

# The Representation of Justice in Ancient Egypt

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## I. DESPOTISM AND THE REPRESENTATION OF JUSTICE

This paper discusses the representation of justice in ancient Egypt. It is a subject that lies at the heart of the foundation of the Egyptian state and, I argue, stands at the beginning of the western jurisprudential tradition.<sup>1</sup> Ancient Egypt is often portrayed as a place set apart from that tradition, whose origins are usually traced from Athens to Rome into Medieval Europe. Egypt has been “forgotten” in large part because of western political thought that has drawn a line between “despotic” Asian states and western democratic ones. I argue here that Egyptian conceptions of justice and the evidence of the adjudication of legal disputes during the Ptolemaic period (305-30 B.C.E.) allow us to suggest that Egypt is in fact a vital link between the ancient eastern Mediterranean world and later developments in western legal thought.

This despotic/democratic distinction has been a central tenant of western political thought from Plato’s *Laws* and *Republic*<sup>2</sup> and Aristotle’s *Politics*<sup>3</sup> down to Montesquieu’s *The Spirit of the Laws*<sup>4</sup> and beyond.<sup>5</sup> Yet

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1. For more information on Egyptian law, see SANDRA LIPPERT, EINFÜHRUNG IN DIE ALTÄGYPTISCHE RECHTSGESCHICHTE (2008); Schafik Allam, *Law, in THE EGYPTIAN WORLD* 263 (Toby Wilkinson ed., 2007); Richard Jasnow, *Middle Kingdom and Second Intermediate Period, in 1 A HISTORY OF ANCIENT NEAR EASTERN LAW* 255 (Raymond Westbrook & Gary M. Beckman eds., 2003); Richard Jasnow, *New Kingdom, in 2 A HISTORY OF ANCIENT NEAR EASTERN LAW, supra*, at 289; Richard Jasnow, *Old Kingdom and First Intermediate Period, in 1 A HISTORY OF ANCIENT NEAR EASTERN LAW, supra*, at 93; Richard Jasnow, *Third Intermediate Period, in 2 A HISTORY OF ANCIENT NEAR EASTERN LAW, supra*, at 777; and Joseph G. Manning, *Demotic Law, in 2 A HISTORY OF ANCIENT NEAR EASTERN LAW, supra*, at 819.

2. See PLATO, *LAWS* I, at 223-53 (R.G. Bury trans., E.H. Warmington ed., 1926); 6 PLATO, *REPUBLIC* II, at 239-333 (Paul Shorey trans., G.P. Goold ed., 1935).

3. See ARISTOTLE, *POLITICS* 29 (H. Rackham trans., T.E. Page ed., 1932).

4. CHARLES DE MONTESQUIEU, *THE SPIRIT OF THE LAWS* 17-19 (Anne M. Cohler et al. eds. & trans., 1989) (1750).

there has been another tradition, no less comparative and hardly less important, which has maintained that “monarchies” were more than one-man rule, and “despotic” states had written laws and the concept of public justice, both of which were important elements of the polity.<sup>6</sup>

One of the hallmarks of Asian despotic states in western political thought was the absence of law. Montesquieu, for example, concluded that “in despotic states, where there are no fundamental laws, neither is there a depository of laws.”<sup>7</sup> By definition, then, Egypt could not be part of later western developments in jurisprudence or in the concept of law or justice. Such reasoning, which ignores entirely how ancient societies actually worked, can no longer be justified. “Law,” “depositories of laws,” and a well-defined concept of justice existed in Egypt from an early date. All of these, indeed, were essential in the organization, and the longevity, of Egypt as a territorial state.

## II. PRIVATE JUSTICE

The concept of “law” and “justice” are intimately associated with the proper behavior of kings and were embedded in every royal ritual. They were also a frequent theme in literary portrayals of the “good king.” Ordinary people, too, were governed by the same concept. Proper behavior was expected in all relationships, within the family, between neighbors, between officials and the governed, and so on. “It is needful for you to take thought for justice among men,” one exhortatory text of the second century B.C.E. instructed, “so that when we travel round the country they do not present us with petitions concerning wrong-doings that have in fact taken place.”<sup>8</sup> This kind of written instruction to officials can be traced back to the third millennium B.C.E.

