

# THE EMERGENCE OF LAW IN ANCIENT EGYPT: THE ROLE OF *MAAT*

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## ABSTRACT

In this article, the emergence of ancient Egyptian law out of religion and specifically arising from the concept of *maat* is discussed, as well as the important role played by religion, and specifically *maat*, in the ancient Egyptians' understanding and development of the law. An attempt is made to indicate that the ancient Egyptians indeed had law and to explain what the ancient Egyptians understood by law, followed by a discussion of the development of ancient Egyptian law and key jurisprudence elements of ancient Egyptian law.

**KEYWORDS:** Ancient Egypt; emergence of Egyptian law; importance of religion; *hp*; *hpw*; *maat*; jurisprudence; justice; balance; impartiality; tradition; precedent; custom

## 1 Introduction

Law has existed as long as organised human society, but its origins are lost in the mists of prehistory.<sup>1</sup> The advent of writing left a record from which the living

1 See Westbrook 2003a: 1.

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institutions of the past may be reconstructed. In many instances the emergence of truly legal concepts was derived from religion, although over time law emerged separately from religion.<sup>2</sup>

Religion was present in every aspect of the Egyptians' life; it was embedded in society, rather than being a separate category.<sup>3</sup> Every aspect of the world was seen as being governed by a divine power which established and maintained order.<sup>4</sup> Their beliefs and practices assisted the ancient Egyptians to understand and respond to events in their lives.<sup>5</sup> It was religion, and the cult actions deriving from those beliefs, that held ancient Egyptian society together and allowed it to flourish for more than three thousand years.<sup>6</sup> Addendum A (at the end of this article) gives a summary of ancient Egypt's timeline.

## 2 Religious background

The law stood above all humans and was personified by the goddess *Maat*, with the concept of *maat* representing truth, justice, righteousness, the correct order and balance of the universe.<sup>7</sup> Egyptian law was essentially based on the concept of *maat*, which was about morality, ethics and the entire order of society.<sup>8</sup> The goal of *maat* was to keep the chaotic forces at bay, with the idea of order as the *Grundlage* of the world, upon which the legal system was based in turn.<sup>9</sup> The ancient Egyptians saw no difference between human and divine justice.<sup>10</sup> *Maat* represented a sense of moral responsibility.

## 3 The emergence of law in ancient Egypt

The organisation of the legal system in ancient Egypt was governed by religious principles and it was believed that the law had been handed down from the gods to mankind at the time of creation and that the gods were responsible for maintaining the concept of law.<sup>11</sup> Egyptian law was based on a common-sense view of right and wrong, following the concept of *maat*.<sup>12</sup>

2 Allam 2007: 265.

3 Shaw & Nicholson 2008: 273.

4 Allam 2007: 263.

5 Gahlin 2007: 339.

6 Teeter 2011: 11.

7 David 2002: 288.

8 See Helck & Otto 1980: 1110; Allam 2007: 263; Shaw & Nicholson 2008: 178.

9 Helck & Otto 1980: 1110-1111.

10 Van Blerk 2010: 584.

11 David 2002: 288.

12 Van Blerk 2006: 26.

## THE EMERGENCE OF LAW IN ANCIENT EGYPT: THE ROLE OF *MAAT*

In ancient Egypt, religion has always been significant in terms of legal relations between people.<sup>13</sup> This close relationship and interdependency between religion and law had one very important consequence: since the gods were perceived as the guardians and source of the established order, they were consulted for a proper decision in doubtful cases. The ancient Egyptians therefore employed, alongside the usual legal process, also divine judgement which placed the omniscience of a divinity at the service of judicial proceedings.<sup>14</sup>

Law emerged as a mechanism to maintain *maat* on earth with the king playing an important part by “making” law.<sup>15</sup> The king, as a king god, was the supreme judge and law giver.<sup>16</sup> The king (with laws) was in a position to transform the vertical belief in *maat* (between man and the gods) to horizontal reality (*maat* between people on earth).

The king’s primary duty was to uphold the order of creation which had been established on the primeval mound at the time of creation and kingship in Egypt therefore represented the effective power of *maat*.<sup>17</sup> As the son of the Sun-god he was entrusted with the task of upholding *maat*.<sup>18</sup> The pharaoh’s duty was to defend *maat* in order to maintain and restore order, which he did by issuing appropriate laws.<sup>19</sup> Law was therefore tied up with a religious world view and represented the rules regulating the behaviour of members of society.

The king upheld the law and was also subject to the law.<sup>20</sup> He had to live his life according to the principles of *maat* and furthermore he had to maintain *maat* in society. He was therefore expected to “rule by *maat*” and in order to attain *maat* on earth he had to make law.<sup>21</sup> The word for law was *hp* (and the plural *hpw*) and “*hp*” was also later translated to include “regulations” and “statutes”.<sup>22</sup> It was essentially *maat* that necessitated the need for law and the king was therefore the link between law and *maat* (religion).

