

# History of Law: Foundations of Law and Jurisprudence from Sumer to Rome



## Course Description

This course surveys the history and elements of ancient Mesopotamian, Egyptian, Greek and Roman civil and criminal laws—including the law of property, obligations, and inheritance. We will also look at law and social justice and compare ancient ideas regarding redemption and justice with our contemporary world. A persistent theme throughout the course will focus on the overlapping and often contradictory spheres of legal authority as manifested throughout Mesopotamian, Greek and Rome's history. Students will be required to analyze cases pertinent to these areas of the law. Students will examine how the law served and shaped these societies, as much as how these societies shaped the law to meet its developing needs.

## Learning Objectives

Upon the completion of this course, students should be able to:

- Demonstrate an understanding of the history of the Mesopotamian, Hebrew, Greek and Roman Law, and how those cultures interacted;
- Explain the development of law (especially civil law) among the Babylonians (The Code of Hammurabi), the Assyrians (Middle Assyrian Laws) and Hebrews (The Books of Exodus and Deuteronomy) and Greek and Roman Systems;
- Demonstrate an understanding of the social, political and legal history of the Mesopotamian, Hebrew, Greek Roman societies (753 BCE- 565CE);
- Gain facility in the basic technical language and concepts of ancient laws through case-study analysis and construction, and facility in how to use the detailed and comprehensive study of a legal system for illuminating social and economic history.
- Explain the development of law in the Roman Empire (especially civil law) with reference to the importance of The Twelve Tables, The Theodosian Code, Justinian's Code, and the work of Jurists;
- Explain how each body of law studied in the course reflects the values and needs of the cultures they represent;
- Explain how many of the concepts of the earlier law codes studied have come to influence the later codes, and how this influence is still experienced in modern Western legal thought.

## **Reading Materials**

### *Required*

- A. Borkowski and P. du Plessis, Textbook on Roman Law, 6th Ed. (2015) (BP)
- D. Johnston, Roman Law in Context (1999) (RLC)
- M. Roth, Law Collections from Mesopotamia and Asia Minor (2005) (Cun Laws)
- M. Gagarin and D. Cohen, The Cambridge Companion to Ancient Greek Law (2005) (CC)
- As Noted in the Tentative Course Schedule

### *Optional (Suggested)*

- R. Westbrook, ed., A History of Ancient Near Eastern Law (2003)
- D. Charpin, Writing, Law, and Kingship in Old Babylonian Mesopotamia (2010)
- Eds. Du Plessis, Ando, and Tuori, The Oxford Handbook of Roman Law and Society (OUP: 2016)

- A. Berger, *Encyclopedic Dictionary of Roman Law* (1953)
- J. W. Cairns and Paul J. du Plessis, *Beyond Dogmatics: Law and Society in the Roman World* (2007)
- J.A. Crook, *Law and Life of Rome* (1986)
- J. Evans Grubbs, *Women and Law in the Roman Empire: A Sourcebook on Marriage, Divorce and Widowhood* (2002)
- B. Nicholas, *An Introduction to Roman Law* (1962)
- R. Westbrook and C. Wilcke, "The Liability of an Innocent Purchaser of Stolen Goods in Early Mesopotamian Law," *Archiv für Orientforschung* 25 (1974/77) 111-21.
- B. Jackson, *Theft in Early Jewish Law* (1972).
- R. Westbrook, *Old Babylonian Marriage Law*, *AfO Beiheft* 23 (1983).
- M. Stol, *Women in the Ancient Near East* (2012).
- M. Roth, "Gender and Law: A Case Study from Ancient Mesopotamia," in *Gender and Law in the Hebrew Bible and the Ancient Near East*, ed. B. Levinson et al. (1998) 173-84.
- N. Yoffee, "Law Courts and the Mediation of Social Conflict in Ancient Mesopotamia," in *Order, Legitimacy, and Wealth in Ancient States*, ed. J. Richards and M. van Buren (2000) 46- 63.
- M. Roth, "Reading Mesopotamian Law Cases: PBS 5 100: A Question of Filiation," *Journal of the Economic and Social History of the Orient* 44 (2001) 243-92.
- R. Westbrook, "Judges in the Cuneiform Sources," *MAARAV* 12 (2005) 27-39.
- Raymond Westbrook, Bruce Wells, and F. Rachel Magdalene, "Law from the Tigris to the Tiber : The Writings of Raymond Westbrook"(2009).

## **Assignments**

Attendance and Class Participation (20%)

Research Paper (30%)

Weekly Discussion Threads (20%)

Group Presentation (Youtube Video) (30%)

## Tentative Course Schedule

Week	Topic	Assignment	Reading
Week 1	Introductions		
Week 2	Origins of Morality	Discussion Thread	<i>How we Learned to Put Our Fate in One Another's Hands</i> by Michael Tomasello
Week 3	Sources of Law	Discussion Thread	<p>P. Barmash, "Biblical and ancient Near Eastern law," <i>Religion Compass</i> 12 (2018)</p> <p>M. Roth, "Mesopotamian Legal Traditions and the Laws of Hammurabi," <i>Chicago Kent Law Review</i> 71/1 (1995)</p> <p>D. Charpin, "The Status of the Code of Hammurabi," in Charpin, <i>Writing, Law, and Kingship</i> (2010) 71-82</p> <p>BP, pp. 1-24</p> <p>RLC, pp. 12-39</p> <p>CC, pp. 29-96</p>
Week 4	Litigation	Discussion Thread	<p>Cun Laws: All, with special attention to LU §§ 28-29; LX a-b (=) SLEx § 8'; SLHF i 6-8, ii 43-45, iii 3-7, iv 23-24.</p> <p>BP, pp. 63-86</p> <p>RLC, pp. 112-132</p> <p>CC, pp. 112-128, 146-169</p>

