunate for 58 B.C. Clodius set about depriving Caesar's senatorial enemies of two of their more obstinate leaders in Cato and Cicero.

Clodius was a bitter opponent of Cicero because Cicero had testified against him in a sacrilege case. Clodius attempted to try Cicero for executing citizens without a trial during the Catiline conspiracy, resulting in Cicero going into self-imposed exile and his house in Rome being burnt down.

Clodius also passed a bill that forced Cato to lead the invasion of Cyprus which would keep him away from Rome for some years. Clodius also passed a bill that gave the populace a free grain dole, which had previously just been subsidized. Clodius formed armed gangs that terrorized the city and eventually began to attack Pompey's followers, who in response funded counter-gangs formed by Titus Annius Milo. The political alliance of the triumvirate was crumbling.

Domitius Ahenobarbus ran for the consulship in 55 B.C. promising to take Caesar's command from him. Eventually, the triumvirate was renewed at Lucca. Pompey and Crassus were promised the consulship in 55 B.C., and Caesar's term as governor was extended for five years. Crassus led an ill-fated expedition with legions led by his son, Caesar's lieutenant, against the Kingdom of Parthia.

This resulted in his defeat and death at the Battle of Carrhae. Finally, Pompey's wife, Julia, who was Caesar's daughter, died in childbirth. This event severed the last remaining bond between Pompey and Caesar. Beginning in the summer of 54 B.C., a wave of political corruption and violence swept Rome. This chaos reached a climax in January of 52 B.C., when Clodius was murdered in a gang war by Milo. On 1 January of 49 B.C., an agent of Caesar presented an ultimatum to the Senate.

The ultimatum was rejected, and the Senate then passed a resolution which declared that if Caesar did not lay down his arms by July of that year, he would be considered an enemy of the Republic. On 7 January of 49 B.C., the Senate passed a senatus consultum ultimum, which vested Pompey with dictatorial powers. Pompey's army, however, was composed largely of untested conscripts.

On 10 January, Caesar crossed the Rubicon with his veteran army (in violation of Roman laws) and marched towards Rome. Caesar's rapid advance forced Pompey, the consuls and the Senate to abandon Rome for Greece. Caesar entered the city unopposed.

The Period of Transition (49-29 B.C.)

The era that began when Julius Caesar crossed the Rubicon in 49 B.C. and ended when Octavian returned to Rome after Actium in 29 B.C., saw the constitutional evolution of the prior century accelerate at a rapid pace. By 29 B.C., Rome had completed its transition from being a city-state with a network of dependencies, to being the capital of a world empire. With Pompey defeated and order restored, Caesar wanted to ensure that his control over the government was undisputed. The powers which he would give himself would ultimately be used by his imperial successors. He would assume these powers by increasing his own authority, and the authority of Rome's other political institutions.

Caesar would hold both the dictatorship and the tribunate, but alternated between the consulship and the proconsulship.

In 48 B.C., Caesar was given permanent tribunician powers. This made his person sacrosanct, gave him the power to veto the Senate, and allowed him to dominate the Plebeian Council.

In 46 B.C., Caesar was given censorial powers, which he used to fill the Senate with his own partisans. Caesar then raised the membership of the Senate to 900. This robbed the senatorial aristocracy of its prestige, and made it increasingly subservient to him. While the assemblies continued to meet, he submitted all candidates to the assemblies for election, and all bills to the assemblies for enactment. Thus, the assemblies became powerless and were unable to oppose him.

Near the end of his life, Caesar began to prepare for a war against the Parthian Empire. Since his absence from Rome would limit his ability to install his own consuls, he passed a law which allowed him to appoint all magistrates in 43 B.C., and all consuls and tribunes in 42 B.C.

This, in effect, transformed the magistrates from being representatives of the people to being representatives of the dictator. Caesar was assassinated in 44 B.C. The motives of the conspirators were both personal and political. The assassination was led by Gaius Cassius and Marcus Brutus.

Most of the conspirators were senators, many of whom were angry that Caesar had deprived the Senate of much of its power and prestige. Others believed he was a tyrant, abusing his power and clearing a path to absolute rule as a king.

The senators took it upon themselves to destroy Caesar before he made himself invulnerable, and they stabbed Caesar to death in Pompey's theater, where the Senate was meeting on 15 March (44 B.C.). The civil war that followed destroyed what was left of the Republic. After the assassination, Mark Antony formed an alliance with Caesar's adopted son and great-nephew, Gaius Octavian.

Along with Marcus Lepidus, they formed an alliance known as the Second Triumvirate.

They held powers that were nearly identical to the powers that Caesar had held under his constitution. As such, the Senate and assemblies remained powerless, even after Caesar had been assassinated. The conspirators were then defeated at the Battle of Philippi in 42 B.C.

Eventually, however, Antony and Octavian fought against each other in one last battle. Antony was defeated in the naval Battle of Actium in 31 B.C., and he committed suicide with his love, Cleopatra. In 29 B.C, Octavian returned to Rome as the unchallenged master of the Empire and later accepted the title of Augustus – "Exalted One".

Constitutional history (509-133 B.C.)

At one time, Rome had been ruled by a succession of kings. The Romans believed that this era, that of the Roman Kingdom, began in 753 B.C., and ended in 510 B.C. After the monarchy had been overthrown, and the Roman Republic had been founded, the people of Rome began electing two Roman consuls each year. In 501 B.C., the office of "Roman Dictator" was created.

In the year 494 B.C., the plebeians (commoners) seceded to the Mons Sacer, and demanded of the patricians (the aristocrats) the right to elect their own officials. The Patricians duly capitulated, and the plebeians ended their secession. The plebeians called these new officials "Plebeian Tribunes", and gave these tribunes two assistants, called "Plebeian Aediles".

In 449 B.C., the Senate promulgated the Twelve Tables as the centrepiece of the Roman Constitution. In 443 B.C., the office of "Roman Censor" was created, and in 367 B.C., plebeians were allowed to stand for the Consulship. The opening of the Consulship to the plebeian class implicitly opened both the Censorship as well as the Dictatorship to plebeians. In 366 B.C., in an effort by the patricians to reassert their influence over the magisterial offices, two new offices were created. They were at first open only to patricians, within a generation, they were open to plebeians as well.

Beginning around the year 350 B.C., the senators and the Plebeian Tribunes began to grow closer. The Senate began giving tribunes more power, and, unsurprisingly, the tribunes began to feel indebted to the Senate.

Plebeian senators began to routinely secure the office of tribune for members of their own families. Also around the year 350 B.C., the Plebeian Council (popular assembly) enacted a significant law (the Ovinian Law). This law also required the Censors to appoint any newly elected magistrate to the Senate, which probably resulted in a significant increase in the number of plebeian senators. This helped to facilitate the creation of a new plebeian aristocracy which soon merged with the old patrician aristocracy, creating a combined "patricio-plebeian" aristocracy.

The old aristocracy existed through the force of law, because only patricians had been allowed to stand for high office. Now, however, the new aristocracy existed due to the organization of society, and as such, this order could only be overthrown through a revolution.

In 287 B.C., the plebeians seceded to the Janiculum hill. To end the secession, a law (the Hortensian Law) was passed, which ended the requirement that the patrician senators consent before a bill could be brought before the Plebeian Council for a vote. This was not the first law to require that an act of the Plebeian Council have the full force of law since the Plebeian Council had acquired this power in 449 B.C. The ultimate significance of this law was in the fact that it robbed the patricians of their final weapon over the plebeians. The result was that the ultimate control over the state fell, not onto the shoulders of democracy, but onto the shoulders of the new patricio-plebeian aristocracy.

The Hortensian Law resolved the last great political question of the earlier era, and as such, no important political changes occurred over the next 150 years. The critical laws of this era were still enacted by the Senate. In effect, the democracy was satisfied with the possession of power, but did not care to actually use it.

Active vocabulary

Defeated, powers, to ensure, political institutions, Senate, consuls, to form an alliance, dictator, to assassinate, constitutional, to fight, unemployed plebeians, Senate, to consider, triumvirate, governor, constitution, to demand, election, consul, arrangement, governmental functions, aristocratic senator.

Notes on the text

Triumvirate – (in ancient Rome) a group of three men holding power, in particular (the First Triumvirate) the unofficial coalition of Julius Caesar, Pompey, and Crassus in 60 B.C. and (the Second Triumvirate) a coalition formed by Antony, Lepidus, and Octavian in 43 B.C.

Триумвират – ("правление трёх" в эпоху поздней Римской республики; первый триумвират: Цезарь, Помпей, Красс; второй триумвират: Антоний, Лепид, Октавиан).

A triumvirate is a group of three people who work together, especially when they are in charge of something. Military triumvirate – военный триумвират.

Task 1. Translate the sentences into your native language.

1. The constitution of his mind is complex. 2. Constitution is a body of fundamental principles or established precedents according to which a state or other organization is acknowledged to be governed. 3. The Constitution is the basic written set of principles and precedents of federal government in the US, which came into operation in 1789 and has since been modified by twenty-six amendments. 4. Historically constitution is a decree, ordinance, or law. 5. The constitution of a country or organization is the system of laws which formally states people's rights and duties. 6. The king was forced to adopt a new constitution which reduced his powers.

Task 2. Analyze the activity of Caesar and make up the chart about it.

№	Activity			
	Event	When	Where	Score
1.				

Task 3. Try to understand the information.

The Constitution of the Roman Republic was a set of guidelines and principles passed down mainly through precedent. The constitution was largely unwritten, uncodified, and constantly evolving. Rather than creating a government that was primarily a democracy (as ancient Athens), an aristocracy (as ancient Sparta), or a monarchy (as Rome before and, in many respects, after the Republic), the Roman constitution mixed these three elements, thus creating three separate branches of government.

The democratic element took the form of the legislative assemblies, the aristocratic element took the form of the Senate, and the monarchical element took the form of the many term-limited consuls. The ultimate source of sovereignty in this ancient republic, as in modern republics, was the demos (people). The People of Rome gathered into legislative assemblies to pass laws and to elect executive magistrates. Election to a magisterial office resulted in automatic membership in the Senate (for life, unless impeached).

The Senate managed the day-to-day affairs in Rome, while senators presided over the courts.

Executive magistrates enforced the law, and presided over the Senate and the legislative assemblies. A complex set of checks and balances developed between these three branches, so as to minimize the risk of tyranny and corruption, and to maximize the likelihood of good government.

However, the separation of powers between these three branches of government was not absolute. Also, there was the frequent usage of several constitutional devices that were out of harmony with the genius of the Roman constitution.

A constitutional crisis began in 133 B.C., as a result of the struggles between the aristocracy and the common people. This crisis ultimately led to the collapse of the Roman Republic and its eventual subversion into a much more autocratic form of government, the Roman Empire.

Task 4. Remember that.

description	describe	separation	separate
belief	believe	government	govern
life	live	corruption	corrupt
opposition	oppose	development	develop
darkness	dark	election	elect
coldness	cold	goodness	good
death	dead	enforcement	enforce
blackness	black	creation	create
brightness	bright	guidance	guide
length	long	respectability	respect

Task 5. Answer the questions.

1. When had the economic situation for the average plebeian declined significantly? 2. Who began to flood into Rome? 3. What led unemployed plebeians to vote for the candidate who offered the most for them? 4. Was a new culture of dependency emerging? 5. When was Tiberius Gracchus elected Plebeian Tribune? 6. What did he attempt to enact? 7. Who vetoed Tiberius's law? 8. When was Tiberius' brother Gaius elected Plebeian Tribune? 9. When was Lucius Cornelius Sulla elected consul? 10. Who made himself dictator? 11. What did Julius Caesar find returned from his governorship in Spain in 61 B.C.? 12. When did Caesar become consul? 13. How long was Caesar's term as governor extended? 14. What resolution did the Senate pass? 15. Caesar quickly crossed the Rubicon with his veteran army, and marched towards Rome, didn't he? 16. What did Pompey, the Consuls and the Senate do? 17. What was the Constitution of the Roman Republic like? 18. What took the form of the legislative assemblies? 19. What did the Senate manage? 20. What did executive magistrates do? 21. The separation of powers between these three branches of government was not absolute, was it?

ROMAN SOCIETY

The Roman Republic was the period of the ancient Roman civilization where the government operated as a republic. It began with the overthrow of the Roman monarchy, traditionally dated around 509 B.C., and its replacement by a government headed by two consuls, elected annually by the citizens and advised by a Senate. A complex constitution gradually developed, centred on the principles of a separation of powers and checks and balances. Except in times of dire national emergency, public offices were limited to one year, so in theory at least, no single individual could dominate his fellow citizens.

In practice, Roman society was hierarchical. The evolution of the Constitution of the Roman Republic was heavily influenced by the struggle between Rome's land-holding aristocracy (the patricians), who traced their ancestry back to the early history of the Roman kingdom, and the far more numerous citizen-commoners, the plebeians. Over time, the laws that gave Patricians exclusive rights to Rome's highest offices were repealed or weakened, and a new aristocracy emerged from among the plebeian class. The leaders of the Republic developed a strong tradition and morality requiring public service and patronage in peace and war, meaning that military and political success were inextricably linked.

During the first two centuries of its existence the Republic expanded through a combination of conquest and alliance, from central Italy to the entire Italian peninsula.

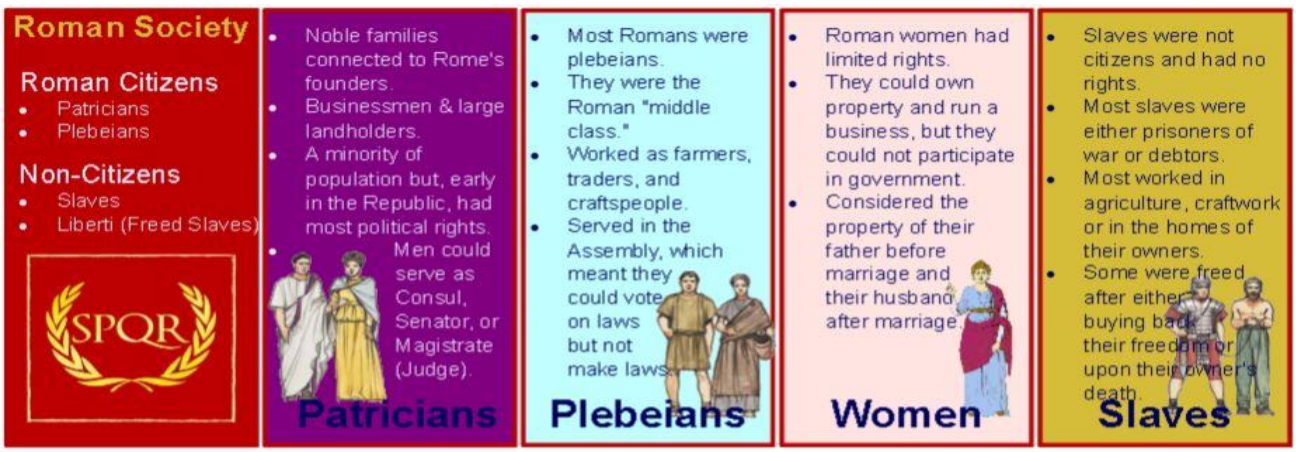
By the following century it included North Africa, the Iberian Peninsula, Greece, and what is now southern France. Two centuries after that, towards the end of the 1st century B.C., it included the rest of modern France, and much of the east.

By this time, despite the Republic's traditional and lawful constraints against any individual's acquisition of permanent political powers, Roman politics was dominated by a small number of Roman leaders, their uneasy alliances punctuated by a series of civil wars.

The final victor in these civil wars, Octavian (later Augustus), reformed the Republic as a Principate, with himself as Rome's "first citizen" (princeps). The Senate continued to sit and debate.

Annual magistrates were elected as before, but final decisions on matters of policy, warfare, diplomacy and appointments were privileged to the princeps as "first among equals" (or imperator due to the holding of imperium, from which the term emperor is derived). His powers were monarchic in all but name, and he held them for his lifetime, on behalf of the Senate and people of Rome.

The Roman Republic was never restored, but neither was it abolished, so the event that signalled its transition to Roman Empire is a matter of interpretation. Historians have variously proposed the appointment of Julius Caesar as perpetual dictator in 44 B.C., the defeat of Mark Antony at the Battle of Actium in 31 B.C., and the Roman Senate's grant of extraordinary powers to Octavian (Augustus) under the first settlement in 27 B.C., as candidates for the defining pivotal event ending the Republic. Many of Rome's legal and legislative structures can still be observed throughout Europe and the rest of the world by modern nation state and international organizations. The Romans' Latin language has influenced grammar and vocabulary across parts of Europe and the world.



TOPICAL VOCABULARY

law – право; правоведение, законоведение, законодательство; юридический; правило; принцип; юриспруденция; закономерность

administrative law – административное право
business (commercial) law – торговое право
law merchant – торговое право
canon law – каноническое, церковное право
constitutional law – конституционное (государственное) право
civil law – гражданское право
copyright law – авторское право
corporate law – законодательство о корпорациях
criminal law – уголовное право
family law – семейное право
marriage law – брачное право
international law – международное право
maritime law – морское право
labour law – трудовое законодательство
military law – кодекс военных законов
common law – общее право
fiscal law – 1) закон о налоговом обложении 2) налоговое право
revenue law – налоговое право
natural law – естественное право, закон; закон природы
substantive law – материальное право
private law – частное право
patent law – патентное право, патентный закон
law school – юридическая школа; юридический факультет
Roman law – римское право
public law – 1) публичное (общественное, государственное) право (совокупность отраслей права, нормы которых определяют организацию, функции и деятельность государства)
judge-made (case) law – прецедентное право, созданное на основе судебной практики

Task 1. Analyze the vocabulary notes and remember them.

***Task 2. Explain the law-terms and make up sentences with them*.**

According to the law; to administer (apply, enforce) a law; to annul (repeal, revoke) a law; to be at law (with somebody); to break (flout, violate) a law; to cite a law; to declare a law unconstitutional; to draft a law; to interpret a law; to obey (observe) a law; to promulgate a law; to take the law into one's own hands; fair (just) law; stringent law; unfair law; unwritten law; to adopt a law; to enact a law; to go beyond the law; to keep within the law; to lay down the law; to pass a law; higher law; shield law; public law; substantive law; Roman law; natural law; Newton's law; Mendeleyev's law.

Task 3. Form the opposites of the adjectives and adverbs by adding in-, un-, or i- :

- *distinguishable* _____
- vulnerable _____
- legitimate _____
- profitable _____
- legally _____
- willingly _____
- visible _____

THE TWELVE TABLES

(451-450 B.C.)

This is the earliest attempt by the Romans to create a CODE OF LAW; it is also the earliest (surviving) piece of literature coming from the Romans.

In the midst of a perennial struggle for legal and social protection and civil rights between the privileged class (patricians) and the common people (plebeians) a commission of ten men (Decemviri) was appointed (ca. 455 B.C.) to draw up a code of law which would be binding on both parties and which the magistrates (the 2 consuls) would have to enforce impartially.

The commission produced enough statutes (most of them were already "customary law" anyway) to fill TEN TABLETS, but this attempt seems not to have been entirely satisfactory – especially to the plebeians.

A second commission of ten was therefore appointed (450 B.C.) and two additional tablets were drawn up. The originals, said to have been inscribed on bronze, were probably destroyed when the Gauls sacked and burned Rome in the invasion of 387 B.C.

The Twelve Tables give the student of Roman culture a chance to look into the workings of a society which is still quite agrarian in outlook and operations, and in which the main bonds which hold the society together and allow it to operate are: the clan (genos, gens), patronage (patron/client), and the inherent (inherited) right of the patricians to leadership (in war, religion, law, and government).

Law of the Twelve Tables, Latin Lex XII Tabularum, the earliest written legislation of ancient Roman law, traditionally dated 451-450 B.C. The Twelve Tables allegedly were written by 10 commissioners (decemvirs) at the insistence of the plebeians, who felt their legal rights were hampered by the fact that court judgments were rendered according to unwritten custom preserved only within a small group of learned patricians. Beginning work in 451, the first set of commissioners produced 10 tables, which were later supplemented by 2 additional tables.

In 450 the code was formally posted, likely on bronze tablets, in the Roman Forum.

The written recording of the law in the Twelve Tables enabled the plebeians both to become acquainted with the law and to protect themselves against patricians' abuses of power.

The Twelve Tables were not a reform or a liberalizing of old custom. Rather, they recognized the prerogatives of the patrician class and of the patriarchal family, the validity of enslavement for unpaid debt, and the interference of religious custom in civil cases.

That they reveal remarkable liberality for their time with respect to testamentary rights and contracts is probably the result not of any innovations by the decemvirs but rather of the progress that had been made in commercial customs in Rome in an era of prosperity and vigorous trade. Because only random quotations from the Twelve Tables are extant, knowledge about their contents is largely derived from references in later juridical writings. Venerated by the Romans as a prime legal source, the Twelve Tables were superseded by later changes in Roman law but were never formally abolished.

Active vocabulary

Validity of enslavement, random quotations, remarkable liberality, testamentary rights, innovations, to enable, allegedly, learned patricians, court judgments, plebeians, to post, deceivers, the privileged class, in outlook, inherent, a code of law.

Task 1. Digest the information briefly in English.

Table I.

1. If anyone summons a man before the magistrate, he must go. If the man summoned does not go, let the one summoning him call the bystanders to witness and then take him by force.
2. If he shirks or runs away, let the summoner lay hands on him.
6-9. When the litigants settle their case by compromise, let the magistrate announce it. If they do not compromise, let them state each his own side of the case, in the comitium of the forum before noon. Afterwards let them talk it out together, while both are present. After noon, in case either party has failed to appear, let the magistrate pronounce judgment in favor of the one who is present. If both are present the trial may last until sunset but no later.

Table II.

He whose witness has failed to appear may summon him by loud calls before his house every third day.

Table III.

1. One who has confessed a debt, or against whom judgment has been pronounced, shall have thirty days to pay it in. After that forcible seizure of his person is allowed. The creditor shall bring him before the magistrate. Unless he pays the amount of the judgment or some one in the presence of the magistrate interferes in his behalf as protector the creditor so shall take him home and fasten him in stocks or fetters. He shall fasten him with not less than fifteen pounds of weight or, if he chooses, with more. If the prisoner chooses, he may furnish his own food. If he does not, the creditor must give him a pound of meal daily; if he chooses he may give him more.
3. Against a foreigner the right in property shall be valid forever.

Table IV.

1. A dreadfully deformed child shall be quickly killed.
2. If a father sells his son three times, the son shall be free from his father.
5. A child born after ten months since the father's death will not be admitted into a legal inheritance.

Table V.

1. Females should remain in guardianship even when they have attained their majority.

Table VI.

1. When one makes a bond and a conveyance of property, as he has made formal declaration so let it be binding.

Table VII.

1. Let them keep the road in order. If they have not paved it, a man may drive his team where he likes.
9. Should a tree on a neighbor's farm be bent crooked by the wind and lean over your farm, you may take legal action for removal of that tree.
10. A man might gather up fruit that was falling down onto another man's farm.

Table VIII.

2. If one has maimed a limb and does not compromise with the injured person, let there be retaliation.
If one has broken a bone of a freeman with his hand or with a cudgel, let him pay a penalty of three 100 coins. If he has broken the bone of a slave, let him have one 150 coins. If one is guilty of insult, the penalty shall be 25 coins. 3. If one is slain while committing theft by night, he is rightly slain.
4. If a patron shall have devised any deceit against his client, let him be accursed.
10. Any person who destroys by burning any building or heap of corn deposited alongside a house shall be bound, scourged, and put to death by burning at the stake provided that he has committed the said misdeed with malice aforethought. But if he shall have committed it by accident, that is, by negligence, it is ordained that he repair the damage or, if he be too poor to be competent for such punishment, he shall receive a lighter punishment.

Table IX.

4. The penalty shall be capital for a judge or arbiter legally appointed who has been found guilty of receiving a bribe for giving a decision.
5. Treason: he who shall have roused up a public enemy or handed over a citizen to a public enemy must suffer capital punishment.
6. Putting to death of any man, whosoever he might be unconvicted is forbidden.

Table X.

1. None is to bury or burn a corpse in the city.
3. The women shall not tear their faces nor wail on account of the funeral.

Table XI.

1. Marriages should not take place between plebeians and patricians.

Table XII.

5. Whatever the people had last ordained should be held as binding by law.

Task 4. Analyze the text above and make up the chart about the contents of the 12 tables.

№	Table	Score
1.		

SENATE

The Roman Senate was a political institution in the Roman Republic. The Roman Senate's authority derived from precedent, custom, and the personal moral example of the senators.

The Senate's principal role was as an advisory council to the two Roman consuls on matters of foreign and military policy, and as such, it exercised a great deal of influence over consular decision-making. The Senate also managed civil administration within the city.

For example, only the Senate could authorize the appropriation of public monies from the treasury, unless a consul demanded it. In addition, the Senate would try individuals accused of political crimes (such as treason).The Senate passed decrees, which were called singular *senatus consultum*.

While this was officially "*advice*" from the Senate to a magistrate, the *senatus consulta* were usually obeyed by the magistrates. If a *senatus consultum* conflicted with a law that was passed by a popular assembly, the law overrode the *senatus consultum*. Meetings could take place either inside or outside of the formal boundary of the city, and were usually presided over by a consul.

Meetings were suffused in religious ritual. Temples were a preferred meeting site and auspices would be taken before the meeting could commence. The presiding consul began each meeting with a speech on an issue, and then referred the issue to the senators, who discussed the matter by order of seniority. Unimportant matters could be voted on by a voice vote or by a show of hands, while important votes resulted in a physical division of the house, with senators voting by taking a place on either side of the chamber. Any vote was always between a proposal and its negative.

Since all meetings had to end by nightfall, a senator could talk a proposal to death (a filibuster) if he could keep the debate going until nightfall. Any proposed motion could be vetoed by a tribune, and if it was not vetoed, it was then turned into a final *senatus consultum*.

Each *senatus consultum* was transcribed into a document by the presiding magistrate, and then deposited into the building that housed the treasury. The Senate of the Roman Kingdom was a political institution in the ancient Roman Kingdom. The word Senate derives from the Latin word senex, which means "old man". Therefore, Senate literally means "board of old men" and translates as "Council of Elders". The prehistoric Indo-Europeans who settled Rome in the centuries before the legendary founding of Rome in 753 B.C. were structured into tribal communities.

These tribal communities often included an aristocratic board of tribal elders, who were vested with supreme authority over their tribe. The early tribes that had settled along the banks of the Tiber eventually aggregated into a loose confederation, and eventually formed an alliance for protection against invaders. The early Romans were deeply patriarchal.

The early Roman family was called a gens or "clan". Each clan was an aggregation of families under a common living male patriarch, called a pater (the Latin word for "father").

The pater was the undisputed master of his clan. He had the absolute power to resolve any disputes, and to make any decisions for the collective gens. When the early Roman gens were aggregating to form a common community, the patres from the leading clans were selected for the confederated board of elders (what would become the Roman Senate).

Legend states that the Senate grew to a membership of 300 after three blocks of 100 senators were added at fixed points in time. What likely happened, however, was a gradual aggregation of patres over time, as more clans achieved high status. The early Senate derived its ultimate sovereignty from the fact that it was composed of the patriarchal heads of the leading families. As the individual patres led their families, the board of patres led the confederation of those families.

In time, the patres came to recognize the need for a single leader. Therefore, they elected a king (rex), and vested in him their sovereign power. The king presided over the Senate, appointed individuals to the Senate (for life), and expelled individuals from the Senate. When the king died, his sovereign power naturally reverted back to the patres.

Note on the text

Senatus consultum – указ римского сената.

Active vocabulary

Precedent, custom, senators, principal role, advisory council, matters of foreign and military policy, a great deal of influence, consular decision-making, to manage, civil administration, leading families, individual patres, to compose, to recognize, to elect, to appoint, expelled individuals.

Task 1. Choose the keywords and phrases that best convey the gist of the information.

Task 2. Try to understand.

The Senate meets / is in session; to convoke the Senate; the US Senate; the Roman Senate; the senate of London University, to make a speech in the Senate; the Senate has/have voted in favour of this proposal; interference from the senate in the affairs of a department; a Senate committee; to run for Senate; full Senate; hearing Senate; impeaching (trying) Senate.

The Senate is the smaller and more important of the two parts of the parliament in some countries, for example the United States and Australia. The state council of the ancient Roman republic and empire, which shared legislative power with the popular assemblies, administration with the magistrates, and judicial power with the knights.

Task 3. Translate into English.

Римский сенат (от лат. senex – старейшина); совещательный орган, который играл важную роль в управлении, как Римской республикой, так и Римской империей; представлял рекомендации по всем важным государственным решениям; назначал послов и управляющих государственными землями).

Task 4. Translate the sentences.

1. By the time I was Vice Chancellor, Senate had become a much larger and a much more democratic body. 2. The new bill would remove student representation from the university Senate. 3. The Senate is expected to pass the bill shortly.

Task 5. Analyze the text above and make up the chart about history of senate.

№	When	What
1.		
2.		

HISTORY OF SENATE

The Senate is said to have been created by Rome's first king, Romulus, initially consisting of 100 men. The descendants of those 100 men subsequently became the patrician class.

Rome's fifth king, Lucius Tarquinius Priscus, chose a further 100 senators. They were chosen from the minor leading families, and were accordingly called the minorum gentium.

Rome's seventh and final king, Lucius Tarquinius Superbus, executed many of the leading men in the Senate, and did not replace them, thereby diminishing their number.

In 509 B.C. Rome's first consuls, Lucius Junius Brutus and Publius Valerius Publicola chose from amongst the leading equites new men for the Senate, these being called conscripti, and thus increased the size of the Senate to 300.

In theory the Senate was entitled to choose the new emperor, but most emperors chose their own successors, usually a close family member. The new emperor had to seek a swift acknowledgement of his new status and authority in order to stabilize the political landscape.

No emperor could hope to survive, much less to reign, without the allegiance and loyalty of the Praetorian Guard and of the legions. To secure their loyalty, several emperors paid the donativum, a monetary reward. No emperor could rule the Empire without the Senatorial order and the Equestrian order. Most of the more important posts and offices of the government were reserved for the members of these two aristocratic orders. It was from among their ranks that the provincial governors, legion commanders, and similar officials were chosen. These two classes were hereditary and mostly closed to outsiders. Very successful and favored individuals could enter, but this was a rare occurrence.

The career of a young aristocrat was influenced by his family connections and the favor of patrons. As important as ability, knowledge, skill, or competence, patronage was considered vital for a successful career and the highest posts and offices required the Emperor's favor and trust.

The son of a senator was expected to follow the Cursus honorum, a career ladder, and the more prestigious positions were restricted to senators only. A senator also had to be wealthy; one of the basic requirements was the wealth of 12,000 gold aurei (about 100 kg of gold), a figure which would later be raised with the passing of centuries.

During the Republic the Comitium continued to be the central location for all judicial cases.

Below the Senatorial order was the Equestrian order. The requirements and posts reserved for this class, while perhaps not so prestigious, were still very important.

Some of the more vital posts, like the governorship of Egypt (Latin Aegyptus), were even forbidden to the members of the Senatorial order and available only to equestrians. Tradition held that the Senate was first established by Romulus, the mythical founder of Rome, as an advisory council consisting of the 100 heads of families, called patres ("fathers").

Later, at the start of the Republic, Lucius Junius Brutus increased the number of Senators to 300 (according to legend). They were also called conscripti ("conscripted men"), because Brutus had conscripted them. From then on, the members of the Senate were addressed as patres et conscripti, which was gradually ran together as patres conscripti ("conscript fathers").

The Roman Senate, as a political institution, was one of the most enduring institutions in Roman history, being founded in the first days of the city (traditionally founded in 753 B.C.).

It survived the overthrow of the kings in 509 B.C., the fall of the Roman Republic in the 1st century B.C., the split of the Roman Empire in 395 A.D., the fall of the Western Roman Empire in 410 A.D., and barbarian rule of Rome in 5,6,7th centuries.

The Senate of the West Roman Empire continued to function until 603 A.D. During the early Republic, the Senate was politically weak, while the executive magistrates were quite powerful. Since the transition from monarchy to constitutional rule was probably gradual, it took several generations before the Senate was able to assert itself over the executive magistrates.

By the middle Republic, the Senate reached the apex of its republican power.

The late Republic saw a rise in the Senate's power, which began following the reforms of the tribunes Tiberius and Gaius Gracchus. The Senate of the Roman Kingdom held three principal responsibilities: it functioned as the ultimate repository for the executive power, it served as the council to the king, and it functioned as a legislative body in concert with the People of Rome. During the years of the monarchy, the Senate's most important function was to elect new kings. While the king was technically elected by the people, it was actually the Senate who chose each new king.

The period between the death of one king, and the election of a new king, was called the interregnum, during which time the Interrex nominated a candidate to replace the king.

After the Senate gave its initial approval to the nominee, he was then formally elected by the people, and then received the Senate's final approval. At least one king, Servius Tullius, was elected by the Senate alone, and not by the people.

The Senate's most significant task, outside of regal elections, was in its capacity as the king's council, and while the king could ignore any advice offered to him by the Senate, the Senate's growing prestige helped make the advice that it offered increasingly difficult to ignore.

Technically the Senate could also make new laws, although it would be incorrect to view the Senate's decrees as "legislation" in the modern sense. Only the king could decree new laws, although he often involved both the Senate and the Curiate Assembly (the popular assembly) in the process.

After the transition of the Republic into the Principate, the Senate lost much of its political power as well as its prestige. Following the constitutional reforms of the Emperor Diocletian, the Senate became politically irrelevant. It never regained the power that it had once held. When the seat of government was transferred out of Rome, the Senate was reduced to a municipal body. This image was reinforced when the emperor Constantius II created an additional Senate in Constantinople.

After the Western Roman Empire fell in 476, the Senate in the west functioned for a time under barbarian rule before being restored after reconquest of much of the Western Roman Empire's territories during the reign of Justinian I, until it ultimately disappeared. However, the Eastern Senate survived in Constantinople, before the ancient institution finally vanished there too.

The Roman population was divided into two classes: the Senate and the People ("Senatus Populusque Romanus", SPQR). The People consisted of all Roman citizens who were not members of the Senate. After the fall of the Roman Republic, the constitutional balance of power shifted from the Roman Senate to the Roman Emperor. Though retaining its legal position as under the Republic, in practice, however the actual authority of the Imperial Senate was negligible, as the Emperor held the true power in the state. As such, membership in the Senate became sought after by individuals seeking prestige and social standing, rather than actual authority.

During the reigns of the first Emperors, legislative, judicial, and electoral powers were all transferred from the Roman assemblies to the Senate. However, since the Emperor held control over the Senate, the Senate acted as a vehicle through which the Emperor exercised his autocratic powers.

The first Emperor, Augustus, reduced the size of the Senate from 900 members to 600 members, even though there were about 100 to 200 active senators at one time. After this point, the size of the Senate was never again drastically altered.

Under the Empire, as was the case during the late Republic, one could become a senator by being elected Quaestor (a magistrate with financial duties), but only if one was of senatorial rank. If an individual was not of senatorial rank, there were two ways for that individual to become a senator.

Under the first method, the Emperor granted that individual the authority to stand for election to the Quaestorship, while under the second method, the emperor appointed that individual to the Senate by issuing a decree. Under the Empire, the power that the Emperor held over the Senate was absolute.

Task 1. Choose the keywords that best convey the gist of the information.

Task 2. Make up some dialogues from the information above.

Debate in the early Roman Senate

During Senate meetings, the Emperor sat between the two Consuls, and usually acted as the presiding officer. Senators of the early Empire could ask extraneous questions or request that a certain action be taken by the Senate. Higher ranking senators spoke before lower ranking senators, although the Emperor could speak at any time. Besides the Emperor, Consuls and Praetors could also preside over the Senate. Since no senator could stand for election to a magisterial office without the Emperor's approval, senators usually did not vote against bills that had been presented by the Emperor.

If a senator disapproved of a bill, he usually showed his disapproval by not attending the Senate meeting on the day that the bill was to be voted on. While the Roman assemblies continued to meet after the founding of the Empire, their powers were all transferred to the Senate, and so senatorial decrees (senatus consulta) acquired the full force of law. The legislative powers of the Imperial Senate were principally of a financial and an administrative nature, although the Senate did retain a range of powers over the provinces. During the early Roman Empire, all judicial powers that had been held by the Roman Assemblies were also transferred to the Senate.

For example, the Senate now held jurisdiction over criminal trials. In these cases, a Consul presided, the senators constituted the jury, and the verdict was handed down in the form of a decree (senatus consultum), and, while a verdict could not be appealed, the Emperor could pardon a convicted individual through a veto. The Emperor Tiberius transferred all electoral powers from the assemblies to the Senate, and, while theoretically the Senate elected new magistrates, the approval of the Emperor was always needed before an election could be finalized.

Around 300 A.D., the emperor Diocletian enacted a series of constitutional reforms. In one such reform, Diocletian asserted the right of the Emperor to take power without the theoretical consent of the Senate, thus depriving the Senate of its status as the ultimate depository of supreme power.

Diocletian's reforms also ended whatever illusion had remained that the Senate had independent legislative, judicial, or electoral powers. The Senate did, however, retain its legislative powers over public games in Rome, and over the senatorial order. The Senate also retained the power to try treason cases, and to elect some magistrates, but only with the permission of the Emperor. In the final years of the Empire, the Senate would sometimes try to appoint their own emperor, such as in case of Eugenius who was later defeated by forces loyal to Theodosius I.

The Senate remained the last stronghold of the traditional Roman religion in the face of the spreading Christianity, and several times attempted to facilitate the return of the Altar of Victory (first removed by Constantius II) to the senatorial curia.

Domestic power was vested in the Roman People, through the Centuriate Assembly (Comitia Centuriata), the Tribal Assembly (Comitia Tributa) and the Plebeian Council (Concilium Plebis).

The two Assemblies and Council passed new laws and elected Rome's magistrates.

The Senate's curule magistrates or the Tribunes of the Plebs could proposed new legislation to the Assemblies and the Plebeian Council, which then voted on it without debate. The Senate held considerable authority (auctoritas) in Roman politics. It was the official body that sent and received ambassadors, and it appointed officials to manage public lands, including the provincial governors. It conducted wars and it also appropriated all public funds and issued money. It was the Senate that authorized the city's chief magistrates, the consuls, to nominate a dictator in a state of emergency.

Despite its wide fiscal and judicial powers, the Senate had no executive or legislative powers (until the middle of the 2nd century A.D.). All its propositions (Senatus Consultum – S.C.) were subject to ratification by the people's assembly. However, due to its enormous prestige and the fact that all the elected officials were in fact Senators, most of Senatus Consultum were enacted.

One historical rejection occurred, however, just after the the end of the Hannibalic war. The Senate felt that a strong Macedonian Kingdom could be a potential threat.

The people however, tired by the long and exhausting war against Hannibal and Carthage rejected the Senate's motion. It must be noted that the Roman assemblies of the People, could not debate on the motions brought up before them. They either accepted them or rejected them. A usual practice of magistrates was to bring before the Senate all laws (leges) before calling the assemblies to vote. The Senate gave its auctoritas before the people could vote on the motion of the magistrate. This practice was by the middle Republic a formality, which was however practiced by all magistrates.

In the late Republic, the Senate chose to avoid setting up dictatorships by resorting to the so-called senatus consultum ultimum, which declared martial law and empowered the consuls to "take care that the Republic should come to no harm". Like the Comitia Centuriata and the Comitia Tributa, but unlike the Concilium Plebis, the Senate operated under certain religious restrictions.

It could only meet in a consecrated temple, which was usually the Curia Hostilia; although the ceremonies of New Year's Day were in the temple of Jupiter Optimus Maximus and war meetings were held in the temple of Bellona. Its sessions could only proceed after an invocation prayer, a sacrificial offering and the auspices were made. The Senate could only meet between sunrise and sunset, and could not meet while any of the assemblies were in session.

The Senate had around 600 members in the middle and late Republic. Customarily, all popularly elected magistrates – quaestors, aediles (both curulis & plebis), praetors, and consuls – were admitted to the Senate, though the inclusion of tribunes in the Senate varied historically.

A Roman nobleman who possessed the appropriate financial and property qualifications could also be inducted into the Senate by the Censors. Senators who had not been elected as magistrates higher than quaestors were called senatores pedarii and were not permitted to speak.

Their number was increased dramatically by Sulla, and around half (49.5%) of the pedarii from 78-49 B.C. were homines novi ("new men"), that is, those whose families had never attained higher magistracy. Outside the pedarii, the number of homines novi was lower, with about 33% of tribunes, 29% of aediles, 22% of praetors, and only 1% of consuls being true novi. A Senator's membership was for his lifetime, barring certain indiscretions. Senators could not participate directly in business, trade, or usury, however many found ways to discreetly circumvent these restrictions.

One of the primary functions of the Censors was to review the Senate rolls and expel members for improper practices. After Sulla's enlargement, membership in the Senate could be stripped by the Censors if a Senator had been found guilty of disregard of the mores maiorum (public morals).

Corruption, disregard of a colleague's veto, abuse of capital punishment, severe domestic violence, improper treatment of "clients" or slaves, and bankrupts or adultery, or if auspices demanded to.

Active vocabulary

Senate, leading, functions, to participate, senator, king, imperior, to find guilty, to increase, restriction, nobleman, improper treatment, morals, to possess, assembly of elders, political institution, means, legendary founding of Rome, ancient.

Task 1. Digest the score of the information briefly in English.

Task 2. Analyze the activity of the Senate and make up the chart about it.

№	Activity			
	Event	When	Where	Score
1.				

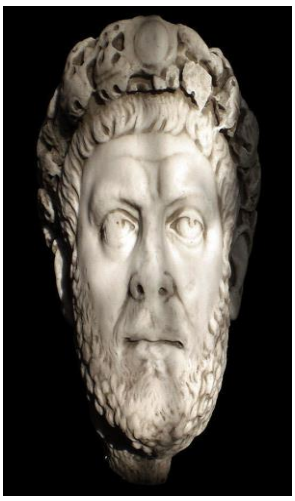
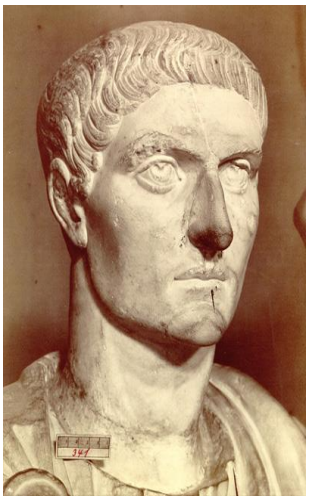
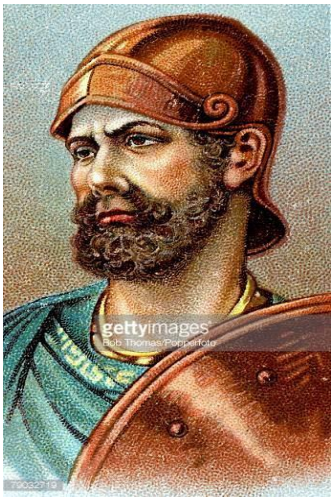
Task 3. Write out all Latin words and phrases and try to translate them.

Task 4. Try to translate the information on great people.

DIOCLETIAN [ˌdʌɪəˈkliːʃ(ə)n] (245-313) – Roman emperor 284-305; full name Gaius Aurelius Valerius Diocletianus. Faced with mounting military problems, in 286 he divided the empire between himself in the east and Maximian in the west. Diocletian launched the final persecution of the Christians (303)

CONSTANTINE [ˈkɒnstəntʌɪn] (c. 274-337) – Roman emperor 306–37; known as Constantine the Great. He was the first Roman emperor to be converted to Christianity and in 324 made Christianity a state religion. In 330 he moved his capital from Rome to Byzantium, renaming it Constantinopolis (Constantinople). In the Orthodox Church he is venerated as a saint.

HANNIBAL ['hænɪb(ə)l] (247-182 B.C.) – Carthaginian general. In the second Punic War he attacked Italy via the Alps, repeatedly defeating the Romans, but failed to take Rome itself.


Romulus, Victor over Acron, hauls the rich booty to the temple of Jupiter.

LEGISLATIVE ASSEMBLIES

The Roman assemblies were political institutions in the Roman Republic. There were two types of Roman assembly. The first was the Committee, which was an assembly of all Roman citizens. Here, Roman citizens gathered to enact laws, elect magistrates, and try judicial cases. The second type of assembly was the Council, which was an assembly of a specific group of citizens.

For example, the "*Plebeian Council*" was an assembly where plebeians gathered to elect Plebeian magistrates, pass laws that applied only to Plebeians, and try judicial cases concerning Plebeians. A "convention", in contrast, was an unofficial forum for communication, where citizens gathered to debate bills, campaign for office, and decide judicial cases. The voters first assembled into conventions to deliberate, and then they assembled into committees or councils to actually vote.

According to the contemporary historian Polybius, it was the people (and thus the assemblies) who had the final say regarding the election of magistrates, the enactment of new statutes, the carrying out of capital punishment, the declaration of war and peace, and the creation (or dissolution) of alliances. Under the Constitution of the Roman Republic, the people (assemblies) held the ultimate source of sovereignty. Since the Romans used a form of direct democracy, citizens, and not elected representatives, voted before each assembly. As such, the citizen-electors had no power, other than the power to cast a vote. Each assembly was presided over by a single Roman Magistrate, and as such, it was the presiding magistrate who made all decisions on matters of procedure and legality.

Ultimately, the presiding magistrate's power over the assembly was nearly absolute.

The only check on that power came in the form of vetoes handed down by other magistrates.

In the Roman system of direct democracy, two primary types of gatherings were used to vote on legislative, electoral, and judicial matters. The first was the Assembly (comitia), which was a gathering that was deemed to represent the entire Roman people, even if it did not contain all of the Roman citizens or, like the *comitia curiata*, excluded a particular class of Roman citizens (the plebs).

The second was the Council (concilium), which was a gathering of citizens of a specific class.

In contrast, the Convention was an unofficial forum for communication. Conventions were simply forums where Romans met for specific unofficial purposes, such as, for example, to hear a political speech. Voters always assembled first into Conventions to hear debates and conduct other business before voting, and then into Assemblies or Councils to actually vote.

Active vocabulary

Assemblies, political institutions, to try judicial cases, to hear a political speech, to hear debates, to conduct business, specific unofficial purposes, unofficial forum, communication.

Note on the texts

Plebiscite – the direct vote of all the members of an electorate on an important public question such as a change in the constitution. A law enacted by the plebeians' assembly.

Livy (59 B.C.- A.D. 17) – Roman historian; Latin name Titus Livius. His history of Rome from its foundation to his own time contained 142 books, of which 35 survive.

Plebeian [plәbi:ən] – A person, especially one from an earlier period of history, who is plebeian, comes from a low social class.

In the 1790s Tom Paine taught plebeian radicals that mankind would live in harmony were it not for the vested interest which princes, diplomats and soldiers had in promoting wars to enrich themselves.

Плебей в Древнем Риме: представитель части населения, противостоящий патрициям;

первоначально плебеи не пользовались политическими правами, затем имели право принимать решения, избираться на государственные должности; начиная с 300 г. до н. э. их права сравнялись с правами патрициев)

Task 1. Make up dialogues from the information above and carry them on in class.

Task 2. Choose the keywords that best convey the gist of the information.

ASSEMBLY OF THE CENTURIES & TRIBES

In addition to the Curia (familial groupings), Roman citizens were organized into "Centuries" (for military purposes) and "Tribes" (for civil purposes).

Each gathered into an assembly for legislative, electoral, and judicial purposes.

The Century Assembly was the Assembly of the Centuries, while the Tribal Assembly was the Assembly of the Tribes. Only a bloc of voters (Century, Tribe or Curia), and not the individual electors, cast the formal vote (one vote per bloc) before the assembly. The majority of votes in any Century, Tribe, or Curia decided how that Century, Tribe, or Curia voted.

Citizens were organized on the basis of centuries and tribes. The centuries and the tribes would each gather into their own assemblies. The Comitia Centuriata ("Century Assembly") was the assembly of the centuries. The president of the Comitia Centuriata was usually a consul. The centuries would vote, one at a time, until a measure received support from a majority of the centuries.

The Comitia Centuriata would elect magistrates who had imperium powers (consuls and praetors). It also elected censors. Only the Comitia Centuriata could declare war, and ratify the results of a census. It also served as the highest court of appeal in certain judicial cases. The assembly of the tribes, the Comitia Tributa, was presided over by a consul, and was composed of 35 tribes. The tribes were not ethnic or kinship groups, but rather geographical subdivisions.

The order that the 35 tribes would vote in was selected randomly by lot.

Once a measure received support from a majority of the tribes, the voting would end. While it did not pass many laws, the Comitia Tributa did elect quaestors, curule aediles, and military tribunes.

The Century Assembly was divided into 193 (later 373) Centuries, with each Century belonging to one of three classes: the officer class, the enlisted class, and the unarmed adjuncts. During a vote, the Centuries voted, one at a time, by order of seniority.

The president of the Century Assembly was usually a consul. Only the Century Assembly could elect Consuls, Praetors and Censors, only it could declare war, and only it could ratify the results of a census. While it had the power to pass ordinary laws, it rarely did so.

The organization of the Tribal Assembly was much simpler than the Century Assembly, since its organization was based on the 35 Tribes. The Tribes were not ethnic or kinship groups, but rather geographical divisions (similar to modern electoral districts or constituencies).

The President of the Tribal Assembly was usually the consul and under his presidency, the assembly elected Quaestors, Curule Aediles, and Military Tribunes.

While it had the power to pass ordinary laws, it rarely did so. The Assembly known as the "*Plebeian Council*" was identical to the Tribal Assembly with one key exception: only plebeians (the commoners) had the power to vote before it. Members of the aristocratic patrician class were excluded from this assembly. In contrast, both classes were entitled to a vote in the Tribal Assembly. Under the presidency of a Plebeian Tribune, the Plebeian Council elected Plebeian Tribunes and Plebeian Aediles, enacted laws called "*plebiscites*", and presided over judicial cases involving Plebeians.

Notes on the text

Centurion [sen'tjuərɪən] – центурион, начальник центурии (военного подразделения) в древнеримском войске; сотник. The commander of a century in the ancient Roman army. A centurion was an officer in the Roman army.

Assembly [ə'semblɪ] – a group of people elected to make laws or decisions for a particular country or region. An assembly is a large group of people who meet regularly to make decisions or laws for a particular region or country. To convene an assembly – созывать собрание.

Task 1. Render the main idea of the text above briefly in English.

Task 2. Digest the information briefly in English.

SECESSIO PLEBIS

Secessio plebis (withdrawal of the commoners) was an informal exercise of power by Rome's plebeian citizens, similar to a general strike taken to the extreme. During a secessio plebis, the plebs would simply abandon the city en masse and leave the patrician order to themselves.

Therefore a secessio meant that all shops and workshops would shut down and commercial transactions would largely cease. This was an effective strategy in the Conflict of the Orders due to strength in numbers; plebeian citizens made up the vast majority of Rome's populace and produced most of its food and resources, while a patrician citizen was a member of the minority upper class, the equivalent of the landed gentry of later times. Authors report different numbers for how many secessions there were. Cary & Scullard state there were five between 494 B.C. and 287 B.C.

Beginning in 495 B.C., and culminating in 494-493 B.C., as a result of concerns about debt and the failure of the Senate to provide for plebeian welfare, the plebeians seceded to the Mons Sacer (the Sacred Mountain). As part of a negotiated resolution, the patricians freed some of the plebs from their debts and conceded some of their power by creating the office of the Tribune of the Plebs.

This office was the first government position held by the plebs, since at this time the office of consul was held by patricians solely. Plebeian Tribunes were made personally sacrosanct during their period in office. In 449 B.C., the plebs seceded again to force the patricians to adopt the Twelve Tables. Unlike the earlier secret laws which only the priests had access to, these new laws amounted to a written and published legal code. And unlike the earlier non-published laws, the Twelve Tables presented a basic set of laws and rights to the Roman public, as opposed to hidden and secret laws which gave no specific rights to the ordinary plebeian Roman.

The patricians vehemently opposed it but were nevertheless forced to found a commission headed by a decemvir who in turn announced the Twelve Tables in the Roman Forum.

With the announcement of the new laws, the plebs were to a degree freed from injustice and subjectivity during trials. However, they were still obliged to pay slavery debt.

After the plebeian aedileship had been created, the patricians created the curule aedileship. After the consulship had been opened to the plebeians, the plebeians were able to hold both the dictatorship and the censorship.

In 337 B.C., the first plebeian praetor was elected. During these years, the tribunes and the senators grew increasingly close. The Senate realized the need to use plebeian officials to accomplish desired goals. To win over the tribunes, the senators gave the tribunes a great deal of power and the tribunes began to feel obligated to the Senate. Around the middle of the 4th century B.C., the Concilium Plebis enacted the "Ovinian Law". During the early republic, only consuls could appoint new senators.

The Ovinian Law, however, gave this power to the censors. Ovinian Law increases plebian senators. It also required the censor to appoint any newly-elected magistrate to the Senate.

By this point, plebeians were already holding a significant number of magisterial offices. Thus, the number of plebeian senators probably increased quickly. It remained difficult for a plebeian to enter the Senate if he was not from a well-known political family, as a new patrician-like plebeian aristocracy emerged. The old nobility existed through the force of law, because only patricians were allowed to stand for high office. The new nobility existed due to the organization of society.

As such, only a revolution could overthrow this new structure. The Janiculum (Gianicolo in Italian) is a hill in western Rome, Italy. Although the second-tallest hill (the tallest being Monte Mario) in the contemporary city of Rome, the Janiculum does not figure among the proverbial Seven Hills of Rome, being west of the Tiber and outside the boundaries of the ancient city.