It would appear that the king, the vizier (who fulfilled the role of a “prime minister” in our modern terminology) and the great courts located at Memphis had jurisdiction over crimes against the state. The king was the head of the judicial administration, but unfortunately no evidence survives from the Old Kingdom to suggest that the king could hear and decide cases himself.<sup>23</sup> The purpose of law in

13 See Allam 2007: 264.

14 *Ibid.*

15 See Van Blerk 2010: 597.

16 Helck & Otto 1980: 1110.

17 Tobin 1987: 115.

18 See Bleeker 1967: 7.

19 Allam 2007: 263.

20 David 2002: 288.

21 Goebis 2007: 276.

22 See Kruchten 2001: 277; Lesko 1994: 82.

23 Cf Muhs 2016: 25.

ancient Egypt was to realise *maat* on earth and the king was the link between law and *maat*.<sup>24</sup> Kingship in ancient Egypt therefore effectively represented the effective power of the order of *maat*.

The king was seen as a source of law since the ancient Egyptians regarded him as a god. His word therefore had the force of law and he was also regarded as the primary source of law.<sup>25</sup> The king's duty to make laws is summarised in texts by the phrase "putting *maat* in place of injustice" and, on temple walls, by images of the king presenting the symbol of *maat* to the gods.<sup>26</sup> This scene of the presentation of *maat* first appears as an iconographic device in the time of Thutmose III, where her effigy was presented to the gods by the king as sustenance.<sup>27</sup>

The ancient Egyptians believed that only the king knew the requirements of the *maat* principle and that his laws were identical to the will of the creator god, which was why the king could maintain law and order and why these laws and rulings of the king reflected the world in harmony.<sup>28</sup> It was the king's duty towards the gods and the people to maintain *maat* by means of promulgating law. The vizier was the king's delegate and the High-priest of *maat* as well as head of the courts of justice.<sup>29</sup>

Sometimes the king had to delegate his authority and it is believed that the legal official then wore a golden *maat* pendant.<sup>30</sup> The goddess *Maat* was important to judges and their sense of duty; they were regarded as "priests of *Maat*", wearing a small figure of the goddess as a pendant around their necks, thus symbolising their judicial office.<sup>31</sup> Surviving statues of high officials from the Late Period are shown wearing such pendants on a chain, and cases which these high officials examined would be reported to the king who would then be responsible for punishment in more serious cases.<sup>32</sup>

When the law was obeyed, the principle of *maat* was applied, but when one went against *maat* by committing an offence, the law could be applied against the wrongdoer.<sup>33</sup> The ancient Egyptians' lives were therefore governed by *maat*, with their law being justice in action. *Maat* became the focal point of the legal system (*hpw*) and if the laws (*hpw*) were obeyed, one would be following the principles of *maat*.

Law asserted its autonomy as early as the age of the pyramids, whereafter the role of religion in legal matters began to diminish. Religion then no longer determined the

24 Van Blerk 2006: 17-18.

25 See Versteeg 2002: 5; Westbrook 2003a: 26.

26 Allen 2004: 117.

27 See, further, Teeter 1997: 83.

28 Cf Helck & Otto 1980: 1115.

29 See David 2002: 288.

30 Shaw & Nicholson 2008: 178.

31 Versteeg 2002: 21.

32 Shaw & Nicholson 2008: 178-179.

33 Bedell 1985: 12.

legal standing of a matter, but it was rather the juridical mechanism which became authoritative – even in the religious sphere.<sup>34</sup> A well-known example of this is one of the central myths in ancient Egypt, namely “The Contendings of Horus and Seth”, known from *Papyrus Beatty* dated to the mid-twelfth century BCE.<sup>35</sup> It is a satirical account of the lawsuit between the god Horus, the rightful heir to the crown of Egypt, and his uncle, the god Seth, who usurped the crown by murdering Horus’ father Osiris. Even the gods themselves had to appear before a court in order to resolve their disputes. This myth is an expression of important Egyptian values such as justice and family solidarity.

