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Some Legal Systems That Have Disappeared*

JOHN H. WIGMORE†

I. THE IRANIAN LEGAL SYSTEM

This is the story of a legal system crushed in its semi-maturity by external invasion and forcible displacement.

1. On the vast tableland of Iran, ringed with lofty mountain ranges, there lived originally some primitive folk who played no part in history. The precocious Semitic peoples, below on the west in the rich river-lands of the Euphrates and the Tigris (B. C. 3500-500), were building populous cities, creating a varied literature in cuneiform script, and developing an advanced system of commercial law.

But at various periods before B. C. 1000 there drifted in to the tableland, from the wide prairie regions north of the Black and east of the Caspian seas, many tribal groups of a different stock—the “Aryans” or Indo-Iranians, owning a common stock of language-roots and observing the nomadic customs of horse-men and herdsmen (“Ariana” is the name on some of the older maps). Some of these tribes wandered further east, over the Hindu Kush mountains into India. The others gradually formed three independent groups,—the Medians in the northwest, the Persians in the southwest and the Parthians in the northeast. Once settled on the tableland, and coming into contact with their advanced neighbors below in Mesopotamia, their ambition developed rapidly, and in a long series of raids and wars they became conquerors and organizers.

2. The Medians first organized their kingdom (B. C. 700+), and mastered their kinsmen the Persians. Of their legendary founder Deioces (B. C. 708-655) there is a tradition that from judge he became king,—a remarkable parallel to the Keltic tradi-

* In my “Panorama of the World’s Legal Systems” (3 vols. 1929, 2 ed. 1 vol. 1936), after describing the sixteen legal systems, I referred in a brief footnote, at the end of chap. XVII, to a few other peoples who might also have been credited with legal systems, had not their development been interfered with or been only imperfectly known. In recent years editorial research has brought to light much additional material on these peoples. The story of their thwarted development is interesting and instructive. An outline is here offered of four of such systems: I, The Iranian; II, The Armenian-Georgian; III, The Amerindian; IV, The Madagascan. J. H. W.

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tion about Cormac¹ and the Slavic tradition about Libussa.² Herodotus tells it thus:³

Herodotus, "History," Book I, chaps. 96-101: "Thus the nations over that whole extent of country obtained the blessing of self-government; but they fell again under the sway of kings, in the manner which I will now relate. There was a certain Mede named Deioces, son of Phraortes, a man of much wisdom, who had conceived the desire of obtaining to himself the sovereign power. In furtherance of his ambition, therefore, he formed and carried into execution the following scheme. As the Medes at that time dwelt in scattered villages without any central authority, and lawlessness in consequence prevailed throughout the land, Deioces, who was already a man of mark in his own village, applied himself with greater zeal and earnestness than ever before to the practice of justice among his fellows. It was his conviction that justice and injustice are engaged in perpetual war with one another. He therefore began this course of conduct, and presently the men of his village, observing his integrity, chose him to be arbiter of all their disputes. Bent on obtaining the sovereign power, he showed himself an honest and an upright judge, and by these means gained such credit with his fellow-citizens as to attract the attention of those who lived in the surrounding villages. They had long been suffering from unjust and oppressive judgments; so that, when they heard of the singular uprightness of Deioces, and of the equity of his decisions, they joyfully had recourse to him in the various quarrels and suits that arose, until at last they came to put confidence in no one else."

"The number of complaints brought before him continually increasing as people learnt more and more the fairness of his judgments, Deioces, feeling himself now all important, announced that he did not intend any longer to hear causes, and appeared no more in the seat in which he had been accustomed to sit and administer justice. 'It did not square with his interests,' he said, 'to spend the whole day in regulating other men's affairs to the neglect of his own.' Hereupon robbery and

1. Wigmore, *A Panorama of the World's Legal Systems* (1 ed. 1929, 2 ed. 1936) chap. X (hereinafter cited as "Panorama").

2. Wigmore, *Panorama*, chap. XI.

3. The translations here used are from the excellent Loeb Classical Library editions, except for the anecdote about Noshirwan, *infra*, which is from Sykes, "History," I, 498.

lawlessness broke out afresh, and prevailed through the country even more than heretofore; wherefore the Medes assembled from all quarters, and held a consultation on the state of affairs. The speakers, as I think, were chiefly friends of Deioces. 'We cannot possibly,' they said, 'go on living in this country if things continue as they now are; let us therefore set a king over us, that so the land may be well governed, and we ourselves may be able to attend to our own affairs, and not be forced to quit our country on account of anarchy.' The assembly was persuaded by these arguments, and resolved to appoint a king."

"It followed to determine who should be chosen to the office. When this debate began the claims of Deioces and his praises were at once in every mouth; so that presently all agreed that he should be king. Upon this he required a palace to be built for him suitable to his rank, and a guard to be given him for his person. The Medes complied, and built him a strong and large palace."

"After completing these arrangements, and firmly settling himself upon the throne, Deioces continued to administer justice with the same strictness as before. Causes were stated in writing, and sent in to the king, who passed his judgment upon the contents, and transmitted his decisions to the parties concerned: besides which, he had spies and eavesdroppers in all parts of his dominions, and if he heard of any act of oppression, he sent for the guilty party, and awarded him the punishment meet for his offence.

"Thus Deioces collected the Medes into a nation, and ruled over them alone."