Such rules of behavior were written down, codified in the proper sense of the term, and permeated Egyptian society. The claim that Egypt did not have “codified” law is proven wrong on its face by such material, which was in fact extensive. The emphasis on written, codified rules is clearly seen in the Egyptian *Book of the Dead* discussed below, and is in evidence in civil trial procedure as well.

5. See generally PATRICIA SPRINGBORG, *WESTERN REPUBLICANISM AND THE ORIENTAL PRINCE* (1992).

6. The tradition is documented from Herodotus, when he stressed monarchical governance within community norms, see HERODOTUS, *HERODOTUS II*, at 27 (A. D. Godley trans., 1921) [Hdt. 3.20], and was famously expressed by Anquetil-du-Perron. See also Frederick G. Whelan, *Oriental Despotism: Anquetil-du-Perron's Response to Montesquieu*, in 22 *HISTORY OF POLITICAL THOUGHT* 619 (2001).

7. MONTESQUIEU, *supra* note 4, at 19.

8. D.J. Crawford, *The Good Official of Ptolemaic Egypt*, in *DAS PTOLEMÄISCHE ÄGYPTEN. AKTEN DES INTERNATIONALEN SYMPOSIUMS 27-29 SEPT. 1976 IN BERLIN*, at 195-202 (H. Maehler & V.M. Strocka eds., 1978).

The institutional bases of democratic states such as Athens and Egypt were, of course, entirely different. A clear example is the contrast in how trials played out. Athens was famous for its public jury trials, which were entirely absent in Egypt. But some of the persistent ideas of the representation of “justice”—the right to be heard, the dramatic public setting of trials, the need for narration and storytelling at trials, the swearing of oaths in giving testimony, the weighing of “evidence” against truth on scales—all of these we owe to “despotic” eastern Mediterranean states long before Athens. As one of the most important trial records from Egypt shows, the emphasis was placed on written laws, regulations, and often, especially in later periods, written agreements. That, indeed, was quite different from the Athenian emphasis on public rhetoric.<sup>9</sup>

The trial record—perhaps the earliest complete record of a trial in history—survives on a papyrus document now in the British Museum. The document, which includes official notes and a record of both parties’ testimony, comes from a small town (Asyut, in Middle Egypt) and dates to the middle of the second century B.C.E. Its complexities can only be briefly summarized here.<sup>10</sup> The basis of the trial was a dispute that had arisen between two half-brothers over the ownership of family land. The land was divided between them by their father on his deathbed. One of the brothers’ wives subsequently brought a complaint, first by petitioning Ptolemaic officials, claiming that this division was illegal since all of the land had been pledged by her husband at the time of marriage. The trial record is extremely valuable because it provides not only the oral testimony of the two parties before a panel of three priest-judges—no doubt sitting in front of a temple gate—but also the history of the dispute: the petitions to various state officials, as well the case’s remand from the Ptolemaic administrative offices to a local Egyptian court for reasons of jurisdiction, are preserved. The use of written evidence, of witnesses, and valid, registered legal instruments was evident at public trials. Importantly, although the trial was held before a local tribunal, and the dispute itself was rather mundane, the Ptolemaic state was fully engaged in the process; a state official, the *eisagogeus*, was present at the trial itself.<sup>11</sup> It was vital that the new Ptolemaic state (305-30 B.C.E.) continue to guarantee justice for Egyptians and represent state authority through ancient Egyptian legal institutions, including the practice of hearing cases

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9. See, e.g., STEVE JOHNSTONE, *DISPUTES AND DEMOCRACY: THE CONSEQUENCES OF LITIGATION IN ANCIENT ATHENS* (1999).