Explicit sources of law from the Old Kingdom are rare, although there is considerable indirect evidence in the form of titles and references to legal institutions or situations.<sup>36</sup> There must have existed an abundance of archival documents from the Old Kingdom since people, animals and crop yields all had to be counted, and we see, from scenes in the Old Kingdom tombs, scribes carefully recording the quantities.<sup>37</sup> According to Muhs the Old Kingdom saw diversification of uses of writing compared to the preceding Early Dynastic Period: The first narratives from this period appear in the form of religious texts inscribed in royal tombs (so-called Pyramid Texts), biographies inscribed in the tombs, letters (both royal and private), agreements and court proceedings.<sup>38</sup>

The first discovered legal code dates from the late period (747-332 BCE)<sup>39</sup> and according to Teeter there were only a few codified laws since the king was the highest judge from whom ancient Egypt and all laws emanated.<sup>40</sup>

Throughout its long history the skilful ancient Egyptian government had guaranteed certain rights to the individual, which may be described as the Egyptian “law” of the period. According to Theodorides this “law” was embodied in statutes and protected by courts.<sup>41</sup> Religious life was expressed in legal terms, like the setting up of foundations, contracts and donations. Law regulated the entire day-to-day business of existence in the Nile valley.

According to Allam<sup>42</sup> an ultimate development in Egyptian history was the emergence of law as a notion separate from religion. He argues that the secularisation of law did not necessarily imply a blasphemous profaning of legal usages, for in

34 Allam 2007: 266.

35 See Sweeney 2002: 143.

36 Jasnow 2003c: 93.

37 See Lorton 2000: 345.

38 2016: 22-23.

39 Diodorus mentions that there was a Pharaonic legal code set out in eight books (see Shaw & Nicholson 2008: 178).

40 Teeter 2011: 4.

41 1971: 320.42

42 2007: 265.

many instances the emergence of truly legal concepts derived from religion. A good example of this is the emergence of private pious foundations.<sup>43</sup>

Theodorides questions whether one can talk about law before its elaboration by the Romans since there is a lack of documentary evidence.<sup>44</sup> There is no collection of laws from ancient Egypt, unlike Sumerian, Akkadian, Hittite and New Babylonian law collections, and – to make it even more difficult – the ancient Egyptians used everyday language regarding their legal concepts.<sup>45</sup>

Theodorides submits that by the beginning of the third millennium BCE the social and administrative system in ancient Egypt was based on the family.<sup>46</sup> The Palermo Stone illustrates the ancient Egyptian Nile flood, the annual census of the population and a biennial census of “gold and fields” from at least the Second Dynasty onwards. It is furthermore important to note that this implies that the transfer of personal and landed property from one owner to another was known. Documentary evidence in funerary inscriptions confirms that private property did indeed exist and that it was transferable, with equality between husband and wife in the eyes of the law.

When the Persians conquered Egypt, the fundamentally Egyptian institutions, based on the individual, were revived.<sup>47</sup> Tradition attributes a new codification of the existing laws to Darius. Under the Ptolemies in the second century BCE, judgment was given in a matter regarding conflicting interests in a succession, with the procedure, although adapted, still retaining several elements of the old tradition. Law was a living entity and therefore did not remain unchanged over the centuries; it changed because human aspirations, conditioned by new circumstances, necessitated change. This change evolved between the poles of equality and liberty on the one hand and that of inequality on the other.<sup>48</sup> What is striking about ancient Egyptian law, according to Theodorides, is its modernity.<sup>49</sup> Although remote in time, it furnished the ancient Egyptian civilisation with a structure close to that with which we are familiar today.

Theodorides states that the application of law was coherent despite peculiar features of procedure.<sup>50</sup> Certain fundamental elements of ancient Egyptian law appear to be, among others, the great importance of justice as well as the value that was attached to tradition – both important to maintain the bigger order of things.

43 *Ibid.*

44 1971: 291-292.

45 *Idem* 291-291.

46 Theodorides 1971: 292.

47 *Idem* 319.

48 *Idem* 320.

49 *Ibid.*

50 *Idem* 292.

## 4 Development of the law

Although sources of law in the Old Kingdom are rare, Jasnow states that there are indirect references to law in the form of titles as well as to legal institutions.<sup>51</sup> The corpus of royal decrees of a legal nature in the Old Kingdom and the First Intermediate Period may be divided into seven categories, namely:

- decrees regarding administration
- decrees regarding tax exemptions
- endowments of offerings
- endowment decrees for immovable property
- decrees for appointments
- stipulations for the benefit of private individuals
- letters

The main sources of law in the Middle Kingdom and the Second Intermediate Period derive from royal inscriptions, administrative papyri, private documents, private inscriptions and literature.<sup>52</sup> Although no law codes have been found for the Middle Kingdom and the Second Intermediate Period, some texts imply the existence of – if not an extensive code –, then at least limited systematic collections of “laws” (*hpw*). Furthermore, *papyrus Brooklyn* 35.1446 (Thirteenth Dynasty) refers *inter alia* to “the law pertaining to those who desert” and to “the law pertaining to one who flees the prison”.<sup>53</sup>

Some of the most important Middle Kingdom archives and documents in terms of their legal content are the Lahun archives, the Hekanakhte letters (for leasing and land holdings) and the Djefa-Hapi contracts (mortuary provisions).<sup>54</sup> Tomb biographies, like those of Beni Hasan (Twelfth Dynasty), also occasionally have statements referring to legal matters and administration.<sup>55</sup> Texts initially written on papyrus were often inscribed on temple or chapel walls, obviously to provide security to the legal document.