The Janiculum was a center for the cult of the god Janus, and the fact that it overlooked the city made it a good place for augurs to observe the auspices. In Roman mythology, Janiculum is the name of an ancient town founded by the god Janus (the two-faced god of beginnings).

In Book VIII of the Aeneid by Virgil (Publius Vergilius Maro), King Evander shows Aeneas (the Trojan hero of this epic poem) the ruins of Saturnia and Janiculum on the Capitoline hill near the Arcadian city of Pallanteum (the future site of Rome). Vergil uses the presence of these ruins to stress the significance of the Capitoline hill as the religious center of Rome.

According to Livy, the Janiculum was incorporated into ancient Rome during the time of king Ancus Marcius in order that it not be occupied by an enemy. It was fortified by a wall and a bridge constructed across the Tiber to join it to the rest of the city. During the war between Rome and Clusium in 508 B.C., it is said that the forces of Lars Porsena occupied the Janiculum and laid siege to Rome

Active vocabulary

Plebeian magistrates, to pass laws, to be applied, to try judicial cases, assembly, convention, century, to be incorporated, ancient Rome, to stress the significance, to figure, proverbial,to found, god, mythology, ancient history.

Task 1 .Render the score of the information briefly in English.

Task 2. Answer the questions.

1. What was an informal exercise of power by Rome's plebeian citizens? 2. What was it like? 3. What was abandon? 4. Would all shops and workshops shut down and commercial transactions largely cease? 5. Was that an effective strategy in the Conflict of the Orders due to strength in numbers? Did plebeian citizens make up the vast majority of Rome's populace and produced most of its food and resources? 6. Was a patrician citizen a member of the minority upper class? 7. What was the result of a negotiated resolution? 8. What was the first government position held by the plebs? 9. What was held by patricians solely? 10. When did the plebs secede again to force the patricians to adopt the Twelve Tables? 11. Did these new laws amount to a written and published legal code? 12. Why were the plebs freed from injustice and subjectivity during trials? 13. When was the first plebeian praetor elected? 14. Why did the senators give the tribunes a great deal of power?15. When did the Concilium Plebis enact the "Ovinian Law"? 16. Could only consuls appoint new senators during the early republic? 17. The old nobility existed through the force of law, because only patricians were allowed to stand for high office, didn't it? 18. What is the name of an ancient town founded by the god Janus in Roman mythology? 19. Who used the presence of these ruins to stress the significance of the Capitoline hill as the religious center of Rome? 20. What was incorporated into ancient Rome during the time of king Ancus Marcius?

Notes on the text

Janiculum [dʒə'nɪkjʊləm] – a hill in Rome across the River Tiber from the Seven Hills.

Virgil [ˈvərjəl] (70-19 BC) – Roman poet; Latin name Publius Vergilius Maro. He wrote three major works: the Eclogues, ten pastoral poems that blend traditional themes of Greek bucolic poetry with contemporary political and literary themes; the Georgics, a didactic poem on farming; and the Aeneid, an epic poem about Aeneas, a Trojan.

Aeneid [ɪˈniːɪd] – a Latin epic poem in twelve books by Virgil which relates the travels and experiences of Aeneas after the fall of Troy.

Secession [sɪseʃ(ə)n] – The secession of a region or group from the country or larger group to which it belongs is the action of formally becoming separate.

Secession – раскол, отделение; выход (из политической партии, союза или какой-л. др. организации; слово образовано от лат. термина *secessio*, означавшего временную миграцию плебса за пределы города, которую использовали в качестве средства политической борьбы, чтобы заставить патрициев выполнить какие-л. требования).

Plebs [plɛbz] – the common people of ancient Rome; the masses. Ordinary person, especially one from the lower social classes. Origin: mid 17th centuty originally plural, from Latin plebs. Later a shortened form of plebeian.

Плебеи & Патриции

A Council on horseback preceded by his lictors

legislate ['ledʒɪsleɪt] – издавать законы, законодательствовать
to legislate against smth. – запретить что-л. в законодательном порядке
legislated purpose – намерение законодателя

legislation [ˌledʒɪ'sleɪʃ(ə)n] – законодательство; законодательная деятельность; закон; законопроект
to abrogate (repeal) legislation – отменить закон
to adopt (enact, pass) legislation – принять закон
to veto legislation – наложить вето на законопроект
to vote down legislation – провалить предложение
draft legislation – законопроект
legislation in force – действующее законодательство
legislation veto – ветирование законодательства
progressive legislation – прогрессивный закон
labour legislation – трудовое законодательство
current legislation – действующее законодательство
advertising legislation – рекламное законодательство
antidumping legislation – антидемпинговое законодательство
consumer legislation – потребительское законодательство
food legislation – продовольственное законодательство
government legislation – государственное законодательство
social legislation – общественный закон
tax legislation – налоговое законодательство

legislator ['ledʒɪsleɪtə] – законодатель; член законодательного органа *Syn. arbiter, lawmaker правовед, юрист Syn. jurist, lawyer*
legislators – законодатели (представители выборных органов власти; разрабатывают законы; входят в подраздел "менеджеры высшего звена" в разделе "управленческие профессии")

legislatorial – законодательный

legislature ['ledʒɪsleɪʧə] – законодательная власть; законодательные учреждения
to convene a legislature – создавать законодательное учреждение
to disband (dismiss, dissolve) a legislature – распускать законодательное учреждение
bicameral legislature – двухпалатное законодательное собрание
unicameral legislature – однопалатное законодательное собрание
legislature establishment – аппарат легислатуры; законодатели

legislative ['ledʒɪslətɪv] – законодательный
legislative authority (power, government) – законодательная власть
legislative act (action) – законодательный акт
legislative activity – законодательная деятельность
legislative authorities – законодательные органы
legislative actions – законодательные мероприятия
legislative penalty – мера наказания, предусмотренная законом
legislative recess – парламентские каникулы
legislative committees – парламентские комитеты
legislative immunity – неприкосновенность членов законодательного органа
legislative activity – законодательная деятельность
legislative assembly – законодательное собрание

legist ['liːʤɪst] – правовед, юрист *Syn. jurist , lawyer*

Task 1. Analyze the topical vocabulary, learn it and make up sentences with it.

The jungle law (the law of the jungle)) – закон джунглей, беззаконие

It is Sod's Law that we spend the least time in the most attractive places. – По закону подлости в самых привлекательных местах мы проводим меньше всего времени.

Murphy's Law – закон Мёрфи, закон подлости

to be a law into oneself – ни с чем не считаться, кроме собственного мнения, идти наперекор традициям, обычаям, общепринятым нормам

He is a law unto himself. – Для него не существует никаких законов, кроме собственного мнения.

to give (the) law to smb. – навязать кому-л. свою волю

in the eyes of the law – в глазах закона

everyone is equal under the law – все равны перед законом

the letter of the law – буква закона

the spirit of the law – дух закона

the blue-sky law – закон, регулирующий выпуск и продажу акций и ценных бумаг (закон, впервые принятый в штате Канзас в 1911 г. и направленный против выпуска и продажи дутых акций и фальшивых ценных бумаг)

cutter's law – "закон разбойников" ("помоги товарищу, если есть деньги")

Draconian laws – драконовские (драконовы), суровые законы (по имени Дракона, легендарного греческого законодателя VII в. до н. э.)

laws catch flies, but let hornets go free (laws are like cobwebs which may catch small flies, but let wasps and hornets break through)) – "закон что паутина – шмель проскочит, а муха увязнет"

Necessity (need) has (knows) no law. – Для нужды нет закона (нужда свой закон пишет, нужда крепче закона).

One law for the rich, and another for the poor.– Для бедных один закон, а для богатых другой.

Task 1. Analyze the topical vocabulary, learn it and make up sentences with it.

Task 2. Translate the sentences into your native language.

1. We can get a balanced view of the law from newspaper. 2. It is against the law to smoke in an elevator. 3. He is a law unto himself. 4. Necessity (need) knows no law. 5. You must follow the letter of the law.6.He was innocent in the eyes of the law.7. Everyone is equal under the law.8.There is the law of the jungle in modern society. 9. There is no law against fishing. 10. Lynch Law was existed in America a lot of years ago. 11. We must obey the moral law to have a true apprehension of it. 12. The workers are holding a mass meeting with speeches and songs to demonstrate against the government's new law. 13. I teach English at law school.

Roman senators stab Julius Caesar to death in the year 44.

EXECUTIVE MAGISTRATES

Julius Caesar was the final dictator of the Roman Republic.

The executive magistrates of the Roman Republic were officials of the ancient Roman Republic (c. 510 B.C. – 44 B.C.), elected by the People of Rome.

Each Roman magistrate was vested with a degree of power. Dictators had the highest level of power. Ordinary magistrates (magistratus) were divided into several ranks according to their role and the power they wielded: censors, consuls (who functioned as the regular head of state), praetors, curule aediles, and finally quaestor. Any magistrate could obstruct (veto) an action that was being taken by a magistrate with an equal or lower degree of magisterial powers.

By definition, plebeian tribunes and plebeian aediles were technically not magistrates as they were elected only by the plebeians, but no ordinary magistrate could veto any of their actions. Dictator was an extraordinary magistrate normally elected in times of emergency (usually military) for a short period. During this period, the dictator's power over the Roman government was absolute, as they were not checked by any institution or magistrate. Any resistance against the tribune was considered to be a capital offense. The most significant constitutional power that a magistrate could hold was that of "*Command*" (Imperium), which was held only by consuls and Praetors.

This gave a magistrate the constitutional authority to issue commands (military or otherwise).

The consul of the Roman Republic was the highest ranking ordinary magistrate.

Two consuls were elected every year, and they had supreme power in both civil and military matters. Throughout the year, one consul was superior in rank to the other consul, and this ranking flipped every month, between the two consuls. Praetors administered civil law, presided over the courts, and commanded provincial armies. Another magistrate, the censor, conducted a census, during which time they could appoint people to the Senate.

Aediles were officers elected to conduct domestic affairs in Rome, and were vested with powers over the markets, and over public games and shows. Quaestors usually assisted the Consuls in Rome, and the governors in the provinces with financial tasks. Two other magistrates the Plebeian Tribunes and the Plebeian Aediles, were considered to be the representatives of the people.

Thus, they acted as a popular check over the Senate (through their veto powers), and safeguarded the civil liberties of all Roman citizens. In times of military emergency, a "dictator" was appointed for a term of six months. Constitutional government dissolved, and the dictator became the absolute master of the state. The Dictator then appointed a "*Master of the Horse*" to serve as his most senior lieutenant. Often the dictator resigned his office as soon as the matter that caused his appointment was resolved. When the dictator's term ended, constitutional government was restored.

The last ordinary dictator was appointed in 202 B.C. After 202 B.C., extreme emergencies were addressed through the passage of the decree ("ultimate decree of the Senate"). This suspended civil government, declared martial law, and vested the consuls with dictatorial powers.

Each republican magistrate held certain constitutional powers. Only the People of Rome (both plebeians and patricians) had the right to confer these powers on any individual magistrate.

The most powerful constitutional power was imperium. Imperium was held by both consuls and praetors. Imperium gave a magistrate the authority to command a military force. All magistrates also had the power of coercion. This was used by magistrates to maintain public order. While in Rome, all citizens had a judgement against coercion. This protection was called provocatio.

Magistrates also had both the power and the duty to look for omens. This power would often be used to obstruct political opponents. One check over a magistrate's power was his collegiality.

Each magisterial office would be held concurrently by at least two people. Another check over the power of a magistrate was provocatio. Provocation was a primordial form of due process. It was a precursor to habeas corpus. If any magistrate was attempting to use the powers of the state against a citizen, that citizen could appeal the decision of the magistrate to a tribune.

In addition, once a magistrate's annual term in office expired, he would have to wait ten years before serving in that office again. Since this did create problems for some consuls and praetors, these magistrates would occasionally have their imperium extended. In effect, they would retain the powers of the office, without officially holding that office. The Consul of the Roman Republic was the highest ranking ordinary magistrate; each consul served for one year. Consuls had supreme power in both civil and military matters. While in the city of Rome, the consuls were the head of the Roman government.

They would preside over the Senate and the assemblies. While abroad, each consul would command an army. His authority abroad would be nearly absolute. Praetors would administer civil law and command provincial armies. Every five years, two censors would be elected for an 18 month term.

During their term in office, the two censors would conduct a census. During the census, they could enroll citizens in the Senate, or purge them from the Senate. Aediles were officers elected to conduct domestic affairs in Rome, such as managing public games and shows.

The quaestors would usually assist the consuls in Rome, and the governors in the provinces.

Their duties were often financial. Since the tribunes were considered to be the embodiment of the plebeians, they were sacrosanct. Their sacrosanctity was enforced by a pledge, taken by the plebeians, to kill any person who harmed or interfered with a tribune during his term of office.

All of the powers of the tribune derived from their sacrosanctity. One obvious consequence of this sacrosanctity was the fact that it was considered a capital offense to harm a tribune, to disregard his veto, or to interfere with a tribune.

Active vocabulary

Magistrate, to vest with a degree of power, dictators, the highest level of power, to divide into, several ranks, to wield, censors, consuls, praetors, curule aediles, quaestor, to obstruct (veto) an action, sacrosanctity, to enforce, tribune, to consider, to harm, obvious consequence.

Notes on the text

Imperium [ɪm'pereɪəm] – абсолютная, верховная власть; полномочия; право государства применять силу для соблюдения законности; империя; государство.

Praetor ['priːtə] – претор (одна из высших должностей в Древнем Риме); each of two ancient Roman magistrates ranking below consul.

Praetorian [prɪ'tɔːrɪən] – преторианский, относящийся к претору; относящийся к гвардии императора или охране полководца; должностное лицо, имеющее ранг претора; Praetorian Guard преторианец; защитник существующей системы, власти.

Aedile ['iːdʌɪl] – either of two (later four) Roman magistrates responsible for public buildings and originally also for the public games and the supply of corn to the city.

Task 1. Summarize the information in English.

Task 2. Make up a small report and give a talk in class.

Task 3. Give the list of sky events and provide their description in the form of notes.

Lex Hortensia was a law passed in Ancient Rome in 287 B.C. which made all resolutions passed by plebeians binding on all citizens. In Roman Law, Lex Hortensia (284 B.C.) was the final result of the long class struggle between patricians and plebeians, where the plebeians would periodically secede from the city in protest (*secessio plebis*) when they felt they were deprived of their rights.

After 287 B.C., the Comitia Centuriata falls into the background and the tribunes, working with the Senate, make the Lex Hortensia a stage in the development of Senatorial domination in the State.

The Lex Hortensia contained similar stipulations of the two earlier laws, the Lex Valeria-Horatia of 449 B.C. and Lex Publica. This meant that through their plebeian assembly the plebeians could make laws that were considered binding for the entire Roman people (both patrician and plebeian), but which excluded the patricians of having any say in the legislative process in the plebeian assembly. Patricians tended to be the wealthy upper crust of ancient Roman society.

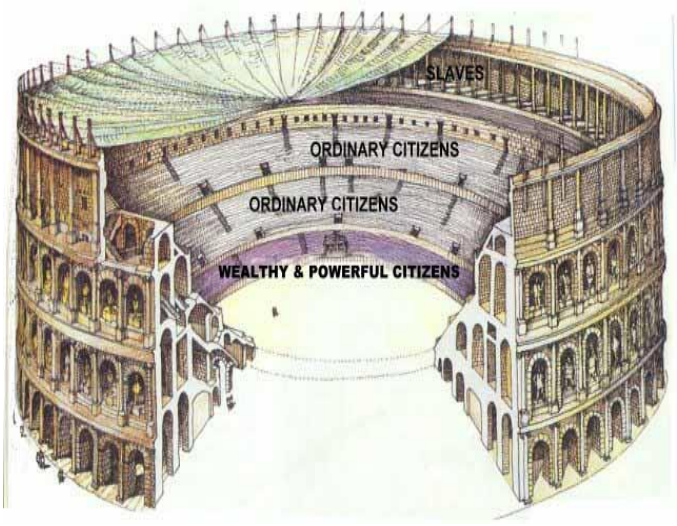
The plebeians were seen as the average citizens. Although many still attained wealth and status, they did not have the ancestral background associated with the patricians. This resulted in the struggle for power between the two classes. Quintus Hortensius was a Roman dictator during the 3rd century B.C., when the struggle between plebeians and patricians was at an apex.

For two centuries, the classes had been locked in a struggle, in which the patricians tried to control and maintain the ever-growing plebeian privilege. Often in response to the actions of the Senate, the plebs would take composite action and seceded from the city. In 287 B.C., the plebeians seceded to the Janiculan hill, and in response Quintus Hortensius was appointed dictator. Shortly thereafter he passed a law to attempt to end the struggle between the plebeian and patrician classes; because the law was sponsored by Quintus Hortensius, it became known as the *Lex Hortensia*, or "the Hortensian law". Though very little is known about him personally, it has been suggested he died while still dictator.

Roman law was heavily influenced by Greek teachings. It forms the bridge to the modern legal world, over the centuries between the rise and decline of the Roman Empire. Roman law, in the days of the Roman Republic and Empire, was heavily procedural and there was no professional legal class. Instead a lay person, *iudex*, was chosen to adjudicate. Precedents were not reported, so any case law that developed was disguised and almost unrecognised.

Each case was to be decided afresh from the laws of the state, which mirrors the (theoretical) unimportance of judges' decisions for future cases in civil law systems today. During the 6th century A.D. in the Eastern Roman Empire, the Emperor Justinian codified and consolidated the laws that had existed in Rome so that what remained was one 20th of the mass of legal texts from before.

This became known as the *Corpus Juris Civilis*. As one legal historian wrote, "Justinian consciously looked back to the golden age of Roman law and aimed to restore it to the peak it had reached three centuries before."



THE ROMAN EMPIRE

The prior era saw great military successes, and great economic failures. The patriotism of the plebeians had kept them from seeking any new reforms. Now, the military situation had stabilized, and fewer soldiers were needed. This, in conjunction with the new slaves that was being imported from abroad, inflamed the unemployment situation further. The flood of unemployed citizens to Rome had made the assemblies quite populist. The Crisis of the Roman Republic refers to an extended period of political instability and social unrest that culminated in the demise of the Roman Republic and the advent of the Roman Empire, from about 134 B.C. to 44 B.C.

The exact dates of the Crisis are unclear because, "Rome teetered between normalcy and crisis" for many decades. Likewise, the causes and attributes of the crises changed throughout the decades, including the forms of slavery, brigandage, wars internal and external, land reform, the invention of literally excruciating new punishments, the expansion of Roman citizenship, and even the changing composition of the Roman army. Modern scholars also disagree about the nature of the crisis. Traditionally, the expansion of citizenship (with its all rights, privileges, and duties) was looked upon negatively by Sallust, Gibbon, and others of their schools, because it caused internal dissension, disputes with Rome's Italian allies, slave revolts, and riots.

However, today's scholars point out that the whole purpose of the Republic was to be res publica – the essential thing of the people – and thus poor people can not be blamed for trying to redress their legitimate and legal grievances. The first two centuries of the empire were characterized by the Pax Romana, which was a period of unprecedented peace and prosperity.

Though Roman expansion was mostly accomplished under the republic, it continued under the emperors. Notably, parts of northern Europe were conquered in the 1st century A.D., while Roman dominion in Europe, Africa and especially Asia was strengthened during this time. Numerous uprisings were successfully put down, notably those in Britain, though the latter uprising triggered the suicide of the unpopular Emperor Nero and a brief civil war. The empire would reach its greatest territorial extent under the emperor Trajan in 117 A.D., though most of his gains were given up under his successor.

In the view of Dio Cassius, a contemporary observer, the accession of the Emperor Commodus in 180 A.D. marked the descent "from a kingdom of gold to one of rust and iron" – a famous comment which has led some historians, notably Edward Gibbon, to take Commodus' reign as the beginning of the decline of the Roman Empire. A succession of unsuccessful emperors followed, and then a period of civil wars and social unrest during the Crisis of the Third Century. In the late 3rd century, the emperor Diocletian stabilized the empire and established the practice of dividing authority between four co-emperors (known as the tetrarchy).

Active vocabulary

Scholars, expansion, to establish, Roman citizenship, poor people, to characterize, civil war, unpopular Emperor, military situation, to stabilize, unprecedented peace, prosperity, to conquer.

Task 1. Digest the information briefly in English.

Disorder began again soon after his reign, but order was resorted by Constantine, who was the first emperor to convert to Christianity and who established the new capital of the eastern empire, Constantinople. During the following decades the empire was often divided along an East/ West (Constantinople/Rome) axis. Theodosius I was the last emperor to rule over east and west, and died in 395 A.D. after making Christianity the official religion of the empire. Beginning in the late 4th century, the empire began to disintegrate as barbarians from the north overwhelmed Roman control.

The crumbling Western Roman Empire ended in 476 when Romulus Augustus was forced to abdicate to the Germanic warlord Odoacer. The empire in the east (known today as the Byzantine Empire but referred to in its own day as simply the "Roman Empire") continued in various formed until 1453 with the death of Constantine XI and the capture of Constantinople by Mehmed II, leader of the Ottoman Turks. Because of the Empire's vast extent and long endurance, the institutions and culture of Rome had a profound and lasting influence on the development of language, religion, architecture, philosophy, law, and forms of government in the territory it governed, particularly Europe, and by means of European expansionism throughout the modern world.

The powers of an emperor (his imperium) existed, in theory at least, by virtue of his "tribunician powers" (potestas tribunicia) and his "proconsular powers" (imperium proconsulare). In theory, the tribunician powers (which were similar to those of the Plebeian Tribunes under the old republic) made the Emperor's person and office sacrosanct, and gave the Emperor authority over Rome's civil government, including the power to preside over and to control the Senate.

The proconsular powers (similar to military governors, or Proconsuls, under the old Republic) gave him authority over the Roman army. He was also given powers that, under the Republic, had been reserved for the Senate and the assemblies, including the right to declare war, to ratify treaties, and to negotiate with foreign leaders.

The emperor also had the authority to carry out a range of duties that had been performed by the censors, including the power to control Senate membership. In addition, the emperor controlled the religious institutions, since, as emperor, he was always Pontifex Maximus and a member of each of the four major priesthoods. While these distinctions were clearly defined during the early Empire, eventually they were lost, and the emperor's powers became less constitutional and more monarchical.

Realistically, the main support of an emperor's power and authority was the military.

Being paid by the imperial treasury, the legionaries also swore an annual military oath of loyalty towards him, called the Sacramentum.

The death of an emperor led to a crucial period of uncertainty and crisis.

Active vocabulary

Powers, imperial treasury, an emperor's power, authority, constitutional, emperor, tribunician powers, endurance, expansionism, historians, republic, empire, authority, to ratify treaties, assemblies, military governors, to control, civil government.

Task 1. Digest the information briefly in English.

Task 2. Make up dialogues from the information above and carry them on in class.

Task 3. Analyze the single-root words.

Tribune – tribunal – tribunate – tribunicial – tributary – tribute.

BABYLONIA

Babylonia was an ancient cultural region in central-southern Mesopotamia (present-day Iraq), with Babylon as its capital. Babylonia emerged as a major power when Hammurabi (1792 – 1750 B.C. or fl. ca. 1696 – 1654 B.C., short chronology) created an empire out of the territories of the former Akkadian Empire. Babylonia retained the written Semitic Akkadian language for official use (the language of its native populace), despite its Amorite founders and Kassite successors not being native Akkadians.

It retained the Sumerian language for religious use, which by the time Babylon was founded was no longer a spoken language. The Akkadian and Sumerian traditions played a major role in later Babylonian culture, and the region would remain an important cultural center, even under protracted and lengthy periods of outside rule.

The earliest mention of the city of Babylon can be found in a tablet from the reign of Sargon of Akkad (2334-2279 B.C.), dating back to the 23rd century B.C. Babylon was a religious and cultural centre at this point and not an independent state, and like the rest of Mesopotamia, it was subject to the Akkadian Empire which united all the Akkadian and Sumerian speakers under one rule. After the collapse of the Akkadian empire the region was ruled by Gutians for a few decades before the rise of the Sumerian third dynasty of Ur which encompassed the whole of Mesopotamia, including Babylon.

Following the collapse of the last Sumerian "Ur-III" dynasty at the hands of the Elamites (2002 B.C. traditional, 1940 B.C. short), another Semitic people, the Amorites gradually gained control over most of southern Mesopotamia, where they formed a series of small kingdoms. During the first centuries of what is called the "Amorite period", the most powerful city-states were Isin and Larsa, although Shamshi-Adad I usurped the throne of Assyria and formed a short lived empire in the north.

One of these Amorite dynasties founded the city-state of Babylon, which would ultimately take over the others and form the first Babylonian empire, during what is also called the Old Babylonian Period. During the first centuries of the "Old Babylonian" period (that followed the Sumerian revival under Ur-III), kings and people in high position often had Amorite names, and supreme power rested at Isin. A constant intercourse was maintained between Babylonia and the West – with Babylonian officials and troops passing to Syria and Canaan, while "Amorite" colonists were established in Babylonia for the purposes of trade.

One of these Amorites, Abi-ramu or Abram by name, is the father of a witness to a deed dated in the reign of Hammurabi's grandfather. The city of Babylon was given hegemony over Mesopotamia by their sixth ruler, Hammurabi (1780-1750 B.C.). He was a very efficient ruler, giving the region stability after turbulent times, and transforming it into the central power of Mesopotamia.

A great literary revival followed the recovery of Babylonian independence. One of the most important works of this "First Dynasty of Babylon", as it was called by the native historians, was the compilation of a code of laws. This was made by order of Hammurabi after the expulsion of the Elamites and the settlement of his kingdom.

Active vocabulary

Ancient cultural region, kings, to maintain, constant intercourse, colonists, to establish, to form, purposes of trade, period, to usurp, kingdom, officials, troops, reign, hegemony, efficient.

Task 1. Analyze the information and use it in practice.

Task 2. Analyze the text above and make up the chart about. Events in the text.

№	When	What
1.		
2.		

The Hanging Gardens of Babylon - one of the seven wonders of the ancient world.
Tablet with a list of eclipses between 518 and 465, mention the death of king Xerxes.
Babylonian Star Calendar

THE CODE OF HAMMURABI

The Code of Hammurabi, created ca. 1780 B.C. (short chronology), also known as the Codex Hammurabi, and Hammurabi's Code is one of the earliest sets of laws found, and one of the best preserved examples of this type of document from ancient Mesopotamia.

Other collections of laws include the codex of Ur-Nammu, king of Ur (ca. 2050 B.C.), the Codex of Eshnunna (ca. 1930 B.C.) and the codex of Lipit-Ishtar of Isin (ca. 1870 B.C.). It shows rules and punishments if those rules are broken. It focuses on theft, farming (shepherding), property damage, women's rights, marriage rights, children's rights, slave rights, murder, death, and injury.

The punishment is different for different classes of offenders and victims.

The laws do not accept excuses or explanations for mistakes or fault: the Code was openly displayed for all to see, so no man could plead ignorance of the law as an excuse. Few people, however, could read in that era (literacy mainly being the domain of scribes).

Hammurabi (1728 B.C.–1686 B.C.) felt he had to write the code to please his gods. Unlike many earlier and contemporary kings, he did not consider himself related to any god, although he did call himself "the favorite of the gods". In the upper part of the stela Hammurabi is shown in front of the throne of the Sun god Shamash.

The laws (numbered from 1 to 282, but numbers 13, and 66-99 are missing) are inscribed in Old Babylonian on an 8 foot tall stela of black diorite. It was discovered in 1901 in Susa, Elam, where it had been taken as plunder by the Elamites in the 12th century B.C. It is currently on display at the Louvre Museum in Paris, France. The code is often pointed to as the first example of the legal concept that some laws are so basic as to be beyond the ability of even a king to change.

By writing the laws on stone they were immutable. This concept lives on in most modern legal systems and has given rise to the term written in stone.

The Code of Hammurabi was one of many sets of laws in the Ancient Near East. Most of these law codes, coming from similar cultures and racial groups in a relatively small geographical area, necessarily have passages that resemble each other. For example, the laws found in the later Hittite code of laws (ca. 1300 B.C.) have some individual laws that bear a passing resemblance to those in the Code of Hammurabi, as well as other codices from the same geographic area.

The earlier Ur-Nammu, of the written literature prolific Ur-III dynasty (2050 B.C.), also produced a code of laws, some of which bear resemblance to certain specific laws in the Code of Hammurabi. The later Mosaic Law (according to the modern documentary hypothesis ca 700-500 B.C. – under Hezekiah/Josiah; traditionally ca 1200 B.C. – under Moses) also has some laws that resemble the Code of Hammurabi, as well as other law codes of the region.

Israeli archaeologists say they have found two 3,700-year-old clay tablets that appear to contain legal pronouncements similar to the Code of Hammurabi and the biblical "tooth for a tooth" rule. The clay fragments, bearing Akkadian cuneiform script, were unearthed this summer during the Hebrew University of Jerusalem's excavations at Hazor National Park in northern Israel.

They date to roughly the same time frame as the Babylonian Hammurabi Code, which is considered the world's oldest surviving written collection of laws. And the fact that the tablets were found in Israel suggests they might have had an influence on Old Testament writers.

The divine origin of the written law is emphasized by a bas-relief in which the king is depicted receiving the code from the sun god, Shamash. The quality most usually associated with this god is justice. The code is set down in horizontal columns of cuneiform writing: 16 columns of text on the obverse side and 28 on the reverse.

The text begins with a prologue that explains the extensive restoration of the temples and religious cults of Babylonia and Assyria. The code itself, composed of 28 paragraphs, seems to be a series of amendments to the common law of Babylonia, rather than a strict legal code.

It begins with direction for legal procedure and the statement of penalties for unjust accusations, false testimony, and injustice done by judges; then follow laws concerning property rights, loans, deposits, debts, domestic property, and family rights.

The sections covering personal injury indicate that penalties were imposed for injuries sustained through unsuccessful operations by physicians and for damages caused by neglect in various trades.

Rates are fixed in the code for various forms of service in most branches of trade and commerce.

The "Code of Hammurabi" contains no laws having to do with religion. The basis of criminal law is that of equal retaliation, comparable to the Semitic law of "an eye for an eye". The law offers protection to all classes of Babylonian society; it seeks to protect the weak and the poor, including women, children, and slaves, against injustice at the hands of the rich and powerful.

The code is particularly humane for the time in which it was promulgated; it attests to the law and justice of Hammurabi's rule. It ends with an epilogue glorifying the mighty works of peace executed by Hammurabi and explicitly states that he had been called by the gods "to cause justice to prevail in the land, to destroy the wicked and the evil". He describes the laws in his compilation as enabling "the land to enjoy stable government and good rule", and he states that he had inscribed his words on a pillar in order "that the strong may not oppress the weak, that justice may be dealt the orphan and the widow".

Hammurabi counsels the downtrodden in these ringing words: "Let any oppressed man who has a cause come into the presence of my statue as king of justice, and have the inscription on my stele read out, and hear my precious words, that my stele may make the case clear to him; may he understand his cause, and may his heart be set at ease!"

Active vocabulary

Traditions, to erect, to constitute, in cuneiform script, investiture, a historical prologue, a lyrical epilogue, to sum up, to frame, daily life, legal part, to understand.

Notes on the texts

Sumerian Family Laws – законы семьи древнего народа, населявшего Южное Двуречье (территория современного Ирака).

Task 1. Digest the information briefly in English.

The Maxims of Ptahhotep is an ancient literary work attributed to Ptahhotep, a vizier under King Isesi of the Egyptian Fifth Dynasty (ca. 2414-2375 B.C.). It is a collection of maxims and advice in the *sebayt* genre on human relations that are directed to his son. The work survives today in papyrus copies is on display at the Bibliotheque Nationale in Paris. In the introduction, the author explains the reason for writing the instruction, namely his having reached old age and wanting to pass on the wisdom of his ancestors who had, in his words, *listened to the gods*. The *Maxims* are conformist precepts extolling such civil virtues as truthfulness, self-control and kindness towards one's fellow beings. Learning by listening to everybody and knowing that human knowledge is never perfect is a *leitmotif*.

Avoiding open conflict wherever possible should not be considered weakness.

Justice should be pursued and in the end it will be a god's command that prevails. Some of the maxims refer to one's behaviour when in the presence of the great, how to choose the right master and how to serve him. Others teach the correct way to lead through openness and kindness. Greed is the base of all evil and should be guarded against, while generosity towards family and friends is praiseworthy. Rise in the social order should be accepted as a gift from an Egyptian god and could be preserved by accepting the precedence of one's superior.

Task 2. Try to understand the notion.

Custom is a traditional and widely accepted way of behaving or doing something that is specific to a particular society, place, or time. A custom is an activity, a way of behaving, or an event which is usual or traditional in a particular society or in particular circumstances.

Task 3. Analyze the tribal influence on customs.

The early history of Mesopotamia is the story of a struggle for supremacy between the cities. A metropolis demanded tribute and military support from its subject cities but left their local cults and customs unaffected. City rights and usages were respected by kings and conquerors alike.

When the Semitic tribes settled in the cities of Mesopotamia, their tribal customs passed over into city law. As late as the accession of Assur-bani-pal and Shamash-Shum-Ukin, we find the Babylonians appending to their city laws that groups of aliens to the number of twenty at a time were free to enter the city; that foreign women, once married to Babylonian husbands, could not be enslaved; and that not even a dog that entered the city could be put to death untried.

The population of Babylonia was multi-ethnic from early times, and inter-communication between the cities was incessant. Every city had a large number of resident aliens. This freedom of intercourse must have tended to assimilate custom. It was, however, reserved for the genius of Hammurabi to make Babylon his metropolis and weld together his vast empire by a uniform system of law.

Task 4. Remember that.

Lex talionis – the law of retaliation, whereby a punishment resembles the offence committed in kind and degree.

Treatise – a written work dealing formally and systematically with a subject.

Akkadian – аккадский язык (мёртвый семитский язык Месопотамии).

Antiquity (antiquities) – the ancient past, especially the period of classical and other human civilizations before the Middle Ages.

Compendium – a collection of concise but detailed information about a particular subject, especially in a book or other publication.

Task 5. Answer the questions.

1. What is state law like? 2. What primitive features remained from the code? 3. Is the king a benevolent autocrat? 4. Judges are strictly supervised, and appeal is allowed, aren't they? 5. Is the whole land covered with feudal holdings, masters of the levy, police? 6. Is there a regular postal system? 7. Is the position of women is free and dignified? 8. What did primitive custom and ancient precedent modify? 9. What ensured that the parties would not agree to "wrong"? 10. Might the judges' decision be appealed? 11. Was the Code itself carefully and logically arranged? 12. How were its sections arranged? 13. What is the Law Code of Hammurabi? 15. What is a work of art, history and literature? 16. When was it erected? 17. What is the most complete legal compendium of Antiquity, dating back to earlier than the Biblical laws?

Task 6. Make the sentences below as true (T) if they give the message of the text, and false (F) if they change the message.

1. The Hammurabi Code – the most important legal compendium of the ancient Far East. 2. It was drafted later than the Biblical laws. 3. This work is an exceptional source of information about the society, religion, economy, and history of this period. 4. King Hammurabi was "protector of the weak and oppressed". 5. The text summed up King's legal work and preparing its perpetuation in the future. 6. The legal part of the text uses everyday language and is here simplified. 7. The legal decisions are all constructed in the different manner. 8. The work is grouped together in chapters. 9. The principal subjects are family law, slavery, and professional, commercial, agricultural and administrative law. 10. Economic measures don't set prices and salaries. 11. The longest chapter deals with engagement, marriage and divorce, adultery and incest, children, adoption and inheritance, and the duties of children's nurses.

Task 7. Answer the questions.

1. How is the Law Code of Hammurabi valuable? 2. What is it like? 3. Is it a code of laws in the sense that we understand it today? 4. What can be found in the Code? 5. Was justice a royal prerogative in Mesopotamia? 6. Was this stele an educational tool? 7. Was it a code of the rules and prescriptions established by a sovereign authority?

Task 8. Analyze the content of the Code.

The text is written in cuneiform script and the Akkadian language. It is divided into three parts:

- a historical prologue relating the investiture of King Hammurabi in his role as "protector of the weak and oppressed", and the formation of his empire and achievements;
- a lyrical epilogue summing up his legal work and preparing its perpetuation in the future;
- these two literary passages frame a text describing almost three hundred laws and legal decisions governing daily life in the kingdom of Babylon.

The legal part of the text uses everyday language and is here simplified, for the king wanted it to be understood by all. However, the legal decisions are all constructed in the same manner: a phrase in the conditional sets out a problem of law or social order; it is followed by a response in the future tense, in the form of the sanction for the guilty party or the settlement of a situation: "Should an individual do such and such a thing, such and such a thing will happen to him or her".

Grouped together in chapters, the issues addressed cover criminal and civil laws. The principal subjects are family law, slavery, and professional, commercial, agricultural and administrative law.

Economic measures set prices and salaries. The longest chapter concerns the family, which formed the basis of Babylonian society. It deals with engagement, marriage and divorce, adultery and incest, children, adoption and inheritance, and the duties of children's nurses. Every aspect of each case is addressed, enabling the greatest number of observations to be made.

Task 9. Explain the significance of the monument.

The Law Code of Hammurabi is valuable first and foremost as a model, being a treatise on the exercise of judiciary power in the context of Mesopotamian science, in which the particular never governs the general. The observation of several similar cases does not establish a general and universal principle, or law. It is not a code of laws in the sense that we understand it today, but rather a compendium of legal precedents. Contradictions and illogicalities (two similar cases causing different results) can be found in the Code, because it deals with particular judgments, from which the most personal elements (the names of the protagonists, for example) have been removed.

Because justice was a royal prerogative in Mesopotamia, Hammurabi here sets out a selection of the wisest legal decisions that he had to take or ratify. This stele was, however, more than an educational tool. It was a code of the rules and prescriptions established by a sovereign authority, and therefore a code of laws. Not only does it contain a list of judicial rulings, but also a catalogue of the towns and territories annexed to the kingdom of Babylon. The stele of the Babylonian king Hammurabi constitutes a summary of one of the most prestigious reigns of ancient Mesopotamia.

Executed in the last years of the sovereign's life, it was a political testament aimed at future princes, for whom it offered a model of wisdom and equity. The Code also served as a literary model for the schools of scribes, who were to copy it for over one thousand years.

Task 10. Try to understand the information on ancient Babilon.

In 331 B.C., Darius III was defeated by the forces of the Macedonian ruler Alexander the Great at the battle of Gaugamela, and in October, Babylon saw its own invasion and occupation. A native account of this invasion notes a ruling by Alexander not to enter the homes of its inhabitants.

Under Alexander, Babylon again flourished as a center of learning and commerce.

But following Alexander's mysterious death in 323 B.C. in the palace of Nebuchadrezzar, his empire was divided amongst his generals, and decades of fighting soon began, with Babylon once again caught in the middle. The constant turmoil virtually emptied the city of Babylon.

A tablet dated 275 B.C. states that the inhabitants of Babylon were transported to Seleucia, where a palace was built, as well as a temple given the ancient name of E-Saggila. With this deportation, the history of Babylon comes practically to an end, though more than a century later, it was found that sacrifices were still performed in its old sanctuary. By 141 B.C., when the Parthian Empire took over the region, Babylon was in complete desolation and obscurity.

After passing through various vicissitudes, the city was occupied in 538 B.C. by Cyrus the Great, king of Persia, who issued a decree permitting the Jews to return to their own land. Under Cyrus and his heir Darius I, Babylon became a center of learning and scientific advancement.

Babylonian scholars completed maps of constellations, and created the foundations of modern astronomy and mathematics. However, during the reign of Darius III, Babylon began to stagnate and degenerate. Most of the existing remains lie on the east bank of the Euphrates, the principal ones being three vast mounds: the Babil to the north, the Qasr or "Palace" (also known as the Mujelliba) in the centre, and the Ishgn "Amran ibn". All, with the outlying spur of the Jumjuma, to the south. East of these come the Ishgn el-Aswad or "Black Mound" and three lines of rampart, one of which encloses the Babil mound on the N. and E. sides, while a third forms a triangle with the S.E. angle of the other two. West of the Euphrates are other ramparts, and the remains of the ancient Borsippa.

Task 11. Render the score of the passage briefly in English.

Babel is the name used in the Hebrew Bible for the city of Babylon. It means "gate of the god", corresponding to the Akkadian Bab-ili. According to Genesis 11:1-9, mankind, after the deluge, traveled from the mountain of the East, where the ark had rested, and settled in 'a plain in the land of Shinar' (or Sennar). Here, they attempted to build a city and a tower whose top might reach unto Heaven – the Tower of Babel – but God miraculously confounded the languages of those who were working at its building so that they could not understand each other, and the project failed.

In this classic story from the Old Testament of the Bible, the people of the Earth were building a colossal staged temple-tower or multi-storied ziggurat that would reach heaven and used it as a place of worship. The Tower of Babel, according to the Book of Genesis, was an enormous tower built in the plain of Shinar. The phrase "The Tower of Babel" does not actually appear in the Bible; it is always, "the city and its tower". According to the biblical account, a united humanity of the generations following the Great Flood, speaking a single language and migrating from the east, came to the land of Shinar, where they resolved to build a city with a tower "with its top in the heavens ... lest we be scattered abroad upon the face of the Earth." God came down to see what they did and said: "They are one people and have one language, and nothing will be withholden from them which they purpose to do."

So God said, "Come, let us go down and confound their speech." And so God scattered them upon the face of the Earth, and confused their languages, and they left off building the city, which was called Babel "because God there confounded the language of all the Earth".

Task 12. Answer the questions.

1. Do you know the facts given in the text? 2. What do you think about the score of the information? 3. Can you add something to the facts in the text? 4. Hw do you understand the phrase "The Tower of Babel"? 5. What can you say according to the biblical account?

THE WAY OF LIFE IN BABILON

Law and justice were key concepts in the Babylonian way of life. Justice was administered by the courts, each of which consisted of from one to four judges.

Often the elders of a town constituted a tribunal. The judges could not reverse their decisions for any reason, but appeals from their verdicts could be made to the king. Evidence consisted either of statements from witnesses or of written documents. Oaths, which played a considerable role also in the administration of justice, could be either promissory, declaratory, or exculpatory.

The courts inflicted penalties ranging from capital punishment and mutilation to flogging, reduction to slavery, and banishment. Awards for damages were from 3 to 30 times the value of the object to be restored. To ensure that their legal, administrative, and economic institutions functioned effectively, the Babylonians used the cuneiform system of writing developed by their Sumerian predecessors.

To train their scribes, secretaries, archivists, and other administrative personnel, they adopted the Sumerian system of formal education, under which secular schools served as the cultural centers of the land. The curriculum consisted primarily of copying and memorizing both textbooks and Sumero-Babylonian dictionaries containing long lists of words and phrases, including the names of trees, animals, birds, insects, countries, cities, villages, and minerals, as well as a large and diverse assortment of mathematical tables and problems.

In the study of literature, the pupils copied and imitated various types of myths, epics, hymns, lamentations, proverbs, and essays in both the Sumerian and the Babylonian languages. Ammiditana, the great-grandson of Hammurabi, still titled himself "king of the land of the Amorites", and his father and son bore the Canaanite names of Abieshuh and Ammisaduqa. The armies of Babylonia were well-disciplined; they conquered the city-states of Isin, Elam, and Uruk, and the strong Kingdom of Mari.

The rule of Babylon was even obeyed as far as the shores of the Mediterranean. But Mesopotamia had no clear boundaries, making it vulnerable to attack. Trade and culture thrived for 150 years, until the fall of Babylon in 1595 B.C. The last king of the dynasty was Samsu-Ditana, son of Ammisaduqa.

He was overthrown following the sack of Babylon in 1595 B.C. by the Hittite king Mursili I, and Babylonia was turned over to the Kassites (Kossaeans) from the mountains of Iran, with whom Samsu-Iluna had already come into conflict in his 6th year. The Kassite dynasty was founded by Kandis or Gandash of Mari. The Kassites renamed Babylon "Kar-Duniash", and their rule lasted for 576 years. With this foreign dominion – that offers a striking analogy to the contemporary rule of the Hyksos in Egypt – Babylonia lost its empire over western Asia.

Syria and Canaan became independent, and the high-priests of Asshur made themselves kings of Assyria. Most divine attributes ascribed to the Semitic kings of Babylonia disappeared at this time; the title of "god" was never given to a Kassite sovereign. However, Babylon continued to be the capital of the kingdom and the "holy" city of western Asia, where the priests were all-powerful, and the only place where the right to inheritance of the old Babylonian empire could be conferred. Through the centuries of Assyrian domination, Babylonia enjoyed a prominent status, or revolting at the slightest indication that it did not. However, the Assyrians always managed to restore Babylonian loyalty, whether through granting of increased privileges, or militarily.

That finally changed in 627 B.C. with the death of the last strong Assyrian ruler, Ashurbanipal, and Babylonia rebelled under Nabopolassar the Chaldean the following year. With help from the Medes, Niniveh was sacked in 612, and the seat of empire was again transferred to Babylonia.

Nabopolassar was followed by his son Nebuchadnezzar II, whose reign of 43 years made Babylon once more the mistress of the civilized world.

Only a small fragment of his annals has been discovered, relating to his invasion of Egypt in 567 B.C., and referring to "Phut of the Ionians".Of the reign of the last Babylonian king, Nabonidus (Nabu-na'id), and the conquest of Babylonia by Cyrus, there is a fair amount of information available.

This is chiefly derived from a chronological tablet containing the annals of Nabonidus, supplemented by another inscription of Nabonidus where he recounts his restoration of the temple of the Moon-god at Harran; as well as by a proclamation of Cyrus issued shortly after his formal recognition as king of Babylonia. It was in the sixth year of Nabonidus (549 B.C.) that Cyrus, the Achaemenid Persian "King of Anshan" in Elam, revolted against his suzerain Astyages, "king of the Manda" or Medes, at Ecbatana. Astyages' army betrayed him to his enemy, and Cyrus established himself at Ecbatana, thus putting an end to the empire of the Medes.

Three years later Cyrus had become king of all Persia, and was engaged in a campaign in the north of Mesopotamia. Meanwhile, Nabonidus had established a camp in the desert, near the southern frontier of his kingdom, leaving his son Belshazzar (Belsharutsur) in command of the army.

In 538 B.C. Cyrus invaded Babylonia. A battle was fought at Opis in the month of June, where the Babylonians were defeated; and immediately afterwards Sippara surrendered to the invader.

Nabonidus fled to Babylon, where he was pursued by Gobryas, the governor of Kurdistan, and on the 16th of Tammuz, two days after the capture of Sippara, "the soldiers of Cyrus entered Babylon without fighting". Nabonidus was dragged from his hiding-place, and Kurdish guards were placed at the gates of the great temple of Bel, where the services continued without interruption.

Cyrus did not arrive until the 3rd of Marchesvan (October), Gobryas having acted for him in his absence. Gobryas was now made governor of the province of Babylon, and a few days afterwards the son of Nabonidus died. A public mourning followed, lasting six days, and Cambyses accompanied the corpse to the tomb.Cyrus now claimed to be the legitimate successor of the ancient Babylonian kings and the avenger of Bel-Marduk, who was assumed to be wrathful at the impiety of Nabonidus in removing the images of the local gods from their ancestral shrines, to his capital Babylon.

Nabonidus, in fact, had excited a strong feeling against himself by attempting to centralize the religion of Babylonia in the temple of Merodach (Marduk) at Babylon, and while he had thus alienated the local priesthoods, the military party despised him on account of his antiquarian tastes. He seems to have left the defence of his kingdom to others, occupying himself with the more congenial work of excavating the foundation records of the temples and determining the dates of their builders.

The invasion of Babylonia by Cyrus was doubtless facilitated by the existence of a disaffected party in the state, as well as by the presence of foreign exiles like the Jews, who had been planted in the midst of the country. One of the first acts of Cyrus accordingly was to allow these exiles to return to their own homes, carrying with them the images of their gods and their sacred vessels.

The permission to do so was embodied in a proclamation, whereby the conqueror endeavoured to justify his claim to the Babylonian throne. The feeling was still strong that none had a right to rule over western Asia until he had been consecrated to the office by Bel and his priests; and accordingly, Cyrus henceforth assumed the imperial title of "King of Babylon". A year before Cyrus' death, in 529 B.C., he elevated his son Cambyses II in the government, making him king of Babylon, while he reserved for himself the fuller title of "king of the (other) provinces" of the empire. It was only when Darius Hystaspis ("the Magian") acquired the Persian throne and ruled it as a representative of the Zoroastrian religion, that the old tradition was broken and the claim of Babylon to confer legitimacy on the rulers of western Asia ceased to be acknowledged. Darius, in fact, entered Babylon as a conqueror.

After the murder of Darius, it briefly recovered its independence under Nidinta-Bel, who took the name of Nebuchadnezzar III, and reigned from October 521 B.C. to August 520 B.C., when the Persians took it by storm. A few years later, probably 514 B.C., Babylon again revolted under Arakha; on this occasion, after its capture by the Persians, the walls were partly destroyed.

E-Saggila, the great temple of Bel, however, still continued to be kept in repair and to be a center of Babylonian patriotism, until at last the foundation of Seleucia diverted the population to the new capital of Babylonia and the ruins of the old city became a quarry for the builders of the new seat of government.

Nebuchadrezzar is also credited with the construction of the Hanging Gardens of Babylon – one of the seven wonders of the ancient world, said to have been built for his homesick wife Amyitis.

Whether the gardens did exist is a matter of dispute. Although excavations by German archaeologist Robert Koldewey are thought to reveal its foundations, many historians disagree about the location, and some believe it may have been confused with gardens in Nineveh.

Active vocabulary

Excavations, the Hanging Gardens of Babylon, temple, to divert, to exist, to built, conqueror, acquired the Persian throne, to rule, ruler, to embody, Babylonian patriotism, to justify, destroying, to elevate, to assume, to recover.

Task 1. Digest the information briefly in English.

Task 2. Make up dialogues from the information above and carry them on in class.

Task 3. Answer the questions.

1. What were key concepts in the Babylonian way of life? 2. How was justice administered? 3. Who constituted a tribunal? 4. Could the judges reverse their decisions for any reason? 5. Could appeals from their verdicts be made to the king? 6. Did evidence consist either of statements from witnesses or of written documents? 7. What played a considerable role also in the administration of justice? 8. What kinds of oaths were there? 9. Did the courts inflict penalties ranging from capital punishment and mutilation to flogging, reduction to slavery, and banishment? 10. What did they adopt to train their scribes, secretaries, archivists, and other administrative personnel? 11. Did the curriculum consist primarily of copying and memorizing both textbooks and Sumero-Babylonian dictionaries containing long lists of words and phrases? 12. What did the lists contain? 13. What did the pupils do in the study of literature? 14. Were the armies of Babylonia well-disciplined? 15. The rule of Babylon was even obeyed as far as the shores of the Mediterranean, wasn't it?

Task 4. Complete the sentences with the facts from the passage.

1. Most divine attributes ascribed to the Semitic kings of Babylonia disappeared at ____. 2. Babylon continued to be the capital of the kingdom and the "holy" city of____. 3. ____always managed to restore Babylonian loyalty. 4. Three years later Cyrus had become king of all____. 5. The invasion of Babylonia by Cyrus was doubtless facilitated by____. 6. One of the first acts of Cyrus accordingly was____. 7. Cyrus henceforth assumed the imperial title of____. 8. Darius, in fact, entered Babylon as a____. 9. E-Saggila, the great temple of Bel, however, still continued to be kept in____. 10. ____is also credited with the construction of the Hanging Gardens of Babylon. 11. ____ is one of the seven wonders of the ancient world. 12. Excavations by German archaeologist ____ are thought to reveal its foundations. 13. Nabonidus seems to have left the defence of his kingdom to____. 14. Darius Hystaspis acquired the Persian throne and ruled it as a representative of the Zoroastrian ____. 15. The old tradition was broken and the claim of Babylon to confer legitimacy on the rulers of western Asia ceased to____.

Task 5. Identify the areas of activities in Babilon.


THE CAROLINGIAN EMPIRE

Charlemagne Karolus Magnus or Charles I, was the King of the Franks from 768, the King of Italy from 774, and from 800 the first emperor in western Europe since the collapse of the Western Roman Empire 3 centuries earlier. The expanded Frankish state he founded is called the Carolingian Empire.

The oldest son of Pepin the Short and Bertrada of Laon, Charlemagne became king in 768 following the death of his father. He was initially co-ruler with his brother Carloman I. Carloman's sudden death in 771 under unexplained circumstances left Charlemagne as the undisputed ruler of the Frankish Kingdom. Charlemagne continued his father's policy towards the papacy and became its protector, removing the Lombards from power in northern Italy, and leading an incursion in Muslim Spain. He also campaigned against the peoples to his east, Christianizing them upon penalty of death, at times leading to events such as the Massacre of Verden.

Charlemagne reached the height of his power in 800 when he was crowned as "Emperor" by Pope Leo III on Christmas Day at Old St. Peter's Basilica. Called the "Father of Europe", Charlemagne's Empire united most of Western Europe for the first time since the Roman Empire. His rule spurred the Carolingian Renaissance, a period of cultural and intellectual activity within the Catholic Church.

Both the French and German monarchies considered their kingdoms to be descendants of Charlemagne's Empire. Charlemagne died in 814 after having ruled as Emperor for just over 13 years.

He was laid to rest in his imperial capital of Aachen in today's Germany. His son Louis the Pious succeeded him as Emperor. The Carolingian Empire (800-888) was a large empire in western and central Europe during the early Middle Ages. It was ruled by the Carolingian dynasty, which had ruled as kings of the Frankssince 751 and as kings of the Lombards of Italy from 774.

