

Law in Archaic Greece

City at Peace: Marriage and Trial

The shield of Achilles (described in Iliad)

Two cities: one at war, one at peace

City at peace: marriage and trial



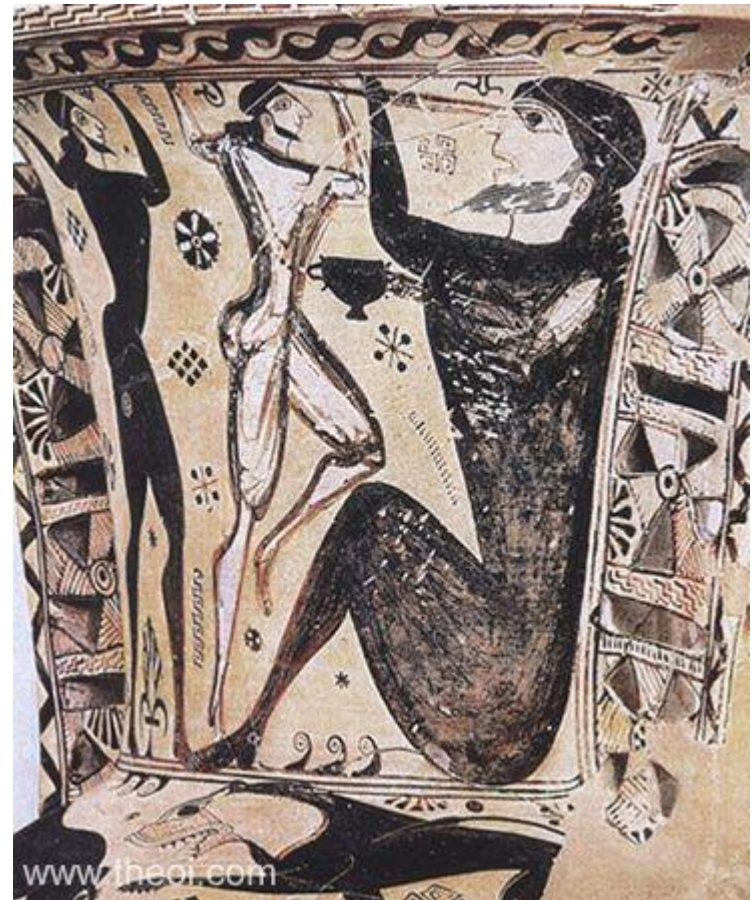
The Cyclops: a lawless people

Then we sailed on, grieved at heart
And we came to the land of the Cyclopes, an overweening and
lawless folk,
who trusting in the immortal gods,
plant nothing with their hands nor plough.

But all these things spring up for them without sowing
or ploughing, wheat, barley and vines which bear
the rich clusters of wine, and the rain of Zeus gives them
growth.

Neither deliberative assemblies they have,
nor established laws (*themistes*),
But they dwell on the peaks of lofty mountains
In hollow caves, and each is lawgiver (*themisteuei*)
to his children and wives
And they care nothing of one another

Od. 9. 105-15



Trial scene on shield of Achilles (Il. 18. 497-508)

The people were gathered in the assembly, for there a strife had arisen, and two men were striving for the blood price of a man slain; the one claimed that he had paid all, declaring his cause to the people, but the other refused to accept anything; both then made for an *istor* (a knowledgeable man) to reach a decision.

Moreover, **the people were cheering both**, showing favour to one side or the other.

But the heralds kept the people back, **and the elders** were sitting on polished stones in the sacred circle, holding in their hands the sceptres of the loud-voicing heralds.

With them would **they spring up and give judgment, each in turn**.

And between them lay on the ground **two talents of gold, to be given to the one who among them should utter the most straighten judgment**.

Hesiod's problem with the courts

Perses, lay up these things in your heart, and do not let that Strife who delights in mischief hold your heart back from work, while you peep and peer and listen to **the wrangles of the court-house**.

Little concern has he with quarrels and courts who has not a year's victuals laid up betimes, even that which the earth bears, Demeter's grain. When you have got plenty of that, you can raise disputes and strive to get another's goods. But you shall have no second chance to deal so again: nay, let us settle our dispute here with true judgement which is of Zeus and is perfect.