3. It was then the turn of the Persians. First repelling and overthrowing their kinsmen and suzerains the Medians (B. C. 550), then in succession they conquered Asia Minor, Babylonia, Egypt, Western India, under a brilliant succession of organizers and warriors—Cyrus, Combyses, Darius. Their three simple principles of education were "to ride, to draw the bow, and to speak the truth."

These Achaemenids (taking their name from the chieftain of the early tribe to which Cyrus belonged) developed a religion and a legal system which lasted in active life just a thousand years. Mazda ("The Wise One") was the supreme deity of the early Iranian peoples. But in the 600s, a great teacher, Zarathushitra, became the prophet of a reformed Mazdaism. Its tenets

are found in the Avesta, an incomplete collection of texts dating from this period, and the Zend, a later commentary. The religion was nomistic,⁴ i. e., it formed the basis for the rules of civic behavior, and the priests (Magi) were its expounders of the law and the judges as advisers of the King, or Shah. And each king (like Hammurabi, Chap. II) vowed to Ahura Mazda, the Supreme Being, to protect his people and "to judge and govern them as did his fathers before him."

Great palaces arose in many regions under this dynasty; but the palaces, as well as the law texts, suffered destruction in the ensuing wars.

Of their justice, however, a few anecdotes have been handed down:

Herodotus, "History," Book III, chap. 31: "The way wherein Cambyses had made his sister his wife was the following:— It was not the custom of the Persians, before his time, to marry their sisters; but Cambyses, happening to fall in love with one of his, and wishing to take her to wife, as he knew that it was an uncommon thing, called together the royal judges, and put it to them, 'whether there was any law which allowed a brother, if he wished, to marry his sister?' Now the royal judges are certain picked men among the Persians, who hold their office for life, or until they are found guilty of some misconduct. By them justice is administered in Persia, and they are the interpreters of the old laws, all disputes being referred to their decision. When Cambyses, therefore, put his question to these judges, they gave him an answer which was at once true and safe—"they did not find any law," they said, 'allowing a brother to take his sister to wife, but they found a law, that the king of the Persians might do whatever he pleased.' And so they neither warped the law through fear of Cambyses, nor ruined themselves by over stiffly maintaining the law; but they brought another quite distinct law to the king's help, which allowed him to have his wish. Cambyses, therefore, married the object of his love, and no long time afterwards he took to wife another sister."

Herodotus, "History," Book V, chap. 25: "When Darius had thus spoken, he made Artaphernes, his brother by the father's side, governor of Sardis, and taking Histiaeus with him, went up to Susa. He left as general of all the troops upon the sea-

4. Wigmore, *Panorama*, Prologue to chap. VI.

coast Otanes, son of Sisamnes, whose father King Cambyses slew and flayed, because that he, being of the number of the royal judges, had taken money to give an unrighteous sentence. Therefore Cambyses slew and flayed Sisamnes, and cutting his skin into strips, stretched them across the seat of the throne whereon he had been wont to sit when he heard causes. Having so done, Cambyses appointed the son of Sisamnes to be judge in his father's room, and bade him never forget in what way his seat was cushioned."

4. The Persian Achaemenid dynasty collapsed under the brilliant rapid onset of Alexander of Macedon (B. C. 323). Then followed the settled rule of his Greek successors, Salencus and his companions in arms. Cities of Greek merchants were colonized, and Greek learning became fashionable. But in Persia, the heart of Iran, the Zoroastrian religion and the inherited legal institutions persisted.

5. It was then the turn of the Parthians. Arsaces (B. C. 250) chief of a central Asian tribe, led the Aryan Parthians down from the Northeast. The Arsacid dynasty warred with Rome, overthrew the Greek military rulers, conquered Mesopotamia, absorbed Zoroastrianism, and inherited and carried on for five centuries the Persian legal traditions.

But the Parthians brought no literature of their own. The only legal relics of the Parthian Arsacid period are two documents in Greek and one in Pahlevi,—a hybrid language with Aryan as its base, but precious for modern knowledge, for it became the embodiment of the only extant records of the succeeding period.

6. But the Persian tribal groups had not lost their ambition. The Parthian Arsacids wasted their strength in three centuries of wars with Rome and Armenia. Ardashir, descendant of Sassan, chief of one of the Persian tribes, rebelled successfully, founding a neo-Persian dynasty—the Sassanids—more brilliant than that of the Achaemenids. The lost dominions were gradually regained. Rome was beaten back, and a Roman Emperor was captured. At Ctesiphon, the capital city in Mesopotamia (near Nineveh), in a vast palace golden with decorations, the King-of-Kings (Shahan Shah) sat in judgment, with gold embroidered garments, wearing a weighty golden jeweled crown, which was suspended from the lofty ceiling by a golden wire and was lowered upon his head as he took his seat.

The names of Shapur II (d. A.D. 379) and Noshirwan I (d. A.D. 579), stand out, typifying the achievements of the four centuries of the Sassanid dynasty in consolidating the empire, in emphasizing Zoroastrianism, in patronizing literature and philosophy, and in developing the nation's legal system.

That their legalistic instinct impressed even the foreign observer is indicated in the following brief passage from a Roman historian dealing with the period about A.D. 360:

Ammianus Marcellinus, "History [of the Roman Emperors]," Book XXIII, chap. 6, § § 81-82: "They stand in special fear of the laws, among which those dealing with ingrates and deserters are particularly severe; and some laws are detestable, namely, those which provide that because of the guilt of a single person all his relatives are put to death. For the office of judge, upright men of proved experience are chosen, who have little need of advice from others; therefore they ridicule our custom, which at times places eloquent men, highly skilled in public law, behind the backs of judges without learning. But that one judge is forced to take his seat on the skin of another who has been condemned to death for injustice is either a fiction of antiquity, or, if once customary, has long since been given up."

