Roman Law and the Justinian Code

Background

During his rule, Justinian ordered the creation of a document called The Body of Civil Law (Corpus Juris Civilis), which is also known as the Code of Justinian or the Justinian Code. The Justinian Code stands as a monumental document in all of Western culture because it recorded the common understanding of law within the Roman Empire for the previous 1000 years, as well as of current law. The recording of all Roman laws had never been attempted before. The Justinian Code clarified the accepted laws of the Roman Empire.

The Justinian Code is sometimes called the Twelve Tables. The code is made up of four parts: (1) the Codex, a summary of all laws passed in the Roman Empire since the time of Emperor Hadrian; (2) the Digest, a compilation of writings by Roman legal scholars; (3) the Institutes, a legal textbook for all those concerned with the law; and (4) the Novels, new laws under Justinian. Together, these four pieces set the standard for Roman law until the empire ceased to exist in 1453.

Directions: The following selections are from the Justinian Code. One excerpt describes the differences in some of the types of law, and the other describes the punishment for theft. Read the selections and then answer the questions that follow.

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 a 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.

—From Book II, Natural, Common and Civil Law, 527–565

A person who takes a thing belonging to another by force is liable to an action of theft, for who can be said to take the property of another more against his will than he who takes it by force? And he is therefore rightly said to be an improbus fur. The praetor [high ranking Roman official], however, has introduced a peculiar action in this case, called vi bonorum raptorum; by which, if brought within a year after the robbery, quadruple the value of the thing taken may be recovered; but if brought after the expiration of a year,

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1. **Explaining** How is civil law different from the law of nations?

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2. **Drawing Conclusions** Why does the code mention both civil law and the law of nations?

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3. **Identifying Continuity and Change** Is the position of the Justinian Code on the law of nations and civil law similar to or different from modern law in the United States? Explain your answer.

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then the single value only may be brought even against a person who has only taken by force a single thing, and one of the most trifling value. But this quadruple of the value is not altogether a penalty, as in the action *furtum manifestum*; for the thing itself is included, so that, strictly, the penalty is only three times the value. And it is the same, whether the robber was or was not taken in the actual commission of the crime. For it would be ridiculous that a person who uses force should be in a better condition than he who secretly commits a theft.

—From Book IV, Goods Taken by Force, 527–565
4. **Analyzing Information** Why do you think the penalty for theft is different based on the amount of time that had passed since the act had taken place?

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5. **Comparing and Contrasting** How are the Roman penalties for theft similar or different from the laws and penalties of the United States today?

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