Literary texts from the Middle Kingdom, such as the “Tale of the Eloquent Peasant” and the story of Sinuhe also include legal material, and in a passage from “The Admonitions of an Egyptian Sage”, which describes a society in chaos, the speaker says: “Lo, the laws (*hpw*) of the chamber (prison?) – are thrown out, men walk on them in the streets, beggars tear them up in the alleys.”<sup>56</sup> Religious texts, such as the Coffin Texts, often also contain certain elements relating to law.<sup>57</sup>

51 2003a: 93.

52 Jasnow 2003b: 255.

53 *Ibid.*

54 *Idem* 256-257.

55 *Idem* 257.

56 *Ibid.*

57 Jasnow 2003a: 97.

The New Kingdom has an abundant and a more varied corpus of legal texts than the Old and Middle Kingdoms. Although it did not produce a legal code, detailed royal edicts like the *Nauri Decree*, together with possible references to systematic law collections, exist.<sup>58</sup> For example, in the *Decree of Horemheb* the King states: “I have given to them (the judges) oral instructions and law(s) in their books” and in *Papyrus Bulaq* 10, for instance, one party cites the “law of pharaoh” as a precedent and in *Papyrus Turin* 2021 a man introduces a law with the following words: “The King said ...”<sup>59</sup>

The New Kingdom documents are concerned with sales, loans, leases, disputes, litigation, marriage, adoption, partnerships and inheritance. Most of this material derives from Thebes in southern Egypt, while other documents, like the *Legal Text of Mes*, are from Memphis in the north of Egypt and contain references to court disputes, confirming the existence of government archives.<sup>60</sup>

The lexical texts that were found comprise a mixture of paragraphs with some appearing to be excerpts from a law code while others apparently derive from clauses in standard contracts.<sup>61</sup> This mixture of law-code paragraphs and contractual forms is found in the Demotic *Codex Hermopolis (Papyrus Mattha)* dated to the Hellenistic period which provides evidence that similar scholastic traditions must have existed in ancient Egypt despite the fact that none have been found yet.

According to Manning the so-called *Codex Hermopolis* is a collection of texts, or rather a manual, which provides guidance for legal solutions in unusual or difficult cases.<sup>62</sup> The guidelines contained in this document were used by the priest-judges to resolve disputes and served as a guide to the writing of certain legal instruments.

Theodorides affirms that although ancient Egypt did not provide a legal code, the application of law is coherent despite peculiar features of procedure.<sup>63</sup> It is important to realise that there was a procedure in existence with laws to govern its use. It is not clear how the ancient Egyptians defined their various legal categories, but apparently they proceeded as though these were similarly defined to those in modern times. For instance, a property transfer on death (law of succession) is clearly distinguished from a property transfer between living persons, in particular by the fact that the property does not change hands at the same time. A surviving spouse is not automatically an heir, but can be made one (a legatee) owing to the freedom to make a will. This, in turn, led to new social and legal circumstances and subsequently the creation of new law, and with this will, the person making the settlement modifies the legal destination of the property.<sup>64</sup>

58 Jasnow 2003c: 289.

59 *Ibid.*

60 See Jasnow 2003b: 292.

61 See Westbrook 2003a: 11.

62 See Manning 2003: 821.

63 See Theodorides 1971: 292.

64 *Idem* 321.



According to Theodorides<sup>65</sup> ancient Egypt does not present an example of the secularisation of law. On the contrary, however, it attained from the onset (during the Old Kingdom) a high level of institutional and juridical development.

It is known that classical writers, such as Diodorus, wrote respectfully of law and justice in ancient Egypt, and other law-makers, including probably Plato, travelled to Egypt in order to, *inter alia*, study law.<sup>66</sup> It is noteworthy that the Persian king Darius I is believed to have held Egyptian law in such high esteem that he ordered the collection of all that was known of Egyptian law prior to the Persian conquest and produced a codification written in Demotic script.<sup>67</sup> It is interesting to note that the history of law, which played itself out over millennia in the Mediterranean, had its foundation and origin in pharaonic Egypt.

