

Ancient Egyptian Society and The Philosophy of Law

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Abstract

This paper is to cast a new light on the philosophy of ancient Egyptian law. In fact, ancient Egyptian law has not changed over the course of the centuries; however, the new authorities are exercising a new form of justice from a new approach or revive the old custom to support governance over time to become in form of law. Unfortunately, there is no code evidence in ancient Egypt but scholars are attempted to study Egyptian law from different points of views to gain a nature of Egyptian law. We can see an apply the philosophy of justice by the King on the earth release the spirit of the law from strict human nature, because the customs and traditions are played a good role to control Egypt from dangerous of chaos in other societies. While the progressing of Egyptian society toward urbanism, they faced the problem of control the law principle from tyranny of the influence power of religion from time to time. In addition to, understand why ancient Egyptian accepting the possibility of separating between powers which depend on who is control the law during this period! Finally, to see philosophy of apply justice effectively in ancient Egypt, it's to show philosophy of daily life of Egyptian people toward a law in this time, not to investigate the noblemen life. The researcher has adopted the use of the analytical approach to the development aspects of the genesis of the law. We can conclude that the study of the history of ancient Egyptian law requires the study of philosophy of law and not waiting to discover the codes!

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المجتمع المصرى القديم وفلسفه القانون

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ملخص

إن فكرة تطبيق القانون المصرى القديم لم تتغير على مر العصور، إلا أنه بتولى سلطة جديدة فى البلاد يتم ممارسة شكل جديدا من أشكال تطبيق العدالة سواء بتطبيق نهج جديد أو إحياء عادة قديمة تدعم أركان الحكم لتصبح مع مرور الوقت بقوة القانون. على الرغم من غياب أكواد القانون المصرى حتى الآن لكن العلماء يستطيعون دراسة القانون المصرى القديم من خلال دراسة فلسفه المصرى فى استيعاب القانون مع العلم إن العادات والتقاليد طغت على المجتمع المصرى ولكنها استطاعت أن تحافظ على الهوية المصرية من فتره إلى أخرى. وهذا يبرر إمكانية قبول الفصل بين السلطات لأنها تعتمد على طبيعه الحكم القائم. ونرى بتطبيق فلسفه العدالة من قبل الملك على الأرض إخلاء روح القانون من الطبيعه البشرية الصارمه! فإن الهدف الرئيسى لهذا البحث هو استكمال كيفية فهم القانون فى مصر القديمة فى ضوء دراسة فلسفه القانون المصرى القديم، حيث يناقش كيف استطاع المصرى القديم استيعاب أهمية القانون، بالإضافة إلى دراسة فكرة الفصل بين القضايا عن طريق دراسة فلسفه المصرى القديم فى نشأة القانون بدلا من الاعتماد على الأكواد التى لم يكشف الستار عنها بعد. وقد اعتمد الباحث على استخدام المنهج التحليلى لاستنباط مظاهر نشأة القانون. ونستطيع إن نستخلص أن دراسته تاريخ القانون المصرى القديم بحاجة إلى دراسة فلسفه المصرى فى خلق القانون وليس بالكشف عن الأكواد!

One of the most important areas of human behaviour is the creation and enforcement of law¹ In fact, no society can properly be understood or explained without a coherent conception of its law and legal doctrine,²because study of law is a social science perspective it is required to see the function of the legal system within this society.³

Wilson(1954:1) stated that:

*"The attempt to understand another culture in its own terms always has a semantic difficulty in the inexactness of the translation of concepts from one culture to the other."*⁴

Westbrook (2003:1) "Law has existed as long as organized human society. Its origins are lost in the mists of prehistory" During the agriculture and pastoralism which called "*Pottery Manufacture*" the data recorded often come from the 4th millennium. There is little documentary legal evidence from Dynasties 0-3 which give us impression about how barter system played an essential role to development the ancient societies such as ancient Egypt with the neighbors around it.



