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The Holy Roman Legal System and It's 16th Century Turmoil

The Holy Roman Empire for a long period of time had no real functional general legal code. During a time of change in the Holy Roman Empire, Emperor Maximilian I did not care much about establishing a better law system due to being preoccupied with his political battle against the estates. The country was still headed in the direction of reform nonetheless and neither he nor any other imperial bodies would stand against it. For most of the history of the HRE the courts were as disorganized as the rest of the country, but in the 16th century reforms moved the HRE into a new era of law with a new standard in the Carolina and increased use of torture and execution brought about by religious unrest.

The Holy Roman Empire was created by Charlemagne in 800 AD. The Holy Roman Empire was created as "...a marriage between the Germanic warlord, Charlemagne, and the only sort of warlord-y Popes in Rome" (Green 2014). It was created to let the emperor hold power over the nation and the pope be above him spiritually. In the early days, the emperor was supposed to be the most powerful body in the Holy Roman Empire when it came to physical matters. That may have been mostly true in the medieval ages however the emperors always had a tough time ruling over such a large area and still had to bargain with the individual estates. The most important meeting where these deals and reforms would take place is the Imperial Diets. In the Diets, many powerful groups would come together to discuss and vote on ideas.

Emperor Maximilian I, was born at the turn of the ages, the medieval age was ending and the Catholic revolution was about to begin. He did not want to be a king of money but instead a king of people who have money (Brady 31-32). In truth, he threw lavish parties for himself and was bad with his finances. Many now call him by the title of the last true knight due to his love for honor and knightly ordeals. The Holy Roman Emperors also especially had a tough time raising funds with there being no easy way to tax the general public or fund armies. Maximilian was no exception to this and "...in his hectoring speech to the Estates at Constance in 1507, Maximilian complained caustically that during the past sixteen years the Empire had given him a mere 500,000 Gulden, whereas his Austrian and Burgundian lands had produced 10,000,000 Gulden for his purposes" (Brady 45). The emperor may have been exaggerating the real numbers, however, he was very clear in his point.

During the medieval time period, capital punishment was much more widespread. Governments could not catch very many crimes since they did not have the tools we have now. To make up for this they would make their punishments very extreme, "Public humiliation was intended as a deterrent and to establish the state's monopoly on violence" (Gevangenpoort). Sure you might not be caught, but if you are, there is no next time. You will be scarred for life in all but the most minor cases. The crime rate had started to go up in the 15th and 16th centuries causing a response by cities and institutions to find ways to expedite procedures, "...especially the increased use of torture" (Roeck 22). This was likely due to the rising religious and moral panic. The courts were very divided with estates and cities often carrying out rulings that might be considered far too harsh in common law. Torture and execution were often carried out without proper evidence. Many people did complain but actions to try and unify the legal system were delayed and, by and large thwarted because "Cities and princes were anxious to preserve their

special status and tradition” (Roeck 23). These special traditions gave them the power to unjustly carry out harsh judgments without proper oversight.

Finally, at the Diet of Worms some change did happen, “This Diet’s measures were so definitive that they were tantamount to the founding of a new court of highest instance” (Fuchs 9). The Diet of Worms was an interesting affair; the emperor was mainly worried about an upcoming war with the Ottomans. As such he was not very present for the meeting and let his consultors do most of the work. The estates hoped to trade taxes for political reform. The king desperately needed taxes and the princes wanted more political power. The estates wanted an imperial council that was separated from the royalty to create an independent institutional central organization that would weaken the king's power and possibly be mostly controlled by the princes. The king temporarily granted this imperial council’s creation.

At a future Diet, the imperial council was fully forced upon him by a political party led by Berthold. The party with Berthold at the lead saw themselves as “...co-rulers of the empire and the imperial council as a kind of permanent executive committee of the Imperial Diet” (Brady 46). In addition, the supreme court was reformed during this time creating a stepping block for a more centralized legal system.

The Constitutio Criminalis Carolina also known as the Carolina was established in 1530 and was meant to unify the divided law system and give common reference. It also laid the groundwork for the witch trials which was not a good thing. The Carolina did over time become more and more referenced and was used for more extreme crimes while cities could deal with minor ones. The Carolina used trial by inquisition which would put the accused up against the judge. This meant the accused was often legally cornered and unable to defend themself, “The accused is left defenseless and at the mercy of a judicial prosecutor vested with omnipotence.

From subject of the trial, who is there primarily to defend himself, he is reduced to an object of the proceedings, mainly destined to provide incriminatory evidence against himself" (Roeck 25).

They were supposed to at least have access to political council. On the bright side, there was a higher level of proof that was required to convict someone.

The Carolina's biggest improvement was the introduction of needing material evidence. Before its introduction "If an oath was sworn as a form of evidence, no sentence was pronounced in 75% of the cases!" (Roeck 26). The Carolina rarely found oaths to be good proof. The accused could only be sentenced if seen by 2 trustable eyewitnesses or if they confess. Torture could be used to get a confession but only if special evidence is found. Special evidence would be something like the person owning the murder weapon. There were many examples of people still being tortured without reasonable cause, especially in witch trials.