## 5 Jurisprudence

Jurisprudence is described as “the science of philosophy of law”.<sup>68</sup> One of the greatest Roman-Dutch jurists, Hugo de Groot (Grotius) wrote the following in his book *Introduction to the Dutch Jurisprudence*:

Jurisprudence is the science of living according to justice. Justice is the moral virtue of doing what is just. That is just which is in accordance with right.<sup>69</sup>

Grotius further states that the term “right” is used in both a wide and a narrow sense. In its wider sense, “right” is the agreement of the act of a reasonable being with reason in as far as another has an interest in such an act, and in its narrow sense “right” is the relation which exists between a reasonable being and something that belongs to the same being.

Allam argues that judging from the ancient texts, it appears that the ancient Egyptians had no concept of jurisprudence as a discipline since there is no attestation for theoretical deliberations as the basis of substantive law.<sup>70</sup> I am, however, of the opinion that it is possible to attempt to identify key elements of jurisprudence in ancient Egyptian law.

The Egyptian word for law is *hp* (𓂏𓂛), which admits the same range of translations (“rule”, “regulation”, “habit”, “rite”, “ceremony”, “cycle”) as *nt* (translated as “custom”).<sup>71</sup> The underlying idea of both these terms is the idea of recurrence, exemplified by the cosmos and the behaviour of earthly beings.<sup>72</sup> Both *nt* and *hp*

<sup>65</sup> *Ibid.*

<sup>66</sup> See Allam 2007: 272.

<sup>67</sup> *Ibid.*

<sup>68</sup> See Pollard 1995: 435.

<sup>69</sup> See Maasdorp 1878: 1.

<sup>70</sup> Allam 2007: 268.

<sup>71</sup> Kruchten 2001: 277.

<sup>72</sup> *Ibid.*

resorted under *maat*, which literally means “the one who steers”, the embodiment of order, which is the reason why both supposedly existed from the beginning of time.<sup>73</sup>

The *Codex Hermopolis*, dated to the third century BCE, proves that the consideration of legal questions in isolation and abstract elaboration of legal norms were known to the ancient Egyptians.<sup>74</sup> This Code was not confined to local use and several copies might therefore have existed, circulating throughout ancient Egypt towards the onset of the Hellenistic era. The mention of harvest time provides a clue to its date of origin. Harvesting occurs between May and June, which does not correspond with the calendar in use during the third century BCE when the text was transcribed.<sup>75</sup> The harvest time mentioned in the papyrus corresponds rather to the calendar of the eighth century BCE, to the time when a fluctuating calendar was used. It may therefore be assumed that the relevant paragraphs were taken from a much older manuscript reflecting conditions of the eighth century BCE.<sup>76</sup> The *Codex Hermopolis* contains portions of a variety of texts from different periods which have most probably been reworked by a jurist of the early third century BCE.<sup>77</sup> As the author proceeds from *inter alia* earlier sources, without stating this explicitly, it is possible that he may have reworked laws of earlier kings, using them as the basis for his own decisions. Many papyri show that laws from pharaonic times were still valid in the early Hellenistic era.

The *recto* contains texts dealing with an unusual subject, namely theoretical legal discussions divided into approximately 200 articles grouped into four sections and according to Allam the first of these sections deals with tenant farming arrangements and disputes between the tenant and the owner/lessor.<sup>78</sup> The texts include contract *formulae*, which served as templates, and the arrangements to be made, for instance, by the purchaser of a house to protect his interest against an unfair seller.<sup>79</sup> Included are also rental agreements for various types of buildings and an exposition of litigation arising from non-payments of rent.

A partial marriage settlement is discussed in detail in this papyrus.<sup>80</sup> In this case the woman ceded a considerable part of capital to her husband, who in turn guaranteed her an endowment. The concern was not with the marriage settlement as such, but rather in respect of the disputes that could arise between father-in-law and husband in case the contract was not honoured.<sup>81</sup>

73 *Ibid.*

74 Allam 2007: 268.

75 Pestman 1983: 17.

76 *Idem* 17-18.

77 See Allam 2007: 270.

78 *Idem* 268.

79 *Ibid.*

80 *Ibid.*

81 *Idem* 268-269.

This is followed by cases regarding immovable property, for example when a person built a dwelling on a plot of land and the title to said land was later claimed by another; the procedure is then described to be applied in order to settle the dispute; and is thereafter followed by a discussion of various disputes among neighbours.<sup>82</sup> The final texts of the *Codex Hermopolis* deal with the law of succession and more specifically with the position of the “eldest son” in disputed cases, and it furthermore addresses various actions regarding inheritance.<sup>83</sup>

From the following discussion of Allam it is evident from contemporary documents that all issues treated in the text are cases which reflect daily life issues.<sup>84</sup> Procedures for the admission of evidence, on which the judge would make his decision, are mentioned. Several types of admissible evidence, like oaths or entries in official registers, are known from other contemporary texts and the papyrus therefore provides valuable overviews of law in Egypt during the early Hellenistic period.