For we had already divided our inheritance, but you seized the greater share and carried it off, greatly swelling the glory of our **bribe-swallowing lords who love to judge** such a cause as this. Fools! They know not how much more the half is than the whole, nor what great advantage there is in mallow and asphodel.

The Age of Written Law and Lawgivers

Famous Lawgivers

- Minos, Crete
- Draco, Solon, Athens
- Zaleukos, Locri Epizephyroi
- Lycourgos, Sparta
- Charondas, Catane

Places with archaic inscribed laws

- Crete
- Argos
- Tiryns
- Elis
- Chios
- Naupaktos

Stories about Lawgivers: Lycourgos

Before this they (the Lacedaemonians) **had been the worst-governed** of nearly all the Hellenes and had had no dealings with strangers, but they changed to good government in this way: Lycurgus, a man of reputation among the Spartans, went to the oracle at Delphi. As soon as he entered the hall, the priestess said in hexameter: “You have come to my rich temple, Lycurgus,

A man dear to Zeus and to all who have Olympian homes.

I am in doubt whether to pronounce you man or god,

But I think rather you are a god, Lycurgus.

” **Some say that the Pythia also declared to him the constitution** that now exists at Sparta, but the Lacedaemonians themselves say that Lycurgus brought it from Crete when he was guardian of his nephew Leobetes, the Spartan king. Once he became guardian, he changed all the laws and took care that no one transgressed the new ones. Lycurgus afterwards established their affairs of war: the sworn divisions, the bands of thirty, the common meals; also the ephors and the council of elders.

The death of Lycourgos

...So Lycurgus was filled with joyful satisfaction in the magnitude and beauty of his system of laws, now that it was in operation and moving along its pathway. He therefore ardently desired, so far as human forethought could accomplish the task, to make it immortal, and let it go down unchanged to future ages. Accordingly, he assembled the whole people, and told them that the provisions already made were sufficiently adapted to promote the prosperity and virtue of the state, but that something of the greatest weight and importance remained, which he could not lay before them until he had consulted the god at Delphi. They must therefore abide by the established laws and make no change nor alteration in them until he came back from Delphi in person; then he would do whatsoever the god thought best. When they all agreed to this and bade him set out on his journey, he exacted an oath from the kings and the senators, and afterwards from the rest of the citizens, that they would abide by the established polity and observe it until Lycurgus should come back; then he set out for Delphi.

Plutarch Lycourgos 29 (continues next slide)

On reaching the oracle, he sacrificed to the god, and asked if the laws which he had established were good, and sufficient to promote a city's prosperity and virtue. Apollo answered that the laws which he had established were good, and that the city would continue to be held in highest honour while it kept to the polity of Lycurgus. This oracle Lycurgus wrote down, and sent it to Sparta. But for his own part, he sacrificed again to the god, took affectionate leave of his friends and of his son, and resolved never to release his fellow-citizens from their oath, but of his own accord to put an end to his life where he was. He had reached an age in which life was not yet a burden, and death no longer a terror; when he and his friends, moreover, appeared to be sufficiently prosperous and happy. He therefore abstained from food till he died, considering that even the death of a statesman should be of service to the state, and the ending of his life not void of effect, but recognized as a virtuous deed. As for himself, since he had wrought out fully the noblest tasks, the end of life would actually be a consummation of his good fortune and happiness; and as for his fellow-citizens, he would make his death the guardian, as it were, of all the blessings he had secured for them during his life, since they had sworn to observe and maintain his polity until he should return.

Plutarch Lycourgos 29.

Some say that Lycurgus died in Cirrha; Apollonius, that he was brought to Elis and died there; Timaeus and Aristoxenus, that he ended his days in Crete; and Aristoxenus adds that his tomb is shown by the Cretans in the district of Pergamus, near the public highway. It is also said that he left an only son, Antiorus, on whose death without issue, the family became extinct.