In 800, the Frankish king Charlemagnewas crowned emperor in Rome by Pope Leo III in an effort to revive the Roman Empire in the west during a vacancy in the throne of the eastern Roman Empire. After a civil war (840-43) following the death of Emperor Louis the Pious, the empire was divided into autonomous kingdoms, with one king still recognised as emperor, but with little authority outside his own kingdom. The unity of the empire and the hereditary right of the Carolingians continued to be acknowledged.

In 884, Charles the Fat reunited all the kingdoms for the last time, but he died in 888 and the empire immediately split up. With the only remaining legitimate male of the dynasty a child, the nobility elected regional kings from outside the dynasty or of the eastern kingdom, an illegitimate Carolingian.

The illegitimate line continued to rule in the east until 911, while in the western kingdom the legitimate Carolingian dynasty was restored in 898 and ruled until 987 with an interruption from 922 to 936. The size of the empire at its inception was around 1,112,000 km² (429,000 mi²), with a population of between 10 and 20 mln. people. To the south it bordered the Emirate of Córdoba and, after 824, the Kingdom of Pamplona; to the north it bordered the kingdom of the Danes; to the west it had a short land border with Brittany, which was later reduced to a tributary; and to the east it had a long border with the Slavs and the Avars, who were defeated and their land incorporated into the empire. In southern Italy, the Carolingians' claims to authority were disputed by the Byzantines (eastern Romans) and the vestiges of the Lombard kingdom in the Principality of Benevento.

Use of the term "Carolingian Empire" is a modern convention. The language of official acts in the empire was Latin. The empire was referred to variously as "the whole kingdom", as opposed to the regional kingdoms, "empire of the Romans and Franks", "Roman empire" or even "Christian empire".

Though Charles Martel chose not to take the title King, as his son Pepin III *the Short* would, or Emperor, as his grandson Charlemagne would become titled, he was absolute ruler of virtually all of today's continental Western Europe north of the Pyrenees.

Only the remaining Saxon realms, which he partly conquered, Lombardy, and the Marca Hispanica south of the Pyrenees were significant additions to the Frankish realms after his death.

Martel was the founder of all the feudal systems and merit system that marked the Carolingian Empire, and Europe in general during the Middle Ages, though his son and grandson would gain credit for his innovations. Further, Martel cemented his place in history with his defense of Christian Europe against a Muslim army at the Battle of Tours in 732.

The Iberian Saracens had incorporated Berber lighthorse cavalry with the heavy Arab cavalry to create a formidable army that had almost never been defeated. Christian European forces, meanwhile, lacked the powerful tool of the stirrup.

In this victory, Charles earned the surname *Martel* ("the Hammer"). Edward Gibbon, the historian of Rome and its aftermath, called Charles Martel "the paramount prince of his age".

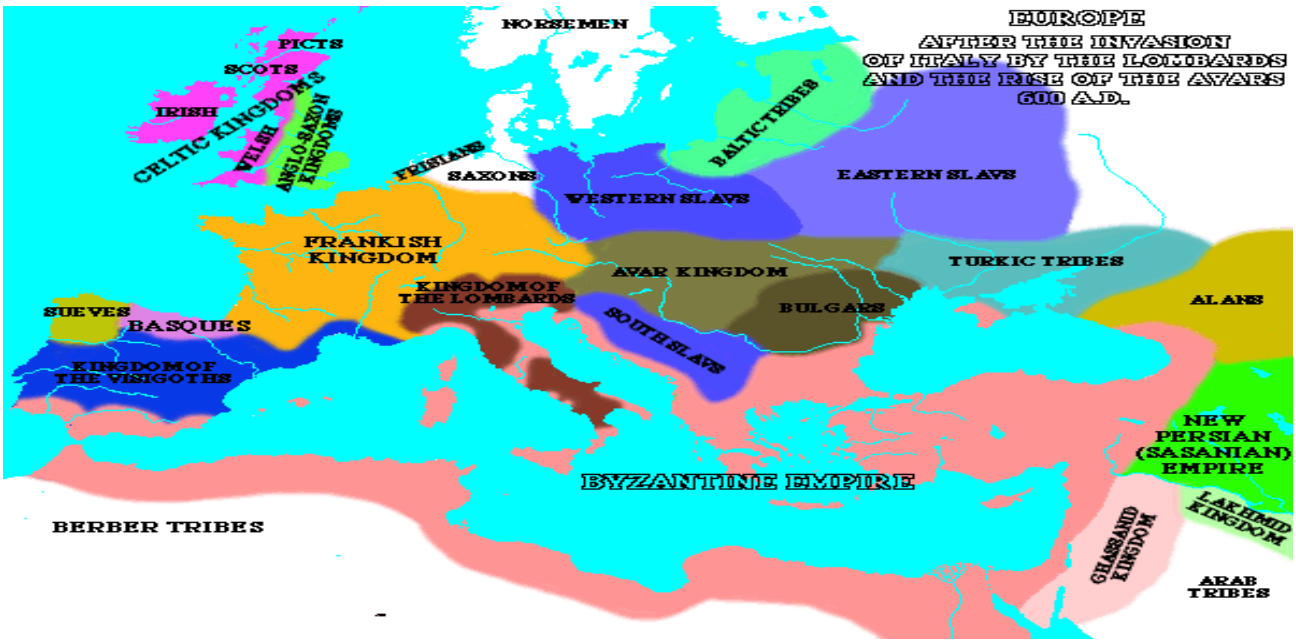
Pepin III accepted the nomination as king by Pope Zachary in about 751. Charlemagne's rule began in 768 at Pepin's death. He proceeded to take control over the kingdom following his brother Carloman's death, as the two brothers co-inherited their father's kingdom. Charlemagne was crowned Roman Emperor in the year 800. Carolingian Empire during the reign of Charlemagne covered most of Western Europe, as the Roman Empire once had. Unlike the Romans, who ventured beyond the Rhine only for vengeance after the disaster at Teutoburg Forest (9 A.D.), Charlemagne decisively crushed all Germanic resistance and extended his realm to the Elbe, influencing events almost to the Russian Steppes. Prior to the death of Charlemagne, the Empire was divided among various members of the Carolingian dynasty. These included King Charles the Younger, son of Charlemagne, who received Neustria; King Louis the Pious, who received Aquitaine; and King Pepin, who received Italy.

Pepin died with an illegitimate son, Bernard, in 810, and Charles died without heirs in 811.

Although Bernard succeeded Pepin as King of Italy, Louis was made co-Emperor in 813, and the entire Empire passed to him with Charlemagne's death in the winter of 814.

Louis the Pious often had to struggle to maintain control of the Empire. King Bernard of Italy died in 818 in imprisonment after rebelling a year earlier, and Italy was brought back into Imperial control. Louis' show of penance for Bernard's death in 822 greatly reduced his prestige as Emperor to the nobility. Meanwhile, in 817 Louis had established three new Carolingian Kingships for his sons from his first marriage: Lothar was made King of Italy and co-Emperor, Pepin was made King of Aquitaine, and Louis the German was made King of Bavaria. His attempts in 823 to bring his fourth son (from his second marriage), Charles the Bald into the will was marked by the resistance of his eldest sons, and the last years of his reign were plagued by civil war.

Lothar was stripped of his co-Emperorship in 829 and was banished to Italy, but the following year his sons attacked Louis' empire and dethroned him in favour of Lothar.



The following year Louis attacked his sons' Kingdoms, stripped Lothar of his Imperial title and granted the Kingdom of Italy to Charles. Pepin and Louis the German revolted in 832, followed by Lothar in 833, and together they imprisoned Louis the Pious and Charles.

In 835, peace was made within the family, and Louis was restored to the Imperial throne.

When Pepin died in 838, Louis crowned Charles king of Aquitaine, whilst the nobility elected Pepin's son Pepin II, a conflict which was not resolved until 860 with Pepin's death. When Louis the Pious finally died in 840, Lothar claimed the entire empire irrespective of the partitions.

As a result, Charles and Louis the German went to war against Lothar. After losing the Battle of Fontenay, Lothar fled to his capital at Aachen and raised a new army, which was inferior to that of the younger brothers. In the Oaths of Strasbourg, in 842, Charles and Louis agreed to declare Lothar unfit for the imperial throne. This marked the East-West division of the Empire between Louis and Charles until the Verdun Treaty. Considered a milestone in European history, the Oaths of Strasbourg symbolize the birth of both France and Germany. The partition of Carolingian Empire was finally settled in 843 by and between Louis the Pious' three sons in the Treaty of Verdun.

Lothar received the Imperial title, the Kingship of Italy, and the territory between the Rhine and Rhone Rivers, collectively called the Central Frankish Realm.

Louis was guaranteed the Kingship of all lands to the east of the Rhine and to the north and east of Italy, called the Eastern Frankish Realm which was the precursor to modern Germany.

Charles received all lands west of the Rhone, which was called the Western Frankish Realm. Lothar retired Italy to his eldest son Louis II in 844, making him co-Emperor in 850.

Lothar died in 855, dividing his kingdom into three parts: the territory already held by Louis remained his, the territory of the former Kingdom of Burgundy was granted to his third son Charles of Burgundy, and the remaining territory for which there was no traditional name was granted to his second son Lothar II, whose realm was named Lotharingia.

Louis II, dissatisfied with having received no additional territory upon his father's death, allied with his uncle Louis the German against his brother Lothar and his uncle Charles the Bald in 858.

Lothar was reconciled with his brother and uncle shortly after. Charles was so unpopular that he could not raise an army to fight the invasion and instead fled to Burgundy. He was only saved when the bishops refused to crown Louis the German King. In 860, Charles the Bald invaded Charles of Burgundy's Kingdom but was repulsed. Lothar II ceded lands to Louis II in 862 for support of a divorce from his wife, which caused repeated conflicts with the Pope and his uncles. Charles of Burgundy died in 863, and his Kingdom was inherited by Louis II.

Lothar II died in 869 with no legitimate heirs, and his Kingdom was divided between Charles the Bald and Louis the German in 870 by the Treaty of Meerssen. Meanwhile, Louis the German was involved with disputes with his three sons. Louis II died in 875, and named Carloman, the eldest son of Louis the German, his heir. Charles the Bald, supported by the Pope, was crowned both King of Italy and Holy Roman Emperor. The following year, Louis the German died. Charles tried to annex his realm too, but was defeated decisively at Andernach, and the Kingdom of the eastern Franks was divided between Louis the Younger, Carloman of Bavaria and Charles the Fat.

The Empire, after the death of Charles the Bald, was under attack in the north and west by the Vikings, and was facing internal struggles from Italy to the Baltic, from Hungary in the east to Aquitaine in the west. Charles the Bald died in 877 crossing the Pass of Mont Cenis, and was succeeded by his son, Louis the Stammerer as King of the Western Franks, but the title of Holy Roman Emperor lapsed.

Louis the Stammerer was physically weak and died two years later, his realm being divided between his eldest two sons: Louis III gaining Neustria and Francia, and Carloman gaining Aquitaine and Burgundy. The Kingdom of Italy was finally granted to King Carloman of Bavaria, but a stroke forced him to abdicate Italy to his brother Charles the Fat and Bavaria to Louis of Saxony. Also in 879, Boso, Count of Arles founded the Kingdom of Lower Burgundy in Provence.

In 881, Charles the Fat was crowned the Holy Roman Emperor while Louis III of Saxony and Louis III of Francia died the following year. Saxony and Bavaria were united with Charles the Fat's Kingdom, and Francia and Neustria were granted to Carloman of Aquitaine who also conquered Lower Burgundy. Carloman died in a hunting accident in 884 after a tumultuous and ineffective reign, and his lands were inherited by Charles the Fat, effectively recreating the Empire of Charlemagne.

Charles, suffering what is believed to be epilepsy, could not secure the kingdom against Viking raiders, and after buying their withdrawal from Parisin 886 was perceived by the court as being cowardly and incompetent. The following year his nephew Arnulf of Carinthia, the illegitimate son of King Carloman of Bavaria, raised the standard of rebellion. Instead of fighting the insurrection, Charles fled to Neidingen and died the following year in 888, leaving a divided entity and a succession mess.

The Empire of the Carolingians was divided: Arnulf maintained Carinthia, Bavaria, Lorraine and modern The largest cities in the Carolingian Empire around the year 800: Rome 50,000, Paris 25,000, Regensburg 25,000, Metz 25,000, Mainz 20,000, Speyer 20,000, Tours 20,000, Trier 15,000.

The government, administration, and organisation of the Carolingian Empire were forged in the court of Charlemagne in the decades around the year 800. In this year, Charlemagne was crowned emperor and adapted his existing royal administration to live up to the expectations of his new title.

The political reforms wrought in Aachen were to have an immense impact on the political definition of Western Europe for the rest of the Middle Ages. The Carolingian improvements on the old Merovingian mechanisms of governance have been lauded by historians for the increased central control, efficient bureaucracy, accountability, and cultural renaissance.

The Carolingian Empire was the largest western territory since the fall of Rome, but historians have come to suspect the depth of the emperor's influence and control.

Legally, the Carolingian emperor exercised the *bannum*, the right to rule and command, over all of his territories. He had supreme jurisdiction in judicial matters, made legislation, led the army, and protected both the Church and the poor. His administration was an attempt to organise the kingdom, church and nobility around him, however, its efficacy was directly dependent upon the efficiency, loyalty and support of his subjects. It has long been held that the dominance of the Carolingian military was based on a "cavalry revolution" led by Charles Martel in 730.

However, the stirrup, which made the 'shock cavalry' lance charge possible, was not introduced to the Frankish kingdom until the late eighth century. Instead, the Carolingian military success rested primarily on novel siege technologies and excellent logistics. However, large numbers of horses were used by the Frankish military during the age of Charlemagne. This was because horses provided a quick, long-distance method of transporting troops, which was critical to building and maintaining such a large empire. No permanent capital city existed in the empire, the itinerant court being a typical characteristic of all Western European kingdoms at this time.

Some "main residences" can be distinguished. In the first year of his reign, Charlemagne went to Aachen for the first time. He began to build a palace twenty years later 788.

The palace chapel, constructed in 796, later became Aachen Cathedral. Charlemagne spent most winters between 800 and his death (814) at Aachen, which he made the joint capital with Rome, in order to enjoy the hot springs. Charlemagne organised his empire into 350 counties, each led by an appointed count. Counts served as judges, administrators, and enforcers of capitularies.

To enforce loyalty, he set up the system of *missi dominici*, meaning "envoys of the lord". In this system, one representative of the Church and one representative of the Emperor would head to the different counties every year and report back to Charlemagne on their status.

The royal household was an itinerant body (until c. 802) which moved round the kingdom making sure good government was upheld in the localities. The most important positions were the chaplain (who was responsible for all ecclesiastical affairs in the kingdom), and the count of the palace who had supreme control over the household. It also included more minor officials e.g. chamberlain, seneschal and marshal. The household sometimes led the army.

Possibly associated with the chaplain and the royal chapel was the office of the chancellor, head of the chancery, a non-permanent writing office. The charters produced were rudimentary and mostly to do with land deeds. There are 262 surviving from Charles' reign as opposed to 40 from Pepin's and 350 from Louis the Pious.

There are 3 main offices which enforced Carolingian authority in the localities:

The Carolingian Empire (except Bavaria) was divided up into between 110 and 600 counties, each divided into *centenae* which were under the control of a vicar. At first they were royal agents sent out by Charles but after c. 802 they were important local magnates. They were responsible for justice, enforcing capitularies, levying soldiers, receiving tolls and dues and maintaining roads and bridges.

They could technically be dismissed by the king but many offices became hereditary. Provincial governors eventually evolved who supervised several counts.

In 802, all law was written down and amended.

Judges were supposed to have a copy of both the Salic law code and the Ripuarian law code.

Coinage had a strong association with the Roman Empire, and Charlemagne took up its regulation with his other imperial duties. The Carolingians exercised controls over the silver coinage of the realm, controlling its composition and value. The name of the emperor, not of the minter, appeared on the coins. Charlemagne worked to suppress mints in northern Germany on the Baltic Sea. The Frankish kingdom was subdivided by Charlemagne into three separate areas to make administration easier. These were the inner "core" of the kingdom (Austrasia, Neustria and Burgundy) which were supervised directly by the missatica system and the itinerant household. Outside this was the *regna* where Frankish administration rested upon the counts, and outside this was the marcher areas where ruled powerful governors. These marcher lordships were present in Brittany, Spain and Avaria.

Charles created two sub-kingdoms in Aquitaine and Italy, ruled by his sons Louis and Pepin respectively. Bavaria was also under the command of an autonomous governor, Gerold, until his death in 796. While Charles still had overall authority in these areas they were fairly autonomous with their own chancery and minting facilities. The five greatest capitularies of Charlemagne's reign:

- Capitulary of Herstal of 779. This is a short capitulary and launched according to Ganshof in the response to a crisis in Aquitaine, Italy and Spain. It is concerned a lot with ordo, making sure that the church is working correctly, also with reinforcing the wergild and Frankish ideals. Notably forced the usage of tithes.
- Admonitio Generalis of 789. "Blueprint for a new society" mentioning social issues for the first time. The first 58 clauses (of 82) reiterate decisions made by previous church councils and much is to do with ordo.
- The Capitulary of Frankfurt of 794. This is mainly to do with theology and speaks out against adoptionism and iconoclasm.
- The Programmatic Capitulary of 802. This shows an increasing sense of vision in society.
- The Capitulary for the Jews of 814, delineating the prohibitions of Jews engaging in commerce or money-lending.

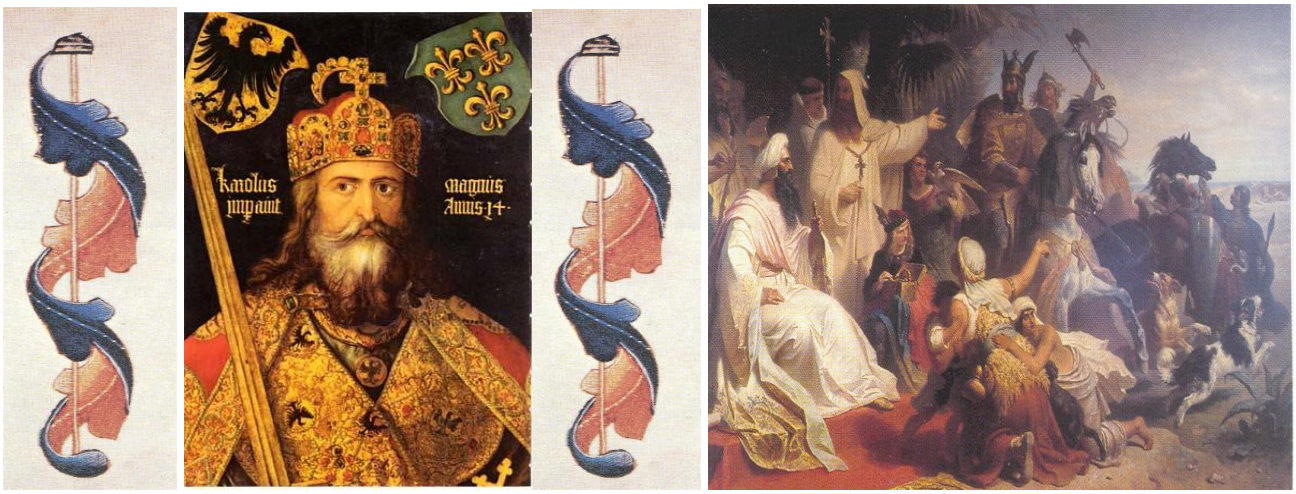
Notes on the text

Charlemagne ['ʃɑ:ləmeɪn] (742-814) – king of the Franks 768-814 and Holy Roman emperor (Charles I). As the first Holy Roman emperor Charlemagne promoted the arts and education, his court became the cultural centre of the Carolingian Renaissance, the influence of which outlasted his empire.

Task 1. Summarize the information briefly in English.

Task 2. Answer the questions.

1. Who was Charlemagne? 2. How was the Frankish state he founded called? 3. When did he become king? 4. When did he become the undisputed ruler of the Frankish Kingdom? 5. What was his policy like? 6. Who were descendants of Charlemagne's Empire? 7. When did he die? 8. How long did he rule as Emperor? 9. Who succeeded him as Emperor? 10. Who created two sub-kingdoms in Aquitaine and Italy? 11. How many greatest capitularies of Charlemagne's reign are there? 12. When did Charlemagne reach the height of his power? 13. When and where was crowned as "Emperor"? 14. How was he called? 15. What did Charlemagne's Empire unite? 16. Where did both the French and German monarchies consider their kingdoms to be descendants? 17. How long did he rule? 18. When did he die? 19. Who reunited all the kingdoms for the last time? 20. When did it happen? 21. What size of the empire was at its inception? 22. How much population was there? 23. What language of official acts was in the empire? 24. Was Charles Martel an absolute ruler of virtually all of today's continental Western Europe north of the Pyrenees? 25. What were the largest cities in the Empire?



THE ASSIZE OF CLARENDON

The Assize of Clarendon was an 1166 act of Henry II of England that began the transformation of English law from such systems for deciding the prevailing party in a case, especially felonies, as trial by ordeal or trial by battle or trial by compurgation to an evidentiary model, in which evidence, inspection, and inquiry was made by laymen, knights or ordinary freemen, under oath. This act greatly fostered the methods that would eventually be known in common law countries as trial by jury.

The Assize of Clarendon did not lead to this change immediately, however; recourse to trial by combat was not officially rescinded until 1819. Assize takes its name from Clarendon Palace, Wiltshire, and the royal hunting lodge at which it was promulgated.

- In the first place they said King Henry ordained on the advice of all his barons, for preserving peace and maintaining justice, that inquiry be made through the several counties and through the several hundreds by twelve more lawful men of the hundred and by four more lawful men of each villa, upon oath that they will tell the truth, whether in their hundred or in their villa there is any man cited or charged as himself being a robber or murderer or thief or any one who has been a receiver of robbers or murderers or thieves since the lord king was king. And let the justices inquire this before themselves and the sheriffs before themselves.
- And he who shall be found by the oath of the aforesaid cited or charged as having been a robber or murderer or thief or a receiver of them since the lord king was king, let him be arrested and go to the judgment of water, and let him swear that he was not a robber or murderer or thief or a receiver of them since the lord king was king, to the value of five shillings so far as he knows.
- If the lord of him who was arrested or his steward or his men demand him by pledge within the third day after his arrest, let him be given up and his chattels until he make his law.
- When a robber or murderer or thief or the receivers of them be arrested through the aforesaid oath, if the justices are not to come quite soon into the county where the arrests have been made, let the sheriffs send word by some intelligent man to one of the nearer justices that such men have been taken; and the justices shall send back word to the sheriffs where they wish to have the men brought before them; and the sheriffs shall bring them before the justices; and the villa where the arrests have been made two lawful men to carry the record of the county and hundred as to why the men were arrested, and there before the justices let them make their law.
- In the case of those who are arrested by the aforesaid oath of this assize no one is to have court or justice or chattels except the lord king in his court before his justices, and the lord king shall have all their chattels. But as to those who have been arrested otherwise than by this oath, let it be as it is accustomed and ought to be.
- Let the sheriffs who have arrested them bring them before the justice without any other summons than they shall have from him. And when robbers, murderers, thieves, or their receivers, who have been arrested through the oath or otherwise, are turned over to the sheriffs, they are forthwith to receive them without delay.
- In the several counties where there are no jails, let them be made in a borough or in some castle of the king at the king's expense and from his wood if it is near, or from some neighbouring wood, on the estimation of the king's servants, to the end that the sheriffs may keep in them those who have been arrested by the officers whose function it is to do this and by their servants.
- It is the king's will that all come to the county courts to make this oath, so that no one stay away on account of any immunity which he has or court or jurisdiction which he has held; but they are to come to make this oath.
- Let there not be any one within or outside a castle, or indeed in the honour of Wallingford, who shall refuse to let the sheriffs enter his court or his land to view the frankpledges and to see that all are under pledges; and let them be sent before the sheriffs under a free pledge.

- If any one, in the presence of lawful men of the hundreds, make confession of robbery, murder, theft, or the reception of those committing them, later wish to deny it, let him not have law.
- Let no one in the cities or boroughs have men or receive them into his house, land, or jurisdiction, whom he will not undertake to produce before the justice if they are sought; or else let him be in frank-pledge.
- If any one be taken who has the spoil of his robbery or theft in his possession, if he bear an ill name and have a notoriously bad reputation, and have no warrant, let him not have law. But if he be not suspected on account of what he has in his possession, let him go to the water.
- Moreover the lord king wills that those who make their law and are quit thereby, if they have a very bad reputation and are publicly and scandalously decried on the testimony of many lawful men, shall forswear the king's lands, to the effect that within eight days they shall cross the sea unless the wind detain them; and they shall never return to England unless by the grace of the lord king.
- The lord king forbids that any waif, that is to say a vagrant or unknown person, be given lodging with any one except in a borough; and he is not to be lodged there except for one night, unless he be sick while there or his horse, so that he is able to show an evident excuse.
- If a sheriff send word to another sheriff that men have fled from his county to the other county because of robbery, murder, theft, or the reception of those committing them, or for outlawry or an offense against the king's forest, let the latter sheriff arrest them; and indeed if he find out of himself or through others that he is to arrest and hold them until he have sure pledges for them.
- Let all the sheriffs make a list of all fugitives who have fled from their counties; and let them do this before the county courts, and they shall bring the names of these men in writing before the justices when first they come to them, in order that they may be sought throughout all England and their chattels seized for the benefit of the king.
- The lord king wills that this assize be held in his kingdom as long as it shall please him.

Active vocabulary

The Assize of Clarendon, transformation, trial by ordeal, trial by battle, laymen, knights, ordinary freemen, under oath, archbishops, bishops, abbots, earls, barons, maintaining justice, judgment, sheriffs, justices, to be under pledges, be outlaws.

Task 1. Digest the information briefly in English.

Task 2. Answer the questions.

1. What is The Assize of Clarendon like? 2. Who iniciated the act? 3. What did the act do? 4. Did it lead to the change immediately? 5. Where did Assize take its name? 6. How did King Henry ordain? 7. What was the oath like? 8. Who was to have court or justice or chattels in his court before his justices? 9. Who arrested perpetrators? 10. Where should perpetrators be in the counties where were no jails?

Task 3. Write out all words and phrases according to the topic.

CONCLUSION

During the Byzantine Empire the Justinian Code was expanded and remained in force until the Empire fell, though it was never officially introduced to the West. Instead, following the fall of the Western Empire and in former Roman countries, the ruling classes relied on the Theodosian Code to govern natives and Germanic customary law for the Germanic incomers – a system known as folk-right – until the two laws blended together. Since the Roman court system had broken down, legal disputes were adjudicated according to Germanic custom by assemblies of learned lawspeakers in rigid ceremonies and in oral proceedings that relied heavily on testimony.

After much of the West was consolidated under Charlemagne, law became centralized so as to strengthen the royal court system, and consequently case law, and abolished folk-right.

However, once Charlemagne's kingdom definitively splintered, Europe became feudalistic, and law was generally not governed above the county, municipal or lordship level, thereby creating a highly decentralized legal culture that favored the development of customary law founded on localized case law. However, in the 11th century, crusaders, having pillaged the Byzantine Empire, returned with Byzantine legal texts including the Justinian Code, and scholars at the University of Bologna were the first to use them to interpret their own customary laws. Medieval European legal scholars began researching the Roman law and using its concepts and prepared the way for the partial resurrection of Roman law as the modern civil law in a large part of the world. There was, however, a great deal of resistance so that civil law rivaled customary law for much of the late Middle Ages.

After the Norman conquest of England, which introduced Norman legal concepts into medieval England, the English King's powerful judges developed a body of precedent that became the common law. In particular, Henry II instituted legal reforms and developed a system of royal courts administered by a small number of judges who lived in Westminster and traveled throughout the kingdom.

Henry II also instituted the Assize of Clarendon in 1166, which allowed for jury trials and reduced the number of trials by combat. Louis IX of France also undertook major legal reforms and, inspired by ecclesiastical court procedure, extended Canon-law evidence and inquisitorial-trial systems to the royal courts. Also, judges no longer moved on circuits becoming fixed to their jurisdictions, and jurors were nominated by parties to the legal dispute rather than by the sheriff.

In addition, by the 10th century, the Law Merchant, first founded on Scandinavian trade customs, then solidified by the Hanseatic League, took shape so that merchants could trade using familiar standards, rather than the many splintered types of local law. A precursor to modern commercial law, the Law Merchant emphasised the freedom of contract and alienability of property.

The two main traditions of modern European law are the codified legal systems of most of continental Europe, and the English tradition based on case law. As nationalism grew in the 18th – 19th centuries, *lex mercatoria* was incorporated into countries' local law under new civil codes.

Of these, the French Napoleonic Code and the German Bürgerliches Gesetzbuch became the most influential. As opposed to English common law, which consists of massive tomes of case law, codes in small books are easy to export and for judges to apply.

However, today there are signs that civil and common law are converging. European Union law is codified in treaties, but develops through the precedent set down by the European Court of Justice. The USA legal system developed primarily out of the English common law system (with the exception of the state of Louisiana, which continued to follow the French civilian system after being admitted to statehood). Some concepts from Spanish law, such as the prior appropriation doctrine and community property, still persist in some US states, particularly those that were part of the Mexican Cession in 1848. Under the doctrine of federalism, each state has its own separate court system, and the ability to legislate within areas not reserved to the federal government.

Task 1. Choose the keywords that best convey the gist of the information.

CHAPTER II. LAW DEFINITIONS

INRTODUCTION

In democracy, the country's rulers and law-makers are chosen in elections.

In American English, candidates run for election and in Britain they stand for election.

The campaign is the series of advertisements, television appearances, meetings and speeches designed to get support for a candidate. The run-up to an election is the period leading up to an election, perhaps a longer time than the campaign itself. A political party is a group of politicians and their supporters who have similar views on how the country should be run.

A party's platform is the policy, which promises to put into effect if elected.

Proposed policies may be outlined in a document known a *manifesto*.

Speeches were traditionally made in Britain standing on a soapbox and in the U.S. on the stump, and there are things often referred to in connection with campaigning even if they are not often actually used. People who shout out their disagreement to a politician making a speech are *hecklers* and the process is *heckle.* A very fast campaigning trip, with a candidate making a lot of speeches and appearances in a lot of places in a short time, is a *whistle stop tour*.

A tour such as this might consist, among other things, of rallies: large, often open-air, political events with speeches and entertainment, and walkabouts: the candidate walks about in a crowd and shakes hands, or in this political context, glad-hands people.

Candidates must be careful not to make *gaffes*. Gaffes are slips of the tongue or offensive remarks that damage their image: the perception that people have of them.

In the USA, a party's presidential candidate may be selected in a series of primary elections or primaries. Primary elections are held in some, but not all, states as a way of finding which candidate has the most support. The final choice of presidential candidate is made by delegates representing each state at the party conventions, famous of late-night bargaining, supposedly in smoke-filled rooms, between supporters of each candidate.

Candidates looking for selection seek nominations as the party's presidential candidate. At attempt to become president is sometimes referred to as a bid for the presidency or a presidential bid.

The candidate running for the vice-presidency is the presidential candidate's running mate. An ideal combination of candidate's for these two points is known as the dream ticket. Politicians may accuse their opponents of using unfair or even criminal methods against them, such as paying people to make false accusations, stealing documents, bugging telephone conversations, and so on.

These methods are known as dirty tricks and are usually part of a campaign to spread misinformation: half-truths and lies. The most famous dirty tricks, campaign of all was in 1972, when President Nixon ordered the Democratic Party's offices in the Watergate building in Washington to be burgled.

Between elections, especially during elections campaigns, opinion polls or surveys are conducted to measure public opinion and to predict or forecast election results.

Results of findings of opinion polls are more or less reliable or accurate. Between elections, pollsters ask people if they approve the performance of politicians and parties, and the results are given as approval ratings or popularity ratings. Оn an election day, voters go to the polls. They vote, or cast their votes or ballots, to elect candidates. People with the right of vote are voters, and together make up the electorate. A body that passes laws is a legislature. Candidates win or gain seats in legislatures under different systems in different countries. Existing members of a legislature who haven't been reelected lose their seats. When it becomes apparent which parties or politicians have won an election, the winners claim victory and the losers concede or admit defeat.

Undemocratic forms of rule, or regimes, are authoritarian or autocratic. Hardline regimes refuse to allow any change in the political system. Hardliners are representatives of regimes, which are particularly resistant to changes. A country may be ruled by:

- a totalitarian regime, controlling all aspects of life without any opposition;
- one-party rule, allowing to operate only the political party in power;
- a military junta: a group of army officers;
- dictatorship: by one person alone, a dictator.

Where opposition to a regime is widespread, there may be periods of civil or social unrest with protests or demonstrations: groups of protestors and demonstrators marching through the streets perhaps silently, or perhaps chanting, or rhythmically shouting slogans. Opponents to undemocratic regimes are dissidents. The repressions may involve human right abuses such as censorship, house arrest, imprisonment without trial and torture. Some regimes use death squads or hit squads, groups of professional assassins, perhaps from the army or police, to murder opponents.

In the past, most societies were ruled by kings, queens or emperors. Often kings were said to have gods as ancestors, and so had the right to rule like the Pharaohs of Ancient Egypt.

In the Middle Ages, Christian kings and queens were thought to be the Lord's appointed that is why they were crowned in church. In later centuries, powerful kings such as Henry VIII of England and Louis XIV of France were said to rule by "*Divine Right*". This idea only ended with the English Civil War and the French Revolution.

People have been governed by kings and others since the first days of civilization. But modern ideas of government date back to the 1600s when, for the first time, people began to question a king's right to rule, once thought to be god-given. The English thinker *Thomas Hobbes* (1588-1679) argued that without government, people' lives would be "*solitary, poor, nasty, brutish and short*".

Hobbes said they should agree to obey a king who could keep peace between them. He called this agreement a *social contract.* Later thinkers like *Rousseau* (1712-1778) argued that people should only obey laws if they helped make them. This is the basis of *democracy*, which means rule by the people. The idea of democracy originated in Ancient Greece, but it was only in the 1800s that countries like Britain began slowly to move towards it.

For the last century or so, the world has been divided into countries, each ruled by a government.

Governments vary from harsh dictatorships to liberal democracies, but they are all intended to control in the particular way the country and its people and to run their affairs.

Active vocabulary

Democracy, candidates, to run for elections, campaign, series of advertisements, television appearances, meetings, speeches, run-up to, political party, politicians, supporters, similar views, country.

Task 1. Summarize the information briefly in English.

Task 2. Answer the questions.

1. When are the country's rulers and law-makers chosen in elections? 2. Where may proposed policies be outlined? 3. What is a body that passes laws called? 4. How are undemocratic forms of rule, or regimes called? 5. How can a country be ruled? 6. When do modern ideas of government date back? 7. What did English thinker Thomas Hobbes say? 8. What did French thinker Rousseau say? 9. Where did the idea of democracy originate? 10. How do governments vary?

Task 3. Analyze the information and make up the chart about thinkers.

№	Activity			
	Thinker	When	Where	Score
1.				

TOPICAL VOCABULARY

Run-up ['rʌnʌp] – преддверие; подготовительный период; подготовительная работа
run-up to the election – предвыборная пора, кампания
to run (stand) for election – баллотироваться (на пост), выставлять кандидатуру
to stand on a soapbox (the stump) – стоять на импровизированной трибуне
stump – агитационная поездка (во время избирательной кампании)
stump orator – агитатор
stump speech – агитационное выступление
to stir one's stumps – поторапливаться, пошевеливаться
soapbox ['səupbɔks] – импровизированная трибуна; любимая тема, "конёк"
soapbox orator – уличный оратор;
hecklers – крикуны
heckle – грубый выкрик (во время чьего-л. выступления)
to heckle – перебивать, прерывать (чьё-л. выступление грубыми выкриками, замечаниями, вопросами) , не давать говорить
whistle stop – остановка в маленьких местечках для встречи с избирателями (во время избирательной кампании)
rally I ['rælɪ] – съезд, слёт; митинг
peace rally – митинг в защиту мира
political rally – политический съезд
to hold / organize a rally – проводить съезд
walkabout ['wɔ:kə¸baut] – прогулка высокого лица с целью неофициального общения
glad-hander ['glæd¸hændə] – политикан, разыгрывающий из себя свойского парня, заигрывающий с избирателями (для завоевания голосов)
glad-hand ['glæd¸hænd] – радушный приём; радостное приветствие, овация
to give smb. the glad-hand – встречать кого-л. бурными аплодисментами Syn: greeting
gaffe [gæf] – ошибка, ложный шаг, промах, оплошность
to make a gaffe – допустить, сделать ошибку Syn: blunder
pollster ['pəulstə] – лицо, производящее опрос общественного мнения
primaries – "праймериз", первичные выборы в различных штатах, предварительные выборы в различных штатах (для определения кандидатов в президенты)
bitter primaries – первичные выборы, сопровождавшиеся острой предвыборной борьбой
early primaries – досрочные первичные выборы
mandatory primaries – обязательные предварительные выборы
presidential primaries – выдвижение кандидатов в президенты для баллотировки корпусом выборщиков
run-off primaries – второй тур предварительных выборов
hardliner – противник компромисса; ярый противник
manifesto [¸mænɪ'festəu] – манифест
political manifesto – политический манифест
to issue a manifesto – выпустить манифест
the Labour party manifesto – манифест лейбористской партии
Manifesto group – группа членов Лейбористской партии правого толка
to make up the electorate – составлять электорат

Task 1. Analyze the topical vocabulary and remember it.

Task 2. Analyze the information and use it in practice.

SYSTEMS OF GOVERNMENT

Every country has its own system but the government is usually split into three sections: the legislature, the executive and the judiciary. The *legislature* amends laws and makes new ones; the executive puts them into effect, and the judiciary makes sure they are applied fairly.

In the UK the legislature is *Parliament*, with its two houses: the important *House of Commons* made up of members (MPs) elected by the public, and less important *House of Lords* made up of peers. The executive is *the Prime Minister, Cabinet* and other ministers.

In an autocracy, a single person or a small group holds all the power.

In Iran, Islamic religious leaders hold power; in others, it belongs to the army. A *dictator* is someone whose word is law, like Hitler in Nazi Germany.

Today, democracy usually means an elected government made up of politicians voted into power every few years by all adults. Most democracies have a written set of laws called a *constitution* setting out how the government should be run. Britain does not have one. Some democracies, like France, are *republics*. It means that the head of a state is not a king but an elected *president*.

In the USA, the president is very much in charge. In other republics, however, the president is just a figurehead and the country is run by a *chancellor* or *prime minister*. Britain, Spain and many other democratic countries are still *monarchies* **–** that is they have a king or queen. But the monarch's powers are limited and the country is run by a government led by a prime minister. The government is made up from the party with majority of elected members.

People who stand for election are called politicians. *Left-wing* politicians aim to change things, perhaps to make government more democratic or to bring in *socialist ideas*. *Right-wing* politicians aim to conserve or keep the system without changes, which is why they are called *conservatives*.

Usually politicians with similar views join a group called a party. In most democratic countries, the party with the majority of votes forms a government.

Most countries are *capitalist*, which means most things, including industries and businesses, are owned by small groups or individuals. In *communist* countries like China, the most of all property is owned by the community, or rather, by the government. *Socialists* believe a government should ensure equal rights to citizens as well, a fair share of money, and good health, education and housing.

Fascists believe in army discipline and in their ones and their country superiority to others.

In democracies, governments are chosen by election. In a general election, all adults in the country can vote for candidates (politicians) who want to be elected. People usually vote by putting a mark next to a name on a list called a ballot sheet. Just who is elected depends on the system.

In first systems like Britain's, only the candidate who receives the most votes in each constituency (area) is elected. So if a party loses by just a few votes in every area, it might get no candidates elected at all. With proportional representation, the number elected for each party depends on how many of the votes the party got across the whole country.

Many countries have oppressive governments **–** governments that allow few people to force their will on the rest of the country. They do it in number of ways. Some use soldiers and tanks. Some use the power of money. Some use secret police and spies to stamp out opposition. Some use television and newspapers to fool people into thinking the "*right*" way. This is called *propaganda*. The most oppressive governments use a combination of all these tactics. Communist China is thought to have an oppressive government. So too are countries like Iraq.

Active vocabulary

Ancient legal codes, a pillar, to draw up, to carve, regulations, laws, to amend, put into effect, elected government, general election, to depend on, proportional representation.

Task 1. Choose the keywords and phrases that best convey the gist of the information.

Task 2. Make up some dialogues from the information above.

Task 3. Answer the questions.

1. Why do you think Hammurabi decided to have his laws carved into a pillar? 2. List the spheres of human life covered by Hammurabi's code. 3. Why do you think people of different ranks were treated differently by Hammurabi's code? 4. What was the difference of punishment between a lower-ranking citizen and others? 5. What is the difference between a rule and a law? 6. Can a society develop without rules (laws)? 7. Which of the statements do you think is true:

a) All the laws are situational. They suit only the given place at a given time.
b) There is some eternal law. It is good for all times and places.

Task 4. Find in the texts above the words that correspond to the definitions.

- Punishment;
- discovery;
- one from whom a person is descended;
- an accepted social custom or practice;
- insubstantial, amorphous, indistinct;
- payment for damage or loss, restitution;
- jurisprudential, deriving authority from law.

Task 5. Give English equivalents for the following words and expressions.

Кровная месть; налог; состоять из; налагать штраф; расплата; устанавливать закон; разборчивый; составлять документ; лжесвидетель; наследство; привлечь к суду; храм; гарантия свободы; четкий; статья конституции гласит; инструмент обучения; самое мудрое решение; школа серектарей; повседневность; свод правил; судебное решение; лирический эпилог.

Task 6. Read the text "Sunday Blues" and render its contents in English.

The so-called "*blue laws*" in the US might better be called Sunday laws, because their intent has been to restrict or forbid business, trade, paid work, or other commercial activities on Sunday, the Sabbath of major Christian sects. In the mid-1980s "*blue laws*" had been repealed or simply ignored in many parts of the nation but continued to be observed in certain religious communities.

Secular arguments against "*blue laws*" are that they violate the constitutional guarantee of separation of church and state and favour one religion, Christianity. A secular argument supporting them is that everybody needs a day of rest each week. Proscribing work on Sundays goes back at least to 4th-century Rome under Constantine the Great, and the practice was strictly supported in the religion-oriented American colonies. The term "*blue laws*" is said to have arisen from a list of Sabbath rules printed on blue paper for residents of New Haven, Connecticut, in 1781.

Task 7. Find in the texts the words that correspond to the definitions.

- An order in writing issued under seal in the name of the sovereign or of a court or judicial officer commanding or forbidding an act specified in it;
- a place of enforced confinement;
- the formal examination by a tribunal of the matter at issue in a civil or criminal cause;
- sanction;
- a document authorizing an officer to make an arrest, a search, etc.;
- well-known, especially for a specified unfavourable quality or trait;
- a public expression of anger or disapproval;
- a law passed by a legislative body and recorded;
- jail, penitentiary;
- entering the country with hostile purposes;
- to compel by physical, moral or intellectual means;
- to declare not guilty.

Task 8. Complete the sentences with the phrases from the box.

Legal heritage of Greece & Rome

The Ancient Greeks were among the first 1)____ a concept of law that separated everyday law from 2) ____. Before the Greeks most civilizations 3) ____ their laws to their gods or goddnesses. Instead, the Greeks believed that laws were 4) ____ by the people for the people. In the 17th century B.C. Draco* 5) ____ Greece's first written code of laws. Under Draco's code death was the 6)____ for most 7)____. Thus, the term draconian usually applies to extremely harsh 8)____. Several decades passed before Solon – poet, military 9)____, and ultimately Athens'10)____ devised a new code of laws.Trial by 11) ____, an ancient Greek tradition was retained, but enslaving 12)____ was prohibited as were most of the harsh punishments of Draco's code. Under Solon's law 13)____ of Athens were 14)____ to serve in the assembly and courts were 15)____ in which they could appeal government 16) ____. What the Greeks may have 17)____ to the Romans was the concept of "natural law". In essence, natural law was based on the belief that certain are 18)____ above the laws of a nation. These principles were 19)____ to the nature of people. The concept of natural law and the development of the first true 20)____ system had a profound effect on the modern world.

(to develop, religious beliefs, attributed, made, drew up, punishment, offences, measures, lawgivers, jury, debtors, citizens, eligible, established, decisions, contributed, basic principles, arise from, legal, hero)

Note on the text

Draco **–** Драконт, афинский законодатель **(**государственный деятель, составивший в 7 в. до н.э. свод жестоких законов) Code of Draco **–** кодекс Драконта, "драконовские законы".

Task 9. Remember that.

Draco – (7th century B.C.), Athenian legislator. His codification of Athenian law was notorious for its severity in that the death penalty was imposed even for trivial crimes, which gave rise to the adjective draconian in English.

Task 10. Complete the text with the words and expressions from the box.

Treason; condemned; execution; inflicted; found guilty; felons; punishment (3); victim; abolish; legal; Ancient.

One of the most bizarre methods of (1)____ was (2) ____ in Ancient Rome on people (3) ____ of murdering their fathers. Their punishment was to be put in a sack with a rooster, a viper, and a dog, and then drowned along with the three animals. In (4) ____ Greece the custom of allowing a (5) ____man to end his own life by poison was extended only to full citizens.

The philosopher Socrates died in this way. Condemned slaves were beaten to death instead. In Medieval Europe some methods of (6) ____ were drawn out to maximum suffering. (7) ____ were tied to a heavy wheel and rolled around the streets until they were crushed to death. Others were strangled, very slowly. One of the most terrible punishments was hanging, drawing, and quartering. The (8) ____ was hanged, beheaded and the body cut into four pieces. It remained a (9) ____ method of ____ in Britain until 1814. The first country to (10) ____ capital (11) ____ was Austria in 1887. Russia abolished it for every crime except (12) ____ on the orders of Tsar Nicholas I in 1826, but it was reintroduced after the Revolution in 1917.

Task 11. Try to understand that.

Habeas corpus is a law that states that a person cannot be kept in prison unless they have first been brought before a court of law, which decides whether it is legal for them to be kept in prison. Habeas corpus is a writ requiring a person under arrest to be brought before a judge or into court, especially to secure the person's release unless lawful grounds are shown for their detention.

Task 12. Translate the notion.

Habeas corpus – предписание о представлении арестованного в суд для рассмотрения законности ареста в соответствии с Законом о неприкосновенности личности. *Habeas corpus ad subjiciendum* – ты имеешь доставить (в суд) особу заключённого. *Writ of habeas corpus* – судебный приказ о защите неприкосновенности личности от произвольного ареста.

Task 13. Complete the text "Napoleon's Law" with the words from the box.

The laws of much of continental Europe (particularly France), of Quebec in Canada, and of much of Latin America – along with the (1) ____ laws of Louisiana – owe their modern form largely to the work of a man who never even (2) ____ law.

Napoleon Bonaparte, the Corsican soldier who became (3) ____of France after the French Revolution, established in 1800 five commissions to refine and organize the diverse (4) ____ systems of France. The result, enacted in 1804, was the Napoleon's Code. Some of its original 2,281 articles were (5) ____ by Napoleon himself, and all were (6) ____ by his thinking even though he was completely self-taught in legal matters. The code was a triumphant attempt to create a legal system that treated all citizens as (7) ____ without regard to their rank or previous privileges. It was also so clearly written that it could be read and understood by (8) ____ people at a time when only Latin scholars could make sense of the earlier laws handed down since Roman times.

The code was (9) ____ intact in most of the areas of Europe that Napoleon (10) ____ and spread from there across the Atlantic, taking root particularly in French-speaking American communities. Many of its principles are still in (11) ____today.

(force; legal; ordinary; dominated; civil; studied; affected; equals; adopted; drafted; emperor)

Task 14. Translate the information.

Draco was a late-7th century (ca 621 B.C.) Athenian magistrate who reformed and codified the laws. He was the first legislator of Athens in Ancient Greece. He replaced the prevailing system of oral law and blood feud by a written code to be enforced only by a court. During the 39th Olympiad, in 622 or 621 B.C., Draco established the legal code with which he is identified.

Little is known about his life. He may have belonged to the Greek nobility of the Attica *nabo* called the pelopo, with which the 10th-century Suda text records him as contemporaneous, prior to the period of the Seven Sages of Greece. It also relates a folkloric story of his death in the Aeginetan theatre. In a traditional ancient Greek show of approval, his supporters "threw so many hats and shirts and cloaks on his head that he suffocated, and was buried in that same theatre".

The laws he laid down were the first written constitution of Athens. So that no one would be unaware of them, they were posted on wooden tablets (where they were preserved for almost two centuries, on steles of the shape of three-sided pyramids. The tablets were called *axones*, perhaps because they could be pivoted along the pyramid's axis, to read any side.

The constitution featured several major innovations: Instead of oral laws known to a special class, arbitrarily applied and interpreted, all laws were written, thus made known to all literate citizens (who could make appeal to the Areopagus for injustices): "... the constitution formed under Draco, when the first code of laws was drawn up".

The death penalty was the punishment for even minor offences. All his laws were repealed by Solon in the early 6th century B.C., with the exception of the homicide law. After much debate from the Athenians, it was decided to revise the laws, including the homicide law, in 409.

The homicide law is a highly fragmented inscription, but it does state that it is up to the victim's relatives to prosecute a killer. According to the preserved part of the inscription, unintentional homicides receive a sentence of exile, while intentional murders are punishable by death.

Apart from the inscriptions very little is known about Draco's background or the nature of most of his laws. However, the significance of his work was prevalent when most of his laws were successfully abolished by Solon.

Task 15. Answer the questions.

1. Who was Draco? 2. What did he do? 3. When did he act? 4. When did he establish the legal code? 5. How much is it known about his life? 6. What were the laws he laid down? 7. What do you know about his death? 8. Were the laws posted on wooden tablets? 9. How are they called?

Task 16. Complete the text with the words from the box.

"Let the body be brought…"

In the United States, Britain, and many other English-speaking countries, the law of Habeas Corpus (1) ____ that nobody can be held in prison without trial. Habeas Corpus became law because of a wild party held in 1662 at the London home of a (2) ____ ____lady, Alice Robinson.

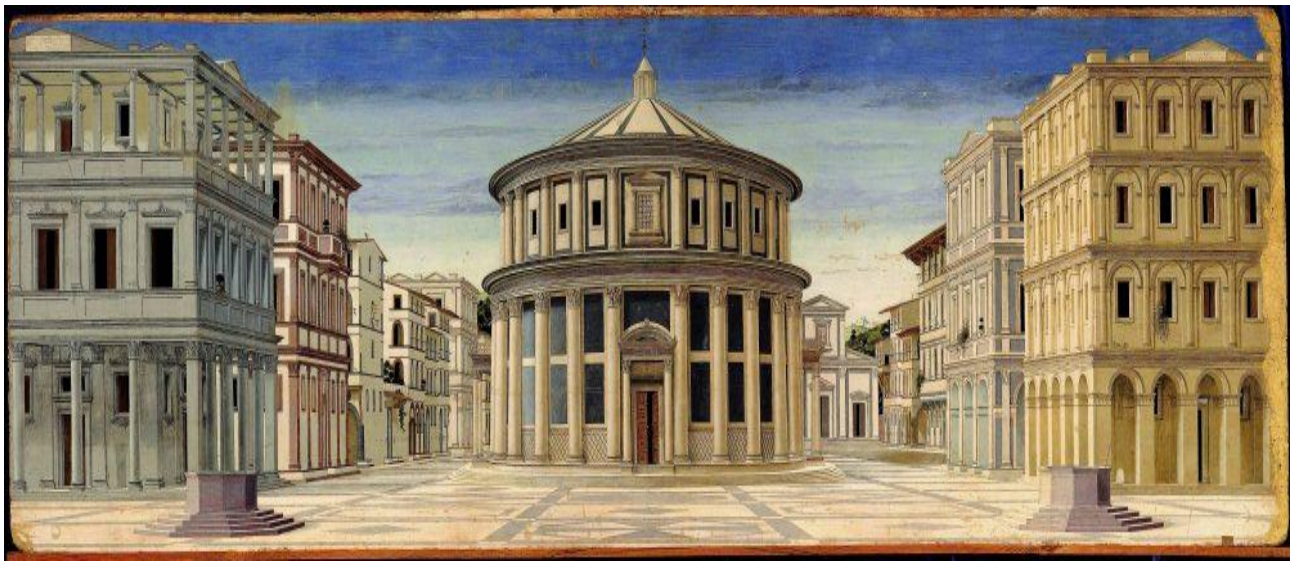
When a (3) ____ appeared and asked her and her guests to quiet down, Mrs. Robinson allegedly swore at him so violently that he arrested her, and a (4) ____ of the peace committed her to (5) ____.When she was finally brought (6) ____, Mrs. Robinson's story of her (7) _____ in prison caused an (8) ____. She had been put on a (9) ____ diet of bread and water, forced to sleep on the bare earth, stripped, and given 50 lashes. Such treatment was barbaric even by the (10) ____ of the time; what make it worse was that Mrs. Robinson was pregnant.

Public anger was so great that she was acquitted, the constable who had arrested her without a warrant was himself sent to prison, and (11) ____was severely reprimanded. And the case, along with other similar cases, led to the passing of the Habeas Corpus Act in Britain in 1679.

The law is still in the British (12) ____ (13) ____, and a version of it is used in the US, where the law was regarded as such an important guarantee of liberty that Article 1 of the Constitution (14) ____ that Habeas Corpus shall not be suspended except in cases of "*rebellion or invasion*".Habeas Corpus is part of a Latin phrase – *Habeas corpus ad subjiciendum* – that means "*Let the body be brought before the judge*".