To know how ancient Egyptian people makes law beneficial to society? In fact, the ancient Egyptians created a progressive society and developed legal tradition still felt in the present⁵One of essential role of the king is represent status of Maat as offering to the great god that is refer to the desire of the king to apply the justice between people.⁶So that the king present offering of Maat(*hnk m3ct n nb M3ct*) There is nothing more necessary and nothing more difficult than the task of discussion nature of law in ancient Egypt.James(1984:62) said⁸:

"The precise definition of law in ancient Egypt is difficult to achieve because the evidence is both thin and scattered over many centuries"

Unfortunately, not a few documentary records exist which profess to give us information concerning the early phenomena of law.⁹Egyptian law was imbued with custom, religion, and complex power hierarchies more than independent areas of law such as property, tort or contract.¹⁰

Egyptian law is a body of rules of action which sometimes having binding legal force and is not only to apply **legal code** to show justice of king on the earth. The following chart briefly describes aspects of understand Egyptian law:

Definitions of Law	
Ethics	The law that is found in all nations, based on morals and ethics, ¹¹
Political	The god- king established law simply through his presence on earth as well as by his own will, so that the law appears to have gained its authority from the divinity of the ruler. ¹²
Social	Law is viewed as a part of life itself in which the focus is upon normative expectations and the network of social relations which involves individuals as well as groups. ¹³
Legal	The laws were to the ancient Egyptians a collection of individual stipulations and thought to be an accumulation for <i>hpw</i> . ¹⁴
<i>The Law of nature, the laws of society and the divine commands all belonged to the one category of what was right.</i> ¹⁵	

Table1: Nature of Law from definitions of Egyptian Law

Concerning to if ancient people understood the distinction between criminal and civil cases or not many scholar accepting the possibility of separating, but they acknowledged the difficulty in separating criminal and civil.¹⁶

Lippert(2012:2) refers:

*“The distinction between civil and criminal law, something that seems obvious to modern societies, is hard to transfer to ancient Egyptian practice; we expect crimes to be prosecuted by the authorities and punished in a way that shows not only the victim but society as a whole was injured by the criminal”.*¹⁷

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	Administrative Law: The body of law (the laws of king) that to legislate a new decision to control the state and an area of law that you will gain from life of the king . e.g.:wD-nsw. Horemheb legislations were typically marked with a civil rather than a religious nature. ¹⁸
Subdivision of Ancient Egyptian Law	Civil Law may be defined as that legal tradition which has its origin in Roman law, as codified in the <i>corpus juris civilis</i> of Justinian, and as subsequently developed mainly in Europe. ¹⁹
	Criminal Law: the laws of a state who is dealing with criminal offenses and their punishment. Such as P.Berlin 8896

Table 2:Subdivision of Ancient Egyptian Law

That is guide to ask what type of philosophy of justice in ancient Egypt was! Some considerable advance in the understanding of philosophy of criminal law in ancient Egypt have been made recently did not realize the distinguish between the civil and criminal law except type of procedure inside courts. So did you think it is useful to neglectful the study of philosophy of law.

New question are being asked, what was required to do justice effectively in ancient Egypt? We have very little indication of the punishments suffered by those found guilty  aDA²⁰The Contending of Horus and Seth (Chester Beatty papyrus D)²¹ is the best evidence to the image of dispute as (Allam, 2010, p.266) refers “the gods themselves had to appear before a court in order to resolve their dispute” which appear in case of Horus and Seth.

“Then the Ennead said: "Horus is (Mꜣꜣty)right, and Seth is(ꜥꜣ)wrong.”

What we encounter the criminal provisions of the ancient laws seem strange for us to mind, but was excessively harsh sometimes harsh, then was completely appropriate and very fair for civilization reached by those communities.²²

Although there is no difference in jurisdiction but Egyptian court has ability to separate between criminal and civil responsibility. Actually, it's difficult to have all pictures about nature of law in ancient Egypt. And the survival of features of Egyptian law is rare. It is often said that Egyptian law fails to distinguish between criminal and civil law. The present study, however, finds not only consistent distinctions between civil and criminal law; it also finds that both contract and tort laws are well-established, separate categories in Egyptian jurisprudence. Inspiration divine appear during the New Kingdom Westbrook (2003:35) define it "the oracle was a divinatory procedure, a means of consulting a god on a specific question—in principle, one that could be answered yes or no. It could thus be used in non-judicial contexts as well as trials. It involved interpreting the movements of an image of the god carried on a litter"²³ which called "Oracle Domination" The ruling clerics dispute before them a divinely and illustrated by priesthood the data recorded often come from the 2nd millennium.

