

History of Law, Islamic Law

A presentation by Tomáš Keseli

When (and where) did it all begin?

- The earliest ever **lawbook** can be originated at around 2100 B.C. in the ancient Sumeria (Code of Ur-Nammu).
- Three centuries later a babylonian king called Hammurabi collected a **code of laws**, which consisted of nearly 300 articles.
- The Code of Hammurabi is very well known for its cruelty, which is best represented by “*an eye for an eye*”.
- The stele containing the Code is on display at the Louvre Museum in Paris, France.



Code on diorite stele

Who enhanced it?

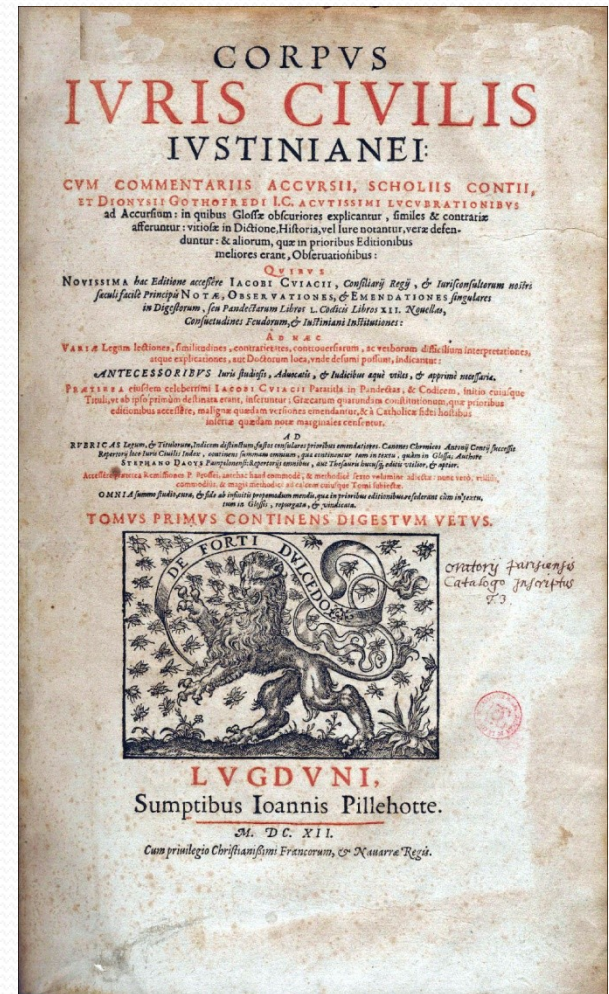
- Greek lawgiver Draco replaced the prevailing system of **oral law** and **blood feud** by a written code, only enforceable by a court.
- The laws of Draconian constitution very extremely harsh and thus the english word “draconian” means “marked by extreme severity or cruelty”.
- China developed similar **rules of conduct**, as did Egypt and Israel.
- However, it was the Romans, who created a **legal system**, whose basics have survived to this day and now form a core component in the **continental law...**

Why is Roman Law so important?

- Roman lawyers observed legal relations such as those between family members or trade partners. They created abstract solutions that would help, when an argument couldn't be settled informally.
- These **legal principles** formed a legal science, i.e. **jurisprudence**.
- The Roman legal system had a great impact on creation of the modern continental law, commonly known as the **civil law**.
- The **Latin** words derived from the Roman law are now frequently used in all branches of modern law.

Which Roman lawgivers made the greatest contribution?

- **Servius Tullius** (578-535 B.C.), the sixth king of ancient Rome, created a *comitia centuriata*, which divided Roman citizens according to wealth and formed the Rome's central legislative body.
- The **Gracchi brothers**, who both served as tribunes in 2nd century B.C., attempted to pass land reform legislation that would redistribute the major **patrician** landholdings among the **plebeians**. For this effort they were both assassinated.
- The Byzantine (former eastern Roman) emperor Justinian formed a rewriting of Roman law, called *Corpus Iuris Civilis*, upon which most of the legal systems of most European nations are based to this day.