Noshirwan I was surnamed the Just, and this anecdote is attributed to him:

"The Ambassador of the Roman Emperor was shown and admired the magnificence of the palace of Noshirwan. But having observed that the square in front of it was irregular in shape, he enquired the reason. He was informed that an old woman owned the adjacent land, which she refused to sell at any price, and that the King would not take it by force. The Ambassador exclaimed, 'This irregularity is more beautiful than the most perfect square.'"

Zoroastrianism now dominated, the Magi were restored to power, the supreme priest was deemed the successor of Zoroaster: the Greek language completely disappeared, and Pahlavi prevailed for all records. The compilation of the Avesta texts was completed, and a translation of them from the old Avestic language was made in Pahlavi.

7. And it is from this period that posterity possesses the only records exhibiting the scope of the legal system. There must have

been copious original materials, but the extant ones are only fragments or selections or summaries.

(a) The *Avesta* (composed in the earliest Persian) was the fundamental ancient book of revealed religion, but it was also a complete encyclopedia of the knowledge or beliefs of the times,—a cross between the Islamic Koran and the Jewish Talmud. Its legal portions are few and are found only in the book entitled *Vandidad*; the ideas are conveyed in the following form:

"1. He that does not restore (a thing lent), when it is asked for back again, steals the thing; he robs the man. So he does every day, every night, as long as he keeps in his house his neighbour's property, as though it were his own."

"2(4). O Maker of the material world, thou Holy One! How many in number are thy contracts, O Ahura Mazda?

"Ahura Mazda answered: "They are six in number. The first is the word-contract; the second is the hand-contract; the third is the contract to the amount of a sheep; the fourth is the contract to the amount of an ox; the fifth is the contract to the amount of a man; the sixth is the contract to the amount of a field; a field in good land, a fruitful one, in good bearing."

"3(13). If a man make the word-contract a mere word, it shall be redeemed by the hand-contract; he shall give in pledge the amount of the hand-contract. [Commentary: The contract entered into by simple word of mouth. "The immortal Zartust Isfitaman asked of the good, beneficent Hormazd, "Which is the worst of the sins that men commit?" The good, beneficent Hormazd answered, "There is no sin worse than when a man, having given his word to another, there being no witness but myself, Hormazd, one of them breaks his word and says, I don't know anything about it . . . there is no sin worse than this."]"

"4(16). The hand-contract shall be redeemed by the sheep-contract; he shall give in pledge the amount of the sheep-contract. The sheep-contract shall be redeemed by the ox-contract; he shall give in pledge the amount of the ox-contract. The ox-contract shall be redeemed by the man-contract; he shall give in pledge the amount of the man-contract. The man-contract shall be redeemed by the field-contract; he shall give in pledge the amount of the field-contract."

"5(24). O Maker of the material world, thou Holy One! If a man break the word-contract, how many are involved in his sin?

Ahura Mazda answered: 'His sin makes his Nabanazdistas answerable for the three hundred-fold atonement.'"

"6 (26). O Maker of the material world, thou Holy One! If a man break the hand-contract, how many are involved in his sin?

Ahura Mazda answered: 'His sin makes his Nabanazdistas answerable for the six hundred-fold atonement.'"

(b) The *Dinkard* (composed much earlier but re-edited in the 800s, after the downfall of the Sassanid empire and written in the later composite language, Rahlair) consists of 9 books, summarizing the religious philosophy, customs, traditions, and history, as accepted at that period. Book VIII deals with legal principles.

(c) The *Dadistan-i Dinik*, or Collection of Priestly Rulings, by one Manuskihar, who in the A. D. 800s, was High Priest of the South and therefore a supreme judiciary officer. Of the 92 opinions or rescripts here collected, only a few deal with secular law; but they exhibit an advanced development:

"1. As to the fifty-first question and reply, that which you ask is this: There is a man who hands over a dirham for five bushels of wheat, saying thus: 'I give this to thee as a part payment for five bushels of wheat at the end of a month.' And during the month, and at its end, those five bushels of wheat become five times in market value [the agreed price]. May the buyer lawfully take possession of the five bushels of wheat when winnowed by the seller, by reason of that instalment which he handed over? Or not?

"2. The reply is this: When he who hands over his dirham and intrusts the five bushels of wheat, in good faith and by his own will to the other to winnow, and they are advisedly and in good faith winnowed by him, the buyer should take them just as winnowed; this is the decision according to law. 3. But when it is winnowed by him on account of very grievous necessity for payment, it is more suitable for the soul to beg the giver of the money, who is the purchasing payer, for some of that excess of undivided profit. 4. For the seller may consider the profit of his buyer as profit due to the small cash advance, since only an instalment was paid, and [it is not to be considered] that the seller meant to make a pure gift of the whole profit."