Plutarch Lycourgos 31

Stories about lawgivers: Charondas

It remains for us to speak of the death of Charondas, in connection with which a peculiar and unexpected thing happened to him. He had set out to the country carrying a dagger because of the robbers, and on his return the Assembly was in session and the commons in an uproar, whereupon he approached it because he was curious about the matter in dispute. [2] But he had made a law that no man should enter the Assembly carrying a weapon, and since he had forgotten he was carrying the dagger at his side, he provided certain of his enemies with an occasion to bring an accusation against him. And when one of them said, "You have annulled your own law," he replied, "Not so, by Zeus, I will uphold it," and drawing the dagger he slew himself. Some historians, however, attribute this act to Diocles, the lawgiver of the Syracusans

Diodorus 12. 19

But the most amazing legislation of Charondas, we are told, was that which related to the revision of the laws. Observing that in most states the multitude of men who kept endeavouring to revise the laws led continually to the vitiation of the previously existing body of the laws and incited the masses to civil strife, he wrote a law which was peculiar and altogether unique. [2] He commanded, namely, that the man who proposed to revise any law should put his neck in a noose at the time he made his proposal of a revision, and remain in that position until the people had reached a decision on the revision of the law, and if the Assembly approved the revised law, the introducer was to be freed of the noose, but if the proposal of revision did not carry, the noose was to be drawn and the man die on the spot

Diodorus 12. 17

Stories about lawgivers: Zaleukos

When the Lokrians asked the oracle how they might find relief from the turmoil they were experiencing, the oracle responded that they should have laws enacted from themselves, whereupon a certain shepherd named Zaleukos ventured to propose to the citizens many excellent laws. When they learned of these and asked him where he had found them, he replied that Athena had come to him in a dream. As a result of this he was freed and was appointed lawgiver

Aristotle Fr 548

Now Zaleucus was by birth a Locrian of Italy, a man of noble family, admired for his education, and a pupil of the philosopher Pythagoras. Having been accorded high favour in his native city, he was chosen lawmaker and committed to writing a thoroughly novel system of law...

Diod. Sic.

Motifs in stories about lawgivers

- Close relationship with gods
- Extremely wise
- Extensive travelling
- Interaction with other lawgivers
- No clear family or status allegiances
- In middle or outside the community
- Imperfect, victims of their own laws

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How did the Greeks think about laws?

- applicable to all
- universal
- Immutable
- serving divine justice, but also made for imperfect human communities

Archaic Law from Dreros, Crete 650-600 BC

My God be kind (?). The city has thus decided;
when a man has been *kosmos*, the same
man shall not be *kosmos* again for ten years.
If he does act as *kosmos*, whatever
judgments he gives, he shall owe double, and he shall lose
his rights to office (?), as long
as he lives, and whatever he does as *kosmos* shall be nothing.

The swearers shall be the *kosmos* and the *damioi* and the
twenty of the city.



Archaic Law from Tiryns, Argolid

(Blocks 1–4) . . . of the years . . . the drinking leaders . . . shall impose fines on the drinkers in each case. If they do not punish them, they shall owe to Zeus and Athena thirty medimnoi [of grain?] . . . double. When the drinking leaders leave office (?) . . . is to give back to the hieromnamōn . . . and the hieromnamōn is to [distribute? manage?] public property however the people (damos) decide. An assembly [will be held?] . . . theater (?) . . .

Archaic Law from Olympia, Elis, late 6th c. BC

(A) . . . he were a theoros. If he has intercourse in the sanctuary, let him dedicate a bull and undergo full purification, and similarly for the theoros. (B) And if anyone judges contrary to the writing (par tographos, i.e. “against the law”), the judgment will be void; but the pronouncement of the people (ha rhatra ha damosia) giving judgment

shall be valid. (C) And in the writings (graphea), wherever it seems better before the god, let him change it, deleting or inserting without difficulty (but only) with the council of five hundred and the people (damos) in full assembly; and if something is to be inserted or deleted, let it be changed three times.

Literary versus epigraphic evidence

- All encompassing legislation versus singular enactments
- For whose benefit? Elite versus the masses or intraelite competition?

But what about the importance of writing down laws

Writing can:

- Encourage process of universalization and generalization
- Make the implicit and open to manipulation,
explicit and immutable
- Make law independent of pronouncer; law a material
object that is dissociated from its creator

Further reading

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- Willey H., ‘Gods and Men in Ancient Greek Conceptions of Lawgiving”, in E. Eidinow et al. (ed), *Theologies of Ancient Greek Religion*, Cambridge 2016