10. See comments and further bibliography in J.G. MANNING, *THE LAST PHARAOHS: EGYPT UNDER THE PTOLEMIES (305-30 BC)* (2010).

11. Schafik Allam, *Regarding the eisagogeus at Ptolemaic Law Courts*, 1 J. OF EGYPTIAN HIST. 3 (2008).

in front of temple gates by local judges.

This trial record, one of the most significant texts in legal history in my view, is hardly known outside of a small circle of specialists. But it preserves a crucial link between ancient Egypt and the classical world. Indeed, ancient Egyptian trials may have been closer to American jurisprudence than Athens. In both modern American instructions to the jury and ancient Egyptian trials, for example, the more restricted “letter of the law”—rather than a broader sense of what was thought to be just by citizen-jurors—determines the outcome of the case.<sup>12</sup> To be sure, public justice served different purposes. In Athens, jury trials were fundamentally about the preservation of democracy. In Egypt, trials underscored state authority.

### III. “CONNECTIVE JUSTICE”

As with any concept from ancient sources, translation into modern English is inadequate and can mislead. So it is with the concept of “justice” and “law.”<sup>13</sup> The Egyptian term that can be translated as “justice” is *Ma’at*, which is also embodied as a female deity depicted always with an ostrich feather in her hair. It was one of the most durable, and most visible, concepts of the Egyptian state, and existed throughout ancient Egyptian history down to the Roman period. Often the feather alone can stand for the concept as well as the deity. The term is not so straightforwardly translated though, as *Ma’at* also meant “order, cosmos, truth.” Jan Assmann, who translates *Ma’at* as “connective justice,” best captures the complex meaning of the term.<sup>14</sup> *Ma’at*—quite literally a social contract although, as far as I know, Egypt has never been discussed as having the concept—governed personal moral behavior, as can be seen in religious texts, as well as the proper relationships between gods and men, between kings and society, and between individuals. Thus it literally connected everyone from the gods, through the king, down to the lowliest farmer. It was the mirror of the divine order of the world and also the foundation of private ethical behavior. *Ma’at* was the most persistent and pervasive idea in ancient Egyptian society.

### IV. PRIVATE MORALITY AND THE SCALES OF JUSTICE

Importantly, the most visible and the longest lasting image of *Ma’at* in

12. The point is made by Danielle S. Allen, Book Review, *BRYN MAWR CLASSICAL REV.*, Jan. 5, 2000, speaking of the contrast between jury trials at Athens and jury instructions in federal criminal cases. Cf. ROBERT P. BURNS, *THE DEATH OF THE AMERICAN TRIAL* 26-27 (2009).

13. I will not be concerned with the latter here, for which see Charles F. Nims, *The Term hp. ‘Law, Right,’ in Demotic*, 7 *J. NEAR E. STUD.* 243-60 (1948).

14. JAN ASSMANN, *THE MIND OF ANCIENT EGYPT* (2002).

a private context, at least to the modern observer, is the famous “last judgment scene,” in which an individual faced his or her mortality by having his or her life deeds weighed in the balance against the symbol of justice, the ostrich feather, in front of all of the gods in Egypt. If found wanting, the person’s soul was devoured and his or her existence was extinguished. On the other hand, if found “true of voice,” one gained eternal bliss in the afterlife. This was not the public representation of state justice, but, rather a more intimate depiction of the expectations of private moral behavior.

This scene is dramatically portrayed in the well-known Chapter 125 of the Book of the Dead, in which the deceased confesses to be free from sin. Being led into the divine court by the god Anubis, the deceased, dressed in “fresh clothes, shod in white sandals, painted with eye-paint, anointed with the finest oil of myrrh,”<sup>15</sup> addressed Osiris, the king of the underworld and the judge of the dead<sup>16</sup>:

Hail to you, great god, Lord of the Two Truths.  
 I have come to you, my Lord  
 I was brought to see your beauty,  
 I know you, I know the names of the forty two gods,<sup>17</sup>  
 Who are with you in the Hall of Two Truths (scil. the court room),  
 . . . .  
 Lo, I have come before you  
 Bringing Ma’at to you  
 Having repelled evil for you  
 I have not done crimes against people . . . .