(d) The *Collection of a Myriad Decisions* (*Madikan-i-Hazar—Dadastan*). This is the particular treasure. There was indeed

a general Book of Laws—either a code, or a collection of decrees—which is sometimes referred to, but it is not extant. This Collection of a Thousand Decisions is a treatise of some 45 long chapters, composed by one Farrukhmord (probably in the 600s A. D.), and covering all manner of topics—contract, property, marriage, inheritance, adoption, procedure, and so on. It proceeds on the general lines of some of the Roman treatises,—stating concrete propositions of law, or putting cases and giving their solution. Owing to the composite nature of the Pahlavi language, its translation is full of difficulties and uncertainties. The following typical passage cannot be fully appreciated without an understanding of the context-principles, but it serves to illustrate the style:⁵

Collection of a Myriad Decisions, chap. XIII, Gifts, par. 1:

“When a person agrees, ‘Whatever property may come to me shall be transferred to you,’ then a property which had once been the promisor’s and now reverts to him is not deemed to be transferred to the promisee. But if the promisor has been entitled to instalments as rent or salary, then future payments under such title are to be transferred.

“Par. 2. When a person agrees, ‘Whatever property may belong to me at the end of 10 years shall then belong to you,’ then whatever may belong to the promisor at the end of the 10 years shall be transferred to the promisee.

“Par. 3. When Farrokho agrees with Mitroin, ‘Whatever property may come to me as Farrokho shall belong to you,’ then if a property is transferred to Farrokho, its transfer to Mitroin cannot be refused by him, for he must take possession according to the terms of the agreement. But a father may refuse to assent to the transfer of property to his child under age.

“Moreover, when a husband has agreed to transfer to his wife any property that may come to him and to confirm the wife’s absolute title, he may nevertheless refuse to accept a property offered to him.

“Par. 5. However, one jurist has here expressed the view that whether or not the husband may have to confirm formally the wife’s title in such cases, at any rate when a property is offered to him for her, she is entitled under the law to accept

5. This passage is from Dr. Bulsara’s translation, the culmination in 1937 of 25 years of labor. There is extant only a single manuscript, not complete, some 300 years old. For clarity of reading, the extremely literal rendering of the learned translator has here been partly re-phrased.

it; but if she does not accept it, the title remains in the would-be donor. Par. 6. The opinion of Vahram was that the husband here must formally confirm the wife's title, because she is absolutely entitled to it, and not the husband.

"Par. 7. But those jurists who follow the opinion of Maitok-Mah hold that this is a doubtful point, requiring further consideration. One jurist, however, adds that if the husband were bound formally to confirm her title, then this would be compelling her acceptance of it, which is not proper."

That the legal system of Iran in the Sassanid period had reached an advanced state of development, comparable to the Hebrew, the Roman, and the Hindu systems at a certain period, is plainly evident from this work:

(1) The author was only one of many. He cites some 60 other jurists, in discussing the solutions of the cases which he puts.

(2) He puts many of his cases (as seen above) by using standard conventional names for the parties, indicating regular discussion of legal problems by professional men, and comparable to the Roman usage of Titus and Flavius and the English usage of John Doe and Richard Roe.

(3) He shows an elaborate system of rules for keeping judicial records and allowing appeals. And, most notable, he reveals the existence of a professional class of lawyers,—something unknown in the records of the earlier Oriental systems. Whether there was a twofold class, as in Islam—notaries and jurisconsults—or as in Rome—advocates and jurisconsults, or only a single class exercising all three functions, does not appear. But the development of such a class, required to be licensed upon showing their qualifications, and recognized by official rules, is unique:

Collection of a Myriad Decisions, chap. II, Lawyers, par. 1:

"If for the purpose of disposing of a matter according to law Mitroin declares, 'Goshuap is to arrange according to law for the purchase of this property by me,' or 'for the management and disposal of this lawsuit,' then inasmuch as Mitroin has appointed Goshuap himself, it is not allowable for Goshuap to delegate his duty to another person."

Ibid. Par. 5. "If a case involves joint defendants, and an attorney has been appointed on behalf of both, and later another attorney is appointed for further safeguarding the proceedings, then the latter appointed attorney in all the

proceedings must abide by what has been said and done by the earlier one, just as if there had been no later attorney appointed."

Chap. XXXVIII. Various Transactions, par. 34: "As to the fees for preparing a document dealing with property, one jurist affirms that it ought never to exceed 2 dirhams in 9 of the value of the property, although another affirms that it should not exceed 3 in 10 . . ." Par. 35: "And when the value of the property does not exceed 17 dirhams, then the fees for the preparation of the document ought not to exceed 2 dirhams."

The general impression given by the Collection of a Myriad Decisions is that it represents an indigenous development comparable in legal ideas to that of Rome before Gaius, and superior in judicial organization and juristic promise.

8. But the collapse of the Roman Empire had let loose many rivalries of powerful new peoples. The Turks, from the east, and then the Arabs from the south, looked upon the Iranian Empire as a rich prize, to reward them with its booty. Persia and Rome had weakened each other with their repeated wars. And so, less than a century after Noshirwan, when Iran had seemed destined to a permanent future of leadership, it succumbed to the onslaughts of the fanatical Arabs, bringing Islam as the faith for all peoples. By A. D. 650, Iran was governed from Medina, afterwards from Baghdad. The Arabic language was made official; the faith of Islam was imposed; and this signified the adoption of Islamic law, which had early developed into an all-embracing system.

9. For a while, a faithful band in the northeast was able to preserve the principles of Mazdaism and to collect the texts of their religion and their laws; later they are found in Bombay, where as Parsees they pursue the ancient faith and study the literature of the Sassanid period. But Iran itself has been for a thousand years an Islamic nation, under Islamic laws. The Iranian legal system was completely supplanted at the period of its most promising period of maturity.