In effect, a writ of Habeas Corpus is an order in the name of the people (or, in Britain, of the sovereign) to produce an (15) ____ in court at once.

(*guarantees, notoriously rowdy, constable, local justice, jail, to trial, treatment, outcry, punishment, harsh standards, the justice of the peace, statute books, declares, imprisoned person)*



LAW & SYSTEMS OF RULES

Law is a system of rules and guidelines, usually enforced through a set of institutions.

It shapes politics, economics and society in numerous ways and serves as a social mediator of relations between people. The Legal system varies from country to country around the world. Today the legal systems of different countries are mostly based on the three basic systems.

There are civil law, common law and religious law. Some of the countries also use more than one system in their judicial system. A definition of the legal system can be "Legal regimen of a country consisting of (1) a written or oral constitution, (2) primary legislation (statutes) enacted by the legislative body established by the constitution, (3) subsidiary legislation (bylaws) made by person or bodies authorized by the primary legislation to do so, (4) customs applied by the courts on the basis of traditional practices, and (5) principles or practices of civil, common, Roman, or other code of law."

Civil law is a legal system inspired by Roman law, the primary feature of which is that laws are written into a collection, codified, and not (as in common law) determined by judges. It is the most widespread system of law around the world. Countries that's judicial system is based on civil law are Brazil, Bulgaria, People's Republic of China, Congo, Chile, Cuba, Costa Rica, Denmark, Finland, Ecuador, France, Germany, Greece, Guatemala, Haiti, Italy, Hungary, Iceland, Japan.

Common law is law developed by judges through decisions of courts and similar tribunals rather than through legislative statutes or executive branch action.

A "common law system" is a legal system that gives great precedential weight to common law, on the principle that it is unfair to treat similar facts differently on different occasions.

Common law is currently in practice in Ireland, most of the United Kingdom (England, Wales and Northern Ireland), Australia, India (excluding Goa), Pakistan, South Africa, Canada (excluding Quebec), Hong Kong, the USA (excluding Louisiana) and many other places.

Later in the 20th century, H. L. A. Hart attacked Austin for his simplifications and H.Kelsen for his fictions in *The Concept of Law*. H.Hart argued law is a system of rules, divided into primary (rules of conduct) and secondary ones (rules addressed to officials to administer primary rules).

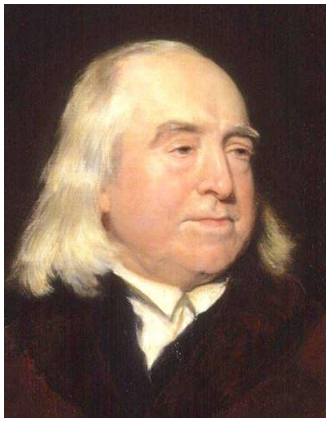
Secondary rules are further divided into rules of adjudication (to resolve legal disputes), rules of change (allowing laws to be varied) and the rule of recognition (allowing laws to be identified as valid).

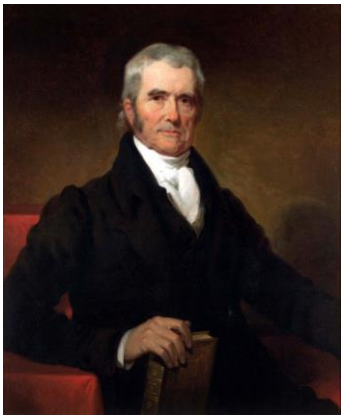
Two of H.Hart's students continued the debate: In his book *Law's Empire*, Ronald Dworkin attacked H.Hart and the positivists for their refusal to treat law as a moral issue.

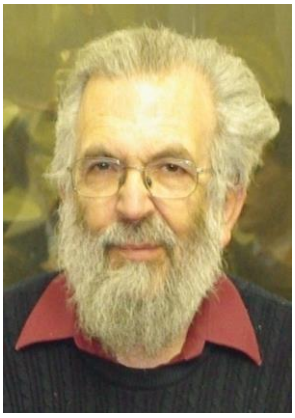
R.Dworkin argues that law is an "interpretive concept", that requires judges to find the best fitting and most just solution to a legal dispute, given their constitutional traditions.

Joseph Raz, on the other hand, defended the positivist outlook and criticized Hart's "soft social thesis" approach. In *The Authority of Law* Raz argues that law is authority, identifiable purely through social sources and without reference to moral reasoning. In his view, any categorization of rules beyond their role as authoritative instruments in mediation are best left to sociology, rather than jurisprudence.


H. Hart


J.Benthem


H.Kelsen


J. Raz

THE TERMINOLOGY OF LAW

Lady Justice is the symbol of justice. Lady Justice is depicted as a goddess equipped with three symbols of justice: a sword symbolizing the court's coercive power; scales representing an objective standard by which competing claims are weighed; and a blindfold indicating that justice is or should be meted out objectively, without fear or favour, regardless of power, money, wealth, or identity.

Law is a term which does not have a universally accepted definition, but one definition is that law is a system of rules and guidelines which are enforced through social institutions to govern behaviour. Laws are made by governments, specifically by their legislatures. The formation of laws themselves may be influenced by a constitution (written or unwritten) and the rights encoded therein.

The law shapes politics, economics and society in countless ways and serves as a social mediator of relations between people. A general distinction can be social mediator made between civil law jurisdictions (including Canon and Socialist law), in which the legislature or other central body codifies and consolidates their laws, and common law systems, where judge-made binding precedents are accepted. Historically, religious laws played a significant role even in settling of secular matters, which is still the case in some countries, particularly Islamic.

The adjudication of the law is generally divided into two main areas.

Criminal law deals with conduct that is considered harmful to social order and in which the guilty party may be imprisoned or fined. Civil law (not to be confused with civil law jurisdictions above) deals with the resolution of lawsuits (disputes) between individuals or organizations. These resolutions seek to provide a legal remedy (often monetary damages) to the winning litigant.

Under *civil law*, the following specialties, among others, exist: Contract law regulates everything from buying a bus ticket to trading on derivatives markets. Property law regulates the transfer and title of personal property and real property. Trust law applies to assets held for investment and financial security.

Tort law allows claims for compensation if a person's property is harmed.

Constitutional law provides a framework for the creation of law, the protection of human rights and the election of political representatives.

Administrative law is used to review the decisions of government agencies.

International law governs affairs between sovereign states in activities ranging from trade to military action. To implement and enforce the law and provide services to the public by public servants, a government's bureaucracy, the military and police are vital. While all these organs of the state are creatures created and bound by law, an independent legal profession and a vibrant civil society inform and support their progress. Law provides a rich source of scholarly inquiry into legal history, philosophy, economic analysis and sociology. Law also raises important and complex issues concerning equality, fairness, and justice. All are equal before the law.

The author Anatole France said in 1894, "In its majestic equality, the law forbids rich and poor alike to sleep under bridges, beg in the streets, and steal loaves of bread". Writing in 350 B.C., the Greek philosopher Aristotle declared, "The rule of law is better than the rule of any individual".

Mikhail Bakunin said: "All law has for its object to confirm and exalt into a system the exploitation of the workers by a ruling class". *Cicero* said "more law, less justice". Marxist doctrine asserts that law will not be required once the state has withered away. There have been many attempts to produce "a universally acceptable definition of law". By 1972, no such definition had been produced. McCoubrey and White said that the question "what is law?" has no simple answer.

Glanville Williams said that the meaning of the word "*law*" depends on the context in which that word is used. He said that, for example, "*early customary law*" and "*municipal law*" were contexts where the word "*law*" had two different and irreconcilable meanings.

Thurman Arnold said that it is obvious that it is impossible to define the word "*law*" and that it is also equally obvious that the struggle to define that word should not ever be abandoned.

It is possible to take the view that there is no need to define the word "law" (e.g. "let's forget about generalities and get down to cases"). One definition is that law is a system of rules and guidelines which are enforced through social institutions to govern behaviour.

Holmes said "The prophecies of what the courts will do in fact, and nothing more pretentious, are what I mean by the law." Aquinas said that law is a rational ordering of things which concern the common good that is promulgated by whoever is charged with the care of the community. This definition has both positivist and naturalist elements.

Active vocabulary

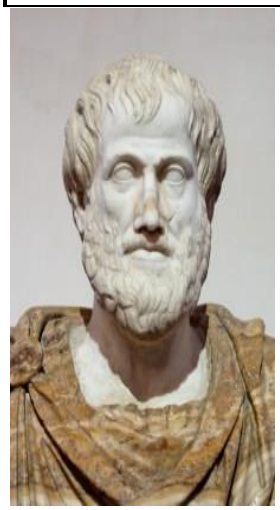
Types of law, administrative law, civil law, criminal law, custmary law, to charge with, rule, definition, generalities, to define, impossible, it is obvious, different, irreconcilable meanings.

Task 1. Summarize the information briefly in English.

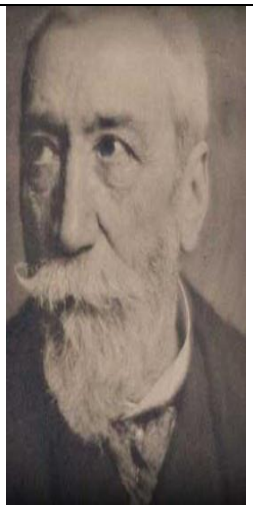
Task 2. Write out all legal definitions.

Task 3. Analyze the information and make up a chart.

№	Activity			
	Who	When	Where	Score
1.				

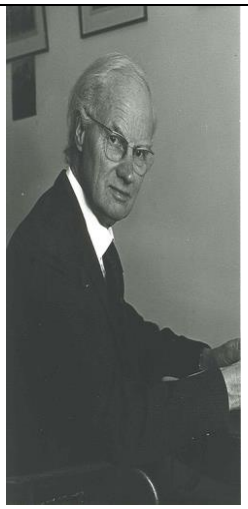


Aristotele



A. France

M. Bakunin



G. Williams

R. Holmes

LEGAL SUBJECTS

All legal systems deal with the same basic issues, but jurisdictions categorize and identify its legal subjects in different ways. A common distinction is that between "*public law*" (a term related closely to the state, and including constitutional, administrative and criminal law), and "*private law*" (which covers contract, tort and property). In civil law systems, contract and tort fall under a general law of obligations, while trusts law is dealt with under statutory regimes or international conventions.

International, constitutional and administrative law, criminal law, contract, tort, property law and trusts are regarded as the "*traditional core subjects*", although there are many further disciplines.

International law can refer to three things: public international law, private international law or conflict of laws and the law of supranational organizations.

Public international law concerns relationships between sovereign nations.

The sources for public international law development are custom, practice and treaties between sovereign nations, such as the Geneva Conventions. Public international law can be formed by international organizations, such as the United Nations (established after the failure of the League of Nations to prevent the World War II), the International Labour Organization, the World Trade Organization, or the International Monetary Fund. Public international law has a special status as law because there is no international police force, and courts (e.g. the International Court of Justice as the primary UN judicial organ) lack the capacity to penalize disobedience.

However, a few bodies, such as the WTO, have effective systems of binding arbitration and dispute resolution backed up by trade sanctions.

- *Conflict of laws* ("private international law" in civil law countries) concerns which jurisdiction a legal dispute between private parties should be heard in and which jurisdiction's law should be applied. Today, businesses are increasingly capable of shifting capital and labour supply chains across borders, as well as trading with overseas businesses, making the question of which country has jurisdiction even more pressing. Increasing numbers of businesses opt for commercial arbitration under the New York Convention 1958.
- *European Union law* is the first and, so far, only example of an internationally accepted legal system other than the UN and the World Trade Organization. Given the trend of increasing global economic integration, many regional agreements – especially the Union of South American Nations – are on track to follow the same model.

In the EU, sovereign nations have gathered their authority in a system of courts and political institutions. These institutions are allowed the ability to enforce legal norms both against and for member states and citizens in a manner which is not possible through public international law. As the European Court of Justice said in the 1960s, European Union law constitutes "a new legal order of international law" for the mutual social and economic benefit of the member states.

- *Constitutional and administrative law* governs the affairs of the state.

Constitutional law concerns both the relationships between the executive, legislature and judiciary and the human rights or civil liberties of individuals against the state. Most jurisdictions, like the United States and France, have a single codified constitution with a bill of rights.

A few, like the United Kingdom, have no such document. A "*constitution*" is simply those laws which constitute the body politic, from statute, case law and convention.

The great end, for which men entered into society, was to secure their property. That right is preserved sacred and incommunicable in all instances, where it has not been taken away or abridged by some public law for the good of the whole. If no excuse can be found or produced, the silence of the books is an authority against the defendant, and the plaintiff must have judgment. The fundamental constitutional principle, inspired by John Locke, holds that the individual can do anything but that which is forbidden by law, and the state may do nothing but that which is authorized by law.

Administrative law is the chief method for people to hold state bodies to account.

People can apply for judicial review of actions or decisions by local councils, public services or government ministries, to ensure that they comply with the law. The first specialist administrative court was set up in 1799, as Napoleon assumed power in France.

Criminal law, also known as penal law, pertains to crimes and punishment.

It thus regulates the definition of and penalties for offences found to have a sufficiently deleterious social impact but, in itself, make no moral judgment on an offender nor imposes restrictions on society that physically prevents people from committing a crime in the first place. Investigating, apprehending, charging, and trying suspected offenders are regulated by the law of criminal procedure.

The paradigm case of a crime lies in the proof, beyond reasonable doubt, that a person is guilty of two things. First, the accused must commit an act which is deemed by society to be criminal, or *actus reus* (guilty act). Second, the accused must have the requisite malicious intent to do a criminal act, or *mens rea* (guilty mind). However for so called "strict liability" crimes, an *actus reus* is enough.

Criminal systems of the civil law tradition distinguish between intention in the broad sense and negligence. Negligence does not carry criminal responsibility unless a particular crime provides for its punishment. Examples of crimes include murder, assault, fraud and theft. In exceptional circumstances defences can apply to specific acts, such as killing in self defence, or pleading insanity.

Criminal law offences are viewed as offences against not just individual victims, but the community as well. The state, usually with the help of police, takes the lead in prosecution.

Lay juries are often used to determine the guilt of defendants on points of fact: juries cannot change legal rules. Some developed countries still condone capital punishment for criminal activity, but the normal punishment for a crime will be imprisonment, fines, state supervision (probation), or community service. Modern criminal law has been affected considerably by the social sciences, especially with respect to sentencing, legal research, legislation, and rehabilitation.

On the international field, 111 countries are members of the International Criminal Court, which was established to try people for crimes against humanity.

Active vocabulary

Law, civil law, administrative law, criminal law, in ternational law, to affect, offences, law tradition, punishment, specific acts, to regulate, definitions, penalty, to distinguish, to accuse, legal research, legislation, rehabilitation, imprisonment, fines, state supervision.

Task 1. Summarize the information briefly in English.

Task 2. Make up dialogues from the information above and play them out.

Task 3. Answer the questions.

1. What deals with the same basic issues? 2. What do jurisdictions do? 3. What is the distinction between "*public law*" and "*private law*"? 4. What does trusts law deal with? 5. What is regarded as the "*traditional core subjects*"? 6. How many things can *International law* refer to? 7. What does *public international law* concern? 8. What is administrative law like? 9. What does criminal law pertrain to? 10. How many countries are members of the International Criminal Court?

Task 4. Analyze the texts above and make up the chart about legal subjects of law.

№	Name of law	Score
1.	**Common law**	
2.	**Civil law**	
3.	**Criminal law**	

MODERN EUROPEAN LAW

European law and legal traditions those are either shared by or characteristic of the countries of Europe. Broadly speaking, European law can refer to the historical, institutional, and intellectual elements that European legal systems tend to have in common; in this sense it is more or less equivalent to Western law. More commonly and more specifically, however, European law refers to the supranational law, especially of the European Union, that unites most of the national legal systems within Europe. The diverse countries of Europe represent several different legal traditions, including civil law (known as Romano-Germanic law) and common law, as well as less-influential systems such as Scandinavian law. All of them, however, are based upon the common foundations of ancient Roman law, Christian theology and canon law, feudal law, and medieval Germanic law.

The European law that arose from these traditions was characterized by its treatment of legal institutions and processes as relatively autonomous with respect to the surrounding social, religious, and moral norms and procedures. In other words, a rule of law did not arise merely by virtue of the existence of a moral norm, religious precept, or social custom but was instead governed by a distinct set of institutions and processes. This analytical separation of law from other spheres of life was maintained by a specialized profession of jurists and lawyers who were trained in a distinct body of learning – either a law code or a set of rules and doctrines contained in judicial decisions – which was understood to be internally consistent and historically continuous.

Perhaps the most important characteristic of European law is its consideration of the individual human person as the bearer of legal rights and duties.

Europe's shared legal heritage was nonetheless obscured by the separate development of Continental and English legal traditions (beginning in the 11th century), the rise of sovereign nation-states that claimed exclusive legal jurisdiction within their territory (largely during the 17th century), and legal nationalism (in the 19th century). In the late 20th century, however, economic integration advanced by the European Community led to renewed interest in European law.

This occurred alongside the weakening of some of the distinctive traits of the civil law and common law traditions in modern bureaucraticstates. For example, the pervasive growth of modern regulatory economic legislation and the administrative agencies and tribunals that oversee it diminished both the central reliance on comprehensive codes in civil law systems and the organic development of case law in common law systems.

The European Union (EU) is the most significant source of supranational European law. Since 1957, when the European Economic Community (EEC) was created with the limited purpose of establishing a common economic market in western Europe, the law of the EEC and its successor organizations has gradually expanded the scope of its authority over many aspects of European economic and political life. At the same time, it acquired many characteristics of a constitutional system rather than an international organization.

EU law is supreme over the national laws of EU member countries, meaning that it has a direct effect upon national legal systems; furthermore, EU law is interpreted and enforced through the cooperation of EU courts (the European Court of Justice) and the courts of EU member countries.

Because of the breadth of subject matter within its competence and its capacity to reach deeply into national legal systems, the EU has successfully created an expansive legal system in which all of its member states participate.

For example, there are substantial bodies of European law in areas such as contracts, business law, labour law, immigration law, and consumer law. Another important source of supranational European law is the Council of Europe, which requires its members (nearly all European countries) to become parties to the European Convention for the Protection of Human Rights and Fundamental Freedoms.

The convention requires state parties to respect certain basic human rights and to adhere to the decisions of the European Court of Human Rights.

Consequently, the convention and the court have brought uniformity to significant portions of public law in Europe. The Council of Europe also sponsors a number of influential initiatives designed to encourage and strengthen democratic governance and the rule of law throughout its member states.

Because supranational European law draws extensively upon a broad range of European legal traditions, it has had a unifying effect on law throughout the region. Its influence has been further strengthened by the integration of the legal professions and legal services across European countries, including mergers between law firms, and by the internationalization of higher education in Europe, including the study and teaching of law. As economic and political integration continues, and as transnational commerce contributes to greater uniformity in contract, labour, and business law, it is likely that European law will increasingly become the universal law of Europe.

The two main traditions of modern European law are: the codified legal systems of most of continental Europe, and the English tradition based on case law.

As nationalism grew in the 18th and 19th centuries was incorporated into countries' local law under new civil codes. Of these, the French Napoleonic Code and the German Bugerliches Gesetzbuch became the most influential. As opposed to English common law, which consists of massive tomes of case law, codes in small books are easy to export and for judges to apply.

However, today there are signs that civil and common law are converging.

European Union law is codified in treaties, but develops through the precedent set down by the European Court of Justice.

Active vocabulary

European law, universal, traditions, case law, legal systems, studies & teachings of law, to codified, conventions, treaties, contract, labour, business law, political integration continues.

Task 1. Give a short characteristic of European Law.

Task 2. Topic for discussion.

- History of European law.
- Sources of European law.
- Europe legal heritage.

Task 3. Summarize your findings on law and issue in a short presentation.

LEGAL INSTITUTIONS

Legal institutions can be roughly characterised as distinct legal systems governing specific forms of social conduct within the overall legal system. The hallmark of legal institutions is that they can be dealt with as independent social phenomena.

A distinction between institutional legal concepts, legal institutions and social institutions makes it possible to define legal institutions as systems of valid presentations of what must occur in social reality in order that the former can be said also to exist as social institutions.

Weinberger's idea, that the relation of legal institutions (practical information) to reality is the exact reverse of that between propositions (theoretical information) and reality, is subsequently used in developing a basic classification of legal institutions by analogy with the traditional division of elements of singular propositions in definite descriptions, properties and relations.

The main institutions of law in industrialized countries are independent courts, representative parliaments, an accountable executive, the military and police, bureaucratic organisation, the legal profession and civil society itself.

John Locke, in his *Two Treatises of Government*, and Baron de Montesquieu in *The Spirit of the Laws*, advocated for a separation of powers between the political, legislature and executive bodies.

Their principle was that no person should be able to usurp all powers of the state, in contrast to the absolutist theory of Thomas Hobbes' *Leviathan*.

Max Weber and others reshaped thinking on the extension of state. Modern military, policing and bureaucratic power over ordinary citizens' daily lives pose special problems for accountability that earlier writers such as Locke or Montesquieu could not have foreseen. The custom and practice of the legal profession is an important part of people's access to justice, whilst civil society is a term used to refer to the social institutions, communities and partnerships that form law's political basis.

Most countries have systems of appeal courts, answering up to a supreme legal authority. In the United States, this authority is the Supreme Court; in Australia, the High Court; in the UK, the Supreme Court; in Germany, the *Bundesverfassungs gericht*; in France, the *Cour de Cassation*.

For most European countries the European Court of Justice in Luxembourg can overrule national law, when EU law is relevant. The European Court of Human Rights in Strasbourg allows citizens of the Council of Europe member states to bring cases relating to human rights issues before it. Some countries allow their highest judicial authority to overrule legislation they determine to be unconstitutional. A judiciary is theoretically bound by the constitution, just as all other government bodies are. In most countries judges may only interpret the constitution and all other laws.

But in common law countries, where matters are not constitutional, the judiciary may also create law under the doctrine of precedent.

The UK, Finland and New Zealand assert the ideal of parliamentary sovereignty, whereby the unelected judiciary may not overturn law passed by a democratic legislature.

Active vocabulary

Industrialized countries, independent courts, representative parliaments, executive, the military and police, bureaucratic organisation, the legal profession, civil society itself.

Task 1. Render the score of the information briefly in English.

Task 2. Analyze the text above and make up the chart about legal institutions.

№	Activity			
	Who	When	Where	Score
1.	J. Lock			

THE INTERNATIONAL COURT OF JUSTICE IN THE HAGUE

The International Court of Justice is the primary judicial branch of the United Nations (UN). Seated in the Peace Palace in The Hague, Netherlands, the court settles legal disputes submitted to it by states and provides advisory opinions on legal questions submitted to it by duly authorized international branches, agencies, and the UN General Assembly.

Established in 1945 by the UN Charter, the Court began work in 1946 as the successor to the Permanent Court of International Justice. The Statute of the International Court of Justice, similar to that of its predecessor, is the main constitutional document constituting and regulating the Court.

The Court's workload covers a wide range of judicial activity. The ICJ is composed of fifteen judges elected to nine-year terms by the UN General Assembly and the UN Security Council from a list of people nominated by the national groups in the Permanent Court of Arbitration.

The election process is set out in Articles 4-19 of the ICJ statute. Elections are staggered, with five judges elected every three years to ensure continuity within the court. Should a judge die in office, the practice has generally been to elect a judge in a special election to complete the term. No two judges may be nationals of the same country. According to Article 9, the membership of the Court is supposed to represent the "main forms of civilization and of the principal legal systems of the world".

Essentially, that has meant common law, civil law and socialist law (now post-communist law).

There is an informal understanding that the seats will be distributed by geographic regions so that there are five seats for Western countries, three for African states (including one judge of francophone civil law, one of Anglophone common law and one Arab), two for Eastern European states, three for Asian states and two for Latin American and Caribbean states.

The five permanent members of the United Nations Security Council (France, Russia, China, the UK, the USA) always have a judge on the Court, thereby occupying three of the Western seats, one of the Asian seats and one of the Eastern European seats. The exception was China, which did not have a judge on the Court from 1967 to 1985 because it did not put forward a candidate.

Article 6 of the Statute provides that all judges should be "elected regardless of their nationality among persons of high moral character" who are either qualified for the highest judicial office in their home states or known as lawyers with sufficient competence in international law.

Judicial independence is dealt with specifically in Articles 16-18. Judges of the ICJ are not able to hold any other post or act as counsel. In practice, Members of the Court have their own interpretation of these rules and allow them to be involved in outside arbitration and hold professional posts as long as there is no conflict of interest. A judge can be dismissed only by a unanimous vote of the other members of the Court. Despite these provisions, the independence of ICJ judges has been questioned.

Judges may deliver joint judgments or give their own separate opinions. Decisions and Advisory Opinions are by majority, and, in the event of an equal division, the President's vote becomes decisive. Judges may also deliver separate dissenting opinions.

Article 31 of the statute sets out a procedure whereby *ad hoc* judges sit on contentious cases before the Court. The system allows any party to a contentious case, if it otherwise does not have one of that party's nationals sitting on the Court, to select one additional person to sit as a judge on that case only. It is thus possible that as many as seventeen judges may sit on one case.

The system may seem strange when compared with domestic court processes, but its purpose is to encourage states to submit cases. For example, if a state knows that it will have a judicial officer who can participate in deliberation and offer other judges local knowledge and an understanding of the state's perspective, it is more willing to submit to the jurisdiction of the court.

Although this system does not sit well with the judicial nature of the body, it is usually of little practical consequence. *Ad hoc* judges usually (but not always) vote in favor of the state that appointed them and thus cancel each other out.

Generally, the Court sits as full bench, but in the last fifteen years, it has on occasion sat as a chamber. Articles 26-29 of the statute allow the Court to form smaller chambers, usually 3 or 5 judges, to hear cases. Two types of chambers are contemplated by Article 26: firstly, chambers for special categories of cases, and second, the formation of *ad hoc* chambers to hear particular disputes.

In 1993, a special chamber was established, under Article 26(1) of the ICJ statute, to deal specifically with environmental matters (although it has never been used).

Ad hoc chambers are more frequently convened. Judgments of chambers may either less authority than full Court judgments or diminish the proper interpretation of universal international law informed by a variety of cultural and legal perspectives. On the other hand, the use of chambers might encourage greater recourse to the court and thus enhance international dispute resolution.

As stated in Article 93 of the UN Charter, all 193 UN members are automatically partiesto the Court's statute. Non-UN members may also become parties to the Court's statute under the Article 93(2) procedure. Once a state is a party to the Court's statute, it is entitled to participate in cases before the Court. However, being a party to the statute does not automatically give the Court jurisdiction over disputes involving those parties. The issue of jurisdictionis considered in the two types of ICJ cases: contentious issues and advisory opinions.

In contentious cases (adversarial proceedings seeking to settle a dispute), the ICJ produces a binding ruling between states that agree to submit to the ruling of the court. Only states may be parties in contentious cases. Individuals, corporations, parts of a federal state, NGOs, UN organs and self-determination groups are excluded from direct participation in cases although the Court may receive information from public international organizations. That does not preclude non-state interests from being the subject of proceedings if a state brings the case against another. For example, a state may, in cases of "diplomatic protection", bring a case on behalf of one of its nationals or corporations.

Jurisdiction is often a crucial question for the Court in contentious cases.The key principle is that the ICJ has jurisdiction only on the basis of consent. Article 36 outlines four bases on which the Court's jurisdiction may be founded:

- First, 36(1) provides that parties may refer cases to the Court (jurisdiction founded on "special agreement" or "*compromis*"). This method is based on explicit consent rather than true compulsory jurisdiction. It is, perhaps, the most effective basis for the Court's jurisdiction because the parties concerned have a desire for the dispute to be resolved by the Court and are thus more likely to comply with the Court's judgment.
- Second, 36(1) also gives the Court jurisdiction over "matters specifically provided for... in treaties and conventions in force". Most modern treaties contain a compromissory clause, providing for dispute resolution by the ICJ. Cases founded on compromissory clauses have not been as effective as cases founded on special agreement since a state may have no interest in having the matter examined by the Court and may refuse to comply with a judgment. During the Iran hostage crisis, Iran refused to participate in a case brought by the US based on a compromissory clause contained in the Vienna Convention on Diplomatic Relations and did not comply with the judgment.

Since the 1970s, the use of such clauses has declined. Many modern treaties set out their own dispute resolution regime, often based on forms of arbitration.

- Third, Article 36(2) allows states to make optional clause declarations accepting the Court's jurisdiction. The label "compulsory" sometimes placed on Article 36(2) jurisdiction is misleading since declarations by states are voluntary. Furthermore, many declarations contain reservations, such as exclusion from jurisdiction certain types of disputes ("*ratione materia*"). Industrialized countries, however, have sometimes increased exclusions or removed their declarations in recent years.
- Finally, 36(5) provides for jurisdiction on the basis of declarations made under the Permanent Court of International Justice's statute. Article 37 of the Statute similarly transfers jurisdiction under any compromissory clause in a treaty that gave jurisdiction to the PCIJ.

Active vocabulary

Primary judicial branch, to provide, to establish, court, statute, to transfer, jurisdiction, in a treaty compromissory clause, crucial question, to place, exclusions, to remove, declarations, in recent years.

Task 1. Digest the information briefly in English.

Task 2. Outline shortly four bases on which the Court's jurisdiction may be founded.

№	Bases	Score
1.		
2.		
3.		
4.		

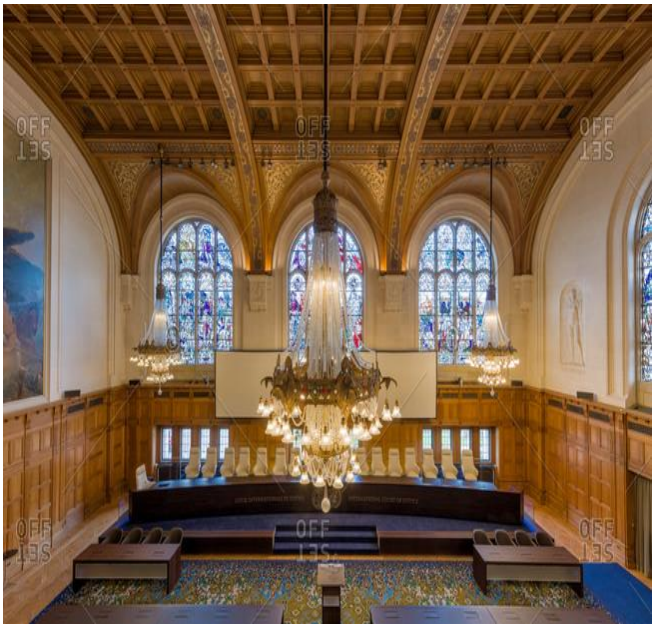
Task 3. Write out all important articles of the Court's jurisdiction.

Task 4. Translate the phrases into your native language.

Treaty; commercial / trade; to abrogate / denounce a treaty; to break / violate a treaty; to conclude / sign a treaty; to confirm / ratify a treaty; to negotiate / work out a treaty; to abandon a treaty; bilateral treaty; nonaggression treaty; nonproliferation treaty; peace treaty; test-ban treaty; to be in treaty with smb. for smth.; bilateral investment treaty; to accede to a treaty; to denounce a treaty; to enter into a treaty; to initial a treaty; to renounce a treaty; treaty of friendship; treaty of mutual assistance; treaty of neutrality; equitable treaty; law-of-the-sea treaty; strategic arms limitation treaty.

Task 5. Translate the sentences into your native language.

1. The senate confirms all treaties. 2. They signed a treaty to settle all border disputes by arbitration. 3. You also need to decide whether to sell through private treaty or at auction. 4. A commercial treaty relates to trade between the signatories. 5. Treaty is a transaction in which a sale is negotiated between the parties involved (by private treaty) rather than by auction. 6. Treaty is an agreement, usually in reinsurance, in which a reinsurer agrees automatically to accept risks from an insurer, either when a certain sum insured is exceeded or on the basis of a percentage of every risk accepted. 7. With such a treaty an insurer has the confidence and capacity to accept larger risks than would otherwise be possible, as the necessary reinsurance is already arranged.



TOPICAL VOCABULARY

to achieve a draft treaty – добиваться завершения подготовки проекта договора
to adhere to (terms of) a treaty – придерживаться условий / соблюдать условия договора
to adopt a draft treaty – принимать проект договора
to agree a treaty – согласовывать договор
to annex (append) to a treaty – прилагать к договору
to annul (cancel, revoke) a treaty – аннулировать / отменять договор
to approve (endorse) a treaty – одобрять договор
to back out of a treaty – отказываться от соблюдения договора
to be bound by a treaty – быть связанным договором
to be confirmed by a treaty – быть закрепленным в договоре
to be in break of treaty – нарушать договор
to become a party to / to join a treaty – присоединяться к договору
to breach / to break treaty – нарушать договор
to break off a treaty – денонсировать / расторгать договор
to bring a treaty into force – вводить договор в силу
to cheat on a treaty – нарушать договор
to compel an international treaty – заставлять выполнять международный договор
to conclude (enter into) a treaty – заключать договор
to confirm a treaty – ратифицировать договор
to conflict with / to contravene a treaty – противоречить договору
to deal a death blow to the treaty – наносить смертельный удар по договору
to denounce (end, renounce) a treaty – денонсировать / расторгать договор
to draft / to draw up a treaty – разрабатывать проект договора
to encourage the conclusion of new treaties – поощрять заключения новых договоров
to extend (the validity of) a treaty – продлевать срок действия договора
to finalize a treaty – согласовывать окончательный текст договора
to get an unsatisfactory treaty – получать неудовлетворительный договор
to hold to the spirit and the letter of the treaty – придерживаться духа и буквы договора
to honor to (keep, accede, observe) a treaty – соблюдать договор
to implement a treaty – выполнять договор / условия договора
to impose a treaty (on / upon smb) – навязывать договор (кому-л.)
to infringe a treaty – нарушать договор
to initiate a treaty – предлагать заключить договор
to legally write smth. into a treaty keep – официально вносить что-л. в договор
to make a treaty – заключать договор
to monitor accurately compliance with a treaty – тщательно следить за выполнением договора
to negotiate (for) a treaty – вести переговоры о заключении договора
to observe the terms / provisions of a treaty – выполнять положения договора
to offer to sign a nonaggression treaty with a country – предлагать подписать договор о ненападении с какой-л. страной
to open the treaty for signing – открывать договор для подписания
to pass a treaty – утверждать / одобрять договор (о законодательном органе)
to pay lip service to a treaty – поддерживать договор на словах
to present one's draft treaty – представлять свой проект договора
to press for an international treaty – добиваться заключения международного договора
to produce a treaty – вырабатывать договор

to prolong (the validity of) a treaty – продлевать срок действия договора
to publish a treaty – публиковать договор
to put forward a draft treaty – выдвигать проект договора
to ram a treaty down smb's throat – навязывать договор кому-л.
to ratify a treaty – ратифицировать договор
to reaffirm a treaty – вновь подтверждать договор
to refuse to ratify a treaty – отказываться ратифицировать договор
to register a treaty – регистрировать договор
to reinterpret a treaty – давать новую интерпретацию договору
to remain within the confines of the treaty – оставаться в рамках договора
to renegotiate a treaty – проводить новые переговоры о договоре
to renew a treaty – возобновлять договор
to repudiate a treaty – отказываться от договора
to revise a treaty – пересматривать договор
to revoke a treaty – аннулировать / отменять договор
to rush headlong to a treaty – необдуманно / безрассудно заключать договор
to rush smb into signing a treaty – подталкивать кого-л. к подписанию договора
to salute the signing of the treaty – приветствовать подписание договора
to secure a treaty – добиваться заключения договора
to seek a new treaty – добиваться нового договора
to sign a treaty in smb's name – подписывать договор от имени кого-л.
to sign a peace treaty – подписывать мирный договор / мир
to stay within the limits of a treaty – оставаться в рамках договора
to strengthen a treaty – укреплять договор
to submit a treaty to the Senate for ratification – представлять договор сенату на ратификацию
to terminate a treaty – прекращать действие договора
to undermine a treaty – торпедировать договор
to verify the treaty – проверять выполнение договора
to violate a treaty – нарушать договор
to welcome a draft treaty with reservation – приветствовать проект договора с оговорками
to withdraw from a treaty – денонсировать договор, выходить из договора
to work out a treaty – вырабатывать договор
to work towards a treaty – добиваться заключения договора
treaty envisages (provides for) smth. – договор предусматривает что-л.
treaty excluding the use of force – договор о неприменении силы
treaty for good-neighborly relations – договор об установлении добрососедских отношений
treaty in force – действующий договор
treaty is moribund – договор уже почти не действует
treaty is feasible – договор достижим
treaty is still at the heart of the disagreement – этот договор все еще является камнем преткновения при заключении соглашения
treaty law – право международного договора
treaty obligations – договорные обязательства
treaty of cooperation – договор о сотрудничестве
treaty of extradition – договор об экстрадиции

Task 1. Analyze the topical vocabulary and remember it.

Task 2. Characterize the main features of the International Court of Justice.

Task 3. Make up a small report and give a talk in class.

LEGISLATURE

A legislature is a deliberative assembly with the authority to make laws for a political entity such as a country or city. Legislatures form important parts of most governments; in the separation of powersmodel, they are often contrasted with the executive and judicial branches of government.

Laws enacted by legislatures are known as legislation. Legislatures observe and steer governing actions and usually have exclusive authority to amend the budget or budgets involved in the process. The members of a legislature are called legislators. In a democracy, legislators are most commonly popularly elected, although indirect election and appointment by the executive are also used, particularly for bicameral legislatures featuring an upper chamber.

Each chamber of legislature consists of a number of legislators who use some form of parliamentary procedure to debate political issues and vote on proposed legislation. There must be a certain number of legislators present to carry out these activities; this is called a quorum.

Some of the responsibilities of a legislature, such as giving first consideration to newly proposed legislation, are usually delegated to committees made up of small selections of the legislators.

The members of a legislature usually represent different political parties; the members from each party generally meet as a caucus to organize their internal affairs. The internal organization of a legislature is also shaped by the informal norms that are shared by its members.

Legislatures vary widely in the amount of political power they wield, compared to other political players such as judiciaries, militaries, and executives.

In 2009, political scientists M. Steven Fish and Matthew Kroenig constructed a Parliamentary Powers Index in an attempt to quantify the different degrees of power among national legislatures.

The German Bundestag, the Italian Parliament, and the Mongolian State Great Khuraltied for most powerful, while Myanmar's House of Representatives and Somalia's Transitional Federal Assembly (since replaced by the Federal Parliament of Somalia) tied for least powerful.

Some political systems follow the principle of legislative supremacy, which holds that the legislature is the supreme branch of government and cannot be bound by other institutions, such as the judicial branch or a written constitution. Such a system renders the legislature more powerful.

Legislatures will sometime delegate their legislative power to administrative or executive agencies. Legislatures are made up of individual members, known as legislators, who vote on proposed laws.

A legislature usually contains a fixed number of legislators; because legislatures usually meet in a specific room filled with seats for the legislators, this is often described as the number of "seats" it contains. For example, a legislature that has 100 "seats" has 100 members. By extension, an electoral district that elects a single legislator can also be described as a "seat", as, for, example, in the phrases "safe seat" and "marginal seat". In parliamentary systems of government, the executive is responsible to the legislature which may remove it with a vote of no confidence.

On the other hand, according to the separation of powers doctrine, the legislature in a presidential system is considered an independent and coequal branch of government along with both the judiciary and the executive. Names for national legislatures include "parliament", "congress", "diet" and "assembly".

A legislature may debate and vote upon bills as a single unit, or it may be composed of multiple separate assemblies, called by various names including *legislative chambers*, *debate chambers*, and *houses*, which debate and vote separately and have distinct powers.

A legislature which operates as a single unit is unicameral, one divided into two chambers is bicameral, and one divided into three chambers is tricameral. In bicameral legislatures, one chamber is usually considered the upper house, while the other is considered the lower house.

The two types are not rigidly different, but members of upper houses tend to be indirectly elected or appointed rather than directly elected, tend to be allocated by administrative divisions rather than by population, and tend to have longer terms than members of the lower house.

In some systems, particularly parliamentary systems, the upper house has less power and tends to have a more advisory role, but in others, particularly presidential systems, the upper house has equal or even greater power. In federations, the upper house typically represents the federation's component states. This is a case with the supranational legislature of the European Union.

The upper house may either contain the delegates of state governments – as in the European Union and in Germany and, before 1913, in the United States – or be elected according to a formula that grants equal representation to states with smaller populations, as is the case in Australia and the United States since 1913. Tricameral legislatures are rare; the Massachusetts Governor's Councilstill exists, but the most recent national example existed in the waning years of Caucasian-minority rule in South Africa. Tetracameral legislatures no longer exist, but they were previously used in Scandinavia.

Legislatures vary widely in their size. Among national legislatures, China's National People's Congress is the largest with 2 987 members, while Vatican City's Pontifical Commission is the smallest with 7. Neither legislature is democratically elected, nor does the National People's Congress have little independent power. Legislative size is a tradeoff between efficiency and representation.

The smaller the legislature, the more efficiently it can operate, but the larger the legislature, the better it can represent the political diversity of its constituents. Comparative analysis of national legislatures has found that size of a country's lower house tends to correspond to the cube root of its population; that is, the size of the lower house tends to increase along with population, but much more slowly.

Examples of legislatures are the Houses of Parliament in London, the Congress in Washington D.C., the Bundestag in Berlin, the Duma in Moscow, the Parlamento Italiano in Rome and the *Assemblee nationale* in Paris. By the principle of representative government people vote for politicians to carry out their wishes. Although countries like Israel, Greece, Sweden and China are unicameral, most countries are bicameral, meaning they have two separately appointed legislative houses.

In the "lower house" politicians are elected to represent smaller constituencies.

The "upper house" is usually elected to represent states in a federal system (as in Australia, Germany or the United States) or different voting configuration in a unitary system (as in France).

In the UK the upper house is appointed by the government as a house of review. One criticism of bicameral systems with two elected chambers is that the upper and lower houses may simply mirror one another. The traditional justification of bicameralism is that an upper chamber acts as a house of review. This can minimize arbitrariness and injustice in governmental action.

To pass legislation, a majority of the members of a legislature must vote for a bill (proposed law) in each house. Normally there will be several readings and amendments proposed by the different political factions. If a country has an entrenched constitution, a special majority for changes to the constitution may be required, making changes to the law more difficult.

A government usually leads the process, which can be formed from Members of Parliament (e.g. the UK or Germany). However, in a presidential system, the government is usually formed by an executive and his or her appointed cabinet officials (e.g. the United States or Brazil).

Active vocabulary

Legislature, deliberative assembly, authority, to make laws, political entity, separation of powersmodel, executive, judicial branches of government, to observe, steer governing actions, chambers, presidential system, appointed cabinet, bicameral systems, national legislatures, houses, unitary system.

Task 1. Render the score of the information briefly in English.

Task 2. Try to understand.

Camera – in camera – cameral – unicameral – bicameral – tetracameral.

The Althing is now a 63-member unicameral body, but until 1991 it comprised a lower house (two thirds of members) and an upper house (one third).

THE EXECUTIVE

The executive in a legal system serves as a government's centre of political authority.

In a parliamentary system, as with Britain, Italy, Germany, India, and Japan, the executive is known as the cabinet, and composed of members of the legislature. The executive is chosen by the Prime Minister or Chancellor, whose office holds power under the confidence of the legislature.

Because popular elections appoint political parties to govern, the leader of a party can change in between elections. The head of state is apart from the executive, and symbolically enacts laws and acts as representative of the nation.

Examples include the German president (appointed by members of federal and state Parliaments); the Queen of the United Kingdom (a hereditary title), and the Austrian president (elected by popular vote). The other important model is the presidential system, found in France, the U.S. and Russia.

In presidential systems, the executive acts as both head of state and head of government, and has power to appoint an unelected cabinet. Under a presidential system, the executive branch is separate from the legislature to which it is not accountable. Although the role of the executive varies from country to country, usually it will propose the majority of legislation and government agenda.

In presidential systems, the executive often has the power to veto legislation.

Most executives in both systems are responsible for foreign relations, the military and police, and the bureaucracy. Ministers or other officials head a country's public offices, such as a foreign ministry or interior ministry. The election of a different executive is therefore capable of revolutionizing an entire country's approach to government. The executive is the organ exercising authority in and holding responsibility for the governance of a state. The executive executes and enforces law.

In political systems based on the principle of separation of powers, authority is distributed among several branches (executive, legislative, judicial) – an attempt to prevent the concentration of power in the hands of a small group of people. In such a system, the executive does not pass laws (the role of the legislature) or interpret them (the role of the judiciary). Instead, the executive enforces the law as written by the legislature and interpreted by the judiciary. The executive can be the source of certain types of law, such as a decree or executive order. Executive bureaucracies are commonly the source of regulations. In the Westminster political system, the principle of separation of powers is not as entrenched. Members of the executive, called ministers, are members of the legislature, and hence play an important part in both the writing and enforcing of law.

In this context, the executive consists of a leader(s) of an office or multiple offices. Specifically, the top leadership roles of the executive branch may include:

- *head of state* – often the supreme leader, the president or monarch, the chief public representative and living symbol of national unity.
- *head of government* – often the *de facto* leader, prime minister, overseeing the administration of all affairs of state.
- *defence minister* – overseeing the armed forces, determining military policy & managing external safety.
- *interior minister* – overseeing the police forces, enforcing the law and managing internal safety.
- *foreign minister* – overseeing the diplomatic service, determining foreign policy & managing foreign relations.
- *finance minister* – overseeing the treasury, determining fiscal policy, managing national budget.
- *justice minister* – overseeing criminal prosecutions, corrections, enforcement of court orders.

In a presidential system, the leader of the executive is both the *head of state and government*.

In a parliamentary system, a cabinet minister responsible to the legislature is the head of government, while the head of state is usually a largely ceremonial monarch or president.

The executive in UK can be divided into the three parts.

The Privy Council: The Privy Council developed from a small group of royal advisers at court into the chief source of executive authority. But its position was weakened in the 18th and 19th centuries as more of its functions were transferred to a developing parliamentary Cabinet.

Today its main role is to advise the monarch on a range of matters, like the resolution of constitutional issues and the approval of Orders in Council, such as the granting of Royal Charters to public bodies.

The most important task of the Privy Council today is performed by its Judicial Committee.

This serves as the final court of appeal from those dependencies and Commonwealth countries which have retained this avenue of appeal. It may also be used as an arbiter for a wide range of courts and committees in Britain and overseas, and its ruling can be influential.

The office of Privy Councilor is an honorary one, conferred, for example, on former Prime Ministers.

The Ministry is the government of the moment. The head of the Ministry is the Prime Minister.

The functions of the Prime Minister are:

- leading the majority party;
- running the Government;
- appointing Cabinet Ministers and other minister;
- representing the nation in political matters.

Upon accepting office the Prime Minister must form a government, that is, select a cabinet and ministry from among the Members of Parliament of his own party. The Cabinet constitutes the centre of the government and is composed of about 20 of the most important ministers.

All major decisions of the Government are made by the Cabinet, and therefore it is the Cabinet which forms Government policy. Decisions made by the Cabinet must be unanimous. It makes its decisions collectively and is collectively responsible to Parliament. After the Prime Minister has formed his cabinet, he selects the rest of his ministry. Most of these ministers are the political heads of Government Departments and members of one of the Houses.

Government Departments are responsible for implementing Government policy. Each department is headed by two people: a political head who is usually the minister, and an administrative head from the Civil Service, called a permanent secretary. They responsible for a permanent staff which is part of the Civil Service. There are many such departments, for example the Home Office, the Department of Education, the Ministry of Defence, etc.

The most important department is the Treasury, and the Prime Minister is usually its political head. It is Department which controls economy of the nation. As well the government departments there are government agencies formed to operate public services, e.g., the Postal Office, British Rail, etc. Most of these agencies are subject to control of the government departments.

Active vocabulary

Executive, ministers, departments, to be responcible, Cabinet, head of the government, to form, to implement, executive authority, decisions, parliament, permanent secretary, unanimous, functions.

Task 1. Digest the score of the information briefly in English.

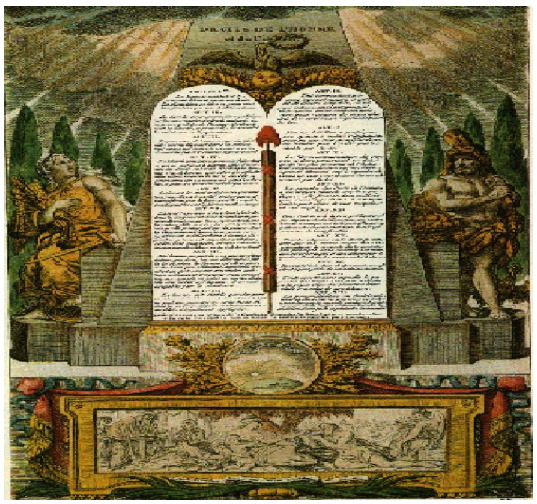
Task 2. Translate the phrases with the keyword "executive".

Executive, to go into executive session, executive secretary, account executive, executive agreement, chief executive, executive personnel, executive order, executive duties, the executive, executive session, executive position, executive council, city executive, company executive, executive agency, executive staff, executive officer, economic executive, executive development (training), executive committee, executive power, executive management, plural executive, an executive chairman, executive authority, the executive branch of government.

Task 3. Try to understand.

Executive – executively – executant – to execute – executor – executable – executorial – executorship – executory – executrix.

A CONSTITUTION – THE STANDARD OF LEGITIMACY



The French Declaration of the Rights of Man and of the Citizen, whose principles still have constitutional value.

Constitution is the body of doctrines and practices that form the fundamental organizing principles of a political state. In some states, such as the USA, the constitution is a specific written document; in others, such as the United Kingdom, it is a collection of documents, statutes, and traditional practices that are generally accepted as governing political matters.

States that have written constitutions may also have a body of traditional or customary practices that may or may not be considered to be of constitutional standing. Virtually every state claims to have a constitution, but not every government conducts itself in a consistently constitutional manner. In its wider sense, the term constitution means the whole scheme whereby a country is governed: and this includes much else besides law.

In its narrower sense, "*constitution*" means the leading legal rules, usually collected into some document that comes to be almost venerated as "*The Constitution*".

But no country's constitution can ever be compressed within the compass of one document, and even if the attempt has been made. It is necessary to consider the extra legal rules, customs, and conventions that grow up around the formal document.

Written constitutions. In most Western countries the constitution, using the term in the narrower sense, is a scheme of government that has been deliberately adopted by the people; examples are the Constitution of the USA, drawn up in 1787 and ratified in 1789 and still in essentials unchanged; the constitution of the Weimar Republic or that of the Federal Republic of Germany, brought into force in 1949; and the constitutions that France has had since the Revolution.

The constitution in these countries is the basis of public law; it is usually enacted or adopted with special formalities; special processes are devised for its amendment and sometimes safeguards are inserted to ensure that certain provisions are unalterable. In England there is no one document or fundamental body of law that can be described as a "*constitution*" in the sense that has been discussed above. The absence of any such document or of any distinction between public and private law has led to the suggestion that there is no constitution in England.

A thousand years ago, before the Norman Conquest in 1066, the Anglo-Saxon kings consulted the Great Council (an assembly on the leading men from each district) before taking major decisions.

Between 1066 and 1215 the king ruled alone, but in 1215 the nobles forced King John to accept "*Magna Carta*" (*The Great Charter*) which took away some of the king's powers.

In later centuries this was seen as the first occasion on which the king was forced to take advice. In 1264 the first parliament of nobles met together. Since then British Constitution has evolved, in other words, it has grown up slowly, as a result of countless Acts of Parliament. There have been no violent changes in the constitution since the "*bloodless revolution*" of 1688.

Then, Parliament invited William and Mary to become Britain's first constitutional monarch.

A constitutional monarch is one who can rule only with the support of Parliament. *The Bill of Rights* (1689) was the first legal step towards constitutional monarchy.

This Bill prevented the monarch from making laws or raising an army without Parliament's approval. Since 1869 the power of Parliament has grown steadily, while the power of the monarch has weakened. The Reform Acts of 1832, 1867 and 1884 gave the vote to large numbers of male citizens.

Today every man and woman aged 18 and over has the right to vote.

Certainly the English constitution has no existence apart from the ordinary law; it is indeed part of that very law. "*Magna Carta*", "*The Petition of Right Act*", "*The Habeas Corpus Act*", "*The Bill of Rights*", and "*The Act of Settlement*" are the leading enactments; but they are in no sense a constitutional code; and, without a host of judicial decisions, scores of other statutes of much less importance and a mass of custom and convention, these statutes would be unworkable.

The sources of English constitutional law are diffuse – statutes, judicial precedent, textbooks, law books, the writings of historians and political theorists, the biographies and autobiographies of statesmen, the columns of every serious newspaper, the volumes of Hansard, the minutiae of every type of government record and publications. This is what is meant by saying the English constitution is "*unwritten*": it is not formally enacted; its rules have to be sought out in a dozen fields, not in any one code. Similarly, it is flexible, and here the contrast is with a rigid constitution. There are no special safeguards for constitutional rules; constitutional law can be changed, amended, or abolished just like any rule of private law; there is no field, in which Parliament is forbidden to legislate.

Notes on the text

Hansard – the official verbatim record of debates in the British, Canadian, Australian, New Zealand, or South African parliament. Origin: late 19th century named after an English printer Hansard (1752-1828) whose company originally printed it; and his son, Thomas C. Hansard (1776-1833), who compiled the reports until 1889. *Hansard* – 1) the official report of the proceedings of the British Parliament 2) a similar report kept by other legislative bodies.

Task 1. Summarize the information briefly in English.

Task 2. Comment on the details on military & police.