Despite the fact that such Books of the Dead were reserved for the burials of the very wealthy, such sentiments and the fear of a last judgment must have been a part of the wider Egyptian society as ancient stories depict.<sup>18</sup> Private moral behavior, living by *Ma’at*, was expected throughout Egyptian society. The same kind of official behavior is expressed in the “Duties of the Vizier,” recorded in a couple of private tombs of viziers of the New Kingdom (1550-1069 B.C.E.).<sup>19</sup> These sentiments are precisely those of the “good official” expressed in instructions, written in Greek, to Ptolemaic officials some one thousand

15. 2 MIRIAM LICHTHEIM, *ANCIENT EGYPTIAN LITERATURE* 131 (2006).

16. *Translated in id.* at 124-25.

17. I.e., the divine judges.

18. Another spell from the Book of the Dead, spell 30, captured the worry of a witness, the person’s own heart, appearing against the deceased at the trial: “O my heart of my mother, O my heart of my mother, O my heart of my being. Do not rise up against me as witness, do not oppose me in the tribunal. Do not rebel against me before the guardian of the scales!” *Translated in* Lichtheim, *supra* note 15, at 121.

19. G.P.F. VAN DEN BOORN, *THE DUTIES OF THE VIZIER: CIVIL ADMINISTRATION IN THE EARLY NEW KINGDOM* (1988).

years later.<sup>20</sup>

Incidentally, these last judgment scenes, best known from the so-called Books of the Dead from the New Kingdom from c. 1500 B.C.E., no doubt influenced the later concept of the scales of justice so commonly associated with modern western justice. These scenes also depict, perhaps for the first time, an Egyptian courtroom and the judge, in the case Osiris, seated on an elevated throne and surrounded by the gods of Egypt.

#### V. PUBLIC JUSTICE

Justice is what held the world together, and it did so by connecting consequences with deeds. Justice linked human action to human destiny, and wedded individuals to community.”<sup>21</sup> For the ancient Egyptian, “justice refers to a life of harmony with the connective structures that make community possible,” Assmann eloquently and rightly concludes, “both with one’s fellows and with the gods.”<sup>22</sup> Representations of justice, and the adjudication of disputes in courts, were as much a part of the public and private spheres in ancient Egypt as they were in ancient democracies. In Egypt, however, there was public authority, namely the king. It was the king, through piety toward the gods and benevolence toward men, who guaranteed justice. One of the most important rituals of the king during the New Kingdom was the “offering of *Ma’at*,” a public statement, depicted on temple walls, of the exchange between the gods and the king, a royal guarantee of maintaining order, justice, and political stability.<sup>23</sup> The concepts are also well known in the Egyptian literary tradition of seeking justice as well as the opposite, the advent of chaos, in the absence of a good king.

The concept of *Ma’at* and the world of divine judgment permeated the representation of justice and trials in the real world. The king was the source and the center of positive law and the guarantor of social norms in towns and villages across Egypt. Although most disputes, and the writing of contracts, were in the hands of local officials and local scribes, the right to petition the king directly was always a feature of Egyptian law. Such petitions of course probably only rarely reached the king himself. It was in the hands of local officials to resolve disputes and private wrongs. In either case, however, the expectations of *Ma’at* applied.

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20. See *supra* note 8.

21. ASSMANN, *supra* note 14, at 132.

22. *Id.* at 133.