Importantly, as Allam then notes, only questions relating to private property are discussed, omitting matters of criminal law and it appears that the author was only interested in matters pertaining to the property rights of individuals.<sup>85</sup> The author therefore classified formulations in sections according to subjects with appropriate subdivisions and the arrangement of the material indicates an author who knew very well how to systematically treat legal questions, although it might not entirely correspond to our systems today. In order to discuss the topics, the author conceived apparent theoretical disputes and situations designed for guidance in the judgment of a relevant case; he also provides definitions for “defendant” and “plaintiff”; and in addition he makes use of abstract classification, developing – for example – the notion “thing” (*neket*) which the later Roman jurists would call *res*.

The author thereupon argues that when studying legal history it is important to realise that the author (of the *Codex Hermopolis* text) shows himself to be qualified as a jurist; he was a true jurisprudent.<sup>86</sup> Previously it was doubted whether there were scholars in ancient Egypt who could qualify as jurists in the strict sense of the word, but today their existence is undisputed.

Ancient Egyptian jurists treated legal material systematically and clearly followed a specific principle of organisation with subdivisions in every category. A deepening of juristic thought took place, which may be regarded as the point of departure for law as a rigorous scientific discipline and the beginning of genuine jurisprudence.<sup>87</sup>

82 See Allam 2007: 269.

83 *Ibid.*

84 *Ibid.*

85 *Ibid.*

86 *Ibid.*

87 *Idem* 270-271.

Regarding elements of legal philosophy the following section from the “Instruction of the Vizier”, Rekhmire (*ca* 1479-1425 BCE), is of importance:

I judge both (the insignificant) and the influential. I rescue the weak man from the strong man; I deflected the fury of the evil man and subdued the greedy man in his hour ... I succoured the widow who has no husband; I established the son and heir on the seat of his father. I gave (bread to the hungry), water to the thirsty, and meat, oil and clothes to him who had nothing ... I was not at all deaf to the indigent. Indeed, I never took a bribe from anyone.<sup>88</sup>

In Rekhmire’s instructions it is laid down that justice is to be rendered in public and in such a way that every person shall at all times be able to secure his rights.<sup>89</sup> In this regard, an appeal is made to a sense of equity and by implication to jurisprudence, as it is pointed out that the records of all judgments are kept in the archives of the vizier to be consulted. The composition of these instructions must go back to the Thirteenth Dynasty, but the best copy we have is that of Rekhmire’s *Instructions*.<sup>90</sup>

Among the most influential precepts and values in the Egyptian jurisprudence are a strong preference for tradition, a view that theoretical skill should be admired and a desire to achieve impartiality and social equity – as Rekhmire’s inscription demonstrates.<sup>91</sup>

Taking everything thus far said into account, it is my opinion that two very basic and fundamental elements of ancient Egyptian law may be identified and will now be discussed in the following subsections.

## 5 1 Justice, balance and impartiality

According to Allam “*maat* subordinated the social order to a broad concept of equity”, and since the ancient Egyptians had a well-developed sense of justice, the choice of “taking the law into one’s own hands” was out of the question.<sup>92</sup> The only admissible means of defending disputes was by due process in the courts, and with their sense of justice and social responsibility they did not only advocate their own rights, but also those of others.

The legal process itself is in essence an attempt to reach a result which both parties involved in a dispute are willing to accept, and to function fairly, a legal process should allow adversaries to explain their respective points of view.<sup>93</sup> Because of the ancient Egyptians’ keen interest in – and love for – rhetorical speech, this

88 See James 1984: 57.

89 See Theodorides 1971: 307.

90 *Idem* 307-308.

91 It was believed the world was basically secure and operating in a fixed, regular, routine and natural order (as embodied by *maat*): see Versteeg 2002: 23.

92 Allam 2007: 264.

93 See Versteeg 2002: 26.

could facilitate a robust legal process, enhancing the capacity for the Egyptian courts to reach just verdicts.

Law was therefore essentially based on a concept of justice which was antonymous to falsehood and injustice.<sup>94</sup> The courts were governed by the principles of *maat* and the vizier in control of the law courts had the title of “priest of *Maat*”.<sup>95</sup>

Breasted observes as follows:<sup>96</sup>

[T]he social, agricultural and industrial world of the Nile dwellers under the Empire was therefore not at the mercy of an arbitrary whim, on the part of either the king or court, but was governed by a large body of long respected law, embodying principles of justice and humanity.