While military organizations have existed as long as government itself, the idea of a standing police force is a relatively modern concept. For example, Medieval England's system of travelling criminal courts, or assizes, used show trials and public executions to instil communities with fear to maintain control.

The first modern police were probably that in 17th -century Paris, in the court of Louis XIV, although the Paris Prefecture of Police claim they were the world's first uniformed policemen. Max Weber famously argued that the state is that which controls the monopoly on the legitimate use of force. The military and police carry out enforcement at the request of the government or the courts. The term "failed state" refers to states that cannot implement or enforce policies; their police and military no longer control security and order and society moves into anarchy, the absence of government.

Task 3. Make the sentences below as true (T) if they give the message of the text, and false (F) if they change the message.

1. Constitution is the body of doctrines and practices. 2. It doesn't form the fundamental organizing principles of a political state. 3. Constitution in the UK is a collection of documents, statutes, and traditional practices. 4. States with written constitutions have a body of traditional or customary practices. 5. Every state claims to have a constitution. 6. Every government conducts itself in a consistently constitutional manner. 7. Certainly the English constitution has no existence apart from the ordinary law. 8. The sources of English constitutional law are good-organized. 9. Constitution rules have to be sought out in a dozen sources.

Task 4. Choose the right variant.

1. There are no special _____ measures for constitutional rules.
a) security b) safeguards c) precautionary d) equivalent
2. The English constitution has no existence apart from the_____ law.
a) ordinary b) customary c) usual d) routine
3. There have been no violent changes in the constitution since the "*bloodless revolution*" of _____.
a) 1688 b) 1730 c) 1698 d) 1745
4. Since_____ the power of Parliament has grown steadily, while the power of the monarch has weakened.
a) 1869 b) 1878 c) 1890 d) 1867
5. In _____ the first parliament of nobles met together.
a) 1264 b) 1356 c) 1289 d) 1365
6. The constitution of the Weimar Republic was brought _____ in 1949.
a) into force b) into effect c) into line d) into court
7. Constitution is the body of _____ and practices that form the fundamental organizing principles of a political state.
a) doctrines b) teachings c) tenets d) dogmas
8. This Bill prevented the monarch from making laws or raising an army without Parliament's _____.
a) approval b) approbation c) commendation d) sanction
9. The Reform Acts of 1832, 1867 and 1884 _____ the vote to large numbers of male citizens.
a) gave b) brought c) took d) got out
10. That comes to be almost _____ as "*The Constitution*".
a) venerated b) revered c) held in reverence d) regarded with reverence

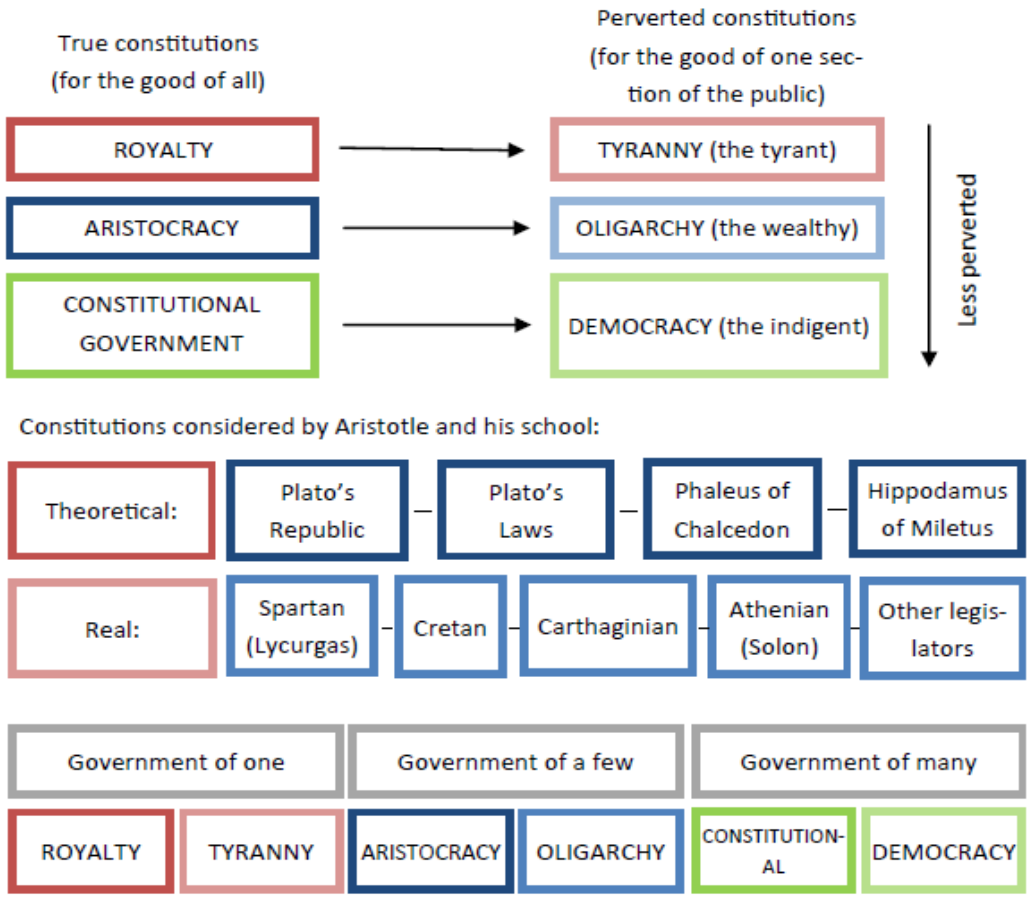


Diagram illustrating the classification of constitutions by Aristotle.

HISTORY & DEVELOPMENT OF CONSTITUTION

A constitution is a set of fundamental principles or established precedents according to which a state or other organization is governed. These rules together make up – *constitute*, what the entity is.

When these principles are written down into a single document or set of legal documents, those documents may be said to embody a *written* constitution; if they are written down in a single comprehensive document, it is said to embody a *codified* constitution. Some constitutions are uncodified, but written in numerous fundamental Acts of a legislature, court cases or treaties.

Constitutions concern different levels of organizations, from sovereign states to companies and unincorporated associations. A treaty which establishes an international organization is also its constitution, in that it would define how that organization is constituted. Within states, a constitution defines the principles upon which the state is based, the procedure in which laws are made and by whom. Some constitutions, especially codified ones, also act as limiters of state power, by establishing lines which a state's rulers cannot cross, such as fundamental rights.

The Constitution of India is the longest written constitution of any sovereign country in the world, containing 444 articles in 22 parts, 12 schedules and 118 amendments, with 146,385 words in its English-language version, while the Constitution of Monaco is the shortest written constitution, containing 10 chapters with 97 articles, and a total of 3,814 words. The term *constitution* comes through French from the Latin word *constitutio*, used for regulations and orders, such as the imperial enactments (*constitutiones principis*: edicta, mandata, decreta, rescripta).

Later, the term was widely used in canon law for an important determination, especially a decree issued by the Pope, now referred to as an *apostolic constitution*. Generally, every modern written constitution confers specific powers to an organization or institutional entity, established upon the primary condition that it abides by the said constitution's limitations.

According to Scott Gordon, a political organization is constitutional to the extent that it "contain[s] institutionalized mechanisms of power control for the protection of the interests and liberties of the citizenry, including those that may be in the minority".

Activities of officials within an organization or polity that fall within the constitutional or statutory authority of those officials are termed "within power" (in Latin, *intra vires*); if they do not, they are termed "beyond power" (in Latin, *ultra vires*). An example from the constitutional law of sovereign states would be a provincial parliament in a federal state trying to legislate in an area that the constitution allocates exclusively to the federal parliament, such as ratifying a treaty.

Action that appears to be beyond power may be judicially reviewed and, if found to be beyond power, must cease. Legislation that is found to be beyond power will be "invalid" and of no force; this applies to primary legislation, requiring constitutional authorization, and secondary legislation, ordinarily requiring statutory authorization. In this context, "within power", *intra vires*, "authorized" and "valid" have the same meaning; as do "beyond power", *ultra vires*, "not authorized" and "invalid".

In most but not all modern states the constitution has supremacy over ordinary statutory law; in such states when an official act is unconstitutional, i.e. it is not a power granted to the government by the constitution, that act is *null and void*, and the nullification is *ab initio*, that is, from inception, not from the date of the finding. It was never "law", even though, if it had been a statute or statutory provision, it might have been adopted according to the procedures for adopting legislation.

Sometimes the problem is not that a statute is unconstitutional, but the application of it is, on a particular occasion, and a court may decide that while there are ways it could be applied that are constitutional, that instance was not allowed or legitimate.

In such a case, only the application may be ruled unconstitutional. Historically, the remedy for such violations is petition for common law writs, such as *quo warranto*.

Task 1. Summarize the information briefly in English.

PRE-MODERN CONSTITUTIONS

Ancient

Excavations in modern-day Iraq by Ernest de Sarzec in 1877 found evidence of the earliest known code of justice, issued by the Sumerian king Urukagina of Lagash *ca* 2300 B.C.

Perhaps the earliest prototype for a law of government, this document itself has not yet been discovered; however it is known that it allowed some rights to his citizens. For example, it is known that it relieved tax for widows and orphans, and protected the poor from the usury of the rich.

After that, many governments ruled by special codes of written laws. The oldest such document still known to exist seems to be the Code of Ur-Nammu of Ur (*ca* 2050 B.C.).

Some of the better-known ancient law codes include the code of *Lipit-Ishtar of Isin, the code of Hammurabi of Babylonia, the Hittite code, the Assyrian code* and *Mosaic law*.

In 621 B.C., a scribe named Draco codified the cruel oral laws of the city-state of Athens; this code prescribed the death penalty for many offences (nowadays very severe rules are often called "Draconian"). In 594 B.C., Solon, the ruler of Athens, created the new *Solonian Constitution*.

It eased the burden of the workers, and determined that membership of the ruling class was to be based on wealth (plutocracy), rather than by birth (aristocracy). Cleisthenes again reformed the Athenian constitution and set it on a democratic footing in 508 B.C.

Aristotle (*ca* 350 B.C.) was the first to make a formal distinction between ordinary law and constitutional law, establishing ideas of constitution and constitutionalism, and attempting to classify different forms of constitutional government. The most basic definition he used to describe a constitution in general terms was "the arrangement of the offices in a state". In his works *Constitution of Athens*, *Politics*, and *Nicomachean Ethics* he explores different constitutions of his day, including those of Athens, Sparta, and Carthage. He classified both what he regarded as good and what he regarded as bad constitutions, and came to the conclusion that the best constitution was a mixed system, including monarchic, aristocratic, and democratic elements. He also distinguished between citizens, who had the right to participate in the state, and non-citizens and slaves, who did not.

The Romans first codified their constitution in 450 B.C. as the *Twelve Tables*. They operated under a series of laws that were added from time to time, but Roman law was never reorganised into a single code until the *Codex Theodosianus* (A.D. 438); later, in the Eastern Empire the *Codex repetitæ prælectionis* (534) was highly influential throughout Europe. This was followed in the east by the *Ecloga* of Leo III the Isaurian (740) and the *Basilica* of Basil I(878).

The *Edicts of Ashoka* established constitutional principles for the 3rd century B.C. Maurya king's rule in Ancient India. For constitutional principles almost lost to antiquity, see the code of Manu.

Task 1. Try to understand the information.

Draconian law (621 B.C.) – a form of Legal Code allowed people to appeal.

Legal Code – what is right and wrong according to the law.

- Ancient Greek's first written law.
- Gave voice to common people.
- Allowed them to appeal to written laws rather than the upper-class judges.
- Helped solidify Athenian city-state: took responsibility for the retribution out of the hands of the people and into the hands of the government.
- Known for excessively severe punishment.

Task 2. Analyze the information and make a chart about it.

№	Activity			
	Events	When	Where	Score

Task 3. Analyze the activities of four key individuals.

Tyrants Solon, Pisistratus, Cleisthenes, Pericles reformed Draconian laws.

Solon: when Athens ran into trouble he saved the day.

Revised laws in the 590 century B.C., overturning the draconian laws.

Outlawed debt slavery and tried to reduce poverty by encouraging trade.

Established classes of citizens.

Council of 400 prepared business for existing council.

Allowed all free men in Athens to take part in the assembly and serve on the juries that heard trials but only wealthy men could run for or hold political office.

Pisistratus (546 B.C.) – Champion of the Poor.

Helped farmers giving them loan and land taken from nobles.

Established building projects to give jobs to poor, this gave them a larger voice in government and further weakening the aristocracy.

Cleisthenes established the first true democracy – regarded as father of democracy in Athens.

Instituted a new political organization whereby the citizens would take more forceful and direct role in running the city-state. Tried to balance the rich and the poor.

All citizens could submit laws for debate and passage.

Change the Council of 400 to *the Council of 500* with 50 members elected from 10 new tribes, equitably distributed amongst citizens.

For one-tenth of the year teach tribe acted as executive committee of the Council.

Created council assembly.

First use of the word *democratia* (democracy – rule by entire body of citizens).

Extended the representation and voting right to almost male citizens in Athens.

Broadened the role of ordinary citizens in government.

Set up a Council of 500 citizens of 30 years +

Prepared law for assembly and supervised the day-to-day work of government.

Council debated laws.

Pericles rules during the Golden Age of Athens.

Citizens began to gain power and serve on juries in civil cases. Paid public servants.

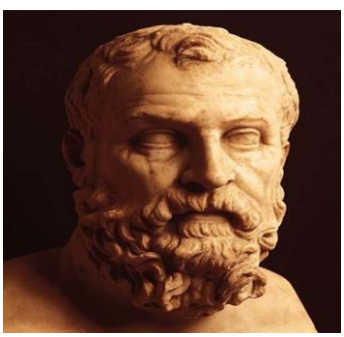
Democracy reached its height under Pericles.

Participation in government as important as defending Athens during war.

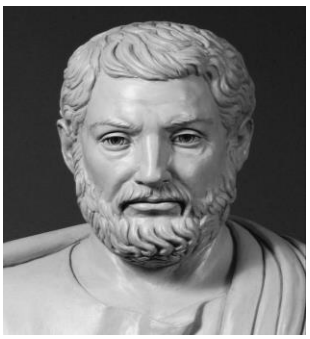
Encourages people to spread democracy to other parts of Greece.

Task 1. Answer the questions.

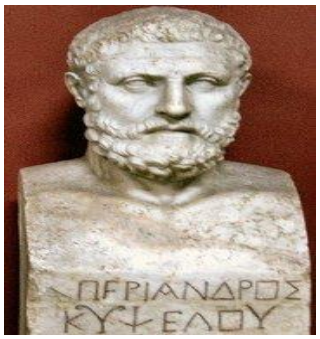
1. What were Greek tyrants like? 2. What is tyrant? 3. Who were Solon, Pisistratus, Cleisthenes, Pericles? 4. Why was Athens considered an Oligarchy at one point? 5. How was democracy finally installed in Athens? 6. Why did many Athenians support the rule of tyrants? 7. Why doesn't Ecuador establish direct democracy?



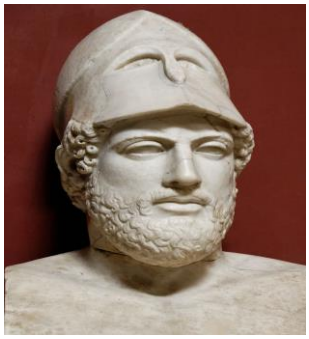
Solon



Cleisthenes



Pisistratus



Pericles

Dark Ages & early Middle Ages

Many of the Germanic people that filled the power vacuum left by the Western Roman Empire in the Early Middle Ages codified their laws. One of the first of these Germanic law codes to be written was the *Visigothic Code of Euric* (471). This was followed by the *Lex Burgundionum*, applying separate codes for Germans and for Romans; the *Pactus Alamannorum*; and the *Salic Law* of the Franks, all written soon after 500.

In 506, the *Breviarum* or *"Lex Romana"* of Alaric II, king of the Visigoths, adopted and consolidated the Codex *Theodosianus* together with assorted earlier Roman laws. Systems that appeared somewhat later include the *Edictum Rothari of the Lombards* (643), the *Lex Visigothorum* (654), the *Lex Alamannorum* (730) and the *Lex Frisionum* (*ca* 785).

These continental codes were all composed in Latin, while Anglo-Saxon was used for those of England, beginning with the Code of Ethelberht of Kent (602). In ca. 893, Alfred the Great combined this and two other earlier Saxon codes, with various Mosaic and Christian precepts, to produce the *Doom book* code of laws for England.

Japan's *Seventeen-article constitution* written in 604, reportedly by Prince Shōtoku, is an early example of a constitution in Asian political history. Influenced by Buddhist teachings, the document focuses more on social morality than institutions of government *per se* and remains a notable early attempt at a government constitution.

The Constitution of Medina known as the Charter of Medina was drafted by the Islamic prophet Muhammad after his flight (hijra) to Yathrib where he became political leader. It constituted a formal agreement between Muhammad and all of the significant tribes and families of Yathrib (later known as Medina), including Muslims, Jews, and pagans.

The document was drawn up with the explicit concern of bringing to an end the bitter intertribal fighting between the clans of the Aws (Aus) and Khazraj within Medina. To this effect it instituted a number of rights and responsibilities for the Muslim, Jewish, and pagan communities of Medina bringing them within the fold of one community – the Ummah. The precise dating of the Constitution of Medina remains debated but generally scholars agree it was written shortly after the Hijra (622).

Middle Ages after 1000

The *Pravda Yaroslava*, originally combined by Yaroslav the Wise the Grand Prince of Kyiv, was granted to Great Novgorod around 1017, and in 1054 was incorporated into the *Ruska Pravda*, that became the law for all of Kievan Rus. It survived only in later editions of the 15th century.

In England, Henry I's proclamation of the Charter of Liberties in 1100 bound the king for the first time in his treatment of the clergy and the nobility. This idea was extended and refined by the English barony when they forced King John to sign *Magna Carta* in 1215.

The most important single article of the *Magna Carta*, related to "*habeas corpus*", provided that the king was not permitted to imprison, outlaw, exile or kill anyone at a whim – there must be due process of law first. This article, Article 39, of the *Magna Carta* read: *No free man shall be arrested, or imprisoned, or deprived of his property, or outlawed, or exiled, or in any way destroyed, nor shall we go against him or send against him, unless by legal judgement of his peers, or by the law of the land.*

This provision became the cornerstone of English liberty after that point. The social contract in the original case was between the king and the nobility, but was gradually extended to all of the people. It led to the system of Constitutional Monarchy, with further reforms shifting the balance of power from the monarchy and nobility to the House of Commons.

The Nomocanon of Saint Sava was the first Serbian constitution from 1219. This legal act was well developed. St. Sava's Nomocanon was the compilation of Civil law, based on Roman Law and Canon law, Ecumenical Councils and its basic purpose was to organize functioning of the young Serbian kingdom and the Serbian church.

Saint Sava began the work on the Serbian Nomocanon in 1208 while being at Mount Athos, using *The Nomocanon in Fourteen Titles*, *Synopsis of Stefan the Efesian*, *Nomocanon of John Scholasticus*, Ecumenical Councils' documents, which he modified with the canonical commentaries of Aristinos and Joannes Zonaras, local church meetings, rules of the Holy Fathers, the law of Moses, translation of Prohiron and the Byzantine emperors' Novellae (most were taken from Justinian's Novellae). The Nomocanon was completely new compilation of civil and canonical regulations, taken from the Byzantine sources, but completed and reformed by St. Sava to function properly in Serbia.

Beside decrees that organized the life of church, there are various norms regarding civil life, most of them were taken from Prohiron. Legal transplants of Roman-Byzantine law became the basis of the Serbian medieval law. The essence of Zakonopravilo was based on Corpus Iuris Civilis.

Stefan Dušan, Emperor of Serbs and Greeks, enacted Dušan's Code in Serbia, in two state congresses: in 1349 in Skopje and in 1354 in Serres. It regulated all social spheres, so it was the second Serbian constitution, after St. Sava's Nomocanon (Zakonopravilo). The Code was based on Roman-Byzantine law. In 1222, Hungarian King Andrew II issued the Golden Bull of 1222.

1220 and 1230, a Saxon administrator, Eike von Repgow, composed the *Sachsenspiegel*, which became the supreme law used in parts of Germany as late as 1900.

In 1998, S. Kouyaté reconstructed from oral tradition what he claims is a 14th-century charter of the Mali Empire, called the *Kouroukan Fouga*.

Around 1240, the Coptic Egyptian Christian writer, 'Abul Fada'il Ibn al-'Assal, wrote the *Fetha Negest* in Arabic. 'Ibn al-Assal took his laws partly from apostolic writings and Mosaic Law, and partly from the former Byzantine codes. There are a few historical records claiming that this law code was translated into Ge'ez and entered Ethiopia around 1450 in the reign of Zara Yaqob.

Even so, its first recorded use in the function of a constitution (supreme law of the land) is with Sarsa Dengel beginning in 1563. The *Fetha Negest* remained the supreme law in Ethiopia until 1931, when a modern-style Constitution was first granted by Emperor Haile Selassie I.

In the Principality of Catalonia, the Catalan constitutions were promulgated by the Court from 1283 until 1716, when Philip V of Spain gave the Nueva Planta decrees, finishing with the historical laws of Catalonia. These Constitutions were usually made formally as a royal initiative, but required for its approval or repeal the favorable vote of the Catalan Courts, the medieval antecedent of the modern Parliaments. These laws had, as the other modern constitutions, preeminence over other laws, and they could not be contradicted by mere decrees or edicts of the king.

The Golden Bull of 1356 was a decree issued by a *Reichstag* in Nuremberg headed by Emperor Charles IV that fixed, for a period of more than 400 years, an important aspect of the constitutional structure of the Holy Roman Empire.

In China, the Hongwu Emperor created and refined a document he called *Ancestral Injunctions* (first published in 1375, revised twice more before his death in 1398). These rules served in a very real sense as a constitution for the Ming Dynasty for the next 250 years.

The oldest written document still governing a sovereign nation today is that of San Marino.

The *Leges Statutae Republicae Sancti Marini* was written in Latin and consists of six books.

The first book, with 62 articles, establishes councils, courts, various executive officers and the powers assigned to them. The remaining books cover criminal and civil law, judicial procedures and remedies. Written in 1600, the document was based upon the *Statuti Comunali* (Town Statute) of 1300, itself influenced by the *Codex Justinianus*, and it remains in force today.

In 1392 the *Carta de Logu* was legal code of the Giudicato of Arborea promulgated by the giudicessa Eleanor. It was in force in Sardinia until it was superseded by the code of Charles Felix in April 1827.

The Carta was a work of great importance in Sardinian history. It was an organic, coherent, and systematic work of legislation encompassing the civil and penal law.

Iroquois "Great Law of Peace"

The *Gayanashagowa*, the oral constitution of the Iroquois nation also known as the Great Law of Peace, established a system of governance in which sachems (tribal chiefs) of the members of the Iroquois League made decisions on the basis of universal consensus of all chiefs following discussions that were initiated by a single tribe. The position of sachem descended through families, and was allocated by senior female relatives.

Historians including Donald Grinde, Bruce Johansen and others believe that the Iroquois constitution provided inspiration for the United States Constitution and in 1988 was recognised by a resolution in Congress. The thesis is not considered credible by some scholars.

Stanford University historian Jack N. Rakove stated that "The voluminous records we have for the constitutional debates of the late 1780s contain no significant references to the Iroquois" and stated that there are ample European precedents to the democratic institutions of the United States.

Francis Jennings noted that the statement made by Benjamin Franklin frequently quoted by proponents of the thesis does not support this idea as it is advocating for a union against these "ignorant savages" and called the idea "absurd".

Modern constitutions

In 1639, the Colony of Connecticut adopted the Fundamental Orders, which was the first North American constitution, and is the basis for every new Connecticut constitution since, and is also the reason for Connecticut's nickname, "the Constitution State".

The English Protectorate that was set up by Oliver Cromwell after the English Civil War promulgated the first detailed written constitution adopted by a modern state; it was called the Instrument of Government. This formed the basis of government for the short lived republic from 1653 to 1657 by providing a legal rationale for the increasing power of Cromwell, after Parliament consistently failed to govern effectively. Most of the concepts and ideas embedded into modern constitutional theory, especially bicameralism, separation of powers, the written constitution, and judicial review, can be traced back to the experiments of that period.

Drafted by Major-General John Lambert in 1653, the *Instrument of Government* included elements incorporated from an earlier document "Heads of Proposals", which had been agreed to by the Army Council in 1647, as a set of propositions intended to be a basis for a constitutional settlement after King Charles I was defeated in the First English Civil War. Charles had rejected the propositions, but before the start of the Second Civil War, the Grandees of the New Model Army had presented the *Heads of Proposals* as their alternative to the more radical Agreement of the People presented by the Agitators and their civilian supporters at the Putney Debates.

On January 4, 1649 the Rump Parliament declared "that the people are, under God, the original of all just power; that the Commons of England, being chosen by and representing the people, have the supreme power in this nation". The *Instrument of Government* was adopted by Parliament on December 15, 1653 and Oliver Cromwell was installed as Lord Protector on the following day.

The constitution set up a state council consisting of 21 members while executive authority was vested in the office of "Lord Protector of the Commonwealth"; this position was designated as a non-hereditary life appointment. It also required the calling of triennial Parliaments, with each sitting for at least five months. The *Instrument of Government* was replaced in May 1657 by England's second, and last, codified constitution, the Humble Petition and Advice, proposed by Sir Christopher Packe.

The Petition offered hereditary monarchy to Oliver Cromwell, asserted Parliament's control over issuing new taxation, provided an independent council to advise the king and safeguarded 'Triennial' meetings of Parliament. A modified version of the Humble Petition with the clause on kingship removed was ratified on 25 May. This finally met its demise in conjunction with the death of Cromwell and the Restoration of the monarchy. Other examples of European constitutions of this era were the Corsican Constitution of 1755 and the Swedish Constitution of 1772.

All of the British colonies in North America that were to become the 13 original United States, adopted their own constitutions in 1776 and 1777, during the American Revolution (before the later Articles of Confederation and United States Constitution), with the exceptions of Massachusetts, Connecticut and Rhode Island. The Commonwealth of Massachusetts adopted its Constitution in 1780, the oldest still-functioning constitution of any U.S. state.

While Connecticut and Rhode Island officially continued to operate under their old colonial charters, until they adopted their first state constitutions in 1818 and 1843, respectively.

What is sometimes called the "enlightened constitution" model was developed by philosophers of the Age of Enlightenment such as Thomas Hobbes, Jean-Jacques Rousseau, and John Locke.

The model proposed that constitutional governments should be stable, adaptable, accountable, and open and should represent the people (i.e., support democracy).

Agreements and Constitutions of Laws and Freedoms of the Zaporizian Host was written in 1710 by Pylyp Orlyk, *hetman* of the Zaporozhian Host to establish a free Zaporozhian-Ukrainian Republic, with the support of Charles XII of Sweden. It is notable in that it established a democratic standard for the separation of powers in government between the legislative, executive, and judiciary branches.

It was well before the publication of Montesquieu's *Spirit of the Laws*. This Constitution also limited the executive authority of the *hetman*, and established a democratically elected Cossack parliament called the General Council. However, Orlyk's project for an independent Ukrainian State never materialized, and his constitution, written in exile, never went into effect.

Corsican Constitutions of 1755 and 1794 were inspired by Jean-Jacques Rousseau. The later one introduced universal suffrage for property owners. The United States Constitution, ratified June 21, 1788, was influenced by the writings of Polybius, Locke, Montesquieu, and others. The document became a benchmark for republicanism and codified constitutions written thereafter.

The Polish-Lithuanian Commonwealth Constitution was passed on May 3, 1791.

Another landmark document was the French Constitution, ratified on September 3, 1791.

On March 19, the Spanish Constitution of 1812 was ratified by a parliament gathered in Cadiz, the only Spanish continental city which was safe from French occupation.

The Spanish Constitution served as a model for other liberal constitutions of several South-European and Latin American nations like, for example, Portuguese Constitution of 1822, constitutions of various Italian states during Carbonari revolts (in the Kingdom of the Two Sicilies), the Norwegian constitution of 1814, or the Mexican Constitution of 1824.

In Brazil, the Constitution of 1824 expressed the option for the monarchy as political system after Brazilian Independence. The leader of the national emancipation process was the Portuguese prince Pedro I, elder son of the king of Portugal. Pedro was crowned in 1822 as first emperor of Brazil.

The country was ruled by Constitutional monarchy until 1889, when finally adopted the Republican model. In Denmark, as a result of the Napoleonic Wars, the absolute monarchy lost its personal possession of Norway to another absolute monarchy, Sweden.

However the Norwegians managed to infuse a radically democratic and liberal constitution in 1814, adopting many facets from the American constitution and the revolutionary French ones; but maintaining a hereditary monarch limited by the constitution, like the Spanish one.

The first Swiss Federal Constitution was put in force in September 1848 (with official revisions in 1878, 1891, 1949, 1971, 1982 and 1999).

The Serbian revolution initially led to a proclamation of a proto-constitution in 1811; the full-fledged Constitution of Serbia followed few decades later, in 1835. The first Serbian constitution (Sretenjski ustav) was adopted at the national assembly in Kragujevac on February 15, 1835.

The Constitution of Canada came into force on July 1, 1867 as the British North America Act, an act of the British Parliament. Over a century later, the BNA Act was patriated to the Canadian Parliament and augmented with the Canadian Charter of Rights and Freedoms.

Apart from the *Constitution Acts, 1867 to 1982*, Canada's constitution also has unwritten elements based in common law and convention.

Active vocabulary

Constitution, evolution, to establish, written, unwritten, codes, to put in force, revisions, provisons, to serve, centuries, nations, people, rich, poor, monarch, to limit, democratic, liberal, to express, national assembly, to elect, Parliament, to adopt, common law, civil law, to declare, acts, to follow, to lead.

Task 1. Digest the information briefly in English.

Task 2. Write out all law definitions.

Task 3. Make up a chart of historical stages of constitutional development.

№	Activity			
	State	When	Where	Score
1.				

The Constitution of May 3. by Jan Matejko in The Polish-Lithuanian Commonwealth.

Commemoration of the first constitution 1812 in Spain.

PRINCIPLES OF CONSTITUTION DESIGN

After tribal people first began to live in cities and establish nations, many of these functioned according to unwritten customs, while some developed autocratic, even tyrannical monarchs, who ruled by decree, or mere personal whim. Such rule led some thinkers to take the position that what mattered was not the design of governmental institutions and operations, as much as the character of the rulers. This view can be seen in Plato, who called for rule by "philosopher-kings."

Later writers, such as Aristotle, Cicero and Plutarch, would examine designs for government from a legal and historical standpoint.

The Renaissance brought series of political philosophers who wrote implied criticisms of the practices of monarchs and sought to identify principles of constitutional design that would be likely to yield more effective and just governance from their viewpoints. This began with revival of the Roman law of nation's concept and its application to the relations among nations, and they sought to establish customary "laws of war and peace" to ameliorate wars and make them less likely.

This led to considerations of what authority monarchs or other officials have and don't have, from where that authority derives, and the remedies for the abuse of such authority.

A seminal juncture in this line of discourse arose in England from the Civil War, the Cromwellian Protectorate, the writings of Thomas Hobbes, Samuel Rutherford, the Levellers, John Milton, and James Harrington, leading to the debate between Robert Filmer, arguing for the divine right of monarchs, on the one side, and on the other, Henry Neville, James Tyrrell, Algernon Sidney, and John Locke. What arose from the latter was a concept of government being erected on the foundations of first, a state of nature governed by natural laws, then a state of society, established by a social contract or compact, which bring underlying natural or social laws, before governments are formally established on them as foundations.

Along the way several writers examined how the design of government was important, even if the government were headed by a monarch. They classified various historical examples of governmental designs, typically into democracies, aristocracies, or monarchies, and considered how just and effective each tended to be and why, and how the advantages of each might be obtained by combining elements of each into a more complex design that balanced competing tendencies.

Some, such as Montesquieu, examined how the functions of government, such as legislative, executive, and judicial, might appropriately be separated into branches.

The prevailing theme among these writers was that the design of constitutions is not completely arbitrary or a matter of taste. They generally held that there are underlying principles of design that constrain all constitutions for every polity or organization. Each built on the ideas of those before concerning what those principles might be. The later writings of Orestes Brownson would try to explain what constitutional designers were trying to do. According to Brownson there are, in a sense, three "constitutions" involved: The first the *constitution of nature* that includes all of what was called "natural law." The second is the constitution *of society*, an unwritten and commonly understood set of rules for the society formed by a social contract before it establishes a government, by which it establishes the third, a *constitution of government*.

The second would include such elements as the making of decisions by public conventions called by public notice and conducted by established rules of procedure.

Each constitution must be consistent with, and derive its authority from, the ones before it, as well as from a historical act of society formation or constitutional ratification. Brownson argued that a state is a society with effective dominion over a well-defined territory, that consent to a well-designed constitution of government arises from presence on that territory, and that it is possible for provisions of a written constitution of government to be "unconstitutional" if they are inconsistent with the constitutions of nature or society.

Brownson argued that it is not ratification alone that makes a written constitution of government legitimate, but that it must also be competently designed and applied.

Other writers have argued that such considerations apply not only to all national constitutions of government, but also to the constitutions of private organizations, that it is not an accident that the constitutions that tend to satisfy their members contain certain elements, as a minimum, or that their provisions tend to become very similar as they are amended after experience with their use.

Provisions that give rise to certain kinds of questions are seen to need additional provisions for how to resolve those questions, and provisions that offer no course of action may best be omitted and left to policy decisions. Provisions that conflict with what Brownson and others can discern are the underlying "constitutions" of nature and society tend to be difficult or impossible to execute, or to lead to unresolvable disputes. Constitutional design has been treated as a kind of metagame in which play consists of finding the best design and provisions for a written constitution that will be the rules for the game of government, and that will be most likely to optimize a balance of the utilities of justice, liberty, and security. An example is the metagame Nomic.

Political economy theory regards constitutions as coordination devices that help citizens to prevent rulers from abusing power. If the citizenry can coordinate a response to police government officials in the face of a constitutional fault, then the government has the incentives to honor the rights that the constitution guarantees. An alternative view considers that constitutions are not enforced by the citizens at-large, but rather by the administrative powers of the state.

Because rulers cannot themselves implement their policies, they need to rely on a set of organizations (armies, courts, police agencies, tax collectors) to implement it. In this position, they can directly sanction the government by refusing to cooperate, disabling the authority of the rulers.

Therefore, constitutions could be characterized by self-enforcing equilibria between the rulers and powerful administrators. Most commonly, the term *constitution* refers to a set of rules and principles that define the nature and extent of government. Most constitutions seek to regulate the relationship between institutions of the state, in a basic sense the relationship between the executive, legislature and the judiciary, but also the relationship of institutions within those branches.

Executive branches can be divided into a head of government, government departments/ ministries, executive agencies and a civil service/administration. Most constitutions also attempt to define the relationship between individuals and the state, and to establish the broad rights of individual citizens. It is thus the most basic law of a territory from which all the other laws and rules are hierarchically derived; in some territories it is in fact called "Basic Law".

Scene of the signing the constitution of the USA.

CONSTITUTIONAL LAW

Constitutional law is the body of law which defines the role, powers, and structure of different entities within a state, namely, the executive, the parliament or legislature, and the judiciary; as well as the basic rights of citizens and, in federal countries such as India and Canada, the relationship between the central government and state, provincial, or territorial governments.

Not all nation states have codified constitutions, though all such states have a *jus commune*, or law of the land, that may consist of a variety of imperative and consensual rules. These may include customary law, conventions, statutory law, judge-made law, or international rules and norms.

Constitutional law deals with the fundamental principles by which the government exercises its authority. In some instances, these principles grant specific powers to the government, such as the power to tax and spend for the welfare of the population.

Other times, constitutional principles act to place limits on what the government can do, such as prohibiting the arrest of an individual without sufficient cause. In most nations, such as the United States, India, and Singapore, constitutional law is based on the text of a document ratified at the time the nation came into being. Other constitutions, notably that of the United Kingdom, rely heavily on unwritten rules known as constitutional conventions; their status within constitutional law varies, and the terms of conventions are in some cases strongly contested.

Constitutional laws may often be considered second order rule making or rules about making rules to exercise power. It governs the relationships between the judiciary, the legislature and the executive with the bodies under its authority. One of the key tasks of constitutions within this context is to indicate hierarchies and relationships of power.

In a unitary state, the constitution will vest ultimate authority in one central administration and legislature, and judiciary, though there is often a delegation of power or authority to local or municipal authorities. When a constitution establishes a federal state, it will identify the several levels of government coexisting with exclusive or shared areas of jurisdiction over lawmaking, application and enforcement.

Some federal states, most notably the USA, have separate and parallel federal and state judiciaries, with each having its own hierarchy of courts with a supreme court for each state.

India, on the other hand, has one judiciary divided into district courts, high courts, and the Supreme Court of India. Human rights or civil liberties form a crucial part of a country's constitution and uphold the rights of the individual against the state.

Most jurisdictions, like the USA and France, have a codified constitution, with a bill of rights.

A recent example is the Charter of Fundamental Rights of the European Union which was intended to be included in the Treaty establishing a Constitution for Europe that failed to be ratified. Perhaps the most important example is the Universal Declaration of Human Rights under the UN Charter.

These are intended to ensure basic political, social and economic standards that a nation state, or intergovernmental body is obliged to provide to its citizens but many do include its governments.

Some countries like the United Kingdom have no entrenched document setting out fundamental rights; in those jurisdictions the constitution is composed of statute, case law and convention.

The common law and the civil law jurisdictions don't share the same constitutional law underpinnings.

Common law nations, such as those in the Commonwealth as well as the United States, derive their legal systems from that of the United Kingdom, and as such place emphasis on judicial precedent, whereby consequential court rulings (especially those by higher courts) are a source of law.

Civil law jurisdictions, on the other hand, place less emphasis on judicial review and only the parliament or legislature has the power to effect law. As a result, the structure of the judiciary differs significantly between the two, with common law judiciaries being adversarial and civil law judiciaries being inquisitorial. Common law judicatures consequently separate the judiciary from the prosecution, thereby establishing the courts as completely independent from both the legislature and law enforcement.

Human rights law in these countries is as a result, largely built on legal precedent in the courts' interpretation of constitutional law, whereas that of civil law countries is almost exclusively composed of codified law, constitutional or otherwise. Another main function of constitutions may be to describe the procedure by which parliaments may legislate.

Special majorities may be required to alter the constitution. In bicameral legislatures, there may be a process laid out for second or third readings of bills before a new law can enter into force.

Alternatively, there may further be requirements for maximum terms that a government can keep power before holding an election.

Constitutional law is a major focus of legal studies and research. The doctrine of the rule of law dictates that government must be conducted according to law. This was first established by British legal theorist A. V. Dicey. Dicey identified three essential elements of the British Constitution which were indicative of the rule of law:

- Absolute supremacy of regular law as opposed to the influence of arbitrary power;[13]
- Equality before the law;
- The Constitution is a result of the ordinary law of the land.

Dicey's rule of law formula consists of three classic tenets. The first is that the regular law is supreme over arbitrary and discretionary powers. "No man is punishable ... except for a distinct breach of the law established in the ordinary legal manner before the ordinary courts of the land."

The Separation of Powers is often regarded as a second limb functioning alongside the Rule of Law to curb the powers of the Government. In many modern nation states, power is divided and vested into three branches of government: The Executive, the Legislature and the Judiciary. The first and the second are harmonised in traditional Westminster forms of government.

Constitutional laws may often be considered second order rulemaking or rules about making rules to exercise power. It governs the relationships between the judiciary, the legislature and the executive with the bodies under its authority. One of the key tasks of constitutions within this context is to indicate hierarchies and relationships of power. Human rights or civil liberties form a crucial part of a country's constitution and govern the rights of the individual against the state.

A recent example is the Charter of Fundamental Rights of the European Union which was intended to be included in the Treaty establishing a Constitution for Europe that failed to be ratified.

These are intended to ensure basic political, social and economic standards that a nation state, or intergovernmental body is obliged to provide to its citizens but many do include its governments.

Some countries like the United Kingdom have no entrenched document setting out fundamental rights; in those jurisdictions the constitution is composed of statute, case law and convention. Inspired by John Locke, the fundamental constitutional principle is that the individual can do anything but that which is forbidden by law, while the state may do nothing but that which is authorized by law.

The commonwealth and the civil law jurisdictions do not share the same constitutional law underpinnings. Another main function of constitutions may be to describe the procedure by which parliaments may legislate.

Task 1. Choose the keywords and phrases that best convey the gist of the information.

Task 2. Analyze the text above and make up the chart about constitution.

№	Activity			
	Event	When	Where	Score
1.				

Task 3. Analyze the key features of constitution classification.

The following are features of democratic constitutions that have been identified by political scientists to exist, in one form or another, in virtually all national constitutions.

Type	Form	Example
Codified	in a single act (document)	most of the world constitutions.
Uncodified	fully written (in few documents)	San Marino, Israel, Saudi Arabia
Uncodified	partially unwritten	Canada, NZ, UK

Task 4. Render the score of the information briefly in English.

Constitutionalism is "a complex of ideas, attitudes, and patterns of behavior elaborating the principle that the authority of government derives from and is limited by a body of fundamental law".

Political organizations are constitutional to the extent that they "contain institutionalized mechanisms of power control for the protection of the interests and liberties of the citizenry, including those that may be in the minority". As described by political scientist and constitutional scholar David Fellman: Constitutionalism is descriptive of a complicated concept, deeply embedded in historical experience, which subjects the officials who exercise governmental powers to the limitations of a higher law. Constitutionalism proclaims the desirability of the rule of law as opposed to rule by the arbitrary judgment or mere fiat of public officials.

Throughout the literature dealing with modern public law and the foundations of statecraft the central element of the concept of constitutionalism is that in political society government officials are not free to do anything they please in any manner they choose.

They are bound to observe both the limitations on power and the procedures which are set out in the supreme, constitutional law of the community. It may therefore be said that the touchstone of constitutionalism is the concept of limited government under a higher law. Constitutionalism has prescriptive and descriptive uses. Law professor Gerhard Casper captured this aspect of the term in noting, "Constitutionalism has both descriptive and prescriptive connotations."

Task 5. Try to understand the notion.

Constitution – a body of fundamental principles or established precedents according to which a state or other organization is acknowledged to be governed.

The Constitution – the basic written set of principles and precedents of federal government in the US, which came into operation in 1789 and has since been modified by twenty-six amendmentst.

Task 6. Remember that.

adopt / establish – принимать конституцию
to ratify a constitution – ратифицировать основной закон
to draw up / frame / write a constitution – составлять конституцию
to amend constitution – вносить поправки в конституцию
to violate constitution – нарушать конституцию, не соблюдать конституцию
state constitution – закон штата
written constitution – писаный закон
unwritten constitution – неписаный закон
constitution of nature – устройство природы
constitution of the universe – устройство вселенной
constitution of things – порядок вещей
constitution of society – строение общества
the constitution of one's mind – склад ума

BUREAUCRACY

The etymology of "*bureaucracy*" derives from the French word for "*office*" (*bureau*) and the Ancient Greek for word "*power*" (*kratos*). Like the military and police, a legal system's government servants and bodies that make up its bureaucracy carry out the directives of the executive.

One of the earliest references to the concept was made by Baron de Grimm, a German author who lived in France. In 1765 he wrote, the real spirit of the laws in France is that bureaucracy of which the late Monsieur de Gournay used to complain so greatly; here the offices, clerks, secretaries, inspectors and *intendants* are not appointed to benefit the public interest, indeed the public interest appears to have been established so that offices might exist.

Cynicism over "*officialdom*" is still common, and the workings of public servants are typically contrasted to private enterprise motivated by profit. In fact private companies, especially large ones, also have bureaucracies. Negative perceptions of "*red tape*" aside, public services such as schooling, health care, policing or public transport are a crucial state function making public bureaucratic action the locus of government power. Writing in the early 20th century, Max Weber believed that a definitive feature of a **developed** state had come to be its bureaucratic support.

Weber wrote that the typical characteristics of modern bureaucracy are that officials define its mission, the scope of work is bound by rules, management is composed of career experts, who manage top down, communicating through writing and binding public servants' discretion with rules.

Active vocabulary

Bureaucracy, legal system's government servants, concept, public interest, clerks, officialdom, public servants, "red tape", a developed state.

Task 1. Give the main idea of the passage in English.

Task 2. Translate the definitions.

Bureaucracy a system of government in which most of the important decisions are taken by state officials rather than by elected representatives.

Bureaucrat – an official in a government department, in particular one perceived as being concerned with procedural correctness at the expense of people's needs.

Bureaucratic of or relating to bureaucrats; characterized by bureaucracy.

Bureaucratic means involving complicated rules and procedures which can cause long delays.

Diplomats believe that bureaucratic delays are inevitable.

Bureaucratic leader, who depends on his or her position in a clearly defined hierarchy to influence followers, who adheres to established rules and procedures, and who is generally inflexible and suspicious of change. Compare charismatic leader.

Bureaucratese. A style of speech or writing characterized by jargon, euphemism, and abstractions, held to be typical of bureaucrats.

Bureaucratize govern (a state or organization) by an excessively complicated administrative procedure impersonal and bureaucratized welfare systems

Bureaupathology (red-tape syndrome). The manifestations of exaggerated bureaucratic behaviour. They include resistance to change, an obsessive reliance on rules and regulations, and an individual incapability of responding to unpredictable events. The bureaupath tends to believe the policies and procedures of an organization constitute an end in themselves, rather than a means to an end.

Task 3. Translate the sentences with the keyword "bust".

1. Tom, have you busted out? 2. They were busted for carrying guns. 3. They busted the apartment. 4. Better not try to bust up his happy marriage. 5. Tom and Helen were busting up again last night. 6. I hear that Jim and Mary are busting up. 7. Their marriage bust up. 8. It was money troubles that bust up their marriage. 9. How'd you like a bust in the nose? 10. At the age of ten I was a social bust.

Task 4. Translate the various multiple meanings of the word "bureaucracy".

1. A group of workers (for example, civil service employees of the U. S. government), is referred to as "*the bureaucracy*"."2. Bureaucracy is the name of an organizational form used by sociologists and organizational design professionals.3. Bureaucracy has an informal usage, as in "*there's too much bureaucracy where I work*." This informal usage describes a set of characteristics or attributes such as "*red tape*" or "*inflexibility*" that frustrate people who deal with or who work for organizations they perceive as "*bureaucratic*."

As you read about the bureaucratic form, note whether your organization matches the description.

The more of these concepts that exist in your organization, the more likely you will have some or all of the negative by-products described in the book "*Busting Bureaucracy*".

In the 1930s Max Weber, a German sociologist, wrote a rationale that described the bureaucratic form as being the ideal way of organizing government agencies. M. Weber's principles spread throughout both public and private sectors. Even though Weber's writings have been widely discredited, the bureaucratic form lives on. Weber noted six major principles.

Task 5. Add some information about M.Weber and analyze his major principles.

A formal hierarchical structure: each level controls the level below and is controlled by the level above. A formal hierarchy is the basis of central planning and centralized decision making.

Management by rules: controlling by rules allows decisions made at high levels to be executed consistently by all lower levels.

Organization by functional specialty: work is to be done by specialists, people are organized into units based on the type of work they do or skills they have.

An "up-focused" or "in-focused" mission: if the mission is described as "up-focused", then the organization's purpose is to serve the stockholders, the board, or whatever agency empowered it. If the mission is to serve the organization itself, and those within it, e.g., to produce high profits, to gain market share, or to produce a cash stream, then the mission is described as "in-focused".

Purposely impersonal: the idea is to treat all employees equally and customers equally, and not be influenced by individual differences.

*Employment based on technical qualifications: (*there may also be protection from arbitrary dismissal.) The bureaucratic form, according to Parkinson, has another attribute.

Predisposition to grow in staff "above the line": M.Weber failed to notice this, but C. Northcote Parkinson found it so common that he made it the basis of his humorous "Parkinson's law". Parkinson demonstrated that the management and professional staff tends to grow at predictable rates, almost without regard to what the line organization is doing.

The bureaucratic form is so common that most people accept it as the normal way of organizing almost any endeavour. People in bureaucratic organizations generally blame the ugly side effects of bureaucracy on management, or the founders, or the owners, without awareness that the real cause is the organizing form.

Task 6. Translate the sentences into your native language.

1. I'm fed up with all this bureaucracy, just to get an export licence! 2. The new president found it difficult to change the way the bureaucracy worked. 3. Bureaucratization is the process of increasing the significance of bureaucratic procedures and the concentration of power in the hands of officials. 4. A bureaucracy is "a body of non-elective government officials" and/or "an administrative policy-making group". 5. Historically, bureaucracy referred to government administration managed by departments staffed with nonelected officials. 6. In modern parlance, bureaucracy refers to the administrative system governing any large institution.

Task 7. Choose the keywords and phrases that best convey the gist of the text.

Task 8. Make up a small report and give a talk in class.

THE ESSENCE OF BUREAUCRACY

Max Weber, known as the father of organization theory, founded the bureaucratic centralization theory. Despite of the study on this issue made by others prior to him, the theory did not pronounce its existence as a systematic one until Web. This theory advocated bureaucratic organization and many people considered it is a most ideal structure with industrialization.

As a traditionally organizational mode suited for industrializing society, bureaucracy could exist reasonably. But along with the development of modern society, its drawback has been exposed day by day. Research showed that the rational official system could not have an active response to the post-industrial society because of its abuses since 1970s'. Consequently, most western advanced countries started the administration reform against the officialism. It is time to reform bureaucratic system and modern people nowadays pay more and more attention to explore and solve these major issues and select the essence of new management to develop our administration.

Max Weber is a famous sociologist, political economist and the founder of the bureaucratic centralization theory. Weber's bureaucratic organization theory has profound influence on the entire western society and even the world since it birth. Weber's bureaucratic centralization theory is one of the biggest impact theories throughout the 20th century. It can be said that web's bureaucratic centralization theory is a milestone in the history of organizational theory that it marked the classical theory become mature and perfect. However, in the period of Weber's, there are apparent split between Germany's economic structure and the political and social value system that the economic structure could be easily controlled by industrial system and bureaucratic rule.

In the meanwhile, culture value system and political structure is still influenced by traditional semi-feudal society values and bureaucratic conservatism. Weber profoundly realize that the characteristic and defects of this system and analyzed thoroughly about the reason of features and defects, thus he put forward the bureaucratic centralization theory.

Weber gave an extremely high praises to modern bureaucracy, the emergence of modern capitalism is inseparable with the bureaucracy although entrepreneurs possess means of production.

Market freedom, rational technical, predictable legal, free labor and commercial of capitalist is also the necessary condition of existence and development of capitalist. If people want to optimum use of the industrial organization of capitalism forms they must rely on the predictable judgment and management. From 1960's, along with the rapid development of bureaucratic organization, scholars of western management, social field and even political field make a great criticism and rethinking of this bureaucratic organization.

Since 1980's, in the most typical bureaucracy of public management field, from Britain to the Unitedtes, from Australia to New Zealand, it launched a global reform movement called the new public manage movement. In the business world, there is a powerful sound that government or enterprises must abandon bureaucracy since the emergence of a new management mode, for example, humanized management, network organization, virtual organization and learning organization.

Since the 18th century, bureaucratic has achieved great success in western society that the formal rationality and technical design are fit for their society. However, in contemporary developed countries they all entered the post-industrial society and the bureaucracy emergence several different degrees of ills on in or outside adapt. Because of its own defects and the development of the change modern social environment, the organization mode of the bureaucracy is also facing a crisis and the bureaucratic organization also exist some disadvantages.

First, bureaucratic organization's rigid and closed. Bureaucracy organization use hierarchy temperance type of organization form to maintain the authority of organization, use the scale and level of organization to reflect the superiority of bureaucratic organization, therefore, it leads unrestricted expansion of the organization's size.

As Weber said people will hold their position and use their deliberate to climb the peak of bureaucracy hierarchy. But at the peak it inevitably at least has a kind of not purely factors of bureaucratic system. Meanwhile, the technical and mysteriousness of bureaucratic organization make it become a closed system that separated from the social environment. So bureaucratic organization became lack of flexibility, more and more inflexible and can not adapt to the rapid development of the information society changes thus it showed overall non efficiency.

Second, bureaucracy advocated impersonal, rationalized and institutionalized spirit that hampered personal growth and personal mature, in a certain extent it influence the efficiency of the unity and organizational members.

The worker of bureaucracy only do things routine nature, they will lose their affection and finally become a person that has no spiritual experts and no emotion enjoyment. Individual's freedom is encroached by technological advances and organizational goals, people's personality and passion will be depressive, the man's work has become increasingly meaningless and no humanized. Third, the inverted of purpose and means make former rationality enter the erroneous zone.

Organization rule and program is mean to achieve organization's efficiency and means. But because the ego inflation of bureaucracy organization and the pursuit of their own interests make the purpose and means of bureaucracy organization inverted. Bureaucracy constantly improves its method for achieving its objectives and means increasingly become the purposes of management.

Forth, from the practical perspective analysis, bureaucracy led to widespread bureaucratize and corruption problem. Personal become a part of machine and any flexible behavior is not allowed in the hierarchy principle of machine built by organization division and differentiation. This will inevitably leads to the bureaucratic disease such as egotistical socialist and red-tape, bureaucracy will be fully development but the problem of bureaucracy will be more and more serious. Especially when people analysis the theory of Max Weber and bureaucratic centralization theory people will find some problems that many bureaucrats abuse public power and abuse power for their own interests even though these theory reflect strict rationality and science technology center of socialism, so that in the world most countries suffered bureaucratize and corruption problem when they practice bureaucracy.