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II. THE ARMENIAN-GEORGIAN LEGAL SYSTEM

At one of the world's crossroads of races, it could hardly be expected that a separate and independent legal system could develop. And yet this did almost come about at the narrow pass-way for races where the lofty Caucasus mountain range lies across the 500-mile land-isthmus that separates the Black Sea

from the Caspian. Here Semites, Indo-Iranians, and Turanians, Persians, Assyrians, Hellenes, Romans and Byzantines, Mongols, Turks and Russians, have surged back and forth for more than three milleniums as wanderers or invaders. The native tribes have throughout persisted in their mountain-strongholds with a sturdy core of racial and political individuality. The juristic result was only a set of well-made medieval codes, hybrid in their content, and ephemeral in their endurance.

These were the Codes of Armenia and of Georgia; Armenia representing the southernmost slope of the Caucasus into the plains, and Georgia the upper and northernmost crests.

ARMENIA

1. The indigenous people calling themselves Khaldians were overrun before B. C. 700 by an Indo-European race of conquerors from the North, who imposed their language. Van was the capital. Assyrians and Persians were constant raiders. "Armenia" first appears about 500 B. C. as the country's name, sometimes as a vassal state to Persia. The cultural relationship with Persia is seen in the use of the term "Dadastanat-Girkh," Book of Decisions, for the law books of both countries in medieval times.

2. By A. D. 300 Christianity had become Rome's official religion, and was making temporary headway in Persia also. In Armenia, King Tiridates, A. D. 303, adopted Christianity as the State religion, thus breaking away from Persia (old Iran), and consorting with Byzantium, which had now become the Roman capital. An edict of Justinian, in A. D. 535, dealt with succession among the Armenians; and in the very next year his 21st novel is entitled, "De Armeniis, ut illi per omnia Romanorum leges sequantur." For the next six centuries, and especially under the Bagratid dynasty, after A. D. 700, all Byzantine legislation, civil and ecclesiastical, was applied in Armenia.

But the Armenians had the sturdy individuality of a mountain people. King Tiridates in the early 300s had repudiated the Greek ecclesiastical language, and had caused Bishop Mesrop to devise a national alphabet, and to translate into it the Bible and the church laws and ritual.

3. By A. D. 700, however, the great Persian empire on the east was shattered by the Arabs, bringing Islam; and the fall of its Persian congeners brought Armenia within the sphere of the ambitions of the Caliphs of Bagdad. Meanwhile the attempts of

the Byzantine emperors to bring back the Armenians into Christian orthodoxy were a source of internal weakness. From this time on till the 13th century, Armenia appears as a vassal state to one or another Islamic dynasty, yet sturdily independent in religion and internal rule. When Constantinople (Byzantium, Stamboul) was captured by the Turkish Sultan Mohammed II in 1453, he conceded to the princes of Armenia absolute self-government in civil and religious matters and in criminal matters not conflicting with Islamic law.

Under this compromise system, the Bagratid dynasty of princes had ruled Armenia for many centuries. The country prospered, and superb churches and public buildings marked its progress.

4. The earliest lawbook was a collection of the Byzantine church laws of A.D. 800-1000, with some of the local customary laws. But Prince Vakhtang, in A.D. 1184, achieved a more ambitious task. He directed Mekhitar Kosh (or, Gosh) to make a complete code. Mekhitar was the abbot of Kedig Monastery, the most learned man of the time. He produced the *Datastana-Girikh*, "Book of Decisions," containing the Laws of Moses, the Church canons, the Byzantine laws, and various Armenian customary laws. This book became popular, and lasted in force for a long period.

5. Meanwhile, in the south-central part of Asia Minor, for some centuries, in Cilicia, around the Gulf of Antioch, a fragment of the extensive original kingdom of Armenia had maintained its independence from both Christian Constantinople and Turkish Bagdad, with the help of the European Crusaders. During the 1100s and 1200s the Crusaders had held territorial sway in certain areas of Syria and Asia Minor; the "Assises de Jerusalem" was their well-known book of feudal laws. Alongside of Syria, to the northwest, was this Armenian pocket-territory, later known as Lesser-Armenia, or Middle Armenia, ruled by a branch of the Bagratid dynasty of Greater Armenia. The military chieftain of this little kingdom was Sempad, famed not only for his military prowess, but also for his literary talent as historian of his times.

Sempad the Constable—this was his title, in analogy to the Crusaders' usage—caused two lawbooks to be prepared.

One of these was a redaction of the above book of Mekhitar Kosh, but systematizing the material, emphasizing the customary law, and re-writing the antiquated ecclesiastical language into

"our own readily understandable common speech of today." This was in A.D. 1265, nearly a hundred years after the date of the original. The title was the same as that of Mekhitar Kosh, "Datastana-Girkh," Book of Decisions.

The other lawbook was the "Assises d'Antioch." This was a translation into Armenian (probably before 1265) of a (now lost) original in French, regulating the feudal relations, much on the plan of the Crusaders' "Assises de Jerusalem."

6. With the expansion of Russia in the 1800s, and the political changes of that century, there was no further development of an independent Armenian system. The Codes of the 1100s and the 1200s remain as a hybrid of Byzantine Roman framework, embodying a record of medieval indigenous customs.