<b>Week</b>	<b>Topic</b>	<b>Assignment</b>	<b>Reading</b>
<b>Week 5</b>	Family Law	Discussion Thread	<p>Cun Laws: LU §§ 4, 5, 9, 10, 11, 15; LL §§ 21-30; SLEx iv 12-22; LE §§ 17, 18, 25-30, 59; LH §§ 127-51, 155-6, 159-67, 171-73, 175-76b, 183-84; LNB §§ 8, 13-15; MAL A §§ 24, 28, 30, 34, 37-39, 41-43, 48, 55.</p> <p>Biblical Laws: Ex 21:7-10; Deut 21:10-14, 22:29 (seduction unbetrothed virgin), 24:1-4 (remarriage), 25:5-6 (Levirate) (Gen 29, 34, 38; 1 Sam 18)</p> <p>The Old Babylonian Marriage Contract by Samuel Greengus</p> <p>BP, pp. 113-152</p> <p>CC, pp. 267-289, 343-356</p>
<b>Week 6</b>	Property Law	Discussion Thread	<p>BP, pp. 153-208</p> <p>RLC, pp. 53-76</p>
<b>Week 7</b>	Estates and Inheritance	Discussion Thread	BP, pp. 209-252
<b>Week 8</b>	Contracts	<p>Discussion Thread</p> <p>Research Paper Topic</p>	<p>BP, 253-358</p> <p>RLC, pp. 77-111</p>
<b>Week 9</b>	Torts & Liability	Discussion Thread	

Week	Topic	Assignment	Reading
Week 10	Criminal Law	Discussion Thread	<p>Cun Laws: LL §§ 8-13; SLHF iii 10-12, 13-15; LE §§ 6, 12, 13, 33-37, 40, 49, 50; LH §§ 3, 4, 6-13,</p> <p>16-23, 25, 120, 122-26, 253, 255, 256, 259, 260, 265; MAL A §§ 3-5; HL §§ 24, 57-73, 81-85,</p> <p>91-97, 101-03, 108, 110, 119-33</p> <p>Biblical Laws: Exod 21:37, 22:1-8; Lev 19:11; Deut 22:1-3. (2 Sam 12:1-6)</p> <p>Bodily Injuries and Assault:</p> <p>Cun Laws: LU §§ 18-22; LE §§ 42-48; LH §§ 196-220; MAL A §§ 50-53; HL §§ 7-18</p> <p>Biblical Laws: Exod 21:12-26, 22:2; Lev. 24:17-20; Num 35:16-24, 30, 31-33; Deut 19:5-121</p> <p>A. Diamond, "An Eye for an Eye," Iraq 19 (1957) 151-55.</p> <p>B. Jackson, "The Problem of Exodus 21:22-25 (Ius Talionis)," in Jackson, Essays in Jewish and Comparative Legal History (1975) 75ff.</p>

Week	Topic	Assignment	Reading
Week 11	Criminal Law Continued	Discussion Thread	<p>Sexual Offenses:</p> <p>Cun Laws: LU §§ 6-8, 14; LL §§ 33; SLEx §§7'-8'; SLHF iv 10-11; LE §§26, 28, 31; LH §§127, 129, 130, 131, 132, 133b, 153-58; MAL A §§ 9, 12-16, 17, 18-20, 22-23, 55-56</p> <p>Biblical Laws: Exod 22:16-18; Lev 18:6-23, 20:11-16; Deut 22:20-29, 23:1 (Gen 38)</p> <p>Homicide: Biblical Laws: Exod 21:12-13, 21:14, 22:2; Lev. 24:17; Num 35:16-24, 30, 31-33; Deut 19:4-13, 22:8, 27:24 (2 Sam 4:5-12; 2 Sam 14; 1 Kings 2:28-35</p> <p>J.J. Finkelstein, "Sex Offenses in Sumerian Laws," <i>Journal of the American Oriental Society</i> 86 (1966) 355-72.</p> <p>R. Westbrook, "Adultery in Ancient Near Eastern Law," <i>Revue Biblique</i> 97 (1990) 542-76.</p> <p>CC, pp. 170-235, 236-253</p>

Week	Topic	Assignment	Reading
<b>Week 12</b>	Debt Relief and Social Justice	Discussion Thread	<p>Biblical Laws: Lev 25</p> <p>Analyzing order, legitimacy, and wealth in ancient Egypt and Mesopotamia by John Baines and Norman Yoffee</p> <p>B. Foster, "Social Reform in Ancient Mesopotamia," in <i>Social Justice in the Ancient World</i>, ed. K. Irani and M. Silver (1995) 165-77.</p> <p><i>Social Justice in the Ancient Near East</i> by Raymond Westbrook</p> <p><i>The Ideological Basis for Social Justice/ Responsibility in Ancient Egypt</i> by Scott Morschauer</p> <p>The Idea of Social Justice in the Ancient World</p>
<b>Week 13</b>	Debt Relief and Social Justice  The Twelve Tables	Discussion Thread	<p>BP, pp. 63-82, 87-112</p> <p>RLC, pp. 112-32</p>
<b>Week 14</b>	Law and Theory	Discussion Thread  Research Paper	CC, pp. 394-430
<b>Week 15</b>	Presentations		
<b>Week 16</b>	Presentations		