Conclusion:

Unfortunately, the data is not equally distributed throughout ancient Egypt to explore the possibility for idealism society. As we have seen, many barrier to understand the long -term performance of the nature of law. But we must also take into account how the Egyptian does see the law from different philosophy so that our understanding of Egyptianlaw is shall take from more indirect sources such as custom, letters, para-Juridique, and daily life.

We can conclude that the study of the history of ancient Egyptian law requires the study of philosophy of law and not waiting to discover the codes! Writing the philosophy of law has turned out to be favorite place to gain knowledge about nature of ancient Egyptian law as Sir Henry Sumner Maine (1822-1888) advised scholars from a long time:

“But next to a new History of Law, what we most require is a new Philosophy of law”

Footnotes:

1. Terrence Chorvat and Kevin McCabe, The Brain and The Law, Philosophical Transactions: Biological Sciences, vol.359, No.1451, The Royal Society, 2004, p.1727 Available from <http://www.jstor.org/stable/4142157> Accession date: 18/10/2012 09:55
2. Nili Shupak, A New Source For the Study of the Judiciary and Law of Ancient Egypt: The Tale of the Eloquent Peasant, Journal of Near Eastern Studies, vol.51, No.1, Chicago 1992, p.6 <http://www.jstor.org/stable/5455944>: Accession date: 17/01/2012 20:30
3. Alejandro F. Botta, The Aramaic and Egyptian Legal Traditions at Elephantine, An Egyptological Approach, London, 2009, p.63; actually, law is all over. Law is everywhere. Law is an enduring presence in our lives. For further: David O. Friedrichs, Law in our Lives: An Introduction, second edition, Los Angeles, 2006, p.1
4. J. Wilson, Authority and the Law in Ancient Egypt, JAOS Supplement 17, 1954, p.1; G. P. F. van den Boorn, Wd'-ryt and Justice at the Gate, Journal of Near Eastern Studies, vol. 44, No. 1, 1985, p.22, Available from <http://www.jstor.org/stable/544367> Accession date: 12/01/2013 08:14; also Bourdieu attested "The law is the quintessential form of "active" discourse, able by its own operation to produce effects. It would not be excessive to say that it *creates* the social world, but only if we remember that it is this world which first creates the law. "It is important to ascertain the social condition—and the limits – of the law's quasi-magical power... the schemes of perception and judgment which are at the origin of our construction of the social world are produced by collective historical labor, yet are based on the structure of this world themselves.... Our thought categories contribute to the production of the world, but only within the limits of their correspondence with preexisting structure. Symbolic acts of naming achieve their power of creative utterance to the extent, and only to the extent, that they propose principles of vision and division objectively adapted to the preexisting divisions of which they are the products." For further: P. Bourdieu, The Force of Law: Toward a Sociology of the Juridical Field, The Hasting Law Journal, 1987, p.839; Monica Marie Bontty, Conflict Management in Ancient Egypt:

- Law as a Social Phenomenon, Diss. University of California Los Anglos 1997, p.18
5. Lorne Neudorf, *Judicial Independence: The Judge as a Third party to the Dispute*, Montreal 2009, p.21
 6. A. Moret, *La Doctrine de Maat*, RdE4, Le Caire, 1940, p.6; Bernadette Menu, *La notion de maât dans l'idéologie pharaonique et dans le droit égyptien*, 2006, B. Anagnostou-Canas ed., *Dire le droit: normes, juges, juristes. Actes du colloque International de l'Institut d'Histoire du Droit* (Paris, 4 et 5 novembre 2004), ed. Panthéon-Assas, Paris, 2006, p.37; For more on location of scenes of the presentation of Maat see: E. Teeter, *The Presentation of Maat: Ritual and Legitimacy in Ancient Egypt*, *Studies in Ancient Oriental Civilization* 57, the Oriental Institute of the University of Chicago, Chicago 1997, pp. 39-48
 7. Raymond Westbrook, *The Character of Ancient Near Eastern Law*, *A History of Ancient Near Eastern Law*, edited by Raymond Westbrook, vol.I, HdO 72, Brill, 2003, p.35; the god made his will known in several ways. Sometimes his response was affirmative and sometimes negative, but he used different methods to indicate his feelings. For further: Ellen Dailey Bedell, *Criminal Law in the Egyptian Ramesside Period*, Diss. Brandeis University, 1973, p.241
 8. T.G.H. James, *Pharaoh's People: Scenes of life in imperial Egypt*, London, 1984, p.62
 9. Henry S. Maine, *Ancient Law: Its Connection with the Early History of Society and Its Relation to Modern Ideas*, Fourth Edition, New York 1906, p.7
 10. Russ VerSteeg, *Law in Ancient Egypt Fiction*, *Georgia Journal of International and Comparative Law*, vol.24, 1994, p.42; Andriette Ferreira, *The Legal Rights of the women of Ancient Egypt*, Diss. University of South Africa, 2004, p.VI.
 11. Ferreira, 2004, p.V.
 12. N.J. Blerk, *The Concept of Law and Justice in Ancient Egypt with specific reference to the tale of the Eloquent Peasant*, Diss. University of South Africa, 2006, p.28