Social equality and impartiality are basic components of fairness and these concepts dictate that everyone should be treated equally and the same before the law.<sup>97</sup> In ancient Egypt the pinnacle of concern for legal neutrality occurred during the First Intermediate Period (*ca* 2200-2040 BCE) and the Middle Kingdom (*ca* 2024-1674 BCE). From the instructions of the vizier Merikare it is clear that it was seen as important to judge objectively.<sup>98</sup> In the Middle Kingdom, a legal perspective was developed that everyone had equal rights and opportunities, or at least that everyone should have them and that everyone should also have access to social justice.<sup>99</sup> This is a unique idea in human history, existing in ancient Egypt more than a thousand years before evidence of similar thinking by the Greeks and Hebrews.

## 5.2 Tradition, precedent and custom

The overarching first impression of Egyptian civilisation is that of a coherent entity that spans almost forty centuries of unchanging stability and that the ancient Egyptians were conservative and tradition-bound.<sup>100</sup> It might be that the internal geographical unity of the country contributed to the apparent lack of change and that nature supplied a secure world with fixed harmonic routines. The topography of the Nile valley protected them from invasion while the consistent annual inundation of the Nile assured them of the orderliness of life which probably dictated recurring rituals, farming practices and legal proceedings, like the redrawing of property boundaries.<sup>101</sup>

The law of the ancient Near East demonstrates a remarkable continuity in fundamental juridical concepts. The appreciation and respect for the past influenced

<sup>94</sup> Shupak 1992: 15.

<sup>95</sup> See McDowell 1999: 166.

<sup>96</sup> 1909: 242.

<sup>97</sup> Versteeg 2002: 26.

<sup>98</sup> *Ibid.*

<sup>99</sup> *Idem* 27.

<sup>100</sup> See Grimal 2000: 17.

<sup>101</sup> See Versteeg 2002: 24.

the development of law in at least two ways: In the first instance, judges kept records of their legal decisions in the archives of the vizier in order to consult them later as precedent; and, secondly, because of the admiration for tradition, Egyptian law was very slow to evolve.<sup>102</sup> The obvious consequence of vigorously following precedent meant that laws remained in force for very long periods of time without modification.

The ancient Near Eastern systems belonged – in varying degrees – to a common legal culture which was, however, very different from what we have today. These systems shared a way of looking at the law that reflect the world view of the cultures from which they evolved.<sup>103</sup> The law probably changed and developed over a long period of time, although one should not assume that this was necessarily the case. Today our law changes often, but in the ancient Near East different conditions existed, and the basic features of law did not undergo any radical changes for a very long period.<sup>104</sup>

In the Old Kingdom, the king was in supreme control of legislation, and laws were conceived as expressions of ideal justice. A law promulgated remained in force as long as it was not modified or repealed.<sup>105</sup> The judges, officials or parties responsible for the law did not read the law in the same way as we do today, and there was no interpretation of the exact wording of a text since it was not regarded as autonomous or exhaustive.<sup>106</sup>

General decrees could be divided into three main areas, namely constitutional law, administrative law and law concerning economic activities. In the ancient Near East references to decrees attest to their existence although they are not citations of the texts; the closest the early sources came to citations were the references to actions or decisions being in accordance with the words of the *stèle* or tablet.<sup>107</sup>

According to Westbrook it would appear that statutes, in the form of edicts, orders and decrees, dealt with specific matters of immediate interest, and that they did not establish a source of the basic principles of law in a court.<sup>108</sup> The majority of the law would have been customary in nature and is it here that “the law codes, either in the written forms that we possess or as a larger oral canon from which the extant codes were drawn, could serve a vital function”.<sup>109</sup> The achievement of these law

102 *Ibid.*

103 See Westbrook 2003a: 4.

104 *Idem*: 22.

105 See Theodorides 1971: 294.

106 Westbrook 2003a: 20.

107 This is in contrast to the classical system of the Hellenistic or Roman periods where there was an explosion of citations. Here, the statutes’ exact words are quoted, analysed and obeyed and a legal ruling is justified by referring to the exact wording of the statute. As in modern law, the words of the text become the eventual point of reference for the law’s meaning (see Westbrook 2003c: 19).

108 *Idem* 21.

109 *Ibid.*

codes was to constitute an intellectualisation of the mass of information that would have constituted customary law in the ancient Near East. Westbrook states that there is evidence that previous decisions were regarded as a source of law, and that most of the law applied by the courts was probably customary law which derived from timeless tradition.<sup>110</sup> According to him legislation included all orders issued by the king, his officials or local authorities. Ancient Near East orders were rather *ad hoc* commands, often regarding the rights of individuals or a temporary device to address a current problem.<sup>111</sup>

## 6 Conclusion

The ancient Egyptians' belief in the concept of *maat* led to the development of law in ancient Egypt. Religion played a fundamental role in the ancient Egyptians' understanding and development of law. Law, therefore, emerged and developed out of religion, and specifically out of the notion of *maat*. The purpose of law was to maintain *maat* on earth, and in order to achieve *maat*, it was necessary to have mechanisms in place. Law therefore developed out of religion. A study of ancient Egyptian law should therefore always allow for the close relationship between law and religion. It was the purpose of law to achieve order, balance, truth and justice (*maat*).

