

2021-22 / LESSON 2 / 2021-10-01

Ancient Age -- up to 476 ce

Bronze Age

The Veneti are traders and horse breeders in the north-east of Italy.

http://www.arielcaliban.org/PX_equi_veneti.pdf

218-203 bce

The Veneti are *socii* of the Romans in the Punic wars against the Carthaginians.

49 bce -- Roman Republic

Lex Roscia: Roman citizenship granted by privilege to the whole of *Gallia Cisalpina* = more or less the Po plain.

https://upload.wikimedia.org/wikipedia/commons/f/f7/Gallia_cisalpina_-_Shepherd.png

The efficient, developing Roman law system is applied on a personal basis to the citizens of the territory, with advantages for trade and the protection of rights

7 ce -- Roman Empire

The first Roman emperor of antiquity, Augustus, divides Italy into *regiones* = regions; the north-east of Italy is *X Regio* = the tenth region, also called *Venetorum angulus* = the corner of the Veneti or *Venetia et Histria*.

The majority of the people live on the mainland, in villages and in the Roman cities (*Patavium, Vicetia, Tarvisium...*) and are called *Veneti* proper, while a minority lives in the coastal area and on the islands and lidi of the lagoons, working as fishermen, small traders, vegetable gardeners and salters.

Salt, the main means to preserve food, was of course a very important resource and a prized merchandise in antiquity and the middle ages.

http://www.arielcaliban.org/PX_regiones.pdf

212 ce

Edict of Caracalla = *constitutio Antoniniana*: all inhabitants of the Empire are Roman citizens.

The Roman law system is now applied on a territorial, non anymore a personal, basis; this allows for uniformity and consistency in government of the disparate provinces of the Empire and in the enforcement of the legal system, which is now seen as more efficient than preservation of the rules and ways of life of local peoples and cultures.

https://cdn.gelestatic.it/limesonline/www/2020/03/impero_romano_edito_220_corretta.jpg

285-293 ce

Emperor Diocletian introduces a division of the Empire in an Eastern and a Western part, each with an Augustus (emperor) and a Caesar (second-in-command and prospective successor), but the reform, called **tetrarchy** = rule of four is short-lived.

[http://www.capitolivm.it/wp-](http://www.capitolivm.it/wp-content/uploads/2018/05/Prima_tetrarchia_Diocletianus.jpg)

[content/uploads/2018/05/Prima_tetrarchia_Diocletianus.jpg](http://www.capitolivm.it/wp-content/uploads/2018/05/Prima_tetrarchia_Diocletianus.jpg)

https://en.wikipedia.org/wiki/Portrait_of_the_Four_Tetrarchs

313 ce

Edict of Milan: emperor Constantine allows free practice of the Christian religion.

A VIII century forgery, the ***Donatio Constantini***, in the form of an edict dated 315 ce, mentions the gift of Rome and the surrounding territory to the popes, together with the declaration of their primacy among bishops. Humanist scholar Lorenzo Valla will prove the deed a forgery in 1440, but it was widely taken as genuine in the West in the Middle Ages and even later.

On its basis, the popes will be taken to be not only the sovereigns of the Christian Church in the ancient Western Roman Empire, but also secular sovereigns of Rome and a growing number of adjoining territories in Italy.

http://www.arielcaliban.org/PX_doRoman_natio_constantini.pdf

380 ce

Edict of Thessalonica = *Cunctos populos*: Gratianus and Theodosius I prescribe Christianity as the official religion of the Empire.

The Empire acquires powers of government over the secular practice of Christianity; it also encroaches on the regulation of theological matters.

http://www.arielcaliban.org/PX_edict_thessalonica.pdf

395 ce

Theodosius II re-establishes the division of the Empire in a Western and an Eastern part.

http://www.arielcaliban.org/PX_empire_395aD.jpg

from about 400 ce

Incursions of Goths and other Germanic peoples from north-eastern Europe, Huns from central Asia and Vandals from the Iberian peninsula (they gave the name to Andalucía).

These and other "barbarians" are not necessarily uncivilised, but foreign peoples moving through Europe without establishing any permanent organisation of government. The migration began in Central Asia for reasons still unclear, and involved diverse peoples pushing their neighbours to the west like cars in a .pileup.

The *Veneti* of the mainland join the *Venetici* on the lagoons during the incursions, but return to their homes in the cities when the invaders move on.

<https://i.pinimg.com/originals/df/fb/51/dffb51d0262ce308e11458611aafc1fd.jpg>

http://www.arielcaliban.org/PX_porfirogenitos.pdf

421 ce

Alleged date of the foundation of the city of Venice by deliberation of the city Council of Patavium (which would not actually exist until the XII century!). This was, in fact, a myth circulated against a rising Venice for political reasons in the early XII century, reprised in the XIV by chronicler Jacopo Dondi, and forged into an official document by the secretaries Jacopo Savonarola and Zuan Domenico Spazzarini in 1446, when civic records had to be rewritten after a fire destroyed the archives in Padua in 1420, fifteen years after its annexion by the Venetians.

http://www.arielcaliban.org/PX_legends_421.pdf

426 ce

Edict of quotations: emperors Theodosius II and Valentinian III impose as rules of law the whole doctrinal works of jurists Papinian, Paulus, Ulpianus, Modestinus and Gaius.

Consolidation of the part of the Roman law system formed by *iura* = answers to official questions about difficult cases, given by noted jurists on behalf of the emperors. This consolidation "by referral" ensures consistency of decisions by Roman judges throughout the Empires.

http://www.arielcaliban.org/PX_theodosius_ii.pdf

438-439 ce

Codex Theodosianus: Theodosius II consolidates the whole of the *leges* = imperial legislation still in force (*edicta, constitutiones, pragmaticae*) in a compilation.