As that point, people can say that bureaucratic organization is the breeding the hotbed of bureaucracy and corruption. The more influential theory the more question will come from all parties.

A cosmopolitan theory must undergo repeated criticism and temper. Weber's bureaucracy born with the noise of great industrial machine and it made a brilliant influence on industrial age.

Bureaucratic organization appeared various problems in actual operation performance and most people put blame eye to Weber's theory. Meanwhile many people thought bureaucratic organization will be ended at 1950's or 1960's, but the life of bureaucratic organization still not over.

If people can observe and study cautiously, they will find an interesting fact that those so-called alternative bureaucracy things, whether new theory or practical mode, not only abandon away bureaucracy but also perfect repair the bureaucracy. But there are some academic theories that do not direct conflict with bureaucracy corroded quietly with foundation of bureaucracy.

In a practice management, the new public management reform of government field and the management revolution of enterprise management have no fundamentally impact on bureaucracy.

On the contrary, these reforms basically focus on improve performance, reduce cost and use rational method and without a reform is focus on negative the level of division, reduce rational factors and against professional skills. However, since 1960's, the new reform of bureaucracy as it is for swab machine dirt, remove the machine sundry, polishing, tighten parts and add some oil that make machine appear shining. So human beings can say because the Weber's bureaucracy, people established a research organization and unprecedented paradigm of management. Future management after Weber's is actually perfect, enrich and development this bureaucracy paradigm. So far, the new organization theory although had some breakthrough bureaucracy paradigm.

Task 1. Digest the score of the information briefly in English.

Task 2. Answer the questions.

1. Who is the father of organization theory, founded the bureaucratic centralization theory? 2. What do many people consider about it? 3. As a traditionally organizational mode suited for industrializing society, bureaucracy could exist reasonably, couldn't it? 4. What did research show? 5. What did most western advanced countries start the administration reform against? 6. What do modern people nowadays do to develop our administration? 7. What is Max Weber? 8. Does Weber give an extremely high praises to modern bureaucracy? 9. How is a global reform movement called? 10. When has bureaucratic achieved great success in western society?

Task 3. Make up some dialogues from the information above.

Task 4. Analyze the information and make a chart about it.

№	Activity			
	Events	When	Where	Score
1.				

CUSTOMERS, EMPLOYEES & MANAGERS BLAME FOR THESE SYMPTOMS

That's entirely wrong. Top management is just as frustrated with all that garbage as you are. If it were their fault, how could I write down all of these symptoms on just one page of the book, *Busting Bureaucracy*? It's not them, it's the fault of the bureaucratic organizing model, and that can be changed! Nobody at your place talks openly about these symptoms, do they? No, they don't. It would seem too much like an attack on the organization or top management, and that's not only dangerous, but it's wrong. They do, however, gripe about these symptoms privately, don't they?

It makes me so mad I want to spit! Everybody knows this stuff is there, and nobody is talking about it. If you don't talk about it, how can you fix it? It can be fixed! You don't have to keep putting up with all that stuff. It is designed to get dialogues started. Its goal is get people to understand you're all living with bureaucratic garbage that can be cleaned up. If you have 8 or more of these symptoms, you need to dpwnload this book, and pass it around. Or, better yet, make 10 copies and get people talking about it. Get some copies for senior management. Pass them around. As senior management understands that this stuff isn't their fault – yet they're getting blamed for it – they'll give somebody the ball and say, "Fix it!" Maybe that will be you. Or, maybe if you give it to your boss, it'll be your boss.

Your customers, your employees, and your managers will all be happier, if you get rid of that stuff. The reason that senior management doesn't fix this stuff is they've lived with it for so long they don't know that things can be different. Solutions come in three different sizes, so you can pick the one that fits your organization best.

BUSTING BUREAUCRACY

Bureaucracy is an organization's worst enemy, but it *can*be overcome! Bureaucracy's inefficiency *can* be reduced. Your customers will like you better; the book teaches a customer focus. Employees will be more productive, when you free them from the "red tape."

Fewer people can get more work done when they're free of the constraints of bureaucracy.

Employees at all levels will grasp the roadmap, because it's presented simply, easily, and breezily. Closet Bureaucrats will have to change their ways, when all the employees know the steps and tactics that increase the nasty effects of bureaucracy. Unite your employees; get everyone on the same team. Management, staff, line, and field will join to fight the hated effects of bureaucracy. Finally, something everyone can agree on! Make organization change easier, by following the clear, simple, steps in the roadmap to reduced bureaucracy. Get information flowing again. Help top management break free of the insulation. Take the following test to see if your organization can benefit from Busting Bureaucracy.

- Does each department seem to have its own agenda? Do some departments seem to put their agenda ahead of the overall organizational mission?
- Are managers more driven to protect their unit, their people, and their budget, than they are to achieve the overall mission?
- Is there obvious political infighting? Does it ever get in the way of departments working together smoothly?
- Can ideas be killed because they come from the "wrong" person? Are some ideas supported just because they came from the "right" person?
- Is overall productivity ever damaged by inter-unit rivalries?
- Do people in some departments spend so much energy protecting their turf that they don't accomplish the work they are responsible for doing?
- Does the work environment include large amounts of unhealthy stress?
- Is there a tendency for the organization to grow top-heavy, as the operating units are lean?
- Are promotions ever made on the basis of politics rather than actual achievements on the job?
- Are top executives so "protected" by their subordinates that they risk being dangerously insulated from what's happening on the "front lines" or in "the field"?
- Is information hoarded or kept secret and used as the basis of power?
- Is data used selectively, or distorted to make performance look better than it really is?
- Are internal communications ever distorted to reflect what the organization wants to be, rather than what it really is? Are internal communications ever ignored or ridiculed by lower level employees?
- Are mistakes, blunders, and failures ever denied, covered up, or ignored?
- Does it ever happen that mistakes, blunders, or failures are blamed on others, or outsiders, or external factors like "the economy?"
- Are decisions made by larger and larger groups, so no one can be held accountable?
- Are decisions ever made based on the perceived desires of superiors, rather than concern for mission achievement?
- Do policies, practices, and procedures tend to grow endlessly? Are employees required to follow them more and more rigidly?
- Are senior managers ever so insulated from the realities of the front line that they may use out-of-date experiences in making decisions?
- Are quantitative measurements favored over qualitative measurements? Does this ever drive people to 'make the numbers' without enough concern for product or service quality and customer satisfaction?
- Are employees and customers ever treated more like numbers than people? Do personal and human needs ever seem to be discounted or ignored?

MAX WEBER'S BUREAUCRATIC MODEL

Max Weber's bureaucratic theory or model is sometimes also known as the "rational-legal" model. The model tries to explain bureaucracy from a rational point of view via nine main characteristics or principles; these are as follows: Weber wrote that the modern bureaucracy in both the public and private sector relies on the following principles.

"First, it is based on the general principle of precisely defined and organized across-the-board competencies of the various offices. These competencies are underpinned by rules, laws, or administrative regulations." For Weber, this means

- A rigid division of labor is established that clearly identifies regular tasks and duties of the particular bureaucratic system.
- Regulations describe firmly established chains of command and the duties and capacity to coerce others to comply.
- Hiring people with particular, certified qualifications supports regular and continuous execution of the assigned duties.

Weber notes that these three aspects "...constitute the essence of bureaucratic administration ...in the public sector. In the private sector, these three aspects constitute the essence of a bureaucratic management of a private company." Main principles (characteristics):

- Specialized roles
- Recruitment based on merit (e.g., tested through open competition)
- Uniform principles of placement, promotion, and transfer in an administrative system
- Careerism with systematic salary structure
- Hierarchy, responsibility and accountability
- Subjection of official conduct to strict rules of discipline and control
- Supremacy of abstract rules
- Impersonal authority (e.g., office bearer does not bring the office with him)
- Political neutrality

Merits: As Weber noted, real bureaucracy is less optimal and effective than his ideal-type model. Each of Weber's principles can degenerate – and more so, when they are used to analyze the individual level in an organization.

But, when implemented in a group setting in an organization, some form of efficiency and effectiveness can be achieved, especially with regard to better output. This is especially true when the Bureaucratic model emphasizes qualification (merits), specialization of job-scope (labour), hierarchy of power, rules and discipline.

Demerits: competencies, efficiency and effectiveness can be unclear and contradictory, especially when dealing with oversimplified matters. In a dehumanized bureaucracy, inflexible in distributing the job-scope, with every worker having to specialize from day one without rotating tasks for fear of decreasing output, tasks are often routine and can contribute to boredom. Thus, employees can sometimes feel that they are not part of the organization's work vision and missions. Consequently, they do not have any sense of belonging in the long term. Furthermore, this type of organization tends to invite exploitation and underestimate the potential of the employees, as creativity of the workers is brushed aside in favour of strict adherence to rules, regulations and procedures.

Task 1. Analyze the information and make a chart about it.

№	Activity			
	Events	When	Where	Score
1.				

Conclusion

Weber introduced bureaucracy to emphasize rule, ability and knowledge, which in fact offered an efficient and rational administrative system to society. An ideal administrative organization should be based on rationality-legal rights. The more it reduced the personal, irrational and unpredictable factors, the more it developed in Weber's view. The polity, economy and culture of modern society has changed a lot compared the Weber's age, but the basic idea of his age still applies to today's organization.

Certainly, bureaucratic organization is still not easily replaced of organization in the management of government' department, large social group and enterprise.

However, people must be fully aware that the bureaucracy that developed on the industrial age already exist many problems and it becomes overstaffed, severe waste and low efficiency.

Therefore, people must reform part of bureaucratic system, such as fully exert government officials' subjective and adaptability, decentralized government's power, pay a more attention to rationality, train rational spirit, play the advantage of bureaucracy technology, form a organization concept that respect knowledge and talent, establish a cheap and efficient government organization.

But it is still cannot become a new paradigm to alternative Weber's. Furthermore, those reform practices who try to abandon the bureaucracy have become new branches of this paradigm and those critical theories of bureaucracy are added Weber's theory on advocate rationality. So bureaucracy paradigm of Weber's is still dominated the whole world.

Active vocabulary

Theory, rational administrative system, management, efficiency, economy, culture of modern society, alternative bureaucracy things, basic idea, organization, to dominate, the whole world.

Task 1. Make notes of your new knowledge about bureaucracy.

Task 2. Answer the questions.

1. Who was the father of organization theory? 2. What is this theory like? 3. What is the basic idea of the Weber's age? 4. What was launched as a global reform movement? 5. How was it called? 6. Who offered an efficient and rational administrative system to society?

Task 3. Try to understand the notions.

A *bureaucracy* is an administrative system operated by a large number of officials. Bureaucracy refers to all the rules and procedures followed by government departments and similar organizations, especially when you think that these are complicated and cause long delays. People usually complain about having to deal with too much bureaucracy. *Bureaucracy* is a system of government in which most of the important decisions are made by state officials rather than by elected representatives. It is a state or organization governed or managed according to such a system. They are the officials in such a system, considered as a group or hierarchy. This is excessively complicated administrative procedure, seen as characteristic of such a system.

THE NEED FOR LAW

"I have gained this from philosophy: that I do without being commanded what others do only from fear of the law." – Aristotle.

I truly believe that our modern society needs Law. Laws are guidelines that set out appropriate behaviour, so we are required to follow this system of rules, in order to keep everything balanced and stabilized. Without the fulfillment of these desired tasks, man simply will become equal to animals – or worse still, allow their darker sides to emerge and control their lives.

For this purpose every country has a certain system that the all citizens are required to obey: up to date there are about two hundred countries in the world and each of them makes its own Legal System that is based on certain characteristics and factors of the country.

The Legal System consists of certain laws and rules that shape the citizen's morality and behaviour in the society. There are many academic terms describing what "legal system" is but from my point of view the best one is the description by J.H Merryman: "A legal system is an operating set of legal institutions, procedures, and rules." The three most widespread Legal Systems are: Continental Law Legal System, Common Law Legal System and Religious Law Legal System. Each of these legal systems is unique and has its own specific features and individual structure. Let's take a brief look on each system and see how systems differ from each other or discover their similarities.

The common law system prevails in Britain and its former colonies, including Australia, Canada, and the USA. Traditionally, the common law system, as the name implies, was governed not by a code, but by court-made law that developed incrementally over time. It is different from the civil-law system, which is introduced mostly in Europe and in areas colonized by France and Spain.

The body of decisional law based largely on custom as declared by English judges after the Norman Conquest of 1066. The common law doctrine of following precedent, known as stare decisis remains an important component of both the English and American legal systems today.

English common law was based primarily on custom, tradition, and precedent rather than a formal written legal code. Over centuries of experience, the common law became the major influence on the development of American criminal law both before and after the American Revolution.

After the Revolution, the common law continued to be the basic law of most states. However, today almost all common law principles and rules have been enacted by legislative bodies into statutes with modern variations. One of the interesting characteristics of the system is that the common-law system allows judges to look to other jurisdictions or to draw upon past or present judicial experience for analogies to help in making a decision. This flexibility allows common law to deal with changes that lead to unanticipated controversies. At the same time, stare decisis provides certainty, uniformity, and predictability and makes for a stable legal environment. Under common law, all citizens, including the highest-ranking officials of the government, are subject to the same set of laws, and the exercise of government power is limited by those laws. The judiciary may review legislation, but only to determine whether it conforms to constitutional requirements.

Civil law may be defined as that legal tradition which has its origin in Roman law, as codified in the Corpus Juris Civilis of Justinian and it is used mostly in European and Asian countries. It is divided into two branches: the codified Roman law and uncodified Roman law. Civil law is highly systematized and structured and relies on declarations of broad, general principles, often ignoring the details.

Common Law and Continental Law have similar aims: to protect individuals, to maximize freedom and control the process of following legal rules. A major difference between the civil law and common law is that the doctrine has the greatest priority over other sources of law, while in common law the judge-made precedent is the base of its law.The civil law doctrine's function is to extract from cases the rules and the principles which will clarify and punish the crime actions, and thus provide the courts with experience and guidelines for the remedies of some cases in the future.

The civilist focuses rather on legal principles. He or she traces their history, identifies their function, determines their domain of application, and explains their effects in terms of rights and obligations. At this stage, general and exceptional effects are deduced. Apart requiring some statutory analysis, determining the area of application of a principle involves some induction from the existing case law, while delimiting exceptions involves some deduction. Common law jurisprudence sets out a new specific rule to a new specific set of facts and provides the principal source of law, while civil law jurisprudence applies general principles, and that jurisprudence is only a secondary source of law of explanation. Civil law judgments are written in a more formalistic style than common law judgments.

Civil law decisions are indeed shorter than common law decisions, and are separated into two parts – the reasons and the order. This is because civil law judges are especially trained in special schools created for the purpose, while common law judges are appointed from amongst practicing lawyers, without special training. The method of writing judgments is also different.

Common law judgments extensively expose the facts, compare or distinguish them from the facts of previous cases, and decide the specific legal rule relevant to the present facts.

Civil law decisions first identify the legal principles that might be relevant, and then verify if the facts support their application. While the civil law principles, frozen into codes and often rigid doctrine, are imposed on courts, most common law rules can be changed from time to time, subject to the doctrine of stare decisis. There are two branches of law: Criminal Law and Civil Law. That means that when a person breaks any law, he or she may be judged according to what branch of law it is.

Criminal Law those laws for redressing public wrongs that injure society in general and Civil Law those laws for redressing private wrongs to individuals. Civil law attempts to right a wrong, settle a dispute, or honor an agreement. The victim is being compensated by the person who is at fault; this becomes a legal alternative to, or civilized form of, revenge. Criminal law consists of two main branches -- substantive criminal law and procedural criminal law. Substantive criminal law prohibits certain forms of conduct by defining what acts constitute crimes and establishing the parameters of penalties. Procedural criminal law regulates the enforcement of the substantive criminal law, the determination of guilt, and the punishment of those found guilty of crimes.

Criminal lawsuits differ from civil lawsuits in that the criminal prosecutions are intended to convict and punish the offender, while civil lawsuits are intended to settle disagreement between private parties. The convicted defendant in criminal actions may be fined or may be punished by imprisonment by the government. Civil Law determines private rights and liabilities, whereas Criminal Law concerns offenses against the authority of the state.

Criminal Procedure – the branch of the criminal law that deals with the processes by which crimes are investigated, prosecuted, and punished. Thus, procedural criminal law is the process followed by police and the courts in the apprehension and punishment of criminals from the filing of a complaint by a member of the public or the arrest of a suspect by the police, up to the time the defendant is sent to jail, or, if convicted, to prison. Civil litigation that deals with private disputes between parties is subject to the rules of civil litigation, sometimes referred to as civil procedure.

Criminal cases, deals with acts that are offenses against society as a whole, such as murder and robbery, as subject to the rules for criminal law, and is also known as the rules of criminal procedure.

Active vocabulary

Modern society, criminal law, civil law, common law, decisions, rules, customs, principles.

Task 1. Digest the information briefly in English.

Task 2. Translate the words and phrases and make up sentences with them.

An all-important question; look important; to formulate one's demands; to settle one's requirements in definite terms; to lay down the law; to define a problem; to set up a precedent; to lay down terms; means to an end; means of subsistence; means of experience; effective means; fair means; by all means by any means by no means by means of; a man of means; by judicial means; ways and means; criminal means.

SOURCES OF ENGLISH LAW

The courts are the interpreters and declarers of the law, the "*sources*" of law are therefore the sources to which the courts turn in order to determine what it is. Considered from the aspect of their sources, laws are traditionally divided into two main categories according to the solemnity of the form in which they are made. They may either be written or unwritten.

These traditional terms are misleading, because the expression "*written*" law signifies any law that is formally enacted, whether reduced to writing or not, and the expression "*unwritten*" law signifies all unenacted law. For example, as will appear, judicial decisions are often reduced to writing in the form of law reports, but because they are not formal enactments they are "*unwritten*" law.

Since the fashion was set by the Code Napoleon many continental countries have codified much of their law, public and private; on the Continent, therefore, the volume of written law tends to preponderate over the column of unwritten.

But in England unwritten is predominant, for more of our law derives from judicial precedents than from legislative enactment. This doesn't, of course, mean that none of our law is codified.

Although Parliament casts increasing multitudes of statutes upon us, we have not adopted the system of wholesale codification which prevails in many continental countries. Two principal and two subsidiary of English law must be mentioned. These principal sources are Legislation, and Judicial Precedent; the subsidiary sources are Custom and Books of Authority.

Legislation is enacted law. In England the ultimate legislator is Parliament, for in our traditional constitutional theory Parliament is sovereign. Here we are only concerned to explain the significance of the doctrine of "*parliamentary sovereignty*". It means first, that all legislative power within the realm is vested in Parliament, or is derived from the authority of Parliament.

Parliament thus has no rival within the legislative sphere and it means secondly that there is no legal limit to the power of Parliament. Parliament may therefore and constantly does, by Act delegate legislative powers to other bodies and even to individuals but it may also, by Act. The enactments of Parliament are not subject to questions.

In the legislative sphere Parliament is thus legally "*sovereign*" and master, but this doesn't mean that the courts have no influence upon the development of enacted law; for in order to be applied, every enactment however it be promulgated, has to be interpreted, and the courts are the recognized interpreters the law. In all countries at all times, the decisions of courts are treated with respect, and they tend to be regarded as "*precedents*" which subsequent courts will follow when they are called upon to determine issues of a similar kind.

This reliance upon precedent has been both the hallmark and the strength of the common law. Its rules have been evolved inductively from decision to decision involving similar facts, so that they are firmly grounded upon the actualities of litigation and the reality of human conduct. And new cases lead onwards to reach forward to new rules.

Its principles are, to employ a popular phrase "*open ended*"; they are not firm and inflexible decrees. This characteristic of the common law contrasts, again, with the European civil law.

There, harking back to the tradition of the Corpus Juris, law is characteristically derived from a code; that is, from enacted body of rules either (as in the case of Justinian's or of Napoleon's legislation) embodying the whole of, or some considerable part of the law. Thus, the tasks of the courts are deductive: subsume the present case under the mantle of the generalized and codified rule. The word "*codification*" was an invention of the ingenious Jeremy Bentham (1743-1832).

In principle this method carries the danger that the encoded rule may be the work of a theorist divorced from reality, be out of touch with actual needs. So that although the approach to legal decision is on one hand inductive at common law and, on the other hand, deductive at civil law; in reality the two systems are not quite so divergent as might appear.

One thing is distinctive of the English system: the English judge has, through precedent, power to make new law; his position in the legal system is central.

Another salient feature of the English system is the doctrine of the *biding case*. By this doctrine the authority of the courts is hierarchical; a court which is inferior in authority to another court is obliged to follow (bound by) a court of superior authority if called upon to decide upon facts similar to facts already tried by the superior court. The precedents formed by decided cases are.

Thus, as F. Bacon wrote of the Reports of Sir Edward Coke, the "*anchors of the law*". A practitioner who is asked to consider a legal matter will therefore look to the reported decisions of the courts. The administration of justice is not therefore a slot-machine process of matching precedents.

The judges have a field of choice in making their decisions. But they do not exercise their discretion in an arbitrary way; they rest their judgments upon the general principles enshrined in case-law as a whole. Case-law does not consist of a blind series of decisions, but of reasoned judgments based upon rational principles. Thus in a sense the history of the common law (as opposed to statute law – for statute are sometimes arbitrary and they have often wrought injustice) is the story of the evolution of the judges' conception of justice (a kind of natural law) realized in the form of rules intended to be general in their application and as easily ascertainable as possible.

Customs are social habits, patterns of behaviour, which all societies seem to evolve without express formulation or conscious creation. Moreover custom is not solely important as a source of law, for even today some customary rules are observed in their own right and they command almost as much obedience as rules of law proper. But in modern times most general customs have either fallen into desuetude or become absorbed in rules of law.

On the Continent the writings of legal authors are from an important source of law. In England, in accordance with their tradition that the law is to be sought in judicial decisions, their writings have in the past been treated with comparatively little respect. They have been cited in courts, rather by way of evidence of what the law is than as independent sources from which it may be derived.

Active vocabulary

The "sources" of law, customs, social habits, patterns of behaviour, law, application, theorists, theory, in modern times, conscious creation.

Task 1. Identify the areas of the law sources.

Task 2. Find some information on Jeremy Bentham.

Task 3. Explain the notion "anchors of the law".

Task 4. Answer the questions.

1. What are the two main types of sources of law? 2. Is most English law written in a code? 3. Who makes legislation in England? 4. Can the England courts influence the effect of legislation? 5. Has English law developed (1) from fixed general rules? or (2) through decisions in individual cases?6. Is the development of judicial precedent based on general principles of justice? 7. Is a custom important as a source of law (1) in the history of the law? (2) in England today?8. Are books of authority more important as a source of law in England or on the Continent? 9. Is all law which is written defined as "unwritten law"? 10. Is any "unwritten law" in fact written? 11. Are codes of law popular in Continental countries? 12. Is most Continental law generally written or unwritten? 13. Is most English law found in the form of legislation or judicial precedent? 14. Is most of law written or unwritten? 15. Are there written and unwritten sources of law? 16. Is the law codified in Ukraine?

Task 5. Complete the sentences using words from the box below.

Case law, English ,enacted, judicial precedent, continental, legislation, unwritten, codified.

In many 1) ____ countries much of the law is 2) ____. For this reason there is more written, or 3) ____ law than 4) ____ law. In contrast, there is no general code of 5) ____ law. Still, 6) ____ is common, and many areas of law, e.g. 7) ____ are codified, but 8) ____ is the main source of the law.

Task 6. Answer the questions.

1. Are you familiar with the legal concept of sovereignty? (Sovereignty is supreme power in a state) 2. Does parliamentary sovereignty in Britain mean that (1) only Parliament can legislate? or (2) has Parliament unlimited power to legislate? 3. Is delegated legislation possible in Ukraine? Is it common? 4. If Parliament makes a law which is not just, must the English courts apply it? 5. What do you suppose some of the "fundamental liberties" guaranteed by the US Constitution are? 6. Are basic rights entrenched in the English constitution? 7. What does this tell you about parliamentary sovereignty in Britain? 8. What effect could international obligations have such as membership of the Common Market?

Task 7. Analyze the law course at Cambridge.

The Law course at Cambridge is intended to give a thorough grounding in the principles of law viewed from an academic rather than a vocational perspective. There are opportunities to study the history of law and to consider the subject in its wider social context. The emphasis is on principle and technique. Skills of interpretation and logical reasoning are developed, and students are encouraged to consider broader questions such as ethical judgment, political liberty and social control.

Although many undergraduates who read law do so with the intention of practicing, many do not, preferring instead to go into administration, industrial management or accountancy.

Candidates intending to read law need not have studied any particular subject at school. It is as common for undergraduates to have a scientific or mathematical background at A-level as it is for them to have studied history or languages.

Undergraduates reading law for three years take four papers: Criminal Law, Constitutional Law, the Law of Tort and Roman Law. In the second year five subjects are studied: from Family Law to International Law. Most undergraduates take Contract and Land Law, Trusts and Conveyance Law, Commercial Law, Public Law (including Administrative Law and EEC Law) or more academic and sociological aspects of law, such as Jurisprudence, Legal History, Labour Law and Criminology, Legal Philosophy, Comparative Law and Civil Law.

Task 8. Explain the notion "civil society".

The Classical republican concept of "civil society" dates back to Hobbes and Locke. Locke saw civil society as people who have "a common established law and judicature to appeal to, with authority to decide controversies between them." German philosopher Georg Wilhelm Friedrich Hegel distinguished the "state" from "civil society". Hegel believed that civil society and the state were polar opposites, within the scheme of his dialectic theory of history. The modern dipole state – civil society was reproduced in the theories of Alexis de Tocqueville and Karl Marx.

Nowadays in post-modern theory civil society is necessarily a source of law, by being the basis from which people form opinions and lobby for what they believe law should be. Freedom of speech, freedom of association and many other individual rights allow people to gather, discuss, criticize and hold to account their governments, from which the basis of a deliberative democracy is formed.

The more people are involved with, concerned by and capable of changing how political power is exercised over their lives, the more acceptable and legitimate the law becomes to the people.

The most familiar institutions of civil society include economic markets, profit-oriented firms, families, trade unions, hospitals, universities, schools, charities, debating clubs, non-governmental organizations, neighbourhoods, churches, and religious associations.

CHAPTER III. THE ESSENCE OF STATE

INTRODUCTION

While the terms "country, state", and "nation" are often used interchangeably, there is a difference. A State (note the capital "S") is a self-governing political entity.

The term "State" can be used interchangeably with country. A nation, however, is a tightly-knit group of people which share a common culture. A nation-state is a nation which has the same borders as a State. An independent State has:

- space or territory which has internationally recognized boundaries (boundary disputes);
- people who live there on an ongoing basis;
- economic activity and an organized economy; a country regulates foreign and domestic trade and issues money;
- the power of social engineering, such as education;
- a transportation system for moving goods and people;
- a government which provides public services and police power;
- sovereignty; no other State should have power over the country's territory;
- external recognition. A country has been "*voted into the club*" by other countries.

There are currently 196 independent countries or States around the world.

Territories of countries or individual parts of a country are not countries in their own right.

Examples of entities that are not countries include: Hong Kong, Bermuda, Greenland, Puerto Rico, and most notably the constituent parts of the United Kingdom. (Northern Ireland, Wales, Scotland, and England)

A "*state*" (with a lower-case "*s*") is usually a division of a federal State (such as the states of the United States of America). Nations are culturally homogeneous groups of people, larger than a single tribe or community, which shares a common language, institutions, religion, and historical experience.

When a nation of people has a State or country of their own, it is called a nation-state.

Places like France, Egypt, Germany, and Japan are excellent examples of nation-states. There are some States which have two nations, such as Canada and Belgium. Even with its multicultural society, the United States is also referred to as a nation-state because of the shared American "*culture*". There are nations without States. For example, the Kurds are stateless people.

Active vocabulary

Nation, a self-governing political entity, state, a nation-state, an independent state, the power of social engineering, economic activity, organized economy, to refer, multicultural society, stateless people, culturally homogeneous groups of people, a self-governing political entity.

Task 1. Digest the information briefly in English.

Task 2. Find some add information on the topic.

Task 3. Translate the phrases into your native language.

Secular state, sovereign state, member state, to establish / found / set up a state, to govern / rule a state, buffer state, client state, garrison state, independent state, puppet state, welfare state, state organization, state secret, state scholarship, state apparatus, state arbitration, state authority, state capital, state bank, state control, State Department, state emblem, state employee, state lottery, state hospital, state machine, state monopoly.

A STATE IS A PRODUCT OF SOCIETY

A state is a product of society at a definite stage of its development. Private property divides men and allows them to exploit each other, and in this way class contradictions begin to arise.

The special machinery created by the class of exploiters – the state helps them to keep order. In a class society the state is an instrument of political power of a ruling class.

The state is a system of official institutions and organs. This system of organs is the machinery of government, the state machine. This machine includes such organs as army, police, and courts.

The other part of the state machine consists of the system of state organs including a chief of the state (an individual or collective), parliament, government, departments and other organs.

These organs are political; they are the organs of state power of a ruling class.

The constitution, legislation or traditions regulate the power of each state organ. Different types of states have different functions. That's why we speak about the state only as the historical category.

Some scientists hold that the state originates from emergence of private property and division of society into antagonistic classes, a fact which makes it impossible for society to exist without political power that rises above society and is an instrument of the economically dominant class. This doctrine starts from the fact that the essence of the state in a class society and nature of its relations with society are determined by that society's economic and political systems. For thousands of years the state has been a machine for class domination, which is to say that in a society with opposed classes, the state is essentially a dictatorship of the dominant class and its political lever.

Through the state the ruling class exercises its power and coercion in respect to other classes and sections of the population, and bends them to its will in an organized manner. The essence of the state is expressed in its functions, that is, main directions of its activity. The functions of the state cannot be viewed apart from the concrete historical situation in which each type of state – and its modifications – operates. But the functions of the state in general can be classified as internal and external. Internal functions show its role in the life of a given society, and external function, its role in relations with other states. These functions are closely bound up, because the line takes a state vis-à-vis other states depends on its activity and conditions at home.

In other words, foreign policy is a continuation of domestic policy.

The external function of any state is its activity arising from the need to safeguard its territory against attacks by other states and to ensure the conduct of its policy in international affairs.

Task 1. Choose the keywords that best convey the gist of the information.

Task 2. Translate the words and phrases with the keyword «state».

To establish (found, set up) a state; to govern (rule) a state; client state; independent state; state park; state-owned enterprise; state education; state visit; to establish an independent state; to form a state; to dismantle a state.

Task 3. Translate the sentences into your native language.

1. The essences of things are unalterable. 2. The great body of the people leaned to the royalists. 3. Both as egotist and as patriot he bodies forth the age. 4. There's no precedent for this. 5. Every member of the community should have a vote in electing that delegates.6. This is essential to the entire development of my case.7. Due regard should be given to all facets of the question. 8. In regard to your request, no decision has been made. 9. They regarded him as their enemy. 10. I regard it as my duty. 11. The essence of consultation is to listen to, and take account of, the views of those consulted. 12. Others consider that Ireland's very essence is expressed through the language.

Task 4. Explain the law-terms and make up sentences with them.

Advisory body, autonomous bodies, deliberative body, governing body, student body, body of electors, politic body, legislative body, learned body, in a body, body of evidence, heir of the body.

Task 5. Try to understand the article "Will a state always be there?"

Some doctrines do not regard the state as everlasting. The state, having sprung from the division of society into classes, will wither away as classes disappear.

Just as the rise of the state and law was inevitable at a definite stage of society's historical development, so too will their disappearance be inevitable as classes and class distinctions obliterate and society matures for self-administration.Some scientists believe that the society which organizes production on new lines – free and equal association of producers - will consign the state machine to its proper place, namely, the museum of antiquities, alongside the distaff and bronze axe.

Of course, it is hard, perhaps impossible to describe at this time how society will be organized in future, but the general tendency of social development is pretty clear. Incidentally, those who deny that the state will eventually wither away – and they are numerous – have no real answer about its future. Others insist that mankind is moving towards "*supernational*" and even "*world government*". But the 20th century experience indicates that the law governing the development of a state is carrying mankind toward the socialist state, which will ultimately lead to human communities without any state.

Task 6. Choose the right variant.

1. For thousands of years the state has been a machine for class _____.
a) domination b) predominance c) prevalence d) control
2. Through the state the ruling class exercises its power and _____ in respect to people.
a) coercion b) domination c) predominance d) violence
3. The _____ of the state cannot be viewed apart from the concrete historical situation.
a) functions b) roles c) purposes d) aims
4. Some doctrines do not _____ the state as everlasting.
a) regard b) consider c) think d) esteem
5. _____ your request, no decision has been made.
a) with respect to b) in respect of c) concerning d) in regard to
6. Law and legislation date back to the days of _____ communal society.
a) primitive b) backward c) primeval d) primordial
7. In today busy life people do not _____ over their meaning.
a) ponder b) study c) think of d) think about
8. This situation makes it _____ to understand the nature of law.
a) difficult b) hard c) recondite d) tangled
9. Law plays a _____ role in society.
a) constructive b) building c) creative d) structural
10. Countless theories, hypotheses were _____throughout the centuries.
a) advanced b) presented c) given d) pictured

Task 7. Translate the sentences into your native language.

1. Not to set the Thames on fire. 2. He set his mind to govern his people well. 3. After setting a just value upon others, I must next set it on myself. 4. The limits of our nature are set, and we can never cross them. 5. When our rules are once set, no Governor should offer to alter them. 6. The British government is not about to sign away its control of the island. 7. Many men sign up for the army because they can't get ordinary jobs. 8. The opposition sneered at the government's plan but was unable to defeat it. 9. The British usually muddle through somehow. 10. It was the worst of a series of terrorist outrages. 11. Any attempt to encroach upon presidential prerogatives was quickly and firmly resisted. 12. America recruited her population from Europe. 13. They are the makers, repealers, and interpreters of the English laws. 14. They reached full agreement on all points. 15. The politicians are bidding for our favour by making wild promises that they can't keep. 16. Our principles may come from our fathers; our prejudices certainly descend from the female branch.

A STATE

A state is an organized community living under a unified political system, the government.

States may be sovereign. The denomination *state* is also employed to federated states that are members of a federal union, which is the sovereign state.

Some states are subject to external sovereignty or hegemony where ultimate sovereignty lies in another state. The state can also be used to refer to the secular branches of government within a state, often as a manner of contrasting them with churches and civilian institution.

There is no academic consensus on the most appropriate definition of the state.

The term "*state*" refers to a set of different, but interrelated and often overlapping, theories about a certain range of political phenomena. The act of defining the term can be seen as part of an ideological conflict, because different definitions lead to different theories of state function, and as a result validate different political strategies. The most commonly used definition is Max Weber's, which describes the state as a compulsory political organization with a centralized government that maintains a monopoly of the legitimate use of force within a certain territory.

General categories of state institutions include administrative bureaucracies, legal systems, and military or religious organizations. States may be classified as *sovereign* if they are not dependent on, or subject to any other power or state. Other states are subject to external sovereignty or hegemony where ultimate sovereignty lies in another state.

Many states are federated states which participate in a federal union. A federated state is a territorial and constitutional community forming part of a federation. Such states differ from sovereign states, in that they have transferred a portion of their sovereign powers to a federal government.

The concept of the state can be distinguished from the concept of government.

The government is the particular group of people, the administrative bureaucracy that controls the state apparatus at a given time. That is, governments are the means through which state power is employed. States are served by a continuous succession of different governments.

Each successive government is composed of a specialized and privileged body of individuals, who monopolize political decision-making, and are separated by status and organization from the population as a whole. Their function is to enforce existing laws, legislate new ones, and arbitrate conflicts. In some societies, this group is often a self-perpetuating or hereditary class.

In other societies, such as democracies, the political roles remain, but there is frequent turnover of the people actually filling the positions. States can also be distinguished from the concept of a "*nation*", which refers to a large geographical area and the people therein who perceive themselves as having a common identity. In the classical thought the state was identified with both political and civil society as a form of political community, while the modern thought distinguished the nation state as a political society from civil society as a form of economic society. Thus in the modern thought the state is contrasted with civil society.

Active vocabulary

Society, states, to monopolize political decision-making, continuous succession of different governments, state power, means, to compose, specialized and privileged body of individuals.

Task 1. Digest the information briefly in English.

Task 2. Answer the questions.

1. What is a state like? 2. What is subject to external sovereignty or hegemony? 3. Is there any academic consensus on the most appropriate definition of the state? 4. What does the term “state” refer to? 5. What do general categories of state institutions include? 6. What is a federal statelie? 7. The concept of the state can be distinguished from the concept of government, cannot it? 8. What is government like? 9. Are states served by a continuous succession of different governments? 10. What are the functions of the government?

ETYMOLOGY

The word *state* and its cognates in other European languages ultimately derive from the Latin *status*, meaning "*condition*" or "*status*". With the revival of the Roman law in the 14th century in Europe, this Latin term was used to refer to the legal standing of persons (such as the various "*estates of the realm*" – noble, common, and clerical), and in particular the special status of the king.

The word was also associated with Roman ideas (dating back to Cicero) about the "*condition of public matters*". In time, the word lost its reference to particular social groups and became associated with the legal order of the entire society and the apparatus of its enforcement.

In English, "*state*" is a contraction of the word "*estate*", which signifies that a person has status and therefore estate. The highest estates, generally those with the most wealth and social rank, were those that held power. The early 16th century works of Machiavelli (especially *The Prince*) played a central role in popularizing the use of the word "*state*" in something similar to its modern sense.

Sovereign state is a nonphysical juridical entity of the international legal system that is represented by a centralized government that has supreme independent authority over a geographic area. It has a permanent population, a government, and the capacity to enter into relations with other sovereign states. It is also normally understood to be a state which is neither dependent on nor subject to any other power nor state. The existence or disappearance of a state is a question of fact. While according to the declaratory theory of state recognition a sovereign state can exist without being recognized by other sovereign states, unrecognized states will often find it hard to exercise full treaty-making powers and engage in diplomatic relations with other sovereign states.

The word "*country*" is often colloquially used to refer to sovereign states, although it means, originally, only a geographic region, and subsequently its meaning became extended to the sovereign polity which controls the geographic region. Wales, England, and Scotland are excellent examples of "countries" which are not states, since the state is the United Kingdom.

The first states came into existence as people "gradually transferred their allegiance from an individual sovereign (king, duke, prince) to an intangible but territorial political entity, the State". States are but one of several political orders that emerged out of feudal Europe (others being city states, leagues, and empires with Universalist claims to authority.

Active vocabulary

Country, state, city states, leagues, empires, status, polity, a sovereign state, the declaratory theory of state, in diplomatic relations with.

Task 1. Give the main idea of the text in English.

Task 2. Translate the words and phrases with the keyword «state».

State accorded most-favoured-nation treatment; state activity; state affairs; state administration; management of state affairs; state aid; state allocations; state apparatus; state machinery; state assets; state-owned assets; state authority; state bank; state banquet; state benefit payments; state boundaries; state budget; state capital; state company; state corruption; state credit; state crime; state demand.

Task 3. Translate the words and phrases with the keyword «country».

To appeal / go to the country, to leave the country, in the country, in the open country, God's own country, country town, country road, country cousin, a civilized country, European/ developing/ third-world countries, one's mother/native country, a neighbouring country, to govern/to rule/to run a country, in the north of a country.

Task 4. Try to understand the definition.

A country is one of the political units which the world is divided into, covering a particular area of land. The people who live in a particular country can be referred to as the country. The country consists of places such as farms, open fields, and villages which are away from towns and cities.

WESTPHALIAN SOVEREIGNTY

State sovereignty is the principle of international law that each nation-state has sovereignty over its territory and domestic affairs, to the exclusion of all external powers, on the principle of non-interference in another country's domestic affairs, and that each state (no matter how large or small) is equal in international law. As European influence spread across the globe, these principles became central to international law and to the prevailing world order.

The principle of sovereignty thus underlies the modern international system of states.

The origins of this system are often traced in scholarly and popular literature to the Peace of Westphalia, signed in 1648, which ended the Thirty Years' War. However, both the basis and the conclusion of this view have been criticized by some revisionist academics and politicians, with revisionists questioning the significance of the Peace, and some commentators and politicians attacking the Westphalian system of sovereign nation-states.

Westphalian sovereignty is the concept of nation-state sovereignty based on territoriality and the absence of a role for external agents in domestic structures. It is an international system of states, multinational corporations, and organizations that began with the Peace of Westphalia in 1648.

Sovereignty is a term that is frequently misused. Up until the 19th century, the radicalized concept of a "*standard of civilization*" was routinely deployed to determine that certain peoples in the world were "uncivilized", and lacking organized societies.

That position was reflected and constituted in the notion that their "*sovereignty*" was either completely lacking, or at least of an inferior character when compared to that of "*civilized*" people.

Sovereignty has taken on a different meaning with the development of the principle of self-determination and the prohibition against the threat or use of force as *jus cogens* norms of modern international law.

The United Nations Charter, the Declaration on Rights and Duties of States, and the charters of regional international organizations express the view that all states are juridically equal and enjoy the same rights and duties based upon the mere fact of their existence as persons under international law.

The right of nations to determine their own political status and exercise permanent sovereignty within the limits of their territorial jurisdictions is widely recognized.

In political science, sovereignty is usually defined as the most essential attribute of the state in the form of its complete self-sufficiency in the frames of a certain territory that is its supremacy in the domestic policy and independence in the foreign one.

The traditional view of the Westphalian system is that the Peace of Westphalia was an agreement to respect the principle of territorial integrity. In the Westphalian system, the national interests and goals of states (later nation-states) were widely assumed to go beyond those of any citizen or any ruler. States became the primary institutional agents in an interstate system of relations.

The Peace of Westphalia is said to have ended attempts to impose supranational authority on European states. The "Westphalian" doctrine of states as independent agents was bolstered by the rise in 19th century thought of nationalism, under which legitimate states were assumed to correspond to *nations* – groups of people united by language and culture.

The Westphalian system reached its peak in the late 19th century. Although practical considerations still led powerful states to seek to influence the affairs of others, forcible intervention by one country in the domestic affairs of another was less frequent between 1850 and 1900 than in most previous and subsequent periods. The Peace of Westphalia is important in modern international relations theory, and is often defined as the beginning of the international system with which the discipline deals.

However, recent scholarship suggests that the Westphalian treaties actually had little to do with the principles – sovereignty, non-intervention, and the legal equality of states – with which the treaties are often associated.

Nonetheless, "Westphalian sovereignty" continues to be used as shorthand for some of the basic legal principles underlying the modern state system. The applicability and relevance of these principles have been questioned from the mid-20th century onward from a variety of viewpoints.

Much of the debate has turned on the ideas of internationalism and globalization which, in various interpretations, appear to conflict with Westphalian sovereignty.

In 1998, at a Symposium on the Continuing Political Relevance of the Peace of Westphalia, NATO Secretary-General Javier Solana said that "humanity and democracy were two principles essentially irrelevant to the original Westphalian order" and levied a criticism that "the Westphalian system had its limits. For one, the principle of sovereignty it relied on also produced the basis for rivalry, not community of states; exclusion, not integration".

In 1999, British Prime Minister Tony Blair gave a speech in Chicago where he "set out a new, post-Westphalian, 'doctrine of the international community". Blair argued that globalization had made the Westphalian approach anachronistic. Blair was later referred to by *The Daily Telegraph*as "the man who ushered in the post-Westphalian era." Others have also asserted that globalization has superseded the Westphalian system.

In 2000, Germany's Foreign Minister Joschka Fischer referred to the Peace of Westphalia in his Humboldt Speech, which argued that the system of European politics set up by Westphalia was obsolete: "The core of the concept of Europe after 1945 was and still is a rejection of the European balance-of-power principle and the hegemonic ambitions of individual states that had emerged following the Peace of Westphalia in 1648, a rejection which took the form of closer meshing of vital interests and the transfer of nation-state sovereign rights to supranational European institutions."

In the aftermath of the 11 March 2004 Madrid attacks, Lewis who claims to represent the terrorist network al-Qaeda, declared that "the international system built up by the West since the Treaty of Westphalia will collapse; and a new international system will rise under the leadership of a mighty Islamic state".

Others speak favorably of the Westphalian state, including European nationalists and American political commentator Pat Buchanan. Some such supporters of the Westphalian state oppose socialism and some forms of capitalism for undermining the nation state. A major theme of Buchanan's political career, for example, has been criticizing globalization, critical theory, neoconservatism, and other philosophies he considers detrimental to Western nations.

During the 1980s and early 1990s, the imperative of globalization and interdependence led to international integration, and, arguably, the erosion of Westphalian sovereignty. Much of the literature was primarily concerned with criticizing realist models of international politics in which the notion of the state as a unitary agent is taken as axiomatic. The European Union's concept of shared sovereignty is also somewhat contrary to historical views of Westphalian sovereignty, as it provides for external agents to influence and interfere in the internal affairs of its member countries.

In a 2008 article Phil Williams links the rise of terrorism and violent non-state actors (VNSAs), which pose a threat to the Westphalian sovereignty of the state, to globalization.

State recognition signifies the decision of a sovereign state to treat another entity as also being a sovereign state. Recognition can be either express or implied and is usually retroactive in its effects. It doesn't necessarily signify a desire to establish or maintain diplomatic relations.

There is no definition that is binding on all the members of the community of nations on the criteria for statehood. In actual practice, the criteria are mainly political, not legal. L.C. Green cited the recognition of the unborn Polish and Czech states in World War I and explained that "since recognition of statehood is a matter of discretion, it is open to any existing State to accept as a state any entity it wishes, regardless of the existence of territory or of an established government".

In international law, however, there are several theories of when a state should be recognized as sovereign.

Active vocabulary

Treaty, recognition of statehood, state, existence of territory, established government, state recognition, to signify, sovereignty of the state, to globalization, several theories, entity, to accept.

Task 1. Choose the keywords and phrases that best convey the gist of the information.

Task 2. Explain the score of the concept "Westphalian sovereignty" in English.

Task 3. Try to understand the difference among notions.

In casual usage, the terms "*country*", "*nation*", and "*state*" are often used as if they were synonymous; but in a more strict usage they can be distinguished:

- *Nation* denotes a people who are believed or deemed to share common customs, religion, language, origins, ancestry or history. However, the adjectives *national* and *international* are frequently used to refer to matters pertaining to what are strictly *sovereign states*, as in *national capital*, *international law*.
- *State* refers to the set of governing and supportive institutions that have sovereignty over a definite territory and population. Sovereign states are legal persons.

Task 4. Read the text "Law, its Origin and Development" and give the main idea.

Law and legislation date back to the days when primitive communal society, which had no need of the authority of law, gave way to the first class-based socio-economic formation, which found political expression in the slave-owning state. Over the centuries the words "*law*" and "*legislation*" have become a common that in today busy life of people do not ponder over their meaning and sometimes even fail to define them. Law seems to exist apart from a man, and is not even noticed until somebody violates its orders or until is called upon to defend interests that have been the object of encroachments.

This situation makes it difficult to understand the nature of law that many generations of lawyers, philosophers and politicians have been studying. Many outstanding thinkers and scholars in their attempts to penetrate the essence of law have defined it as a natural ideal principle originally inherent in the human race and embodied in the legislation of various states.

Theories on law were set forth asserting that law plays a constructive role in society that it creates the social system, and not the other way round as the founders of scientific communism subsequently proved. Attempts were made to explain the essence of law by the nature of law itself, by the idea of supreme legality, universal justice and so on. Countless theories, hypotheses and proofs were advanced throughout the centuries, but the true nature of law remained obscure.

Task 5. Explain the score of constitutive theory.

The "*constitutive theory*" of statehood defines a state as a person of international law if, and only if, it is recognized as sovereign by other states.

This theory of recognition was developed in the 19th century. Under it, a state was sovereign if another sovereign state recognized it as such. Because of this, new states could not immediately become part of the international community or be bound by international law, and recognized nations did not have to respect international law in their dealings with them.

In 1815 at the Congress of Vienna the Final Act recognized only 39 sovereign states in the European diplomatic system, and as a result it was firmly established that in future new states would have to be recognized by other states, and that meant in practice recognition by one or more of the great powers.

One of the major criticisms of this law is the confusion caused when some states recognize a new entity, but other states do not. However, a state may use any criteria when judging if they should give recognition and they have no obligation to use such criteria. Many states may only recognize another state if it is to their advantage.

Task 6. Summarize the information briefly in English.

Task 7. Explain the score of declarative theory & state practice.

By contrast, the "*declarative*" theory defines a state as a person in international law if it meets the following criteria: 1) a defined territory; 2) a permanent population; 3) a government and 4) a capacity to enter into relations with other states.

According to declarative theory, an entity's statehood is independent of its recognition by other states. The declarative model was most famously expressed in the 1933 Montevideo Convention.

Article 3 of the Montevideo Convention declares that statehood is independent of recognition by other states. In contrast, recognition is considered a requirement for statehood by the constitutive theory of statehood. A similar opinion about "*the conditions on which an entity constitutes a state*" is expressed by the European Economic Community, which found that a state was defined by having a territory, a population, and a political authority.

State practice relating the recognition states typically falls somewhere between the declaratory and constitutive approaches. International law does not require a state to recognize other states.

Recognition is often withheld when a new state is seen as illegitimate or has come about in breach of international law. Almost universal non-recognition by the international community of Rhodesia and Northern Cyprus are good examples of this. In the former case, recognition was widely withheld when the white minority seized power and attempted to form a state along the lines of Apartheid South Africa, a move that the United Nations Security Council described as the creation of an "*illegal racist minority regime*". In the latter case, recognition was widely withheld from a state created in Northern Cyprus on land illegally invaded by Turkey in 1974.

Task 8. Explain the score of de facto & de jure states.

Most sovereign states are states de jure and de facto (i.e. they exist both in law and in reality).

However, sometimes states exist only as de jure states in that an organization is recognized as having sovereignty over and being the legitimate government of a territory over which they have no actual control. Many continental European states maintained governments-in-exile during the Second World War which continued to enjoy diplomatic relations with the Allies, notwithstanding that their countries were under Nazi occupation.

The State of Palestine, which is recognized by multiple states doesn't have control over any of its claimed territory in Palestine and possess only extraterritorial areas (embassies and consulates).

Other states may have sovereignty over a territory but lack international recognition; these are considered by the international community to be only de facto states (they are considered de jure states only according to their own Law and by states that recognize them).

Somaliland is commonly considered to be such a state. Although the terms "*state*" and "*government*" are often used interchangeably, international law is predicated on a distinction between nonphysical states and their governments, and in fact, the concept of "*government-in-exile*" is predicated upon the distinction between states and their governments. States are nonphysical juridical entities, and not organizations of any kind, though, ordinarily, only the government of a state is allowed to obligate or bind it, for example by treaty.

Generally speaking, states are durable entities, though it is possible for them to be become extinguished, either through voluntary means or by military conquest.

Because states are nonphysical juridical entities, their extinction cannot be due to only physical force alone. Instead the physical actions of the military must be associated with the correct social or judiciary actions in order to abolish a state.

Task 9. Add some information and write a shot essay on the topic.

Government-in-exile – a government established outside its territorial jurisdiction. Following the German defeat of Poland in 1939, the Polish government transferred its operations to London and thereby became a government-in-exile.

THE NATION STATE

The nation state is a state that self-identifies as deriving its political legitimacy from serving as a sovereign entity for a nation as a sovereign territorial unit. The state is a political and geopolitical entity; the nation is a cultural and/or ethnic entity.

The term "*nation state*" implies that the two geographically coincide. Nation state formation took place at different times in different parts of the world, but has become the dominant form of state organization. The concept and actuality of the nation state can be compared and contrasted with that of the multinational state, city state, empire, confederation, and other state forms with which it may overlap. The key distinction from the other forms is the identification of people with a polity.

Some nation states, such as Germany or Italy, came into existence at least partly as a result of political campaigns by nationalists, during the 19th century.

In both cases, the territory was previously divided among other states, some of them very small.

The sense of common identity was at first a cultural movement in German-speaking states, which rapidly acquired a political significance. In these cases, the nationalist sentiment and the nationalist movement clearly precede the unification of the German and Italian nation states.

The idea of a nation state is associated with the rise of the modern system of states, called the "*Westphalian system*" in reference to the Treaty of Westphalia (1648).

The balance of power, which characterizes that system, depends for its effectiveness upon clearly defined, centrally controlled, independent entities, whether empires or nation states, which recognize each other's sovereignty and territory. The Westphalian system did not create the nation state, but the nation state meets the criteria for its component states (by assuming that there is no disputed territory). The nation state received a philosophical underpinning in the era of Romanticism, at first as the "*natural*" expression of the individual peoples.

The increasing emphasis during the 19th century on the ethnic and racial origins of the nation, led to a redefinition of the nation state in these terms. Racism, which in Boulainvilliers's theories was inherently antipatriotic and antinationalist, joined itself with colonialist imperialism and "*continental imperialism*". The relation between racism and ethnic nationalism reached its height in the 20th century fascism and Nazism. The specific combination of "*nation*" ("*people*") and "*state*" expressed and implemented in laws such as the 1935 Nuremberg laws made fascist states such as early Nazi Germany qualitatively different from non-fascist nation states. Minorities were not considered part of the people (*Volk*), and were consequently denied to have an authentic or legitimate role in such a state.

In Germany, neither Jews nor the Roma were considered part of the people, and were specifically targeted for persecution. German nationality law defined "German" on the basis of German ancestry, excluding *all* non-Germans from the people.

Task 1. Analyze the information and give the main idea of it in English.

Task 2. Explain the score of the notion "nation state" in English.

Task 3. Translate the single-root words into Russian.

Nation – national – nationalization – nationalism – nationalize – nationalist – nationalistic – nationality – nationally – nationals – nationhood.

Task 4. Remember that.