GEORGIA

North of Armenia, lying east and west along the high Caucasus, facing over into Russia and westward to the Black Sea, lies Georgia (to the Russians, Gruzia; to the Romans, Iberia; to the old Persians, Giurgistan; to its own people—the principal stock—Karthvelia, from the legendary first King, Karthlos). This location gave it more chance than Armenia had for resistance to invasion from the successive southern empires of Assyria, Rome, and Islam. In fact, for some 2000 years it maintained a continuous semi-independence as a kingdom, with Tiflis as its headquarters. As most of its original mountaineer stock was Indo-European—probably some branch of the Indo-Iranians who swept down into the Persian plateau in the second millenium B.C.—its cultural and social affinities were with Persia. To Persia it was from time to time in vassalage, and at other times to Armenia. The kinship may be seen in the royal name Vakhtang, appearing both in Georgia and in Armenia; and in the legal term "Dastana-girkh," Book of Decisions, which served alike in Persia, in Armenia, and in Georgia.

In the 300s A.D. under King Tiridates of Armenia, Georgia accepted Christianity (breaking away from Persian influence), was given an alphabet of its own, and thenceforward looked to Byzantine ecclesiasticism for its culture. Thus the varied elements entering ultimately into its records of legislation were: (1) local customary laws; (2) Persian governmental organization; (3) Mosaic law under Christianity; (4) commercial law from the Armenians, the great merchandizers of Asia Minor; (5) the Byzantine-Roman-Christian books of civil and canon law; (6)

the later Arab-Turkish domination, shown in the use of the Arab term "adat" (as in the East Indies also) for the local customary laws; (7) and in modern times the Russian influence (since 1801, when Georgia became a Russian province).

The earliest legislative records date from the 1100s. Mekhitar Kosh's Armenian "Book of Decisions" of 1184 was later translated into Georgian. Finally the organizer, King Vakhtang VI, in 1723, after years of codifying labor, assembled all these sources in a collection known as the Code of Vakhtang VI,—first critically edited in recent times by the veteran devotee of Armenian law, Josef Karst.

Under the later Russian domination—czarist and soviet—its independent development came to an end.

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III. THE AMERINDIAN LEGAL SYSTEM

Had not the bold Spanish conquistadores of the 1500s, greedy for gold, and fanatical in zeal for their faith, overthrown the government of the two most advanced native communities of America, there might have survived for our study some interesting examples of that rare phenomenon,—a legal system developed in pure independence of external influences. But no written records had been developed for the systems themselves, and there remains only the imperfect information noted down by the conquerors.

1. The entire population of the two Americas was indigenous, since prehistoric times; the earliest human inhabitants were immigrants of the most primitive types, who had crossed from Asia via the Behring sea and islands. In their gradual development a vast variety of types were formed, representing scores of languages and forms of social organization. From the juristic point of view, they fall into three groups,—the North American, the Mexican, and the Andean.

The first of these groups had reached various stages of arrested development. But none of them represented anything more than the usual methods of primitive tribal justice found in various parts of the world. They had no fixed cities, and they built no enduring edifices.

In the second group, one of the racial branches, the Mayas in Guatemala and Yucatan, had by about A.D. 500 reached a high degree of mentality. They had invented a hieroglyph for recording events; they created cities and built remarkable edifices; and they must have developed some sort of an elementary system of social order and a way of doing justice. But they stopped at a limited use of hieroglyphs, and even after a thousand years had gone no further. What their native system was can be known only by patching together the fragmentary data observed by the foreign invaders in the 1500s.—The Toltecs and the Aztecs, later arrivals from the North, settling in Central Mexico, made no further progress.

2. The third group—the Andean—coming into a well-organized stage by (say) A.D. 700, went far beyond the Mayas in governmental organization and in systematic administration, reaching a gradually high development by the 1500s, at the time of the Spaniards' arrival. But their recording system—that of colored knots on strings—had not become a script. Its materials were all destroyed under the Conquest, and the conquerors' ob-

servations are our only source of information. The archaeological data that remain are copious, and indicate a gradual development of higher forms during a thousand years or more. So it seems probable, and we may like to believe, that their social development had not become arrested by the 1500s, and that if left alone they would have gone on to invent a genuine script, and to develop a system of legal institutions worthy of comparison with some of those of Asia and Europe. But at the time of the Conquest their State was in a disorganized condition of internecine dynastic quarrels, and this may indicate (as in other instances) that they had reached the apogee of their social possibilities.

3. In both of these two advanced groups, the legal system was nomistic, i. e., founded on religion, the law being conceived as divinely revealed and imparted through the ruler, and therefore administered usually by a priestly class of advisers. Indeed, the Aztecs made of war a religious cult, seeking blood for sacrifices to the sun-god.

The relation of these second and third groups to each other, in point of chronology, may be seen from the following tabular view; the Andeans have two columns, representing the coast and the mountain groups, which later merged:¹

CHART OF PERIODS

Period	Mexico	Guatemala and Yucatan	Andes	
			Coast	Mountains
B.C. 200	Archaic	Archaic	Archaic	Archaic
A.D. 200	Toltecs	Old Maya Empire	Early Chimu-Nasca peoples	Early Tiahuanaco peoples
" 300				
" 400				
" 500				
" 600				
" 700	Aztecs	transition and decline	Middle Chimu-Nasca period (brilliant)	Middle Tiahuanaco Period —Rise of Incas
" 800				
" 900				
" 1000				
" 1100				
" 1200	New Maya Empire and Toltecs	Decline	Later Chimu-Nasca period	—Late Tiahuanaco period. —Inca Empire centralized
" 1300				
" 1400				
" 1500	Spaniards	Spaniards	Spaniards	Spaniards

1. Adopted in substance from Means, Introduction to Montesinos, "Memorias Antiguas," Table VIII, with dates inserted for Toltecs and Aztecs.