Now each civil servant sent to govern the different parts of the Empire is equipped with a whole, exhaustive, portable library of rules, composed of the *Codex Theodosianus* and the works of the approved jurists, enabling them to apply them consistently anywhere in the territories under Roman rule.

476 ce

Odoacer, commander of the Heruls engaged as troops in the Roman army, deposes in Rome the last Western emperor Romulus Augustulus.

Commanders of foreign troops had more than once seized the imperial power in the Western Empire, but Odoacer refuses to assume the imperial title offered by the Eastern Emperor. For this reason the date is conventionally taken as the end of the Western Roman Empire, as well as of the ancient age.

There will be **no more Roman government**: no magistrates, governors, judges and civil servants enforcing the Roman legal system.

Legislation turns into custom as former Roman and Latinised peoples, for want of better, keep following the old rules and begin updating them as necessary, in the same way as the Latin language slowly turns into vernacular speeches.

Different law systems coexist in the same territories and are applied on a personal, not territorial, basis according to ethnical and cultural membership. The newcomers keep their own customs during their (usually short) stay in the different areas of the former Western Roman Empire, while the conquered Latin peoples keep theirs.

Early Middle Ages -- 476-~1000 ce/1

A time of changes

The early centuries of the Middle Ages are a time of change: the relative uniformity of culture and languages in the territories of the former Western Roman Empire breaks into fragments, which struggle to organise new forms of government.

A useful key to follow these complex developments is the question: **which institutions are holding powers of government** on a given territory?

The answers are formulated case by case around the concept of powers of government.

On the basis of experience and logic, these are three functionally distinct powers, whatever the institution(s) performing them:

-- **legislative**, that is the power to give rules of law;

-- **executive**, that is the power of implementing the rules in the absence of a conflict;

-- **judicial**, that is the power to apply the rules of law in order to solve conflicts.

In the contemporary world, many States apply the principle, formulated first by Montesquieu in the early XVIII century, that in a lawful State the three powers are held by separate institutions, so as not to interfere unduly with each other. However, in the Middle and Modern Ages any institution or person who held powers of government held and performed all three, although not necessarily in the same measure.

This situation, already effective at the end of the Ancient Age, was referred to since about the XIII century as **jurisdictio** (proclaiming the rules) = the three powers of government held and performed as an undivided whole.

Thus advised, we can go back to our chronology.

since about 486

Early settlements of "barbaric" kingdoms. A number among them adopt Roman practices for government and the Latin language for archival purposes, employing cultured Latin ministers and civil servants. These kingdoms are called "Roman-barbaric".

http://www.arielcaliban.org/PX_roman-barbaric_486aD.jpg

492

The Ostrogoths defeat the Heruls and establish a kingdom in Italy and the northern Balkans. The capital city is Ravenna, at the time an important merchant harbour.

Each people within the territory lives under their own legal system, with the exception of general royal legislation.

http://www.arielcaliban.org/PX_roman-barbaric_526aD.jpg

500

Edictum Theodorici = edict of Theodoric, the king of the Ostrogoths, showing the influence of the Theodosian Roman law system absorbed from the remaining Latin intellectuals.

506

Alaric II, king of the Visigoths settled in south-west Gallia and part of Iberia (kingdom of Toulouse), enacts **Lex Romana Visigothorum** or *Breviarium Alaricianum*, heavily influenced by, and often quoting literally, the *Codex Theodosianus*.

The actual text of the *Codex* is now lost, but it was mostly reconstructed by Walter Lenel (1868-1937) through the LRV.

507

The **Franks**, a Germanic people composed of three tribes, invades Gallia; in time, its name will change from Gallia (the land of the Gauls) to France (the land of the Franks).

The Latinised Visigoths, defeated, retreat south of the Pyrenees and establish their kingdom there (kingdom of Toledo). The *Lex Romana Visigothorum* is applied territorially to all, whether Visigoths or Latinised Iberians.

https://upload.wikimedia.org/wikipedia/it/a/a4/Regno_dei_Visigoti.svg

527

In the Eastern Roman Empire = Byzantine Empire, Justinian becomes emperor.

http://www.arielcaliban.org/PX_justinian.pdf

529

The Theodosian consolidation is become obsolete and unfit for the needs of the Byzantine Empire. Justinian begins a process of update, ordering the compilation of a **Codex** = imperial legislation (*leges*) in force in the Eastern Roman Empire.

533

Justinian orders his minister Tribonian to compile a **Digestum** = a new collection of doctrinal rules of law (*iura*) according to new criteria of selection. Not only the works of the jurists mentioned in Theodosius II's Edict of quotations, but all works of all jurists are surveyed in order to pick from them excerpts which are then recombined in a new text. The authorship is maintained, but the excerpts are sometimes slightly abridged by interpolations (from the Latin *inter+pello* = I push between).

Awareness of the presence and tenor of the interpolations and their study would begin in the late XV century and go on through the XX century.

534

Justinian orders a **second edition of the Codex** and a legal handbook in force as law, the **Institutiones**; the legal system in the Eastern Empire is thus updated in its whole by Justinian's compilation, and completed with a detailed,

binding instruction manual. Any new legislation is collected in an additional book of **Novellae**, mostly in Greek.

541-542

A pestilence devastates the Byzantine Empire: it is the first pandemic caused by a mutated strain of *Yersinia pestis*. That particular strain is now extinct, while others survive endemically in Central Asia and North America.

535-553

Justinian plans to recover the Western part of the Empire; **Gothic war** against the Ostrogoths and recovers Italy and parts of North Africa and Iberia.

http://www.arielcaliban.org/PX_procopius.pdf