Nation state – a sovereign state of which most of the citizens or subjects are united also by factors which define a nation, such as language or common descent. An independent state inhabited by all the people of one nation and one nation only. A nation-state is an independent state which consists of people from one particular national group. A sovereign state whose citizens or subjects are relatively homogeneous in factors such as language or common descent.

Task 5. Make up a small report and give a talk in class.

Task 6. Explain the phrases and make up sentences with them.

To form a government; to head a government; to operate (run) a government; to overthrow a government; corrupt government; strong government; weak government; to destabilize (subvert) a government; to dissolve a government; organs of government; central (general) government; civil government; coalition government; conservative government; invisible government; liberal government; minority government; provisional government; reactionary government; responsible government; local (provincial) government; municipal government; shadow government; democratic government; dictatorial government; federal government; parliamentary government; totalitarian government; governing body (institution).

Task 7. Explain the score of Dworkin's quote about a government.

No government ever voluntarily reduces itself in size. Government programs, once launched, never disappear. Actually, a government bureau is the nearest thing to eternal life we'll ever see on this earth!

Task 8. Choose the correct variant.

1. In Roman Empire was a custom to _____ from the country every offender.
a) proscribe b) outlaw c) banish d) exile
2. This is a noble act, which _____ noble aims.
a) pursues b) chases c) is after d) follows
3. Some states are subject to _____ sovereignty.
a) external b) outer c) outside d) outward
4. State is a _____ political organization.
a) compulsory b) mandatory c) obligatory d) binding
5. States may be _____ as sovereign
a) classified b) organized c) categorized d) grouped
6. The function of a state is _____existing laws.
a) to enforce b) to urge c) to oblige d) to compel
7. In early times Britain was the subject of waves of different _____ .
a) aggressors b) usurpers c) occupiers d) invaders
8. The _____ conquered England and adopted many Anglo-Saxon laws.
a) French b) German c) English d) Normans
9. In _____ a new law laid down rules.
a) 1278 b) 1345 c) 1256 d) 1285
10. When the _____ conquered England they adopted many Anglo-Saxon laws.
a) French b) German c) English d) Normans

CLASSIC NON-NATIONAL STATES

In recent years, the nation state's claim to absolute sovereignty within its borders has been much criticized. A global political system based on international agreements and supra-national blocs characterized the post-war era. Non-state actors, such as international corporations and non-governmental organizations, are widely seen as eroding the economic and political power of nation states, potentially leading to their eventual disappearance.

In Europe, in the 18 th century, the classic non-national states were the *multiethnic* empires, (the Austrian Empire, Kingdom of France, Kingdom of Hungary, the Russian Empire, the Ottoman Empire, the British Empire) and smaller states at what would now be called sub-national level.

The multiethnic empire was a monarchy ruled by a king, emperor or sultan.

The population belonged to many ethnic groups, and they spoke many languages.

The empire was dominated by one ethnic group, and their language was usually the language of public administration. The ruling dynasty was usually, but not always, from that group.

This type of state is not specifically European: such empires existed on all continents, excepting Australia and Antarctica. Some of the smaller European states were not so ethnically diverse, but were also dynastic states, ruled by a royal house. Their territory could expand by royal intermarriage or merge with another state when the dynasty merged.

In some parts of Europe, notably Germany, very small territorial units existed.

They were recognized by their neighbours as independent, and had their own government and laws. Some were ruled by princes or other hereditary rulers; some were governed by bishops or abbots.

Because they were so small, however, they had no separate language or culture: the inhabitants shared the language of the surrounding region. In some cases these states were simply overthrown by nationalist uprisings in the 19th century. Liberal ideas of free trade played a role in German unification, which was preceded by a customs union, the Zollverein.

However, the Austro-Prussian War, and the German alliances in the Franco-Prussian War, were decisive in the unification. The Austro-Hungarian Empire and the Ottoman Empire broke up after the First World War and the Russian Empire became the Soviet Union, after the Russian Civil War.

A few of the smaller states survived: the independent principalities of Liechtenstein, Andorra, Monaco, and the republic of San Marino. (Vatican City is different. Although there was a larger Papal State, it was created in its present form by the 1929 Lateran treaties between Italy and the Roman Catholic Church.)

Task 1. Digest the information briefly in English.

Task 2. Answer the questions.

1. What do the nation state's claim nowadays? 2. What is a global political system based on? 3. How are nonstate organizations considered now? 4. Where do they lead? 5. Were the classic non-national states the *multiethnic* empires in Europe in the 18 th century? 6. What was the multiethnic empire like? 7. What was the population like? 8. What was dominated by one ethnic group? 9. What were some of the smaller European states like? 10. Did any of the smaller states survive?

Task 3. Explain the law-terms and make up sentences with them.

Governmental action; governmental agency (body, department, institution, organs, subdivision); governmental (public) authorities; governmental certification; governmental establishment; governmental infraction; governmental jurisdiction; governmental matter; governmental offender; governmental (public) payroll; governmental rule; governmental service; governmental responsibility; governmental prescription; governmental post; governmental community; governmental privilege; governmental fund; governmental organization; governmental interest; governmental planning; government(al) property; governmental regulation; governmental supervision.

"THE GREAT NATIONS"

Prior to establishment of the nation-state as a primary site for expression of modern nationalism, the European and Asian continents were dominated by "*multi-ethnic peoples*" (or "*nations*", as in that term's earliest application, meant "a racial group") governed by state-organized "*empires*".

According to 19th-century Liberals, whose economic theories rapidly and profitably attached to political and sociological theories and practice. Liberal theory and capitalist economies conjoined in such a way as to associate political liberty with *laissez-faire* economic practice, leading to a corruption of both terms and an unprecedented commitment by liberal governments to the conjuncture of business interests with the best interests of the state.

Accordingly, in the interest of the people, governments increasingly supported and subsidized the financial, industrial and service sectors. The "*commodification of London*" and subsequently all of the racial or ethnic "*nations*" contributing to create the United Kingdom and later, the British Empire, were made cooperatives in a type of "progress" that served business and investment interests first, in order to – as appeared demonstrated by Adam Smith, Adam Ferguson, Jeremy Bentham and others.

That improvement in the situation of monopolists, capitalists, stock-jobbers, and ranchers would inevitably elevate the whole of their society. This was known in some quarters as the "*trickle down*" theory. Readers, researchers and administrators elaborated and applied concrete '-isms' and '-izations from the 18th century's '- ologies' and '- otonies' of the long 18th century (1668-1905).

One example, closing dates vary, but the objective is to emphasize the continuities of concepts and their elaborations and applications. The long century also permits English incorporation of the Scottish Enlightenment as a product of British culture. The "*Great Nations*" in 1914 included Britain, Germany, France and Italy. The Russian and Austrian-Hungarian Empires were called empires.

The others were designated as nations, even though each referred to empires in policy, practice and expectation. Why this is so must be understood in context of 1960s establishment of "*third world nations*" development policies which advertised nationhood as the path to legitimation on the world stage and required nationalization to qualify for World Bank assistance.

Active vocabulary

Establishment of the nation-state, political and sociological theories and practice, in the interest of the people, elaborations and applications, empires.

Task 1. Translate the sentences into your native language.

1. Municipal government began to play important role in our public life. 2. Europe was broken into many separate communities. 3. During the Norman period London appears to have been a collection of small communities, manors, parishes, church-sokens, and guilds. 4. Such men become a burden to the community. 5. A state is an institution whose strength lies in the community of interests and feelings among its members. 6. The government cannot bail out every unprofitable company. 7. The government introduced a Bill before Parliament. 8. International relations are very influential in the affairs of any state, large or small. 9. The government has promised to crack down on criminal activity. 10. We want to live under a democratic government.

Task 2. Try to translate the quotes on great nations.

1. A battle lost or won is easily described, understood, and appreciated, but the moral growth of a great nation requires reflection, as well as observation, to appreciate it. (Frederick Douglass) 2. Governing a great nation is like cooking a small fish - too much handling will spoil it. (Lao Tzu) 3. My message to you all is of hope, courage and confidence. Let us mobilize all our resources in a systematic and organized way and tackle the grave issues that confront us with grim determination and discipline worthy of a great nation. (Muhammad Ali Jinnah) 4. Those who want to reap the benefits of this great nation must bear the fatigue of supporting it. (Thomas Paine)

CHARACTERISTICS OF THE NATION STATE

"Legitimate states that govern effectively and dynamic industrial economies are widely regarded today as the defining characteristics of a modern nation-state". Nation states have their own characteristics, differing from those of the pre-national states. For a start, they have a different attitude to their territory, compared to the dynastic monarchies: it is semi-sacred, and non-transferable.

They have a different type of border, in principle defined only by the area of settlement of the national group, although many nation states also sought natural borders (rivers, mountain ranges).

They are constantly changing in size and power because of the limited restrictions of their borders. The most noticeable characteristic is the degree to which nation states use the state as an instrument of national unity, in economic, social and cultural life. The nation state promoted economic unity, by abolishing internal customs and tolls. In Germany, that process, the creation of the Zollverein, preceded formal national unity. Nation states typically have a policy to create and maintain a national transportation infrastructure, facilitating trade and travel.

In 19th-century Europe, the expansion of the rail transport networks was at first largely a matter for private railway companies, but gradually came under control of the national governments.

The French rail network, with its main lines radiating from Paris to all corners of France, is often seen as a reflection of the centralized French nation state, which directed its construction.

Nation states continue to build, for instance, specifically national motorway networks.

Specifically, transnational infrastructure programmes, such as the Trans-European Networks, are a recent innovation. The nation states typically had a more centralized and uniform public administration than its imperial predecessors: they were smaller, and the population less diverse.

(The internal diversity of the Ottoman Empire, for instance, was very great.)

After the 19th-century triumph of the nation state in Europe, regional identity was subordinate to national identity, in regions such as Alsace-Lorraine, Catalonia, Brittany, Sicily, Sardinia and Corsica.

In many cases, the regional administration was also subordinated to central (national) government.

This process was partially reversed from the 1970s onward, with the introduction of various forms of regional autonomy, in formerly centralized states such as France.

The most obvious impact of the nation state, as compared to its non-national predecessors, is the creation of a uniform national culture, through state policy. The model of the nation state implies that its population constitutes a nation, united by a common descent, a common language and many forms of shared culture. When the implied unity was absent, the nation state often tried to create it. It promoted a uniform national language, through language policy. The creation of national systems of compulsory primary education was the most effective instrument in the spread of the national languages. The schools also taught the national history, often in a propagandistic and mythologized version, and (especially during conflicts) some nation states still teach this kind of history.

Active vocabulary

Legitimate states, to govern, state, organized political community, in public international law, impact, formal national unity, a common descent.

Task 1. Translate the sentences into your native language.

1. The government tries to gull the taxpayers into believing that their money is being properly spent. 2. We have been deluded into false hopes by the government's meaningless promises. 3. They defrauded four million citizens of their rights. 4. Advertisers are now forbidden to deceive the public with false claims. 5. This is a system which obscured responsibility and deluded public opinion. 6. His power extends over the whole country. 7. In a recent magazine article, the writer complained that his right to remain private had been infringed upon by government. 8. Any attempt to encroach upon presidential prerogatives was quickly and firmly resisted. 9. We applied to the authorities for assistance. 10. In society the most accomplished man of mere professional skill is often a nullity.

Task 2. Summarize the information briefly in English.

Political science

- State (polity), an organized political community, living under a government.
- Sovereign state, a sovereign political entity in public international law.
- "State", in some contexts virtually synonymous with "government", e.g., to distinguish state (government) from private schools.
- Nation state, a state which coincides with a nation.
- Federated state, a political entity forming part of a federal sovereign state such as the USA, Australia, India, and Brazil.
- Member state, a member of an international organization.

Legislatures

- The Estates or the States, a national assembly of the estates, a legislature.
- States-General (disambiguation).

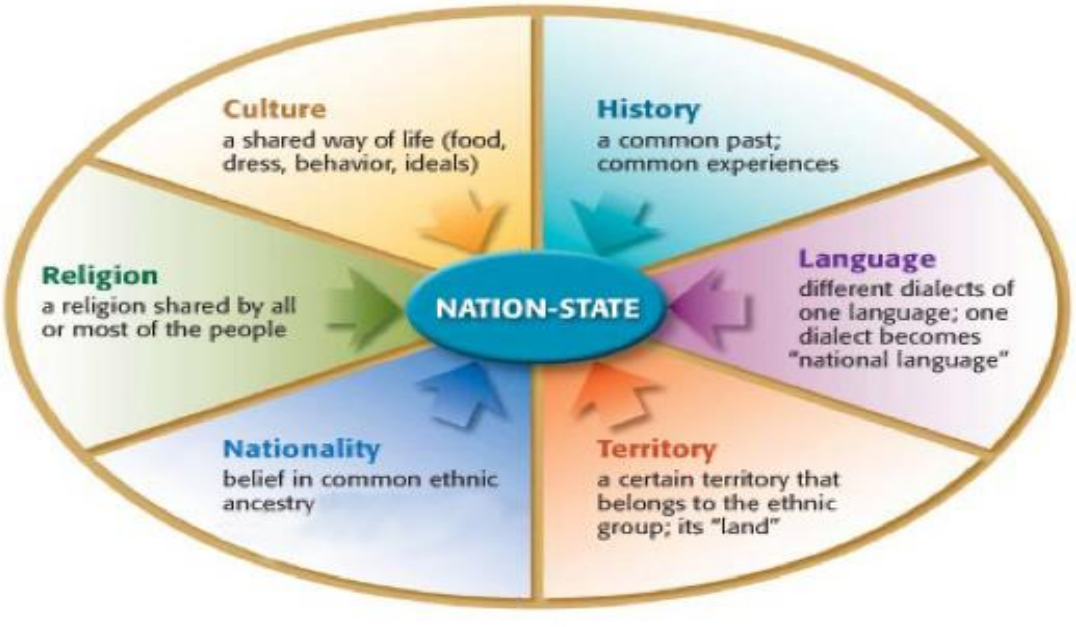
Jurisprudence

- Rechtsstaat, the legal state (constitutional state, state subordinated to law) in philosophy of law and as principle of many national constitutions.

Nationalism, the idea of territorial sovereignty and nations that inhabit nation states, is a European product. During the 19th century, many European intellectuals contributed to the romantic idea of nations and nation states as absolute, distinct entities, "spiritual individuals", as the famous German philosopher Georg Wilhelm Friedrich Hegel put it. Colonialism spread the idea of the nation state to new continents and solidified it at the same time to become the only legitimate political unit for new states in early 20th century (perhaps with the exception of communism).

Task 3. Explain the law-terms and make up sentences with them.

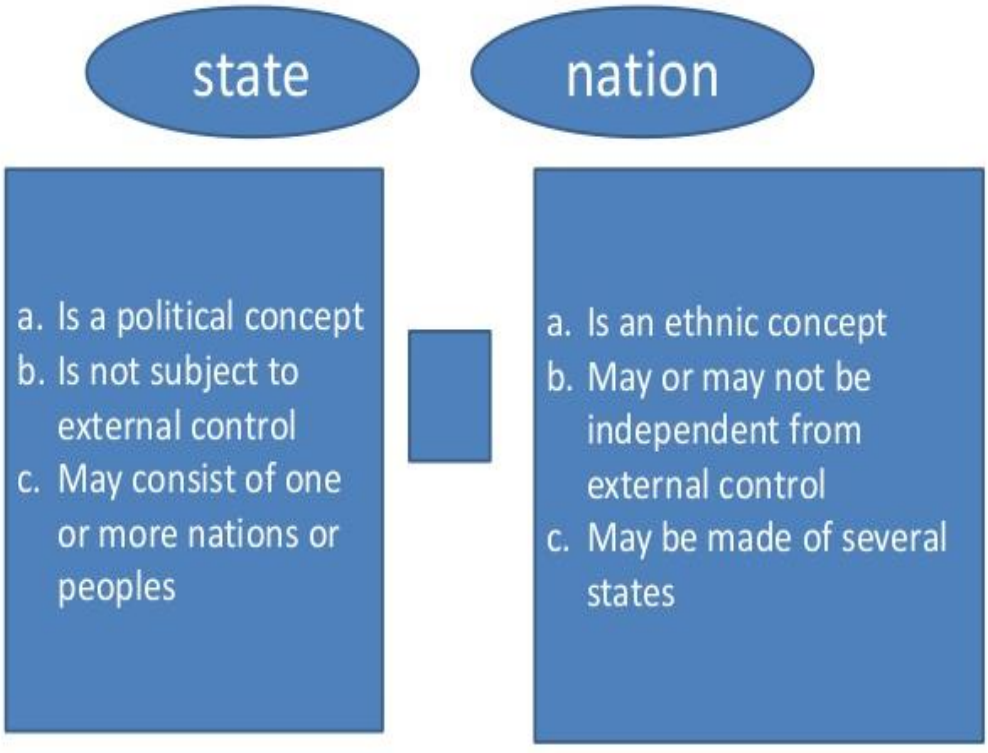
To administer smb.'s affairs; to administer the affairs of the state; to administer justice; to administer (dispense) the law; to administer punishment; to administer a rebuke; to administer a blow; to administer an oath to smb.; to administer an estate; to administer justice; to administer property; administering authority; administered justice; administered prices; business administration; public administration; administration car (block, building) to administrate (control, check); (de)centralized administration; administration (administrative) costs (expenses, overheads) / establishment charges; administration leadership; administration decision making.



Bonds that create a nation-state.

GDP 2017	GDP 2050
1 United States ($19)	China ($38)
2 China ($11)	United States ($23)
3 Japan ($4.8)	India ($19.5)
4 Germany ($3.4)	Japan ($5.6)
5 UK ($2.4)	Indonesia ($5.2)
6 France ($2.4)	Russia ($4.7)
7 Brazil ($2.1)	Germany ($47)
8 Italy ($1.8)	Brazil ($4.4)
9 Canada ($1.6)	Mexico ($3.6)
10 Russia ($1.5)	UK ($3.6)

Wealth of Nations



Difference between State & Nation

WHAT IS GOVERNMENT?

Government is the management of the country. The Government makes important decisions, e.g. about the foreign policy, education, or health, but all these decisions have to be approved by Parliament. If Parliament thinks that a particular Government policy is against the public interest, it can force the Government to change its mind. Government is the mechanism through which the public will is expressed and made effective. Sometimes the people voice the public will directly, through the agency of the initiative and referendum, but often it is made manifest through the action of its elected representatives in parliaments, legislatures and municipal councils.

Constitutions, laws and ordinances are the formal records of the public will expressed by these legislative bodies. Presidents, governors, mayors and other executive officials constitute the channels through which this legislation is put into effect, while the courts uphold it by providing the function of enforcement. Government, accordingly, embraces three broad functions: namely, the making, the administration and the enforcement of laws. Administrators are vested with the function of putting the laws into operation. The vast majority of governmental officers are engaged in this work.

And when anyone shows a reluctance to obey the laws it is the courts and the police that provide the machinery of enforcement. Legislative, executive, and judicial, therefore, are the three great branches of government. Governments are providing a growing number of services, and engaging in operations of great size and complexity. As the functions of government expand, the role of the administrative branch becomes more and more important.

The quality of administration depends on the character of those who hold the jobs. However, it should be realized that administrative organizations and governmental policies change frequently.

Active vocabulary

Government, management, be engaged, branches of government, functions, majority, governmental officers, to constitute, administrative organizations.

Task 1. Explain the score of some notions in English.

Task 2. Translate the word-combinations and make up sentences with them.

Fair (unfair) verdict; to bring in (return) a verdict of guilty; to bring in (return) a verdict of not guilty; to arrive at (reach) a verdict; to announce (sustain) a verdict; overturn (quash) a verdict; to set aside a verdict; to appeal (adverse) a verdict; unfavourable (favourable) verdict.

Task 3. Remember the notions.

Caretaker Government – переходное правительство, действующее в период передачи полномочий вновь назначенному.

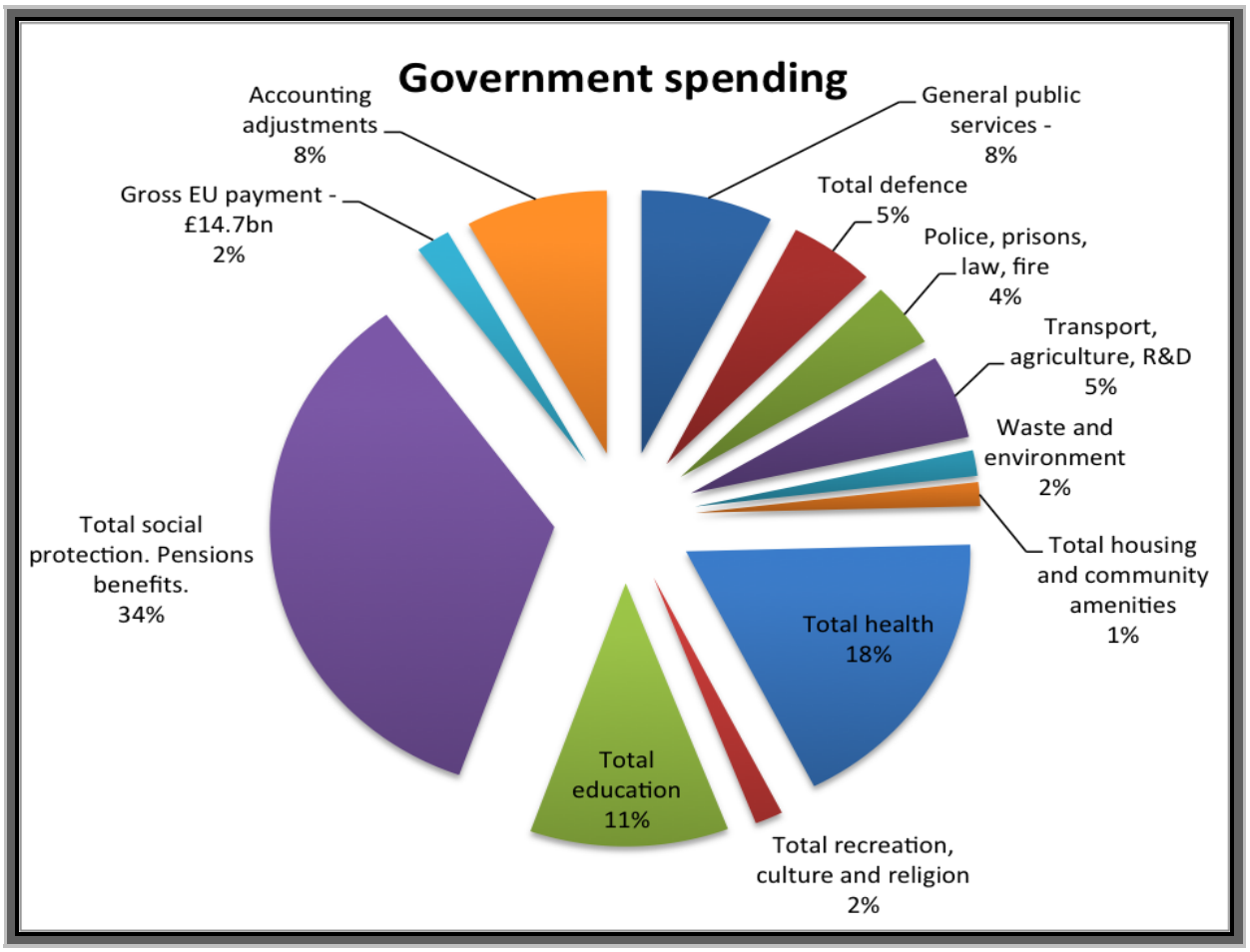
Petticoat government – бабье царство, женское засилье.

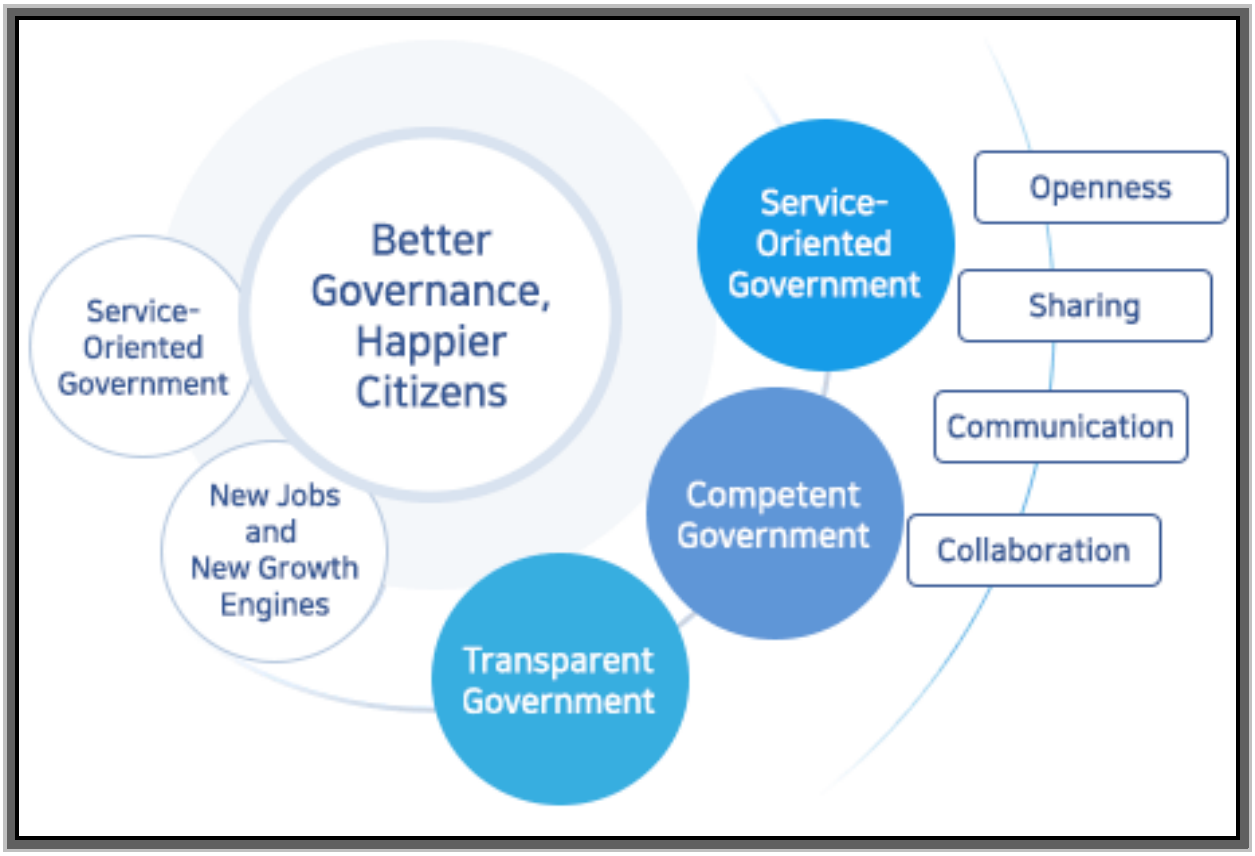
The invisible government – "невидимое (закулисное) правительство", крупные монополии, диктующие свою волю официальному правительству.

Carpet-bag governments – "правительства саквояжников".

Task 4. Remember Ronald Dworkin's quotes on law and justice.

1. *Integrity* is to understand legal practice. 2. Law's empire is defined by attitude, not territory or power or process. 3. *Recession* is when a neighbour loses his job. Depression is when you lose yours. 4. *Men* know everything: all of them, all the time – no matter how stupid or inexperienced or arrogant or ignorant they are. If we ever forget that we are, then we will be a nation gone under. 5. *Freedom* prospers when religion is vibrant and the rule of law under God is acknowledged. 6. *Moral* principle is the foundation of law. I know in my heart that man is good. That what is right will always eventually triumph. And there's purpose and worth to each and every life.


Government spending
Accounting adjustments 8%
General public services - 8%
Gross EU payment - £14.7bn 2%
Total defence 5%
Police, prisons, law, fire 4%
Transport, agriculture, R&D 5%
Waste and environment 2%
Total housing and community amenities 1%
Total social protection. Pensions benefits. 34%
Total health 18%
Total education 11%
Total recreation, culture and religion 2%


Better Governance, Happier Citizens
Service-Oriented Government
New Jobs and New Growth Engines
Service-Oriented Government
Competent Government
Transparent Government
Openness
Sharing
Communication
Collaboration

CLASSIFYING OF GOVERNMENT

A government is the system by which a state or community is governed.

In British English, a *government* more narrowly refers to the particular executive in control of a state at a given time – known in American English as an *administration*.

In American English, *government* refers to the larger system by which any state is organized.

Furthermore, *government* is occasionally used in English as a synonym for *governance*. In the case of its broad definition, government normally consists of legislators, administrators, and arbitrators.

Government is the means by which state policy is enforced, as well as the mechanism for determining the policy of the state. A form of government, or form of state governance, refers to the set of political systems and institutions that make up the organization of a specific government.

Government of any kind currently affects every human activity in many important ways. For this reason, political scientists generally argue that government should not be studied by itself; but should be studied along with anthropology, economics, history, philosophy, science, and sociology.

In political science, it has long been a goal to create a typology or taxonomy of polities, as typologies of political systems are not obvious. It is especially important in the political science fields of comparative politics and international relations. On the surface, identifying a form of government appears to be easy, as all governments have an official form. The United States is a federal republic, while the former Soviet Union was a socialist republic.

However self-identification is not objective. Thus, in many practical classifications it would not be considered democratic. Identifying a form of government is also complicated because a large number of political systems originate as socio-economic movements and are then carried into governments by specific parties naming themselves after those movements; all with competing political ideologies.

Experience with those movements in power, and the strong ties they may have to particular forms of government, can cause them to be considered as forms of government in themselves.

Other complications include general non-consensus or deliberate "*distortion or bias*" of reasonable technical definitions to political ideologies and associated forms of governing, due to the nature of politics in the modern era. Every country in the world is ruled by a system of governance that combines at least 2 of the following attributes. Additionally, one person's opinion of the type of government may differ from others. There are always shades of gray in any government.

Even the most liberal democracies limit rival political activity to one extent or another, and even the most tyrannical dictatorships must organize a broad base of support, so it is very difficult "*pigeonholing*" every government into narrow category.

The Classical Greek philosopher Plato discusses *five types of regimes*. They are Aristocracy, Timocracy, Oligarchy, Democracy and Tyranny (despotism). Plato also assigns a man to each of these regimes to illustrate what they stand for. The tyrannical man would represent Tyranny for example.

These five regimes progressively degenerate starting with Aristocracy at the top and Tyranny at the bottom.

Active vocabulary

Government, means, democratic, tyrannical dictatorships, rival political activity, to organize, type of government, modern era, every country in the world, to rule, a system of governance, to combine.

Task 1. Try to render the score of the information in English.

Task 2. Ty to understand the notion.

Pigeonhole ['pɪʤənhəul] – a category, typically an overly restrictive one, to which someone or something is assigned (своё место; категория, класс) (в классификации).

Task 3. Analyze the classification of types of government and make up a report.

Task 4. Characterize the modern society in England and Ukraine.

Terms	Definitions
Aristocracy	Rule by elite citizens; a system of governance in which a person who rules in an aristocracy is an aristocrat. It has come to mean rule by "the aristocracy" who are people of noble birth. An aristocracy is a government by the "best" people. Aristocracy is different from nobility, in that nobility means that one bloodline would rule, an aristocracy would mean that a few or many bloodlines would rule, or that rulers be chosen in a different manner.
Democracy	Rule by the intelligent; a system of governance where creativity, innovation, intelligence and wisdom are required for those who wish to govern.
Daristocracy	Rule by the strong; a system of governance to seize power through physical force, social manoeuvring or political cunning. The process can mimic Darwinian selection.
Meritocracy	Rule by the meritorious; a system of governance where groups are selected on the basis of people's ability, knowledge in a given area, and contributions to society.
Timocracy	Rule by honour; a system of governance ruled by honourable citizens and property owners. Socrates defines a timocracy as a government ruled by people who love honour and are selected according to the degree of honour they hold in society. This form of timocracy is very similar to meritocracy, in the sense that individuals of outstanding character or faculty are placed in the seat of power. European feudalism and post-Revolutionary America are historical examples of this type; the city-state of Sparta provided another real-world model for this form of government.
Technocracy	Rule by the educated or technical experts; a system of governance where people who are skilled or proficient govern in their respective areas of expertise in technology would be in control of all decision making. Doctors, engineers, scientists, professionals and technologists who have knowledge, expertise, or skills, would compose the governing body, instead of politicians, businessmen, and economists. In a technocracy, decision makers would be selected based upon how knowledgeable and skilful.

Task 5. Explain the notions.

The corruption regime

Philosophical Kinship – one who knows and loves the True, the Good, the Beautiful (contemplates) the realm of Eternal Forms.

Aristocracy – rule by the best in the state.

Timocracy – rule of honour.

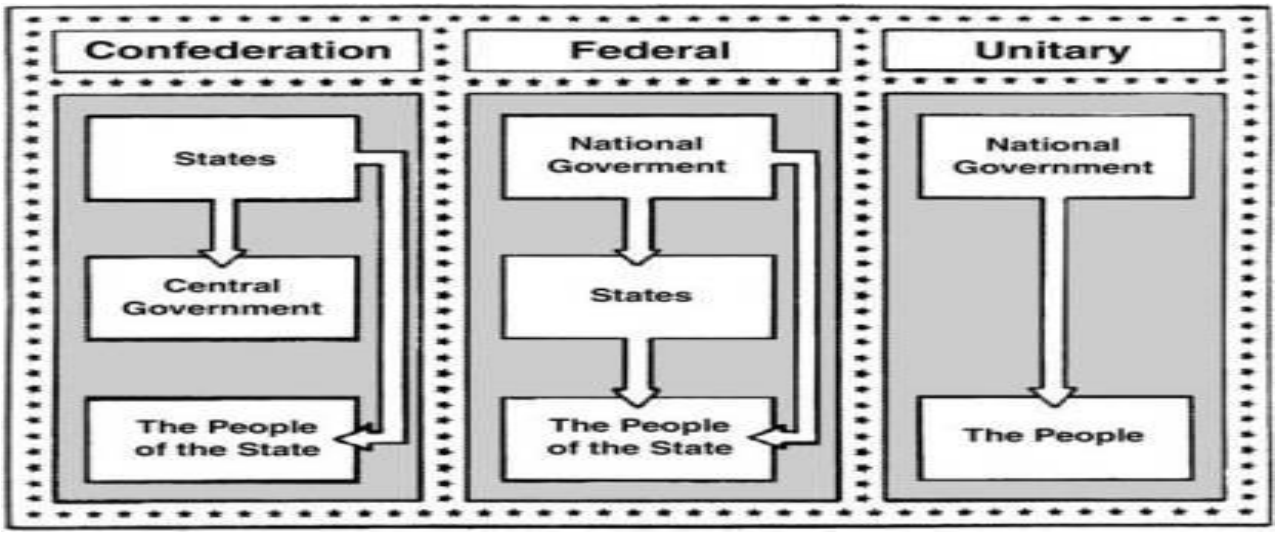
Oligarchy – rule by few.

Democracy – rule by the many.

Tyranny – rule by the 'usurper', usually one.

BORDERS LAST USED	NUMBER	PERCENT
Ancient ones	**4**	**10.3**
World Wars	**2**	**5.1**
1970s-2008	**72**	**12.8**
Up to 2009	**28**	**71.8**
Total	**39**	**100**

Task 6. Explain the score of the chart below.



Government: what does it?

Task 7. Try to understand the notions.

What are nation-states?

The government of a nation-state makes and carries out agreements with other nation-states.

Today there are more than 200 nation-states in the world. Some are tiny countries such as Monaco and Singapore. Others are very large countries such as Cina and Russia.

Types of Nationalist Movements

Type	Characteristics	Examples
Unification	• Mergers of politically divided but culturally similar lands	• 19th century Germany • 19th century Italy
Separation	• Culturally distinct group resists being added to a state or tries to break away	• Greeks in the Ottoman Empire • French-speaking Canadians
State-building	• Culturally distinct groups form into a new state by accepting a single culture	• The United States • Turkey

Aristocracy & Nobiliry & Royals

Timocracy

Technocracy

LEGISLATION

In early times there were few statutes and the bulk of law was case law, though legislation in one form or another dates from A. D. 600. The earliest Norman legislation was by means of *Royal Charter,* but the first great outburst of legislation came in the reign of Henry II (1154-1189).

This legislation was called by various names: there were *Assizes, Constitutions,* and *Provisions*, as well as *Charters*. Legislation at this time was generally made by the *King-in-Council,* but sometimes by a kind of Parliament, which consisted in the main of a meeting of nobles and clergy summoned from the shires. In the 14th century parliamentary legislation became more general.

Parliament at first requested or preyed the King to legislate, but later it presented a bill in its own wording. The Tudor period saw the development of modern procedure, in particular the practice of giving three readings to a bill; and this was also the age of the Preamble, which was a kind of preface to the enactment, describing often a great length the reasons for passing it and generally justifying the measure. From the Tudor period onwards Parliament became more and more independent and the practice of law making by statute increased. Nevertheless statutes did not become an important source of law until the last two centuries, and even now, although the bulk of legislation is large, statutes form a comparatively small part of the law as a whole.

The basis out of law remains the common law, and if all the statutes were repealed we should still have a legal system, even if it were inadequate; whereas our statutes alone would not provide a system of law but merely a set of disjoined rules.

Parliament's increasing incursions into economic and social affairs increased the need for statutes. Some aspects of law are so complicated or so novel that they can only be laid down in this form; they would not be likely to come into existence through the submission of cases in court.

A statute is the ultimate source of law, and, even if a statute is in conflict with the common law or equity, the statute must prevail. It is such an important source that it has been said **–** "*A statute can do anything except change man to woman*", although in a purely legal sense even this could be achieved. No court or other body can question the validity of an *Act of Parliament.*

Statute law can be used to abolish common law rules, which have outlived their usefulness, or to amend the common law to cope with the changing circumstances and values of society. Once enacted, statutes, even if obsolete, do not cease to have the force of law, but common sense usually prevents most obsolete laws from being invoked. In addition, statutes, which are no longer of practical utility, are repealed from time to time by *Statute Law Repeal Acts.*

Nevertheless, a statute stands as law until it is specifically repealed by Parliament.

An Act of Parliament is absolutely binding on everyone within the sphere of its jurisdiction, but all Acts of Parliament can be repealed by the same or subsequent Parliaments; and this is the only exception to the rule of the absolute Sovereignty of Parliament **–** it cannot blind itself or its successors.

Active vocabulary

Legislation, statute, to form, practical utility, jurisdiction, successors, statute law, Parliament, statute, common sense, to prevent, common law, the development of modern procedure, statutes, important source, law making, to abolish common law rules, cases in court, the force of law.

Notes on the texts

Lord of the Manor **–** владелец поместья. *Within the four corners* **–** в рамках. *The Chancery* **–** канцлерский суд; суд права справедливости. *Manor* **–** a unit of English rural territorial organization; a unit of English social, economic and administrative organization in the Middle Ages. *The King-in-Council* **–** "*король в совете*", исполнительная власть; the British monarch acting with the advice and consent of the privy council usually as a formal means of giving legal effect to cabinet decisions (executive decisions are reached by the King (Queen)-in-Council).

King-in-Parliament – "*король в парламенте*", законодательная власть; the collective legal entity composed of the British monarch and the two Houses of Parliament acting together that constitutes the supreme legislative authority of the United Kingdom (the lawmaking function is vested in the King-in-Parliament). *Attorney General* – Генеральный прокурор; министр юстиции. *Case law* – прецедентное право. *Royal Charter* – королевская грамота. *A lay judge* – светский судья. *The Tudor period* – период правления династии Тюдоров (1485-1603). *Injunction* – судебный запрет.

Task 1. Choose the right variant.

1. New legislation in Britain usually starts in the _____.
a) House of Lords b) House of Representatives
c) House of Commons d) Senate
2. One of the main sources of law in Britain is _____.
a) legislation b) statute law c) criminal justice d) common law
3. The exact effect of legislation is influenced by judicial _____.
a) interpretation b) custom c) sovereign d) codification
4. The legislature comprises _____ members who serve 3-years terms.
a) 95 b) 100 c) 80 d) 120
5. The local legislature was _____ last month.
a) disbanded b) dismissed c) dissolved d) dispersed
6. That covenant remains the _____ of our democracy.
a) foundation b) establishing c) institution d) constitution
7. Pluralist democracy _____when groups are able to press their interests on and even challenge the government.
a) operates b) acts c) works d) runs
8. The world political system is _____ towards disorder.
a) advancing b) putting forward c) putting forth d) offering
9. This is a system which obscured responsibility and _____ public opinion.
a) deluded b) beguiled c) deceived d) defrauded
10. Judicial interpretation is a major source of constitutional _____.
a) evolution b) growth c) development d) widening
11. It was to be a government _____ to bringing justice and the blessings of liberty.
a) inaugurated b) consecrated c) devoted d) dedicated
12. Some aspects of law are very____complicated.
a) complicatedb) difficult c) heavy d) hard

The General Eyre disappeared in the reign of Richard II (1377-99), but a system of circuit judges from the King's Bench took its place, the first circuit commission being granted in the reign of Edward III (1312-77).

By selecting the best customary rulings and applying these outside their county of origin, the circuit judges gradually moulded the numerous local customary laws into one uniform law "*common*" to the whole kingdom. Thus, customs originally local ultimately applied throughout the whole of the realm.

However, many new rules were created and applied by the Royal Judges as they went on circuit and these were added to local customary law to make one uniform body of law called "*common law*". The circuit judges from the King's Bench derived their authority in criminal matters from Royal Commissions, the granting of which marked the real beginning of the assize system.

Commission of Oyer and Terminer. This commission, which dates from 1329, directed the judges' power to "*hear and termine*" all complaints of grave crime within the jurisdiction of the circuit.

General Gaol Delivery. This commission, which dates from 1299, gave the judges power to clear the local goals and all prisoners within the jurisdiction of the circuit. Other criminal cases were heard by *Justices of the Peace* either summarily or sitting in quarter sessions and the circuit judges were also made Justices of the Peace so as to increase their jurisdiction. Civil actions were usually heard at Westminster but under the *Statute of Westminster II.*

The circuit judges heard civil cases under provisions known as *nisi prius,* which required the local sheriff to send a jury to London unless before the appointed time the Royal Justices came to hear the case locally, which in practice they always did. Thus, civil cases were opened in London, tried by circuit judge and jury in the locality and the verdict was recorded in London.

The system, which lasted for many years, was brought to an end by the *Courts Act*, 1971, Sect. 1 (2) of which provides that all courts of assize are abolished and commissions to hold any court of assize shall not be issued. Many of the itinerant justices were clerics, initially perhaps because they could read and write. In general they had no priestly duties. From the middle of the thirteenth century the number of lay judges gradually increased. The system was held together by the doctrine of *stare decisis* or standing by previous decisions. Thus, when a judge decided a new problem in a case brought before him, this became a new rule of law and was followed by subsequent judges.

In later times this practice crystallised into the form, which is known as the binding force of judicial precedent, and the judges felt bound to follow previous decisions instead of merely looking to them for guidance. By these means the common law earned the status of a system.

To sum up, the common law is a judge-made system of law originating in ancient customs, which were clarified, extended and universalised by the judges, although that part of the common law, which concerned the ownership of land, was derived mainly from the system of feudal tenures introduced from Europe after the Norman Conquest. It is perhaps also worth noting that the term "*common law*" is used in four distinct senses, i.e. as opposed to (a) *Local law;* (b) *Equity;* (c) *Statute law*; and (d) any foreign system of law.

Notes on the texts

Oyer and terminer – заслушивание и решение; *Commission of Oyer and Terminer* – полномочия слушать и решать. *Nisi prius* – судебное заседание по гражданскому делу с участием присяжных первой инстанции. *Trial at nisi prius* – приказ шерифу вызвать присяжных на определенный день; *Itinerant justice* – судья, выезжающий для слушания дел. *Stare decisis* – "стоять на решенном"; господствующая сила прецедента. *Stare decisis doctrine* – доктрина судебного прецедента. *Circuit commission* – приказ о назначении на должность окружного судьи. *County of origin* – графство, где впервые было принято судебное решение. *Risi prius* (court) – суд присяжных; суд первой инстанции.

Task 1. Make notes of your new knowledge about common law.

Task 2. Translate the sentences into Russian.

1. The interests of the nation entitled him to regard his position under another aspect. 2. Your request has been regarded with favour by the committee. 3. The plan was regarded with considerable suspicion. 4. They do not regard anything except his opinion. 5. The perfect citizen is he who regards not only the laws but the precepts of the legislator. 6. He gave his approval to our plan. 7. I met approval in her look. 8. Mankind had stamped its approval upon certain actions. 9. The director is still pondering over the wisdom of accepting the contract. 10. We received their approval to continue the research.

Task 3. Explain these law-terms and make up sentences with them.

Approval, unqualified approval; qualified approval; tacit approval; public approval; to meet with approval; on approval; to submit for approval; in regard to; with regard to; as regards; in this regard; without regard.

Task 4. Remember that.

Common law – the part of English law that is derived from custom and judicial precedent rather than statutes. Compare with case law, statute law. The body of English law as adopted and adapted by the different States of the US. Compare with civil law. The body of law based on judicial decisions and custom, as distinct from statute law.

Task 5. Translate the word-combinations with the keyword "common".

Common, in common, by common consent, to make common cause, common good, common land, common lodgings, common membership, common right, common criminal, common labour, common market, common advantage, common benefit, common council, common crime, common interests, common jury, common law, common law judgement, common law jurisdiction, common law procedure, common knowledge, common criminal, out of the common, nothing out of the common, common thread, the common touch, in common, in common with.

Task 6. Choose the best connector from the box below to complete the passage.

(1) thus (2) therefore (3) for (4) however (5) further

Judicial precedent is of fundamental importance in the English legal system, 1) _____the principles of the common law, which have developed gradually through case-law over the centuries, are the main sources of English law. The English courts are bound to follow decisions of higher courts in the judicial hierarchy; 2)_____in many cases they must also follow their own decisions. Decisions of inferior courts, 3) ____, do not have binding force. Decisions concerning the interpretation of statutes are also binding, 4) ____ English lawyers must always refer to case-law even if the facts of the case they are preparing are covered by statute-law and not common-law rules. The law reports are 5) ____ basic works of reference for members of the English legal profession.

COMMON LAW DEFINITIONS FROM DICTIONARIES

Common law. Strictly, the general law contained in decided cases, as opposed to Acts of Parliament. But also used to include law in Acts of Parliament and decided cases as a contrast with Equity. A third use is to distinguish the English legal system from a foreign system of law.

Common law. That part of the law of England formulated, developed and administered by the old common law courts, based originally on the common customs of the country, and unwritten.

It is opposed to equity (the body of rules administered by the Court of Chancery); to statute law (the law laid down in Acts of Parliament); to special law (the law administered in special couirts such as ecclesiastical law, and the law merchant); and to the civil law (the law of Rome).

It is "the common sense of the community, crystallised and formulated by our forefathers". It is not local law, not the result of legislation.

Common law, also called Anglo-American law, the body of customary law, based upon judicial decisions and embodied in reports of decided cases, which has been administered by the common law courts of England since the Middle Ages. From this has evolved the type of legal system now found also in the US and in most of the member states of the Commonwealth of Nations.

Common law stands in contrast to the rules developed by the separate courts of equity, to statute law (i.e. the acts of legislative bodies), and to the legal system derived from civil law now widespread in western Europe and elsewhere.

Common law. A term used in various distinct senses. It was originally used by the canonists just commune, as denoting the general law of the Church, as distinct from divergent local customs which in particular areas modified the common law of Christendom. As the powerful centralized system of justice of the English kings developed in the 12th and later centuries, the royal justices increasingly developed and administered general rules common to the whole of England, the common law of England, as distinct from local customs, peculiarities, and variations, such as *gavelkind*. The common law accordingly came to mean the whole England, including ecclesiastical law and maritime and mercantile law, as administered in England, as distinct from that of other countries, particularly those based on the Roman law.

Task 1. Answer the questions.

1. What three basic definitions of common law are given in all British dictionary extracts? 2. What is the extra meaning of common law in the USA? 3. Which definition of common law do you think gave its name? 4. Which extract gives the greatest number of different definitions of common law? 5. Which extract is from an American law dictionary? 6. Which extract does not come from a law dictionary? 7. What is the name of the court which administered Equity? 8. What was the original source of common-law principles? 9. What other countries apart from England have a common-law legal system? 10. Does "common law" have the same meaning in both French and German law? 11. What other legal systems are based on the English common law? 12. What are the historical reasons for this? 13. Has your legal system been influenced by English law or another legal system in any way? Can you give reasons for this? 14. Has your legal system been influenced other legal systems? Can you explain the reasons for this?

Task 2. Read the information and try to understand it.

Legislation is enacted law. In England the ultimate legislator is Parliament, for in the English traditional constitutional theory Parliament is sovereign. Here we are only concerned to explain the significance of the doctrine of parliamentary sovereignty. It means first that all legislative power within the realm is vested in Parliament or is derived from the authority of Parliament – Parliament thus has no rival within the legislative sphere – and it means secondly that there is legal limit to the power of Parliament. Parliament may therefore, and constantly does, by Act, delegate legislative powers to other bodies and even to individuals, but it may also, by Act, remove these powers as simply as it has conferred them.

Task 3. Choose the best statements, which complete the sentence.

1. To decide a question of law, a practising lawyer

a) only refers to judicial precedent if the case concerns statute law.
b) refers to judicial precedent in all cases.
c) only refers to judicial precedent if the case doesn't concern statute law.

2. If the facts of a case are similar to two different precedents, the courts

a) can choose which of the previous cases to follow.
b) are not bound by the previous authorities.
c) can use their discretion to legislate and create a new precedent.

3. In the case-law system

a) judges do not exercise discretion, they simply match precedents.
b) judges can reach any decision they consider right in cases where they have a choice.
c) judges follow general principles developed by the common law when they exercise their discretion.

4. In developing legal principles, the English courts have had two aims:

a) (1) to give real justice in individual case and (2) to form general. principles for lawyers to use in the future so that the law is certain.

b) (1) to give a lot of justice in individual case and (2) to help lawyers involved in future cases.

c) (1) to give justice in particular case and (2) to form general principles which the courts can apply in future cases. *Key: 1 / b; 2 / a; 3 / c; 4/ a.*

Task 4. Explain these law-terms and make up sentences with them.

To set up (create, establish) a precedent; to invoke a precedent; precedent in nobility; precedent chapter; precedent case; precedent condition(s); precedent malice (malice aforethought); to cite a precedent; precedently (previously, antecedently, beforehand); there's no precedent for this, to follow the precedent.

Task 5. Compare the usage of the word "apply".

- apply in person,
- apply by letter,
- to apply a system (a rule, the law, force, etc.),
- to apply the new method,
- to apply oneself to mathematics (languages, one's work, etc.).

Task 6. Answer the question: What do you notice about the term "common law"?

Task 7. Think about the following points and answer the questions.

1. Does the legal system in Ukraine contain rules of equity?

2. If so, what is the role of equity – is it a separate system of rules, as in English law, or is it an integral part of the ordinary law? 3. Is it possible to compare equity in Ukrainian legal system, if it exists, with Equity in English law? 4. You have seen that in England, Equity and common law are two separate bodies of legal principles which are administered by the same courts – what is your opinion of this system?

EQUITY

To understand the beginnings of Equity it is necessary first to look in outline at the system of common law writs. Writs were issued by the clerks in Chancellor's office, the Chancellor being in those days a clergyman of high rank who was also the King's Chaplain and Head of Parliament. In order to bring an action in one of the King's courts, the aggrieved party had to obtain from the Chancery a writ for which he had to pay. A writ was a sealed letter issued in the Manor or Sheriff of the County or the defendant, to do whatever the writ specified. The old common law writs began with a statement of the plaintiff's claim, which was largely in common form, and was prepared in the Royal Chancery and not by the plaintiff's advisers as is the statement of claim today.

Any writ, which was novel, because the plaintiff or his advisers had tried to draft it to suit the plaintiff's case, might be abated, i.e. thrown out by the court.

Thus, writs could only be issued in a limited number of cases, and if the complaint could not be fitted within the four corners of one of the existing writs, no action could be brought. Moreover, writs were expensive, and their very cost might deprive a party of justice.

Many people, therefore, unable to gain access to the King's courts, either because they could not obtain a writ, or because the writ was defective when they got it, or because they were caught in some procedural difficulty, or could not obtain an appropriate remedy, began to address their complaints to the King-in-Council. For a time the Council itself considered such petitions, and where a petition was addressed to the King in person, he referred it to the Council for trial.

Later the Council delegated this function to the Chancellor, and eventually petitions were addressed to the Chancellor alone. The Chancellor began to judge such cases in the light of conscience and fair dealing. He was not bound by the remedies of the common law and began to devise remedies of his own. In order to bring persons before him the Chancellor issued a form of summons called a *subpoena*. Equity was, thus, not cramped by anything to the writ system. Eventually as new Chancellors took over, and Vice-Chancellors were appointed to cope into the system, conflicting decisions abounded, and it was said that "*Equity varies with the Chancellor's foot*".

At this stage in its development Equity began to follow the practice of *stare decisis,* which had proved so powerful a force in unifying the diverse systems of local custom under the common law.

Equity developed in scope and certainty. Although Law and Equity eventually operated alongside each other with mutual tolerance, there was a period of conflict between them.

This arose out of the practice of the Court of Chancery which issued "*common injunctions*" forbidding a person on pain of imprisonment from bringing an action in the common law courts, or forbidding the enforcement of a common law judgement if such a judgement had been obtained.

