

Context Under Consideration: Byzantium

1. Hypothesis:

The Justinian Code did not impact his Byzantine society.

2. Sources / Limitations of study

Brownworth, L. (2007). *12 Byzantine Rulers: The History of the Byzantine Empire*. [Audio podcast]. Retrieved from <http://www.12byzantinerrulers.com/rss.xml>.

Cameron, Averil. (2006). *The Byzantines*. Malden, Massachusetts: Blackwell Publishing.

Canning, J. (1996). *History of Medieval Political Thought, 300-1450*. London, GBR: Routledge. Retrieved from <http://site.ebrary.com.proxy.hil.unb.ca/lib/unblib/doc?id=10058158&ppg=23>.

Evans, J. A. S. (2000). *Age of Justinian: The Circumstances of Imperial Power*. London, GBR: Routledge. Retrieved from <http://site.ebrary.com.proxy.hil.unb.ca/lib/unblib/doc?id=10070712&ppg=23>.

Gibbon, E. (2001). *Decline and Fall of the Roman Empire, Volume IV*. London, GBR: ElecBook, 2001. p lxxiii. <http://site.ebrary.com.proxy.hil.unb.ca/lib/unblib/doc?id=2001727&ppg=73>.

Gigantès, P. (2002). *The Secret History of Rulers of the World*. London: Magpie Books.

Nicol, D. M. (1991). *A Biographical Dictionary of the Byzantine Empire*. London: Seaby.

Stein, P. (1999). *Roman Law in European History*. Port Chester, NY, USA: Cambridge University Press <http://site.ebrary.com.proxy.hil.unb.ca/lib/unblib/doc?id=10014895&ppg=43>.

Tellegen-Couperus, O. (1993). *Short History of Roman Law*. London, GBR: Routledge, Retrieved from <http://site.ebrary.com.proxy.hil.unb.ca/lib/unblib/doc?id=10060619&ppg=153>.

Venning, T. (2006). *A Chronology of the Byzantine Empire*. Great Britain: Palmgrave MacMillan.

Limitations of these sources may lie within the authors' observations of the historical contexts being discussed; this may suggest the presence of author bias, given that the information provided is subjective to their interpretation.

A. Primary and Secondary

There is also an eclectic mix of secondary sources throughout this document, while primary sources include photographs relating to the content of arguments presented. For instance, here are both sides of an image entitled “Emperor Justinian: Medallion obverse: Portrait of Emperor.” This is an image of a *solidus*, which is a gold coin used throughout the Byzantine Empire as currency.



Note: Coin images retrieved from ARTstor database through University of New Brunswick Libraries with Source Date from University of California, San Diego.

B. Perspectives

The diverse scope from which information was gathered encompasses both primary and secondary sources; this wide range of perspectives provides great variety as opposed to only one perspective.

C. Awareness of perspectives not taken

Similarities among sources may lend support to the authors' claims, however, it should not be taken for granted that their observations—or those of this research—are absolute truth and incapable of critical analysis.

3. Argument / Discussion / Evidence

Justinian had a great number of achievements while leader of the Byzantine Empire, these include: “the re-conquest of lost western provinces of his Empire, the codification of the law, and the building of fortifications and churches” (Nicol, 1991, p. 66). While, Stein (1999) found that: “in his legal work Justinian was fortunate in having a brilliant minister, Tribonian, to execute his plans” (p. 43).

Tellegen-Couperus (1993) affirms that “after becoming emperor, Justinian had a three pronged approach to office; one of these parts was to get things organised in the legal field” (Tellegen-Couperus, 1993, p. 140).

Venning (2006) offers a brief chronology of Justinian's legal reforms and ensuing formation of new code of laws for Byzantine Society:

“1 August 527 Justinian I becomes Emperor of Byzantium...29 November 528...Justinian sets up first law commission, headed by John ‘the Cappadocian’ and including Tribonian, to revise law codes. 7 April 529...First version of Justinian's law-code (*Codex Vetus*) issued, updating ‘Theodosian Code’ and weeding out outdated laws. Autumn 529 ... Tribonian appointed ‘Quaestor of the Sacred Palace’, chief law-officer, to collect and revise law-codes. Autumn 530...Tribonian and law commission issue a collection of new Imperial Laws issued since 527, the ‘Fifty Decisions’. Autumn 531...Tribonian's commission of lawyers starts to collect all civil laws issued in Roman Imperial history; Tribonian assisted by Dorotheus, head of the law school at Beirut, ‘Magister Libellorum’ Constantine, Constantinopolitan lawyers Theophilus and Cratinus, and Anatolius from Beirut. 16 December 533...Tribonian's commission's great collection of all Roman jusists' law issued as ‘The Digests’; accompanied by new official law textbook for legal schools, ‘the Institutes’. 16 November 534...codex Justinianus issued by Tribonian and assistants: revised and updated version of ‘Code’ of 529, containing 12 books of ‘Constitutions’ issued since the time of Hadrian (117-38)”(p. 98-112).

Conscious to the inconsistencies in the empirical legal system, Justinian may have set out to find a solution; something emperor's before him had attempted with the Theodosian Code. Cameron (2006) strengthens this notion stating that: "at the beginning of the fifth century the east had surmounted a Germanic crisis in its government and successfully deflected its own barbarian threat west-wards; this freed the young Emperor Theodosius II (408-50) to embark on a codification of Roman Law" (p. 26).

"The legislation project started only a year after Justinian had become emperor, namely in 528. He then gave a specially appointed committee the task of making a new collection of imperial constitutions. The committee consisted of ten members, seven being top officials, two being advocates and one, named Theophilus, being a professor at the law-school in Constantinople. Their task was not simply to prepare a collection of constitutions that had been issued after the Theodosian Code; but to define the whole legal system (Tellegen-Couperus 1993, p. 141).