Although no law code has been found and it appears that the ancient Egyptians did not have specific legal terminology or legal categories, as we have today, there is ample proof that law existed and that legal ideas and concepts were applied as early as the Old Kingdom. The most fundamental elements of ancient Egyptian jurisprudence were the importance of justice (which includes associated elements of balance, harmony, fairness, and impartiality) and tradition (which includes associated elements of custom and precedent).

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110 *Idem* 14.

111 *Idem* 14-15.

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## ADDENDUM A

### TIMELINE

(Source: Wilkinson 2016: xxxi-xxxiii)

PERIOD / DATES (BCE) / DYNASTY / KING	DEVELOPMENTS IN EGYPT
<b><i>Early Dynastic Period, 2950-2575</i></b>	
First Dynasty, 2950-2750	
Second Dynasty, 2750-2650	
Third Dynasty, 2650-2575	Step Pyramids at Saqqara
<b><i>Old Kingdom, 2575-2125</i></b>	
Fourth Dynasty, 2575-2450	Great Pyramid at Giza
Fifth Dynasty, 2450-2325 (nine kings, ending with Unas, 2350-2325)	Pyramid Texts
Sixth Dynasty, 2325-2175 (five kings, ending with Pepi II, 2260-2175)	Harkhuf's expeditions
Eighth Dynasty, 2175-2125	
<b><i>First Intermediate Period, 2125-2010</i></b>	Civil war
Ninth/Tenth Dynasty, 2125-1975	
Eleventh Dynasty (1st part), 2080-2010 (three kings, including Intef II, 2070-2020)	
<b><i>Middle Kingdom, 2010-1630</i></b>	
Eleventh Dynasty (2nd part), 2010-1938 (three kings, ending with Mentuhotep IV, 1948-1938)	
Twelfth Dynasty, 1938-1755 (eight kings, including: Amenemhat I, 1938-1908, Senusret I, 1918-1875, and Senusret III, 1836-1818)	Golden age of literature
Thirteenth Dynasty, 1755-1630	
<b><i>Second Intermediate Period, 1630-1539</i></b>	Civil war
Fourteenth Dynasty, c 1630	
Fifteenth Dynasty 1630-1520	Hyksos invasion

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PERIOD / DATES (BCE) / DYNASTY / KING	DEVELOPMENTS IN EGYPT
Sixteenth Dynasty, 1630-1565	
Seventeenth Dynasty, 1570-1539 (several kings, ending with Kamose, 1541-1539)	
<b><i>New Kingdom, 1539-1069</i></b>	
Eighteenth Dynasty, 1539-1292 (fifteen kings, including: Ahmose, 1539-1514; Thutmose I, 1493-1481; Thutmose III, 1479-1425; Hatshepsut, 1473-1458; Amenhotep III, 1390-1353; Akhenaten, 1353-1336; Tutankhamun, 1332-1322; and Horemheb, 1319-1292)	Reunification Battle of Megiddo Amarna revolution
<b><i>Ramesside Period, 1292-1069</i></b>	
Nineteenth Dynasty, 1292-1190	
Twentieth Dynasty, 1190-1069 (ten kings, including Ramesses V, 1150-1145; and Ramesses XI, 1099-1069)	
<b><i>Third Intermediate Period, 1069-664</i></b>	
Twenty-first Dynasty, 1069-945; Twenty-second Dynasty, 945-715; Twenty-third Dynasty, 838-720; Twenty-fourth Dynasty, 740-715; and Twenty-fifth Dynasty, 728-657 (five kings, starting with Piankhi, 747-716)	Political division Kushite conquest
<b><i>Late Period, 664-332</i></b>	
Twenty-sixth Dynasty, 664-525 (six kings, starting with Psamtek I, 664-610)	
Twenty-seventh Dynasty (First Persian Period), 525-404 (five kings, including Darius I, 522-486)	Persian conquest
Twenty-eighth Dynasty, 404-399	
Twenty-ninth Dynasty, 399-380	
Thirtieth Dynasty, 380-343	
Thirty-first Dynasty (Second Persian Period), 343-332	

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PERIOD / DATES (BCE) / DYNASTY / KING	DEVELOPMENTS IN EGYPT
Macedonian Dynasty, 332-309	
Alexander the Great, 332-323	
<b><i>Ptolemaic Period, 309-30</i></b>	Death of Cleopatra