The HRE was probably destined to fail although the reforms of the 16th century did manage to introduce somewhat of a unified legal system and create a remarkably stable government for what it was. The country never really fully overcame its major problems. The Holy Roman Empire never was able to make a unified nationality and individual territories stayed separate from each other culturally and in language. Despite some hope for the 16th century to reinforce the central government the empire continued to become incohesive. The Holy Roman Empire never made a comeback and merely slipped farther and farther until finally, long past the height of its power the emperor, "in the Treaty of Lunéville (1801) consented to the virtual dissolution of the Holy Roman Empire, which was formally ended (1806)" (Brown University Library). The empire was dissolved due to the threat of Napoleon.

The Holy Roman Empire had a messy legal system that was partially centralized in the 16th century. The centralization brought about not only better unification but also significantly

better proof needed to reach verdicts. The Carolina was misused in a time of religious turmoil to kill many innocent people and was widespread with corruption. We all should be glad that we have the legal system we do now, where you get a lawyer and the punishment for a guilty verdict is normally prison, not torture and execution.

Bibliography

Brady, Thomas A. "Maximilian I and the Imperial Reform at the Diet of Worms, 1495." *De Gruyter*, 27 May 2015, pp. 31-56, <https://doi.org/10.1515/9783110351026-004>.

This article was published in a peer-reviewed journal. This is one of my most important sources. Maximilian I is a very intriguing king who many different scholars have different ideas on. I love how this source kept the quotes from German articles in their original German form since paraphrasing them might have stripped away intricacies. I of course still had to use Google Translate but to someone who knows a bit more German that could be very helpful. The article also explores the political conflict between Maximilian I and the estates that took place throughout several Diets primarily beginning in the 1495 Diet of Worms.

Brown University Library. "Frances II." *Center for Digital Scholarship*, Brown University Library, library.brown.edu/cds/napoleon/francis2.html. Accessed 13 June 2024.

Brown University is an Ivy League research university. As such it is likely that web pages created by them had good attention to info. This article describes who Frances II was and why the Holy Roman Empire was dissolved. Many other sources on this exact subject are either books that are unavailable to me or questionably accurate articles.

"Charles v and the Holy Roman Empire: Crash Course World History #219." *YouTube*, uploaded by John Green, 5 Dec. 2014, www.youtube.com/watch?v=MRYzW3BSj0I&t=232s.

Crash Course is a well-known and well-liked source of information that has been a mainstay for education since it was first created. This Crash Course video inspired me to make this video with its story of how hard collecting taxes was for the emperor. It also had a much more comprehensible explanation when it comes to the creation of the Holy Roman Empire compared to some other sources I looked into.

Fuchs, Ralf-Peter. "The Supreme Court of the Holy Roman Empire: The State of Research and the Outlook." *The Sixteenth Century Journal*, vol. 34, no. 1, 1 Mar. 2003, pp. 9-27, <https://doi.org/10.2307/20061311>.

An article peer-reviewed journal. This article provided some more information on the Diet of Worms 1495 and how the legal system changed in the HRE during the 16th century.

Gevangenpoort. "Punishments Were Truly Horrible in the Middle Ages." *Rijksmuseum de Gevangenpoort*, www.gevangenpoort.nl/en/explore/stories-about-crime-and-punishment/punishments-were-so-horrible-in-the-middle-ages. Accessed 13 June 2024.

Museums are generally considered good sources of information since their goal is to educate the public on interesting topics. I do not trust museums very much when it comes to mythology but on subjects more grounded in reality, such as torture, they are far more accurate. Historically there were still inaccuracies when it came to torture instruments. In a wonderfully terrifying video essay by Jacob

Geller, he explains how the Iron Maiden was completely fabricated partially to be an attraction in museums. Museums have gotten a lot better now since the general public knows enough to spot inaccuracies in their favorite subjects.

Coincidentally I believe later in the video he echoes the same opinion as I took from this museum when it comes to the purpose of public executions and punishments during the medieval ages.

Roeck, Bernd. "CRIMINAL PROCEDURE IN THE HOLY ROMAN EMPIRE IN EARLY MODERN TIMES." *IAHCCJ Bulletin*, no. 18, 1993, pp. 21–40. JSTOR,
<http://www.jstor.org/stable/43658135>. Accessed 13 June 2024.

Published in a peer-reviewed journal. This article gives a remarkably good look into the legal structure and corruption in the Holy Roman Empire. Many other reputable articles on the subject were written even further back than 1993 and show their age. The other articles are mostly incoherent to someone not already heavily informed on the very specific subject matter. This article shows the importance of the CCC and gives a very interesting case study on a witch trial.

Thornhill, Chris. "The Holy Roman Empire and the Law." *German History*, vol. 24, no. 1, 1 Jan. 2006, pp. 111-17, <https://doi.org/10.1191/0266355406gh366ra>.

An article from a peer-reviewed journal. This article was the first one I read. It introduced the idea of a legal system being fundamental to formulating stable unified governments and the lack of this is what may have caused the HRE to fail. This idea made me want to explore this topic further. The article itself, like many others in this field, is hard to understand and I ended up not fully agreeing with

the author's ideas of the judicial system's importance. Nevertheless, the perspective it gave was precious to me in developing my perspective.