In 1615 James I, on the advice of Lord Bacon, then his Attorney General and later Lord Chancellor gave a firm decision that where common law and equity were in conflict, Equity should prevail. Thereafter the two systems settled down and carved out separate and complementary jurisdictions. Equity filled in the gaps left by the common law, and became a system of case law governed by the binding force of precedent.

Active vocabulary

Common law, equity, to operate conflict, common law courts, to obtain, an appropriate remedy, to follow the practice, to develop, a form of summons.

Task 1. Digest the information briefly in English.

Task 2. Remember that.

Equity – a branch of law that developed alongside common law in order to remedy some of its defects in fairness and justice, formerly administered in special courts.

court of equity – суд, решающий дела, основываясь на праве справедливости

suit in equity **–** иск, рассматриваемый по нормам права справедливости.

Notes on the texts

Equity **–** справедливость; беспристрастность; правосудие на основе права справедливости (в Англии, Ирландии и США **–** система законодательных актов, существующая наряду с обычными законодательными актами и замещающая их в случае несоответствия их друг другу); дополнение к обычному праву: субъективная правовая система; такая система действовала в Англии с XIV в., и раньше разбирательства на основе норм права справедливости осуществлялись в специальных судах, отдельно от разбирательств на основе общего права).

Equity law **–** право справедливости (часть прецедентного права, дополняющее общее право сложилось в Англии из решений Суда канцлера, существующего с XV в. до судебной реформы 1873-1875 гг., после которой формально слилось с общим правом, однако продолжает в Англии, Ирландии и США регулировать некоторые институты права собственности и договорного права, в частности институты доверительной собственности, возмещения ущерба, принуждения к исполнению договорного обязательства, и замещать обычные законодательные акты в случае несоответствия их друг другу).

Chancellor **–** судья в суде лорда-канцлера (в некоторых государствах).

An aggrieved party **–** потерпевшая ущерб, пострадавшая; ущемленная сторона.

Task 3. Give the list of sky events and provide their description in the form of notes.

APPENDIX

Book I. Of Persons

I. Justice and Law.

JUSTICE is the constant and perpetual wish to render everyone his due.

1. Jurisprudence is the knowledge of things divine and human; the science of the just and the unjust.

2. Having explained these general terms, we think we shall commence our exposition of the law of the Roman people most advantageously, if we pursue at first a plain and easy path, and then proceed to explain particular details with the utmost care and exactness. For, if at the outset we overload the mind of the student, while yet new to the subject and unable to bear much, with a multitude and variety of topics, one of two things will happen---we shall either cause him wholly to abandon his studies, or, after great toil, and often after great distrust to himself (the most frequent stumbling block in the way of youth), we shall at last conduct him to the point, to which, if he had been led by an easier road, he might, without great labour, and without any distrust of his own powers, have been sooner conducted.

3. The maxims of law are these: to live honesty, to hurt no one, to give everyone his due.

4. The study of law is divided into two branches; that of public and that of private law. Public law regards the government of the Roman Empire; private law, the interest of the individuals. We are now to treat of the latter, which is composed of three elements, and consists of precepts belonging to the natural law, to the law of nations, and to the civil law.

II. Natural, Common, and Civil Law.

The law of nature is that law which nature teaches to all animals. For this law does not belong exclusively to the human race, but belongs to all animals, whether of the earth, the air, or the water. Hence comes the union of the male and female, which we term matrimony; hence the procreation and bringing up of children. We see, indeed, that all the other animals besides men are considered as having knowledge of this law.

1. Civil law is thus distinguished from the law of nations. Every community governed by laws and customs uses partly its own law, partly laws common to all mankind. The law which, people makes for its own government belongs exclusively to that state and is called the civil law, as being the law of the particular state. But the law which natural reason appoints for all mankind obtains equally among all nations, because all nations make use of it. The people of Rome, then, are governed partly by their own laws, and partly by the laws, which are common to all mankind. We will take notice of this distinction as occasion may arise.

2. Civil law takes its name from the state which it governs, as, for instance, from Athens; for it would be very proper to speak of the laws of Solon or Draco as the civil law of Athens. And thus the law, which the Roman people make use of is called the civil law of the Romans, or that of the Quirites; for the Romans are called Quirites from Quirinum.

But whenever we speak of civil law, without adding the name of any state, we mean our own law; just as the Greeks, when "the poet" is spoken of without any name being expressed, mean the great Homer, and we Romans mean Virgil. The law of the nations is common to all mankind, for nations have established certain laws, as occasion and the necessities of human life required. Wars arose, and in their train followed captivity and then slavery, which is contrary to the law of nature; for by that law all men are originally born free. Further, by the law of nations almost all contracts were at first introduced, as, for instance, buying and selling, letting and hiring, partnership, deposits, loans returnable in kind, and very many others.

3. Our law is written and unwritten, just as among the Greeks some of their laws were written and others were not written. The written part consists of *leges* (*lex*), *plebiscita*, *senatusconsulta*, *constitutiones* of emperors, *edicta* of magistrates, and *responsa* of jurisprudents [*i.e.,* jurists].

4. A *lex* is that which was enacted by the Roman people on its being proposed by a senatorian magistrate, as a consul. A *plebiscitum* is that which was enacted by the plebs on its being proposed by a plebeian magistrate, as a tribune. The plebs differ from the people as a species from its genus, for all the citizens, including patricians and senators, are comprehended in the *populi* (people); but the plebs only included citizens [who were] not patricians or senators. *Plebiscita*, after the Hortensian law had been passed, began to have the same force as *leges*.

5. A *senatusconsultum* is that which the senate commands or appoints: for, when the Roman people was so increased that it was difficult to assemble it together to pass laws, it seemed right that the senate should be consulted in place of the people.

6. That which seems good to the emperor has also the force of law; for the people, by the *Lex Regia,* which is passed to confer on him his power, make over to him their whole power and authority. Therefore whatever the emperor ordains by *rescript*, or decides in adjudging a cause, or lays down by edict, is unquestionably law; and it is these enactments of the emperor that are called *constitutiones*. Of these, some are personal, and are not to be drawn into precedent, such not being the intention of the emperor. Supposing the emperor has granted a favour to any man on account of his merit, or inflicted some punishment, or granted some extraordinary relief, the application of these acts does not extend beyond the particular individual. But the other *constitutiones*, being general, are undoubtedly binding on all.

7. The edicts of the praetors are also of great authority. These edicts are called the *ius honorarium*, because those who bear honors [*i.e.,* offices] in the state, that is, the magistrates, have given them their sanction. The *curule aediles* also used to publish an edict relative to certain subjects, which edict also became a part of the *ius honorarium.*

8. The answers of the *jurisprudenti* are the decisions and opinions of persons who were authorized to determine the law. For anciently it was provided that there should be persons to interpret publicly the law, who were permitted by the emperor to give answers on questions of law. They were called *jurisconsulti*; and the authority of their decision and opinions, when they were all unanimous, was such, that the judge could not, according to the constitutiones, refuse to be guided by their answers.

9. The unwritten law is that which usage has established; for ancient customs, being sanctioned by the consent of those who adopt them, are like laws.

10. The civil law is not improperly divided into two kinds, for the division seems to have had its origin in the customs of the two states, Athens and Lacedaemon. For in these states it used to be the case, that the Lacedaemonians rather committed to memory what they observed as law, while the Athenians rather observed as law what they had consigned to writing, and included in the body of their laws.

11. The laws of nature, which all nations observe alike, being established by a divine providence, remain ever fixed and immutable. But the laws, which every state has enacted, undergo frequent changes, either by the tacit consent of the people, or by a new law being subsequently passed.

III. The Law of Persons.

All our law relates either to persons, or to things, or to actions. Let us first speak of persons; as it is of little purpose to know the law, if we do not know the persons for whose sake the law was made. The chief division in the rights of persons is this: men are all either free or slaves.

1. Freedom, from which men are said to be free, is the natural power of doing what we each please, unless prevented by force or by law.

2. Slavery is an institution of the law of nations, by which one man is made the property of another, contrary to natural right.

3. Slaves are denominated *servi*, because generals order their captives to be sold, and thus preserve them, and do not put them to death. Slaves are also called *mancipia*, because they are taken from the enemy by the strong hand.

4. Slaves either are born or become so. They are born so when their mother is a slave; they become so either by the law of nations, that is, by captivity, or by the civil law, as when a free person, above the age of twenty, suffers himself to be sold, that he may share the price given for him.

5. In the condition of slaves there is no distinction; but there are many distinctions among free persons; for they are either born free, or have been set free.

IV. The Freeborn.

A person is *ingenuus* who is free from the moment of his birth, by being born in matrimony, of parents who have been either both born free, or both made free, or one of whom has been born and the other made free; and when the mother is free, and the father a slave, the child nevertheless is born free; just as he is if his mother is free, and it is uncertain who is his father; for he had then no legal father. And it is sufficient if the mother is free at the time of the birth, although a slave when she conceived; and on the other hand, if she be free when she conceives, and is a slave when she gives birth to her child, yet the child is held to be born free; for the misfortune of the mother ought not to prejudice her unborn infant. The question hence arose, if a female slave with child is made free, but again becomes a slave before the child is born, whether the child is born free or a slave? Marcellus thinks it is born free, for it is sufficient for the unborn child, if the mother has been free, although only in the intermediate time; and this is true.

1. When a man has been born free he does not cease to be *ingenuus*, because he has been in the position of a slave, and has subsequently been enfranchised; for it has been often settled that enfranchisement does not prejudice the rights of birth.

V. Freedmen.

Freedmen are those who have been manumitted from just servitude. *Manumission* is the process of freeing from "the hand." For while any one is in slavery, he is under "the hand" and power of another, but by manumission he is freed from this power. This institution took its rise from the law of nations; for by the law of nature all men were born free; and manumission was not heard of, as slavery was unknown. But when slavery came in by the law of nations, the boon of manumission followed. And whereas all were denominated by the one natural name of "men," the law of nations introduced a division into three kinds of men, namely, freemen, and in opposition to them, slaves; and thirdly, freedmen who had ceased to be slaves.

1. Manumission is effected in various ways; either in the face of the Church, according to the imperial *constitutiones*, or by *vindicta*, or in the presence of friends, or by letter, or by testament, or by any other expression of a man's last will. And a slave may also gain his freedom in many other ways, introduced by the *constitutiones* of former emperors, and by our own.

2. Slaves may be manumitted by their masters at any time; even when the magistrate is only passing along, as when a praetor, or *praeses*, or proconsul is going to the baths, or the theater.

3. Freedmen were formerly divided into three classes. For those who were manumitted sometimes obtained a complete liberty, and became Roman citizens; sometimes a less complete, and became *Latini* under the *lex Julia Norbana*; and sometimes a liberty still inferior, and became *dedititii*, by the *lex Aelia Sentia*. But this lowest class, that of the *dedititii*, has long disappeared, and the title of *Latinus* become rare; and so in our benevolence, which leads us to complete and improve everything, we have introduced a great reform by two *constitutiones*, which re-established the ancient usage; for in the infancy of the state there was but one liberty, the same for the enfranchised slave as for the person who manumitted him; excepting, indeed, that the person manumitted was freeborn. We have abolished the class of *dedititii* by a *constitutio* published among our decisions, by which, at the suggestion of the eminent Tribonian, quaestor, we have put an end to difficulties arising from the ancient law. We have also, at his suggestion, done away with the *Latini Juniani*, and everything relating to them, by another *constitutio*, one of the most remarkable of our imperial *constitutiones*.

We have made all freedmen whatsoever Roman citizens, without any distinction as to the age of the slave, or the interest of the manumittor, or the mode of manumission. We have also introduced many new methods by which slaves may become Roman citizens, the only kind of liberty that now exists.

VI. Slaves.

We now come to another division relative to the rights of persons; for some persons are independent, some are subject to the power of others. Of those, again, who are subject to others, some are in the power of parents, others in that of masters. Let us first treat of those who are subject to others; for, when we have ascertained who these are, we shall at the same time discover who are independent. And first let us consider those who are in the power of masters.

1. Slaves are in the power of masters, a power derived from the law of nations: for among all nations it may be remarked that masters have the power of life and death over their slaves, and that everything acquired by the slave is acquired for the master.

2. But at the present day none of our subjects may use unrestrained violence towards their slaves, except for a reason recognized by law. For, by a *constitutio* of the Emperor Antoninus Pius, he who without any reason kills his own slave is to be punished equally with one who has killed the slave of another. The excessive severity of masters is also restrained by another *constitutio* of the same emperor. For, when consulted by certain governors of provinces on the subject of slaves, who fly for sanctuary either to temples, or to the statues of the emperors, he decided that if the severity of masters should appear excessive, they might be compelled to make sale of their slaves upon equitable terms, so that the masters might receive the value; and this was a very wise decision, as it concerns the public good, that no one should misuse his own property. The following are the terms of this rescript of Antoninus, which was sent to Laelius Marcianus: *The power of masters over their slaves ought to be preserved unimpaired, nor ought any man to be deprived of his just right. But it is for the interest of all masters themselves, that relief prayed on good grounds against cruelty, the denial of sustenance, or any other intolerable injury, should not be refused. Examine, therefore, into the complaints of the slaves who have fled from the house of Julius Sabinus, and taken refuge at the statue of the emperor; and, if you find that they have been too harshly treated, or wantonly disgraced, order them to be sold, so that they may not fall again under the power of their master; and, if Sabinus attempt to evade my* constitutio*, I would have him know, that I shall severely punish his disobedience.*

VII. The Power of Parents.

Our children, begotten in lawful marriage, are in our power.

1. Marriage, or matrimony, is a binding together of a man and woman to live in an indivisible union.

2. The power which we have over our children is peculiar to the citizens of Rome; for no other people have a power over their children, such as we have over ours.

3. The child born to you and your wife is in your power. And so is the child born to your son of his wife, that is, your grandson or granddaughter; so are your great-grandchildren, and all your other descendants. But a child born of your daughter is not in your power, but in the power of its own father.

VIII. Marriage.

Roman citizens are bound together in lawful matrimony when they are united according to law, the males having attained the age of puberty, and the females a marriageable age, whether they are fathers or sons of a family; but, of the latter, they must first obtain the consent of their parents, in whose power they are. For both natural reason and the law require this consent; so much so, indeed, that it ought to precede the marriage. Hence the question has arisen, whether the daughter of a madman could be married, or his son marries? And as opinions were divided as to the son, we decided that as the daughter of a madman might, so may the son of a madman marry without the intervention of the father, according to the mode established by our *constitutio.*

1. We may not marry every woman without distinction; for with some, marriage is forbidden. Marriage cannot be contracted between persons standing to each other in the relation of ascendant and descendant, as between a father and daughter, a grandfather and his granddaughter, a mother and her son, a grandmother and her grandson; and so on, *ad infinitum*. And, if such persons unite together, they only contract a criminal and incestuous marriage; so much so, that ascendants and descendants, who are only so by adoption, cannot intermarry; and even after the adoption is dissolved, the prohibition remains.

You cannot, therefore, marry a woman who has been either your daughter or granddaughter by adoption, although you may have emancipated her.

2. There are also restrictions, though not so extensive, on marriage between collateral relations. A brother and sister are forbidden to marry, whether they are the children of the same father and mother, or of one of the two only. And, if a woman becomes your sister by adoption, you certainly cannot marry; but, if the adoption is destroyed by emancipation, you may marry her; as you may also, if you yourself are emancipated. Hence it follows, that if a man would adopt his son-in-law, he ought first to emancipate his daughter; and if he would adopt his daughter-in-law, he ought previously to emancipate his son.

3. A man may not marry the daughter of a brother, or a sister, nor the granddaughter, although she is in the fourth degree. For when we may not marry the daughter of any person, neither may we marry the granddaughter. But there does not appear to be any impediment to marrying the daughter of a woman whom your father has adopted; for she is no relation to you, either by natural or civil law.

4. The children of two brothers or two sisters, or of a brother and sister, may marry together.

5. So, too, a man may not marry his paternal aunt, even though she is so only by adoption; nor his maternal aunt; because they are regarded in the light of ascendants. For the same reason, no person may marry his great-aunt, either paternal or maternal.

6. There are, too, other marriages from which we must abstain, from regard to the ties created by marriage; for example, a man may not marry his wife's daughter, or his son's wife, for they are both in the place of daughters to him; and this must be understood to mean those who have been our stepdaughters or daughters-in-law; for if a woman is still your daughter-in-law, that is if she is still married to your son, you cannot marry her for another reason, as she cannot be the wife of two persons at once. And if your step-daughter, that is, if her mother is still married to you, you cannot marry her, because a person cannot have two wives at the same time.

7. Again, a man is forbidden to marry his wife's mother, and his father's wife, because they hold the place of mothers to him; a prohibition which can only operate when the affinity is dissolved; for if your step-mother is still your step-mother, that is, if she is still married to your father, she would be prohibited from marrying you by the common rule of law, which forbids a woman to have two husbands at the same time. So if your wife's mother is still your wife's mother, that is, if her daughter is still married to you, you cannot marry her, because you cannot have two wives at the same time.

8. The son of a husband by a former wife, and the daughter of a wife by a former husband, or the daughter of a husband by a former wife, and the son of a wife by a former husband, may lawfully contract marriage, even though they have a brother or sister born of the second marriage.

9. The daughter of a divorced wife by a second husband is not your stepdaughter; and yet Julian says we ought to abstain from such a marriage. For the betrothed wife of a son is neither your daughter-in-law; nor your betrothed wife your son's stepmother; and yet it is more decent and more in accordance with law to abstain from such marriage.

10. It is certain that the relationship of slaves is an impediment to marriage, even if the father and daughter or brother and sister, as the case may be, have been enfranchised.

11. There are other persons also, between whom marriage is prohibited for different reasons, which we have permitted to be enumerated in the books of the Digests or Pandects, collected from the old law.

12. If persons unite themselves in contravention of the rules thus laid down, there is no husband or wife, no nuptials, no marriage, nor marriage portion, and the children born in such a connection are not in the power of the father. For, with regard to the power of a father, they are in the position of children conceived in prostitution, who are looked upon as having no father, because it is uncertain who he is; and are therefore called *spurii*, either from a Greek word *sporadan*, meaning "at hazard," or as being *sine patre*, without a father. On the dissolution of such a connection there can be no claim made for the demand of a marriage portion. Persons who contract prohibited marriages are liable also to further penalties set forth in our imperial *constitutiones*.

13. It sometimes happens that children who at their birth were not in the power of their father are brought under it afterwards. Such is the case of a natural son, who is given to the *curia*, and then becomes subject to his father's power. Again, a child born of a free woman, with whom marriage was not prohibited by any law, but with whom the father only cohabited, will likewise become subject to the power of his father if at any time afterwards instruments of dowry are drawn up according to the provisions of our *constitutio*. And this *constitutio* confers the same benefits on any children who may be subsequently born of the same marriage.


Book II. Of Things

I. Divisions of Things.

In the preceding book we have treated of the law of persons. Let us now speak of things, which either are in our *patrimony*, or not in our *patrimony*. For some things by the law of nature are common to all; some are public; some belong to corporate bodies, and some belong to no one. Most things are the property of individuals who acquire them in different ways, as will appear hereafter.

1. By the law of nature these things are common to mankind - the air, running water, the sea, and consequently the shores of the sea. No one, therefore, is forbidden to approach the seashore, provided that he respects *habitationes*, monuments, and buildings which are not, like the sea, subject only to the law of nations.

2. All rivers and ports are public; hence the right of fishing in a port, or in rivers, is common to all men.

3. The seashore extends as far as the greatest winter flood runs up.

4. The public use of the banks of a river is part of the law of nations, just as is that of the river itself. All persons, therefore, are as much at liberty to bring their vessels to the bank, to fasten ropes to the trees growing there, and to place any part of their cargo there, as to navigate the river itself. But the banks of a river are the property of those whose land they adjoin; and consequently the trees growing on them are also the property of the same persons.

5. The public use of the seashore, too, is part of the law of nations, as is that of the sea itself; and, therefore, any person is at liberty to place on it a cottage, to which he may retreat, or to dry his nets there, and haul them from the sea; for the shores may be said to be the property of no man, but are subject to the same law as the sea itself, and the sand or ground beneath it.

6. Among things belonging to a corporate body, not to individuals, are, for instance, buildings in cities, theaters, racecourses, and other similar places belonging in common to a whole city.

7. Things sacred, religious, and holy belong to no one; for that which is subject to divine law is not the property of any one.

8. Things are sacred which have been duly consecrated by the pontiffs, as sacred buildings and offerings, properly dedicated to the service of God, which we have forbidden by our *constitutio* to be sold or mortgaged, except for the purposes of purchasing the freedom of captives. But, if any one consecrates a building by his own authority, it is not sacred, but profane. But ground on which a sacred edifice has once been erected, even after the building has been destroyed, continues to be sacred, as Papinian also writes.

9. Any man at his pleasure makes a place religious by burying a dead body in his own ground; but it is not permitted to bury a dead body in land hitherto pure, which is held in common, against the wishes of a co-proprietor. But when a sepulcher is held in common, any one co-proprietor may bury in it, even against the wishes of the rest. So, too, if another person has the *usufructus*, the proprietor may not, without the consent of the *usufructuary*, render the place religious. But a dead body may be laid in a place belonging to another person, with the consent of the owner; and even if the owner only ratifies the act after the dead body has been buried, yet the place is religious.

10. Holy things also, as the walls and gates of a city, are to a certain degree subject to divine law, and therefore are not part of the property of any one. The walls of a city are said to be holy, in as much as any offence against them is punished capitally; so, too, those parts of laws by which punishments are established against transgressors, we term sanctions.

11. Things become the property of individuals in various ways; of some we acquire the ownership by natural law, which, as we have observed, is also termed the law of nations; of others by the civil law. It will be most convenient to begin with the more ancient law; and it is very evident that the law of nature, established by nature at the first origin of mankind, is the more ancient, for civil laws could then only begin to exist when states began to be founded, magistrates to be created, and laws to be written.

12. Wild beasts, birds, fish and all animals, which live either in the sea, the air, or the earth, so soon as they are taken by anyone, immediately become by the law of nations the property of the captor; for natural reason gives to the first occupant that which had no previous owner. And it is immaterial whether a man takes wild beasts or birds upon his own ground, or on that of another.

Of course any one who enters the ground of another for the sake of hunting or fowling, may be prohibited by the proprietor, if he perceives his intention of entering. Whatever of this kind you take is regarded as your property, so long as it remains in your power, but when it has escaped and recovered its natural liberty, it ceases to be yours, and again becomes the property of him who captures it. It is considered to have recovered its natural liberty, if it has either escaped out of your sight, or if, though not out of your sight, it yet could not be pursued without great difficulty.

13. It has been asked, whether, if you have wounded a wild beast, so that it could be easily taken, it immediately becomes your property. Some have thought that it does become yours directly you wound it, and that it continues to be yours while you continue to pursue it, it then ceases to be yours, and again becomes the property of the first person who captures it. Others have thought that it does not become your property until you have captured it. We confirm this latter opinion, because many accidents may happen to prevent your capturing it.

14. Bees also are wild by nature. Therefore, bees that swarm upon your tree, until you have hived them, are no more considered to be your property than the birds which build their nests on your tree; so, if any one hive them, he becomes their owner. Any one, too, is at liberty to take the honeycombs the bees may have made. But of course, if, before anything has been taken, you see any one entering on your land, you have a right to prevent his entering. A swarm which has flown from your hive is still considered yours as long as it is in your sight and may easily be pursued; otherwise it becomes the property of the first person that takes it.

15. Peacocks, too, and pigeons, are naturally wild, nor does it make any difference that they are in the habit of flying out and then returning again, for bees, which without doubt are naturally wild, do so too. Some persons have deer so tame, that they will go into the woods, and regularly again return; yet no one denies that deer are naturally wild. But, with respect to animals which are in the habit of going and returning, the rule has been adopted, that they are considered yours as long as they have the intention of returning, but if they cease to have this intention, they cease to be yours, and become the property of the first person that takes them. These animals are supposed to have lost the intention, when they have lost the habit, of returning.

16. But fowls and geese are not naturally wild, which we may learn from there being particular kinds of fowls and geese which we term wild. And, therefore, if your geese or fowls should be frightened, and take flight, they are still regarded as yours wherever they may be, although you may have lost sight of them; and whoever detains such animals with a view to his own profit, commits a theft.

17. The things we take from our enemies become immediately ours by the law of nations, so that even freemen thus become our slaves; but if they afterwards escape from us, and return to their own people, they regain their former condition.

18. Precious stones, gems, and other things found upon the seashore become immediately, by natural law, the property of the finder.

19. All that is born of animals of which you are the owner, becomes by the same law your property.

20. Moreover, the alluvial soil added by a river to your land becomes yours by the law of nations. *Alluvion* is an imperceptible increase; and that is added so gradually that no one can perceive how much is added at any one moment of time.

21. But if the violence of a river should bear away a portion of your land and unite it to the land of your neighbour, it undoubtedly still continues yours. If, however, it remains for long united to your neighbour's land, and the trees, which it swept away with it, take root in his ground, these trees from that time become part of your neighbour's estate.

22. When an island is formed in the sea, which rarely happens, it is the property of the first occupant; for before occupation, it belongs to no one. But when an island is formed in a river, which frequently happens, if it is placed in the middle of it, it belongs in common to those who possess the lands near the banks on each side of the river, in proportion to the extent of each man's estate adjoining the banks. But, if the island is nearer to one side than the other, it belongs to those persons only who possess lands contiguous to the bank on that side. If a river divides itself and afterwards unites again, thus giving to any one's land the form of an island, the land still continues to belong to the person to whom it belonged before.

23. If a river, entirely forsaking its natural channel, begins to flow in another direction, the old bed of the river belongs to those who possess the lands adjoining its banks, in proportion to the extent that their respective

estates adjoin the banks. The new bed follows the condition of the river, that is, it becomes public. And, if, after some time, the river returns to its former channel, the new bed again becomes the property of those who possess the lands contiguous to its banks.

24. The case is quite different if anyone's land is completely inundated; for the inundation does not alter the nature of the land, and therefore, when the waters have receded, the land is indisputably the property of its former owner.

25. When one man has made anything with materials belonging to another, it is often asked which, according to natural reason, ought to be considered the proprietor, whether he who gave the form, or he rather who owned the materials. For instance, suppose a person has made wine, oil, or wheat from the grapes, olives, or ears of corn belonging to another; has cast a vessel out of gold, silver, or brass, belonging to another; has made mead with another man's wine and honey; has composed a plaster, or eye-salve, with another man's medicaments; has made a garment with another man's wool; or a ship, or a bench, with another man's timber. After a long controversy between the Sabinians and Proculians, a middle opinion has been adopted based on the following distinction. If the thing made can be reduced to its former rude materials, then the owner of the materials is also considered the owner of the thing made; but, if the thing cannot be so reduced, then he who made it is the owner of it. For example, a vessel when cast, can easily be reduced to its rude materials of brass, silver, or gold; but wine, oil, or wheat, cannot be reconverted into grapes, olives, or ears of corn; nor can mead be resolved into wine and honey. But, if a man has made anything, partly with his own materials and partly with the materials of another, as if he has made mead with his own wine and another man's honey, or a plaster or eye-salve, partly with his own, and partly with another man's medicaments, or a garment with his own and also with another man's wool, then in such cases, he who made the thing is undoubtedly the proprietor; since he not only gave his labour, but furnished also a part of the materials.

26. If, however, any one has woven purple belonging to another into his own vestment, the purple, although the more valuable, attaches to the vestment as an accession, and its former owner has an *actio* of theft and a *condictio* against the person who stole it from him, whether it was he or some one else who made the vestment. For although things which have perished cannot be reclaimed by *vindicatio*, yet this gives ground for a *condictio* against the thief, and against many other possessors.

27. If materials belonging to two persons are mixed together by their mutual consent, whatever is thence produced is common to both, as if, for instance, they have intermixed their wines, or melted together their gold or silver. And although the materials are different which are employed in the admixture, and thus a new substance is formed, as when mead is made with wine and honey, or electrum by fusing together gold and silver, the rule is the same; for in this case the new substance is undoubtedly common. And if it is by chance, and not by intention of the proprietors, that materials, whether similar or different, are mixed together, the rule is still the same.

28. If the wheat of Titius is mixed with yours, when this takes place by mutual consent, the mixed heap belongs to you in common because each body, that is, each grain, which before was the property of one or other of you, has by your mutual consent been made your common property; but, if the intermixture were accidental, or made by Titius without your consent, the mixed wheat does not then belong to you both in common; because the grains still remain distinct, and retain their proper substance. The wheat in such a case no more becomes common to you both, than a flock would be, if the sheep of Titius were mixed with yours; but, if either of you keep the whole quantity of mixed wheat, the other has a real *actio* for the amount of wheat belonging to him, but it is in the province of the judge to estimate the quality of the wheat belonging to each.

29. If a man builds upon his own ground with the materials of another, he is considered the proprietor of the building, because everything built on the soil accedes to it. The owner of the materials does not, however, cease to be owner; only while the building stands he cannot claim the materials, or demand to have them exhibited, on account of the law of the Twelve Tables, providing that no one is to be compelled to take away the *tignum* of another which has been made part of his own building, but that he may be made, by the *actio de tigno injuncto*, to pay double the value; and under the term *tignum* all materials for building are comprehended.

The object of this provision was to prevent the necessity of buildings being pulled down. But if the building is destroyed from any cause, then the owner of the materials, if he has not already obtained the double value, may reclaim the materials, and demand to have them exhibited.

30. On the contrary, if anyone builds with his own materials on the ground of another, the building becomes the property of him to whom the ground belongs. But in this case the owner of the property, because he is presumed to have voluntarily parted with them, that is, if he knew he was building upon another's land; and, therefore, if the building should be destroyed, he cannot, even then, reclaim the materials. Of course, if the person who builds is in possession of the soil, and the owner of the soil claims the building, but refuses to pay the price of the materials and the wages of the workmen, the owner may be repelled by an exception of *dolus malus*, provided the builder was in possession *bona fide*. For if he knew that he was not the owner of the soil, it may be said against him that he was wrong to build on ground which he knew to be the property of another.

31. If Titius places another man's plant in ground belonging to himself, the plant will belong to Titius; on the contrary, if Titius places his own plant in the ground of Maevius, the plant will belong then to Maevius - that is if, in either case, the plant has taken root; for before it has taken root, it remains the property of its former owner. But from the time it has taken root, the property in it is changed; so much so, that if the tree of a neighbour presses so closely on the ground of Titius as to take root in it, we pronounce that the tree becomes the property of Titius. For reason does not permit that a tree should be considered the property of anyone else than of him in whose ground it has taken root; and, therefore, if a tree, planted near a boundary extends its roots into the lands of a neighbour, it becomes common.

32. As plants rooted in the earth accede to the soil, so, in the same way, grains of wheat which have been sown are considered to accede to the soil. But as he who has built on the ground of another may, according to what we have said, defend himself by an exception of *dolus malus*, if the proprietor of the ground claims the building, so also he may protect himself by the aid of the same exception, who, at his own expense and acting *bona fide*, has sown another man's land.

33. Written characters, although of gold, accede to the paper or parchment on which they are written, just as whatever is built on, or sown in, the soil, accedes to the soil. And, therefore, if Titius has written a poem, a history, or an oration, on your paper or parchment, you, and not Titius, are the owner of the written paper. But, if you claim your books or parchments from Titius, but refuse to defray the cost of the writing, then Titius can defend himself by an exception of *dolus malus*; that is, if it was *bona fide* that he obtained possession of the papers or parchments.

34. If a person has painted on the tablet of another, some think that the tablet accedes to the picture, others, that the picture, of whatever quality it may be, accedes to the tablet. It seems to us the better opinion that the tablet should accede to the picture; for it is ridiculous that a painting of Apelles or Parrhasius should be but the accessory of a thoroughly worthless tablet. But if the owner of the tablet is in possession of the picture, the painter, should he claim it from him, but refuse to pay the value of the tablet, may be repelled by the exception of *dolus malus*. If the painter is in possession of the picture, the law permits the owner of the tablet to bring a *utilis actio* against him; and in this case, if the owner of the tablet does not pay the cost of the picture, he may also be repelled by an exception of *dolus malus*; that is, if the painter obtained possession *bona fide*. If the tablet has been stolen, whether by the painter or by any one else, the owner of the tablet may bring an *actio* of theft.

35. If any person has, *bona fide,* purchased land from another, whom he believed to be the true owner, when in fact he was not, or has, *bona fide*, acquired it from such person by gift or by other good title, natural reason demands that the fruits which he has gathered shall be his in return for his care and culture. And, therefore, if the real owner afterwards appears and claims his land, he can have no *actio* for fruits which the possessor has consumed. But the same allowance is not made to him who has knowingly been in possession of another's estate, and, therefore, he is compelled to restore, together with the lands, all the fruits, although they may have been consumed.

36. The *usufructuary* of land is not owner of the fruits until he has himself gathered them; and, therefore, if he should die while the fruits, although ripe, are yet ungathered, they do not belong to his heirs, but are the property of the owner of the soil. And nearly the same may be said of the *colonus.*

37. In the fruits of animals are included their young, as well as their milk, hair and wool; and, therefore, lambs, kids, calves, colts, and young pigs immediately on their birth become, by the law of nature, the property of the *usufructory*, but the offspring of a female slave is not considered a fruit, but belongs to the owner of the property. For it seemed absurd that man should be reckoned as a fruit, when it is for man's benefit that all fruits are provided by nature.

38. The *usufructuary* of a flock ought to replace any of the flock that may happen to die by supplying the deficiency out of the young, as also Julian was of opinion. So, too, the *usufructuary* ought to supply the place of dead vines or trees. For he ought to cultivate with care, and to use everything as a good father of a family would use it.

39. The Emperor Hadrian, in accordance with natural equity, allowed any treasure found by a man in his own land to belong to the finder, as also any treasure found by chance in a sacred or religious place. But treasure found without any express search, but by mere chance, in a place belonging to another, he granted half to the finder, and half to the proprietor of the soil. Consequently, if anything is found in a place belonging to the emperor, half belongs to the finder, and half to the emperor. And hence it follows, that if a man finds anything in a place belonging to the *fiscus*, the public, or a city, half ought to belong to the finder, and half to the *fiscus* or the city.

40. Another mode of acquiring things according to natural law is traditional; for nothing is more conformable to natural equity than that the wishes of a person, who is desirous to transfer his property to another, should be confirmed; and, therefore, corporeal things, of whatever kind, may be so passed by tradition, and when so passed by their owner, are made the property of another. In this way are alienated stipendiary and tributary lands, that is, lands in the provinces, between which and Italian lands there is now, by our *constitutio*, no difference, so that when tradition is made of them for purpose of a gift, a marriage portion, or any other object, the property in them is undoubtedly transferred.

41. But things sold and delivered are not acquired by the buyer until he has paid the seller the price, or satisfied him in some way or other, as by procuring some one to be security, or by giving a pledge. And, although this is provided by a law of the Twelve Tables, yet it may be rightly said to spring from the law of nations, that is, the law of nature. But if the seller has accepted the credit of the buyer, the thing then becomes immediately the property of the buyer.

42. It is immaterial whether the owner deliver the thing himself, or some one else by his desire.

43. Hence, if any one is instructed by an owner with the uncontrolled administration of all his goods, and he sells and delivers anything which is a part of these goods, he passes the property in it to the person who receives the thing.

44. Sometimes, too, the mere wish of the owner, without tradition, is sufficient to transfer the property in a thing, as when a person has lent, or let to you anything, or deposited anything with you, and then afterwards sells or gives it to you. For, although he has not delivered it to you for the purpose of the sale or gift, yet by the mere fact of his consenting to it becoming yours, you instantly acquire the property in it, as fully as if it had actually been delivered to you for the express purpose of passing the property.

45. So, too, anyone who has sold goods deposited in a warehouse, as soon as he has handed over the keys of the warehouse to the buyer, transfers to the buyer the property in the goods.

46. Nay, more, sometimes the intention of an owner, although directed only towards an uncertain person, transfers the property in a thing. For instance, when the praetors and consuls throw their largesse to the mob, they do not know what each person in the mob will get; but as it is their intention that each should get what he gets, they make what each gets immediately belong to him.

47. Accordingly, it is true to say that anything which is seized on, when abandoned by its owners, becomes the property of the person who takes possession of it. And anything is considered as abandoned which its owner has thrown away with a wish no longer to have it as a part of his property, as it therefore immediately ceases to belong to him.

48. It is otherwise with respect to things thrown overboard in a storm, to lighten a vessel; for they remain the property of their owners; as it is evident that they were not thrown away through a wish to get rid of them, but that their owners and the ship itself might more easily escape the dangers of the sea. Hence, anyone who, with a view to profit himself by these, takes them away when washed on shore, or found at sea, is guilty of theft. And much the same may be said as to things which drop from a carriage in motion without the knowledge of their owners.

II. Incorporeal Things.

Certain things, again, are corporeal, others incorporeal.

1. Corporeal things are those which are by their nature tangible, as land, a slave, a garment, gold, silver, and other things innumerable.

2. Incorporeal things are those which are not tangible, such as are those which consist of a right, as an inheritance, a *usufructus*, *usus*, or obligations in whatever way contracted. Nor does it make any difference that things corporeal are contained in an inheritance; fruits, gathered by the *usufructuary,* are corporeal; and that which is due to us by virtue of an obligation, is generally a corporeal thing, as a field, a slave, or money; while the right of inheritance, the right of *usufructus*, and the right of obligation, are incorporeal.

3. Among things incorporeal are the rights over estates, urban and rural, which are also called *servitutiones.*

III. Servitutiones.

The *servitutiones* of rural immovables are, the right of passage, the right of passage for beasts or vehicles, the right of way, the right of passage for water. The right of passage is the right of going or passing for a man, not of driving beasts or vehicles. The right of passage for beasts or vehicles is the right of driving beasts or vehicles over the land of another. So a man who has the right of passage simply has not the right of passage for beasts or vehicles; but if he has the latter right he has the former, and he may use the right of passing without having any beasts with him. The right of way is the right of going, of driving beasts or vehicles, and of walking; for the right of way includes the right of passage, and the right of passage for beasts or vehicles. The right of passage for water is the right of conducting water through the land of another.

1. The *servitutiones* of urban immovables are those which appertain to buildings, and they are said to be *servitutiones* of urban immovables, because we term all edifices urban immovables, although really built in the country. Among these *servitutiones* are the following: that a person has to support the weight of an adjoining house, that a neighbour should have the right of inserting a beam into his wall, that he has to receive or not to receive the water that drops from the roof, or that runs from the gutter of another man's house on to his building, or into his court or drain; or that he is not to raise his house higher, or not to obstruct his neighbour’s lights.

2. Some think that among the *servitutiones* of rural estates are rightly included the right of drawing water, of watering cattle, of feeding cattle, of burning lime or digging sand.

3. These *servitutiones* are called the *servitutiones* of immovables, because they cannot exist without immovables. For no one can acquire or owe a *servitude* of a rural or urban immovable, unless he has an immovable belonging to him.

4. If anyone wishes to create a right of this sort in favour of his neighbour, he must effect it by agreements and stipulations. A person can also, by testament, oblige his heir not to raise his house higher, not to obstruct his neighbour’s lights, to permit a neighbour to insert a beam into his wall, or to receive the water from an adjoining roof; or, again, he may oblige his heir to allow a neighbour to go across his land, or to drive beasts or vehicles, or to conduct water across it.

IV. Usufructus.

Usufructus is the right of using, and taking the fruits of things belonging to others, so long as the substance of the things used remains. It is a right over a corporeal thing, and if this thing perish, the *usufructus* itself necessarily perishes also.

1. The *usufructio* is detached from the property; and this separation takes place in many ways; for example, if the *usufructus* is given to anyone as a legacy; for the heir has then the bare ownership, and the legatee has the *usufructus*; conversely, if the estate is given as a legacy, subject to the deduction of the *usufructus*, the legatee has the bare ownership, and the heir has the *usufructus*. Again, the *usufructus* may be given as a legacy to one person, and the estate minus this *usufructus* may be given to another. If any one wishes to constitute a *usufructus* otherwise than by testament, he must effect it by pacts and stipulations. But, lest the property should be rendered wholly profitless by the *usufructus* being forever detached, it has been thought right that there should be certain ways in which the *usufructus* should become extinguished, and revert to the property.

2. A *usufructus* may be constituted not only of lands and buildings, but also of slaves, of beasts of burden, and everything else except those which are consumed by being used, for they are susceptible of a *usufructus* neither by natural nor by civil law. Among these things are wine, oil, garments, and we may almost say coined money; for it, too, is in a manner consumed by *usus*, as it continually passes from hand to hand. But the senate, thinking such a measure would be useful, has enacted that a *usufructus* even of these things may be constituted, if sufficient security be given to the heir; and, therefore, if the *usufructus* of money is given to a legatee, the money is considered to be given to him in complete ownership; but he has to give security to the heir for the repayment of an equal sum in the event of his death or his undergoing a *capitis deminutio*. All other things, too, of the same kind are delivered to the legatee so as to become his property; but their value is estimated and security is given for the payment of the amount at which they are valued, in the event of the legatee dying or undergoing a *capitis deminutio*. The senate has not then, to speak strictly, created a *usufructus* of these things, for that was impossible, but, by requiring security, has established a right analogous to a *usufructus*.

3. The *usufructus* terminates by the death of the *usufructuary*, by two kinds of *capitis deminutio*, namely, the greatest and the middle, and also by not being used according to the manner and during the time fixed; all which points have been decided by our *constitutio*. The *usufructus* is also terminated if the *usufructuary* surrenders it to the owner of the property (a cession to a stranger would not have this effect); or, again, by the *usufructuary* acquiring the property, which is called *consolidatio*. Again, if a building is consumed by fire, or thrown down by an earthquake, or falls down through decay, the *usufructus* of it is necessarily destroyed, nor does there remain any *usufructus* due even of the soil on which it stood.

4. When the *usufructus* is entirely extinguished, it is reunited to the property; and the person who had the bare ownership begins thenceforth to have full power over the thing.

V. Usus and Habitatio.

The naked *usus* is constituted by the same means as the *usufructus*; and is terminated by the same means that make the *usufructus* to cease.

1. The right of *usus* is less extensive than that of *usufructus*; for he who has the naked *usus* of lands, has nothing more than the right of taking herbs, fruit, flowers, hay, straw, and wood, sufficient for his daily supply. He is permitted to establish himself upon the land, so long as he neither annoys the owner, nor hinders those who are engaged in the cultivation of the soil. He cannot let, or sell, or give gratuitously his right to another, while a *usufructuary* may.

2. He who has the *usus* of a house, has nothing more than the right of inhabiting it himself; for he cannot transfer this right to another; and it is not without considerable doubt that it has been thought allowable that he should receive a guest in the house, but he may live in it with his wife and children, and freedmen, and other free persons who may be attached to his service no less than his slaves are. A wife, in the same way, if it is she who has the *usus* of the house, may live in it with her husband.

3. So, too, he who has the *usus* of a slave, has only the right of himself using the labour and services of the slave: for he is not permitted in any way to transfer his right to another. And it is the same with regard to beasts of burden.

4. If the *usus* of a flock or herd, as, for instance, of a flock of sheep, be given as a legacy, the person who has the usus cannot take the milk, the lambs, or the wool, for these are among the fruits. But he may certainly make use of the flock to manure his land.

5. If the right of *habitatio* is given to anyone, either as a legacy or in any other way, this does not seem a *usus* or a *usufructus*, but a right that stands as it were by itself. From a regard to what is useful, and conformably to an opinion of Marcellus, we have published a decision, by which we have permitted those who have this right of *habitatio*, not only themselves to inhabit the place over which the right extends, but also to let to others the right of inhabiting it.

6. Let if suffice to have said thus much concerning *servitutiones*, *usufructus*, *usus* and *habitatio*. We shall treat of inheritances and *obligationes* in their proper places. We have already briefly explained how things are acquired by the law of nations; let us now examine how they are acquired by the civil law.

VI. Title Through Possession.

By the civil law it was provided, that if anyone by purchase, gift, or any other legal means, had *bona fide* received a thing from a person who was not the owner, but whom he thought to be so, he should acquire this thing by use if he held it for one year, if it were moveable, wherever it might be, or for two years, if it were an immoveable, but this if it were in the *solum Italicum*; the object of this provision being to prevent the ownership of things remaining in uncertainty. Such was the decision of the ancients, who thought the times we have mentioned sufficient for owners to search for their property, but we have come to a much better decision, from a wish to prevent owners being despoiled of their property too quickly, and to prevent the benefit of this mode of acquisition being confined to any particular locality. We have, accordingly, published a *constitutio* providing that movables be acquired by a *usus* extending for three years, and immovables by the "possession of long time," that is, ten years for persons present, and twenty years for persons absent; and that by these means, provided a just cause of possession precede, the ownership of things may be acquired, not only in Italy, but in every country subject to our empire.

1. Sometimes, however, although the thing be possessed with perfect good faith, yet use, however long, will never give the property; as, for instance, when the possession is of a free person, a thing sacred or religious, or a fugitive slave.

2. Things stolen, or seized by violence, cannot be acquired by use, although they have been possessed *bona fide* during the length of time above prescribed; for such acquisition is prohibited, as to things stolen, by the law of the Twelve Tables, and by the *lex Atinia*; as to things seized by violence, by the *lex Julia et Plautia*.

3. When it is said that the acquisition by use of things stolen or seized by violence is prohibited by these laws, it is not meant that the thief himself, or he who possesses himself of the thing by violence, is unable to acquire the property, for another reason prevents them, namely, that their possession is *mala fide*; but no one else, although he has in good faith purchased or taken away from them, is able to acquire the property in use. Whence, as to movables, it does not often happen that a *bona fide* possessor gains the property in them by use. For whenever any one sees, or makes over for any other reason, a thing belonging to another, it is a theft.

4. Sometimes, however, it is otherwise; for, if an heir, supposing a thing lent or let to the deceased, or deposited with him, to be a part of the inheritance, sells or gives it as a gift or dowry to a person who receives it *bona fide*, there is no doubt that the person receiving it may acquire the property in it by use; for the thing is not tainted with the vice of theft, as the heir who has *bona fide* alienated it as his own, has not been guilty of a theft.

5. So if the *usufructuary* of a female slave sells or gives away her child, believing it to be his property, he does not commit theft; for there is no theft without the intention to commit theft.

6. It may also happen in various other ways, that a man may transfer a thing belonging to another without committing a theft, so that the possessor acquires the property in it by use.

7. As to movables, it may more easily happen that a person may, without violence, take possession of a place vacant by the absence or negligence of the owner, or his having died without a successor; and although his possession is *mala fide*, since he knows that he has seized on land not belonging to him, yet if he transfers it to a person who receives it *bona fide*, this person will acquire the property in it by long possession, as the thing he receives has neither been stolen nor seized by violence. The opinion of the ancients, who thought that there could be a theft of a piece of land or a place, is now abandoned, and there are imperial *constitutiones* which provide that no possessor of an immoveable shall be deprived of the benefit of a long and undoubted possession.

8. Sometimes even a thing stolen or seized by violence may be acquired by use; for instance, if it has come back into the power of its owner, for then, the vice being purged, the acquisition by use may take place.

9. Things belonging to our *fiscus* cannot be acquired by use. But Papinian has given his opinion that if, before *bona vacantia* have been reported to the *fiscus*, a *bona fide* purchaser receives any of them, he can acquire the property by use. And the Emperor Antoninus Pius, and the Emperors Severus and Antoninus, have issued rescripts in accordance with this opinion.

10. Lastly, it is to be observed that a thing must be tainted with no vice, that the *bona fide* purchaser or person who possesses it from any other just cause may acquire it by use.

11. But if a mistake is made as to the cause of possession, and it is wrongly supposed to be just, there is no *usucapion*. As, for instance, if any one possesses in the belief that he has bought, when he has not bought, or that he has received a gift, when no gift has really been made to him.

12. Long possession, which has begun to reckon in favour of the deceased, is continued in favour of the heir or *bonorum possessor*, although he may know that the immoveable belongs to another person; but if the deceased commenced his possession *mala fide*, the possession does not profit the heir or *bonorum possessor*, although ignorant of this. And our *constitutio* has enacted the same with respect to *usucapions*, in which the benefit of possession is to be in like manner continued.

13. Between the buyer and the seller, too, the Emperors Severus and Antoninus have decided by rescript that their several times of possession shall be reckoned together.

14. It is provided by an edict of the Emperor Marcus, that a person who has purchased from the *fiscus* a thing belonging to another person, may repel the owner of the thing by an exception, if five years have elapsed since the sale. But a *constitutio* of Zeno of sacred memory has completely protected those who receive anything from the *fiscus* by sale, gift, or any other title, by providing that they themselves are to be at once secure, and made certain of success, whether they sue or are themselves sued in an *actio*, while they who think that they have a good ground of action as owners or mortgagees of the things alienated may bring an *actio* against the sacred treasury within four years. An imperial *constitutio*, which we ourselves have recently published, extends to those who have received as a gift anything from our palace, or that of the empress, the provisions of the *constitutio* of Zeno relative to the alienations of the *fiscus*.

VII. The Making of Wills.

The word testament is derived from *testatio mentis*; it testifies the determination of the mind.

1. That nothing belonging to antiquity may be altogether unknown, it is necessary to observe, that formerly there were two kinds of testaments in use: the one was employed in times of peace, and was named *calatic comitiis*, the other was employed at the moment of setting out in battle, and was termed *procinctum*. A third species was afterwards added, called *per aes libram*; being effected by *mancipatio*, that is, an imaginary sale in the presence of five witnesses, and the *libripens*, all citizens of Rome, above the age of puberty, together with him who was called the *emptor familiae*. The two former kinds of testament fell into disuse even in ancient times; and that made *per aes libram* also, although it has continued longer in practice, has now in part ceased to be made use of.

2. These three kinds of testament belonged to the civil law, but afterwards another kind was introduced by the edict of the praetor. By the *ius honorarium* no sale was necessary but the seals of seven witnesses were sufficient. The seals of witnesses were not required by the civil law.

3. But when the progress of society and the imperial *constitutiones* had produced a fusion of the civil and the praetorian law, it was established that the testament should be made all at one time, in the presence of seven witnesses (two points required by the civil law), with the subscription of the witnesses (a formality introduced by the *constitutiones*), and with their seals appended, according to the edict of the praetor. Thus the law of testament seems to have had a triple origin. The witnesses, and their presence at one continuous time for the purpose of giving the testament the requisite formality, are derived from the civil law; the subscriptions of the testator and witnesses, from the imperial *constitutiones*; and the seals of the witnesses and their number, from the edict of the praetor.

4. To all these formalities we have enacted by our *constitutio*, as an additional security for the genuineness of testaments, and to prevent fraud, that the name of the heir shall be written in the handwriting either of the testator or of the witnesses; and that everything shall be done according to the tenor of that *constitutio*.

5. All the witnesses may seal the testament with the same seal; for, as Pomponius says, what if the engraving on all seven seals were the same? And a witness may use a seal belonging to another person.

6. Those persons can be witnesses with whom there is *testamenti factio*. But women, persons under the age of puberty, slaves, madmen, dumb persons, deaf persons, prodigals restrained from having their property in their power, and persons declared by law to be worthless and incompetent to witness, cannot be witnesses.

7. A witness, who was thought to be free at the time of making the testament, was afterwards discovered to be a slave, and the Emperor Hadrian, in his rescript to Catonius Verus, and afterwards the Emperors Severus and

Antoninus by rescript, declared, that they would aid such a defect in a testament, so that it should be considered as valid as if made quite regularly; since, at the time when the testament was sealed, this witness was commonly considered a free man, and there was no one to contest his status.

8. A father, a son under his power, or two brothers under the power of the same father, may be witnesses to the same testament; for nothing prevents several persons of the same family being witnesses in a matter which only concerns a stranger.

9. But no person under power of the testator can be a witness. And if a *filiusfamilias* makes a testament giving his *castrense peculium*, after leaving the army, neither his father, nor any one in power of his father, can be a witness. For, in this case, the law does not allow the testimony of a member of the same family.

10. No person instituted heir, nor any one in subjection to him, nor his father, in whose power he is, nor his brothers under power of the same father, can be witnesses; for the whole business of making a testament is in the present day considered a transaction between the person who has purchased from the testator and the heir. But formerly there was great confusion; for although the ancients would never admit the testimony of the *familiae emptor*, nor of any one connected with him by the ties of *patria potestas*, yet they admitted that of the heir, and of persons connected with him by the ties of *patria potestas*, only exhorting them not to abuse their privilege. We have corrected this, making illegal what they endeavored to prevent by persuasion. For, in imitation of the old law respecting the *familiae emptor*, we refuse to permit the heir, who now represents the ancient *familiae emptor*, or any of those connected with the heir by the tie of *patria potestas*, to be, so to speak, witness in their own behalf; and accordingly we have not suffered the *constitutiones* of preceding emperors on the subject to be inserted in our code.

11. But we do not refuse the testimony of legatees, or persons taking *fideicommissa*, or of persons connected with them, because they do not succeed to the rights of the deceased. On the contrary, by one of our *constitutiones* we have specially granted them this privilege; and we give it still more readily to persons in their power, and to those in whose power they are.

12. It is immaterial whether a testament be written upon a tablet, upon paper, parchment, or any other substance.

13. Any person may execute any number of duplicates of the same testament, each, however, being made with prescribed forms. This may be sometimes necessary; as, for instance, when a man who is going on a voyage is desirous to carry with him, and also to leave at home, a memorial of his last wishes; or for any other of the numberless reasons that may arise from the various necessities of mankind.

14. Thus much may suffice concerning written testaments. But if any one wishes to make a testament, valid by the civil law, without writing, he may do so, in the presence of seven witnesses, verbally declaring his wishes, and this will be a testament perfectly valid according to the civil law, and confirmed by imperial *constitutiones*.

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