"The [legal] committee was granted very wide powers; it could delete outdated or unnecessary elements from the texts, remove contradictions and repetitions and could even combine, alter or extend texts. The constitutions were to be divided according to the subject matter and arranged chronologically in the appropriate titles" (Tellegen-Couperus, 1993, p. 141).

"On 7 April 529 the new collection was published under the name *Codex Justinianus* and from 16 April of that year it acquired force of law. This Code only remained valid till 534; then, for reasons to be explained more fully later, it was replaced by a revised version" (Tellegen-Couperus, 1993, p. 141).

"The Digest, however, was too difficult for [law] students just beginning their studies. So, in 533, even before the work on the Digest was complete, Justinian decided that a new introductory textbook for law would have to be written. The task was entrusted to *Tribonian* and to two of the four professors who were helping to produce the Digest, namely Theophilus and Dorotheus. They were asked to produce a new book on the basis of the Institutes of Gaius and using some other introductory works from the principate. This new book was to reflect the law of their own time..." (Tellegen-Couperus, 1993, p. 144).

"At the beginning of 534 Justinian decided that a new edition of the Code was needed. The reasons for this were as follows. As the Digest and the Institutes were being compiled all kinds of new constitutions had been issued and various old ones had been abolished, so the first Code was no longer up-to-date. Another reason may have been that during the copying of the first Code abbreviations and figures had been used and because of that the text was not quite reliable. Tribonian was entrusted with the task of producing a new Code." (Tellegen-Couperus, 1993, p. 145).

Corpus juris civilis was "completed in 534 by a committee chaired by Tribonian. The codification consisted of three main parts. The largest was the Digest (or Pandects), divided into fifty books and comprising selections from thirty-nine classical jurists ranging from the second to the fourth centuries. A short introductory textbook for students, the Institutes (in four books), was added. The third part, was the Code in twelve books containing imperial constitutions including many by Justinian himself" (Canning, 1996, p. 6).

From what is mentioned above, there is solid evidence that Justinian did make substantial strides in changing the legal system of his society. However, there are some scholars who appear sceptical of Justinian's implementation of legal revisions.

Evans (2000) raises questions about Justinian's legal reforms: "as for the corpus of law, which guaranteed Justinian a good odour in history, I do not imagine that the constitutions issued under Justinian's name were from his pen, but they do express the aspirations of his reign" (p. 8). Evans adds that "Justinian's laws are evidence for what he recognized as blemishes and how he wanted to deal with them than for what was actually done" (p. 8). While, Stein (1999) found that: "in his legal work Justinian was fortunate in having a brilliant minister, Tribonian, to execute his plans" (p. 43).

Furthermore, Procopius "wrote books published while Justinian was alive in which he said all good things about Theodora and her husband [Justinian I]. But he also wrote another book published after his death called *Anekdotia*, which means 'unpublished'. This book is vitriolic in its attacks on the imperial couple. Did Procopius write it or is it a libellous tract by someone else?" (Gigantès, 2002, p. 79).

Cameron (2006) asserts that the reign of Justinian was a period of considerable strain in relation to the imperial regime. This was most evident in the serious 'Nika' riot in Constantinople in AD 532, which was put down with great severity and bloodshed, and is vividly demonstrated in Procopius's sharply contrasting works, not only his 'truth-telling' [writings entitled] *Secret History*, or 'Unpublished Work', but also his panegyric account of Justinian's building programme in the [writings entitled] *Buildings*" (p. 26). Cameron furthers this claim stating that: "Justinian's great achievement in codifying Roman law and the swift victories of Belisarius's early campaigns were followed by manpower problems and financial difficulties; the emperor struggled unsuccessfully to deal with the continuing religious division in the empire and became fearful of plots and conspiracies" (p. 26).

Another issue that rises to the surface stems from intellectual prowess of his wife, the Empress Theodora, who was said to have had a hand in his political actions (Venning, 2006; Gigantès, 2002). Moreover, some scholars claim that Tribonian, Justinian's senior legal advisor, who was entrusted to oversee the whole process of legal revision and also selected the committee to support him, was extraordinarily corrupt and exploited the power bestowed upon him (Tellegen-Couperus, 1993; Gibbon, 2001; Brownworth, 2007).

Brownworth (2007) states that: "as long as the factions were divided, the triumphant blues, and desponding greens, appeared to behold with the same indifference the disorders of the state. They agreed to censure the corrupt management of justice and the finance; and the two responsible ministers, the artful Tribonian, and the rapacious John of Cappadocia, were loudly arraigned as the authors of the public misery" (p. 73).

4. Relation / Significance for Contemporary Society or Education

Gigantès (2002) found that an indirect influence of the Justinian Code can be seen within Quebec (p. 79). The Quebec legal system has ties to the Napoleonic Code of France, which was based on the Justinian Code.

Also, these research findings provide an example of powerful women in history in the Empress Theodora, who is said to have been a highly intelligent and wise to the power of her situation.

5. Conclusion

After examining the evidence provided within these sources, it can be seen that the Justinian Code did have a considerable impact in Byzantine Society, which effectively falsifying the hypothesis.

The timeline of Justinian's legal revisions are corroborated by the other sources, strengthening their reliability. However, it is interesting to see the emergence of debate regarding the integrity of Justinian and his advisors throughout the formulation of these legal revisions. This raises questions about who had the final decision making power in the processes of reforming the legal system. Was it Justinian, Theodora, Tribonian, or someone else yet to be named?

Additionally, there is strong evidence to suggest that Tribonian may have been extremely corruption. Not to mention Justinian's purported fears of plots against his life.

Further research into the validity of these alleged events may provide a more comprehensive view of the reign of Emperor Justinian I and the legal reformations that occurred under his watch.