23. See EMILY TEETER, *THE PRESENTATION OF MAAT: RITUAL AND LEGITIMACY IN ANCIENT EGYPT* (1997).

## VI. PUBLIC TRIALS

Adjudications of disputes before courts were public and monumental occasions for the representation of justice. As elsewhere, *Ma'at*, "connective justice," was on display in the courts.<sup>24</sup> We know something of the structure of ancient Egyptian courts particularly from later sources. Diodorus Siculus, writing in Greek during the first century B.C.E., expressed admiration for Egyptian law.<sup>25</sup> Although his analysis is likely a composite account of the organization of courts, and the nature of judges, it does preserve an authentic tradition of Egyptian jurisprudence:

In their administration of justice the Egyptians also showed not merely casual interest, holding that the decisions of the courts exercise the greatest influence upon community life. . . . By appointing the best men from the most important cities as judges over the whole land they did not fall short of the end which they had in mind. . . . Allowances to provide for their needs were supplied by the king to the judges sufficient for their maintenance, and many times as much to the chief justice. The latter regularly wore suspend from his neck by a golden chain a small image made of precious stones, which they called Truth . . . .<sup>26</sup>

Diodorus's description here appears to describe accurately the so-called Great Courts in the urban centers of the New Kingdom, the chief judge no doubt referring to the Vizier himself. The necklace with the symbol of *Ma'at* is known.

## VII. THE "PLACE OF GIVING JUSTICE"

The most important public representation of justice came in civil trials that occurred in a highly charged, symbolic, indeed dramatic, location—the temple gate.<sup>27</sup> Temples in Egypt were the living embodiment of order, of *Ma'at*. They were not churches in any modern sense, a place for private worship. Rather, they were institutions of the state, places of state ritual, and public festivals that ordinary people could observe. Gates represented the nexus between the outer world of chaos and the interior world of cosmic or divine order and truth. During the Ptolemaic period (305-30 B.C.E.) specialized gates at temples showed their purpose. They were

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24. For a survey of the Egyptian court structure, see Schafik Allam, *Egyptian Law Courts in Pharaonic and Hellenistic Times*, 77 J. EGYPTIAN ARCHAEOLOGY 109-27 (1991). For the Ptolemaic period, the classic account of the development of the very complex Ptolemaic court "system" is that of HANS JULIUS WOLFF, *DAS JUSTIZWESEN DER PTOLEMÄER* (1971).

25. 1 DIODORUS OF SICILY, *THE LIBRARY OF HISTORY* 259-60 (C.H. Oldfather trans., E.H. Warmington ed., 1933).

26. *Id.*

27. G.P.F. Van den Boorn, *Wǧc-ryt and Justice at the Gate*, 44 J. NEAR E. STUD. 1 (1985).

“the place of giving *Ma’at*.”<sup>28</sup> A judge was “he who opens the portico (as a juridical entity)” that is, a temple gate.<sup>29</sup> These gates were also the location of scribes who could draft contracts, where the swearing of oaths occurred, and often the main market place of the town. It was in front of such a temple gate that the Asyut family dispute discussed briefly above was adjudicated.

#### CONCLUSION

There are dramatic differences between the classical world and the Egyptian in how justice was portrayed. In the Egyptian setting, a public trial was set before the awe-inspiring presence and authority of the gods and, by extension, the king, and his agents, and the local priesthood. Justice was rendered in public in the presence of the gods themselves following carefully prescribed rules. It is fascinating to observe that under the Ptolemaic kings, not only did priests dispense justice at local temples in the presence of state agents, but public decrees were also read out at temple gates. Ptolemaic civil authority was fashioned, then, in the traditional Egyptian manner by joining together the divine and human worlds. Justice and political authority had the same ancient origins. Greek rule in Egypt forms an important historical link between Egyptian and classical norms of justice. The concept of “connective justice” was persistent because it was effective. That concept, and the use of monumental architecture to convey legitimate authority in legal decisions, is one of the great legacies from ancient Egypt. It was, of course, later democratic developments that transformed the hierarchical idea of “connective justice” to the horizontal idea of “justice for all,” something that democratic states in our own time still aspire to.

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28. *Id.* at 7.

29. *Id.* at 14.