13. Bontty, 1997, p.23; Law can be described as the structure of a social system based on the congruent generalization of normative behavioral expectations. For further: Bontty, 1997, p.60
14. Blerk, 2006, p.39
15. H. Frankfort, *Ancient Egyptian Religion: An interpretation*, New York 1948, p.54
16. B.Menu, *Recherchessur l 'histoire juridique, economique et social de l'ancienneEgypte*, IFAO, 122, pp.11 ff.; If there was any distinction in procedure, it was not between criminal and civil cases but between private dispute and cases involving vital interests of the state or the public, such as an offence against the king or the gods. For further: Westbrook, HANEL, vol.I, HdO 72 , Brill, 2003, p.31
17. Sandra Lippert, *Law: Definitions and Codification*, UCLA Encyclopaedia of Egyptology, Los Anglos 2012, p.2.For more on problem of distinction between civil and criminallawsee: S.Allam, *Un Droit Penal existait-il Stricto sensu en egypte Pharaonique?*, JEA, vol.64, 1978, pp.65-68; J.Verhaegen, *Faute Penale et Faute civil*, In : *Archives de Philosophie du droit*, T.28, 1983, pp.17-28
18. Bedell, 1973, p.4; His legislations, dating back to the 18th Dynasty For further:Jean-Marie Kruchten, *Le Décret d'Horemheb. Traduction, commentaireépigraphique, philologique et institutionnel*, Bruxelles, Editions de l'Université de Bruxelles, 1981.
19. DominikLengeling, *Common Law and Civil Law differences, reciprocal influences and points of intersection*, Toronto, 2008, p.5; K.Seth, *Geschichte des Amtes im Alten Reich*, ZÄS, 28,1890, pp.43-49; The most important "civil" official in the sacred state of Egypt was the vizier, who at first had been selected from the king's family,but by the fifth Dyansty might be unrelated to the king. For further: J.A.Wilson, *Authority and Law in the Ancient Orient*, JAOS, 17, 1954, p.3; By the early third millennium B.C., Egyptian society had become consolidated: a centralized stste was achieved with pharaoh as its head; a highly developed administration was then created.. For further: SchafikAllam, *Law, The Egyptian World*, edited by Toby Wilkinson, 2nd ed., New York, 2010, p.263 ; For role of the vizier during the Old Kingdom see: Pirenne, *Histoire de Institutions et du droit prive de l' ancienne egypte*,T.II, Bruxelles 1934,pp.95-100

20. McDowell, Jurisdiction in the Workmen's Community of Deir el-Madina, Published Dissertaion, University of Pennsylvavania, 1987, p.353
21. Robert Parant, Recherche sur le droit penalegyptien, p.33; (Chester Beatty papyrus 1)William Kelly Simpson (ed.), The Literature of Ancient Egypt, 1972; For Judicial aspects of "The Contendings of Horns and Seth" See: M. Campagna, Judicial Practices, Kinship and the State in 'The Contendings of Horns and Seth', ZAS133,2006, pp.20-33
22. E. Garcon, Le droit penal, origin, evolution, etat act, Paris, 1922, pp.13-14
23. Westbrook, HANEL, Vol.I, HdO 72 , 2003, p.35

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- 23-Pirenne, J. (1934) *Histoire de Institutions et du droit prive de l' ancienne Egypte*, T.II, Bruxelles.
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