Where did common law come from?

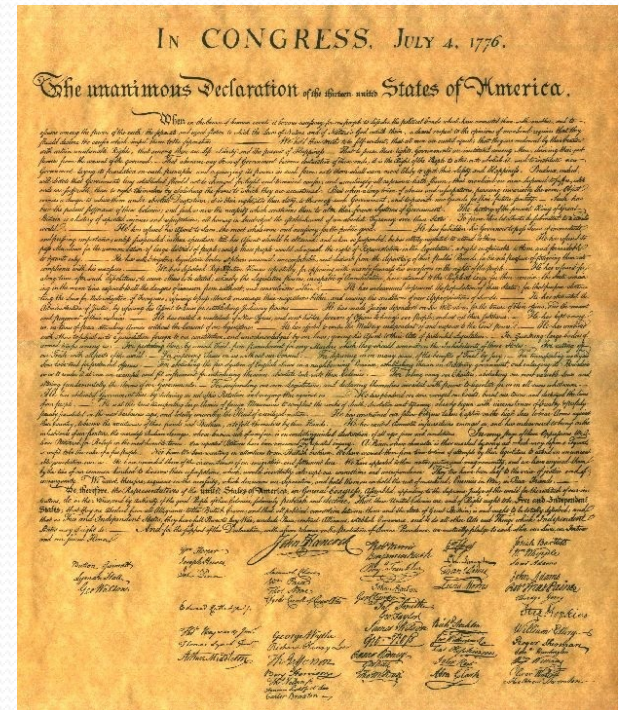
- The common law remains **the principal source** of Anglo-American law.
- It has its roots about the same time as Justinian, among Angles, Britons and later Saxons in Britain.
- William the Conqueror arrived in 1066 and mixed the best of Anglo-Saxon law with Norman Law which resulted in English common law.
- However, common law exists as **customs or precedents** rather than as a written code.



William the Conqueror

What are the important milestones in the history of Anglo-American law?

- In 1215, the English King John was forced to publish *Magna Carta Libertatum*, a document that would partially limit his powers by law as well as grant the people of England certain **liberties**.
- This was especially important, because the king had to accept that his will was not **arbitrary**.
- The charter was a key influence that led to the rule of **constitutional law** in the English speaking world.
- On July 4th 1776, The **United States Declaration of Independence** was adopted by the Continental Congress.
- This document has set the very essentials of the first truly democratic country, the USA, best expressed by “**all men are created equal**”.



Declaration of Independence

What are the sources of Islamic law?

- Islamic law, known as *Sharia* has neither been derived from Roman law, nor influenced by Anglo-American law and is therefore very different from the law of western civilization.
- The Sharia itself contains rules by which the Muslim society is organized and governed and it provides the means to resolve conflict among individuals and between individual and the state.
- There are two main sources of Islamic law, namely the *Qur'an* and the *Sunnah*.

What is Qu'ran and how it influences law?

- Islam holds that the Qu'ran was revealed to *Muhammad* by God and is thus considered to be a holy book of Islam.
- However, Qu'ran is also the principal source of Islamic Law.
- It forms the basis for relations between man and God, between individuals, whether Muslim or non-Muslim as well as between man and things which are part of creation.
- It is therefore obvious, that the Islamic law is vastly **influenced by religion.**



What is the role of Sunnah?

- The sunan (pl. of sunnah) are precedents laid down by Muhammad through his sayings, acts and approvals and it too comes from *Allah*.
- The Sunnah confirmed the rulings of the Qu'ran, detailed some of the concepts, laws and practical matters which are briefly stated in Qu'ran (definition of Islam, types of usury, etc.)
- It also gave some rulings regarding matters not explicitly stated in the Qu'ran (e.g. wearing silk clothes for men).

**Thank you for your
attention**