4. It is in this third group that the system developed by the Inca race in Peru deserves a brief consideration for its two unique aspects,—the recording system and the judicial system. On both of these subjects, authentic details have been noted by the Spanish observers:

The recording system. The recording system—knots on strings—seems to have been used very much as the abacus (a board with beads on wires) has been used in the Orient till modern times. And the use of it, in connection with memory-training, helps us to understand how in two other peoples—the Jews and the Kelts—a vast variety of legal rules could be developed during centuries by the memory of experts without the use of script:

Garcilasso, "Commentaries," II, 32, 47, 121: "I hold, for my part, that these Yncas of Peru ought to be preferred . . . to the heathen nations of Asia and Greece. Because, when properly considered, the labours of Numa Pompilius in making laws for the Romans, or Solon in doing the same for the Athenians, and of Lycurgus for the Lacedaemonians, are not such admirable works; seeing that they were acquainted with letters and human sciences. Thus they had, by this means, learned to draw up codes of laws and good customs, which they left written down for the men of their own time and for posterity. But the wonder is that the Indians, being entirely deprived of these aids, should succeed in framing their laws (not including those appertaining to their idolatry) so well and in such numbers; which are still observed by the faithful Indians, all based on reason, and in conformity with those of the most lettered lawgivers. They wrote them down distinctly by means of knots and threads of different colours which they kept for these purposes, and so taught them to their sons and descendants. Thus the laws that were established by their first kings, six hundred years ago, are now as well preserved in the memories of the people as if they had just been promulgated afresh. . . .

"The eighth law was on the subject of collecting the tribute; for in all things there was a regular order established. At a certain fixed time the official collectors and accountants assembled in the chief village of each province, with the clerks who kept the knots; and, before the Curaca [local chief] and the Ynca Governor, they made the partitions by the knots and threads, and also by means of little pebbles according to the

number of inhabitants. This was all done with such accuracy that I know not to whom to give most praise, whether to the accountants who, without figures, made their calculations as correctly as our arithmeticians can do; or to the governors, who so easily understood the accounts that were placed before them. They saw, by the knots, the amount of labor that the Indians had performed, the crafts they had worked at, the roads they had travelled over by order of their superiors, and any other tasks on which they had been employed. All this was deducted from the tribute that was due. . . .”

“*Quipu* means to knot, or a knot, and it was also understood as an account, because the knots supplied an account of everything. The Indians made strings of various colours. Some were all of one colour, others of two combined, others of three, others more; and these colours, whether single or combined, all had a meaning. The strings were closely laid up in three or four strands, about the girth of an iron spindle, and three quarters of a vara long [about two feet]. They were strung on a thicker cord, from which they hung in the manner of a fringe. The thing to which a string referred was understood by its colour: for instance, a yellow string referred to gold, a white one to silver, and a red one to soldiers. Things which had no colour were arranged according to their importance, beginning with that of most consequence, and proceeding in order to the most insignificant; each under its generic head, such as the different kinds of grain under corn, and the pulses in the same way. . . . In enumerating the vassals they first gave the account of the natives of each village, and next of those of the whole province combined. On the first string they put only men of sixty and upwards, on the second those of fifty, on the third those of forty and so on down to the babies at the breast. The women were counted in the same order. Some of these strings had other finer ones of the same colour attached to them, to serve as supplements or exceptions to the chief record. Thus, if the main string of men of a certain age had reference to the married people, the supplementary string gave the number of widowers of the same age in that year. For these accounts were made up annually, and only related to one year. The knots indicated units, tens, hundreds, thousands, and tens of thousands, but they rarely or never went beyond that; because each village was taken by itself, and each district, and neither ever reached to a number beyond tens of thousands, though there were plenty within

that limit. . . . On the uppermost knot they put the highest number, which was the tens of thousands, on the next below the thousands, and so on to the units. The knots of each number, and each thread, were placed in a line with each other, exactly in the way a good accountant places his figures to make a long addition sum. These knots or *Quipus* were in charge of Indians who were called *Quipu-camayus*, which means 'He who has charge of the accounts.' The *Quipu-camayus* being so trustworthy and honest, as we have described, their number was regulated according to the population in each village; for, however small the village might be, there were four accountants in it, and from that number up to twenty or thirty; though all used the same register. . . ."

"The *Quipu-camayus* noted, by means of the knots, all the tribute that was given to the Ynca every year, specifying each household and its peculiar mode of service. They also recorded the number of men who went to the wars, those who died in them, those who were born, and those who died in each month. In fine, they recorded every thing relating to numbers by means of the knots, even putting down the battles that were fought, the embassies that had been sent to the Ynca, and the numbers of speeches and arguments that were used by the envoys. But neither the words nor the reasoning, nor any historical event could be expressed by the knots. For there was no means of conveying the words that were spoken, the knots expressing numbers only, and not words. To remedy this defect they had signs by which they conveyed an idea of historical events, and of reasonings and speeches made in peace or war. These speeches were preserved by the Indian *Quipu-camayus* in their memories, by means of short sentences giving the general meaning, which were committed to memory, and taught to their successors, so that they were handed down from father to son. . . ."

"They had another way of preserving the memory of historical events, and of embassies sent to the Yncas. The *Amautas*, who were their learned men, took care to put them into the form of brief narratives, as short as fables, which were told to children and youths, and to the common people, so that, by passing from one to another, they might be preserved in the memories of all. They also recounted their histories in the form of allegories, as we have related of some, and shall hereafter relate of others. Then the *Haravicus*, who were their poets, composed short, pithy verses, in which the

historical event was condensed. Thus they cast into traditional verse all that the knots were unable to record; and these verses were sung at their triumphs and festivals. They likewise recited tales to the Yncas when the knights were armed, and thus they preserved the memory of past events. But, as experience has shown, all these were perishable expedients, for it is letters that perpetuate the memory of events. . . .

"The *Quipu-camayus* were referred to by the Curacas and chiefs of provinces to tell the historical events relating to their ancestors which they desired to know, or any other notable circumstance which had happened in their provinces. . . . Thus the meaning of knots was never allowed to slip from their heads.

"By the same means they gave an account of the laws, ordinances, rites, and ceremonies. From the colour of the thread or the number on the knot they could tell the law that prohibited such and such an offence, and the punishment to be inflicted on the transgressor of it. They could set forth the sacrifices and ceremonies that should be performed on such and such festivals; could declare the rule or ordinance in favour of the widows or the poor; and could give an account, in short, of all things preserved by tradition in their memories."

The judicial system. In any organized community it can hardly be expected to develop a genuine legal system unless and until a professional class arises, to whom is committed the special task of knowing and applying the settled rules of conduct in all their details. This feature apparently the Inca race had developed in Peru. Though few details of procedure are recorded, it seems evident that the government was on its way to a genuine legal system. The remarkable record here quoted is from a chronicler who was the son of a Spanish official by an Inca mother of high rank, and he had taken the greatest pains to secure accuracy:

Garcilasso, "Commentaries," I, p. 143: "The Yncas ordained a law by which it seemed to them that they would prevent all the evils that might have a tendency to arise in their empire. They ordered that, in all the towns of their dominions, both large and small, the inhabitants should be registered by decades of ten, and that one of these should be selected as a decurion, to have charge over the other nine. . . . Thus there were chiefs over ten, fifty, a hundred, five hundred, and a thousand, subordinate one to the other, from the decurion to the chief over a thousand, whom we should call a general.

. . . The decurion was obliged to perform two duties in relation to the men composing his division. . . .

"The other duty was to act as a crown officer, reporting every offence, how slight soever it might be, committed by his people, to his superior, who either pronounced the punishment, or referred it to another officer of still higher rank. For the judges were appointed to hear cases, according to their importance, one being superior to another. The object of this was that there might be officers who could treat some cases summarily, in order that it might not be necessary to go before superior judges with appeals. It was considered that light punishments gave confidence to evil doers; and that, owing to numerous appeals, civil suits might be endless, causing the poor to despair of getting justice and to give up their goods rather than endure so much annoyance, for to recover ten it might be necessary to spend thirty. It was therefore provided that in each village there should be a judge, who should finally settle the disputes that might arise amongst the inhabitants; but when the dispute was between two provinces respecting boundaries, or rights of pasturage, the Ynca sent a special judge, as we shall relate further on. . . .

"The judge had no power to mitigate a penalty ordained by the law, but he was obliged to execute it in its integrity, on pain of death, as a breaker of the royal commandment. They said that to give the judge any discretion in the infliction of punishments was to diminish the majesty of the law ordained by the king, with the advice of men of such experience and wisdom as he had in his council, which experience and wisdom were wanting to the inferior judges. It was also considered that such discretion would make the judges venal, and open the door to petitions and bribes, whence would arise very great confusion in the commonwealth, each judge acting according to his caprice. A judge, therefore, should not assume the position of a lawyer, but should put in force that which the law commanded, how severe soever it might be. Assuredly, if we consider the severity of those laws, which generally (however slight the offence might be, as we have already said) imposed the punishment of death, they may be said to have been the laws of barbarians. But looking to the benefit which accrued to the commonwealth from this very rigour, it may, on the other hand, be affirmed that they were the laws of a wise people who desired to extirpate crime; for the infliction of the penalties of the law with so much severity, and the

natural love of life and hatred of death in men, led to a detestation of those crimes which led to it. Thus it was that, in the whole empire of the Yncas, there was scarcely a crime to be punished in the year. For the whole empire, being 1,300 leagues long and containing so many nations and languages, was governed by the same laws and ordinances, as if it had been no more than one house.

“They did not have appeals from one tribunal to another, in any suit, either civil or criminal; for, as the judge had no discretion, he enforced the law bearing on the case at once, and thus concluded the suit; although under the government of those kings, and from the mode of life of their vassals, few civil suits arose. In each village there was a judge to hear the cases which arose in it, who was obliged to enforce the law within five days of having heard the suit. If a case came before him of more than usual atrocity or importance, requiring a superior judge, it went before the judge of the chief town of the province. For in each province there was a superior governor, but no litigant could go beyond his own village or province to seek for justice. The King’s Yncas knew well that for a poor man, on account of his poverty, it was not well to seek justice out of his own country, nor in many tribunals, owing to the expenses he would incur, and the inconvenience he would suffer, which often exceed in value what he goes in search of, and thus justice disappears, especially if the lawsuit is against the rich and powerful, who, with their might, stifle the rights of the poor. Desiring to avoid such inconveniences, these princes gave no discretion to the judges, nor did they allow many tribunals, nor the practice of litigants leaving their own provinces.

“The ordinary judges gave a monthly account of the sentences they had pronounced to their superiors, and these to others, there being several grades of judges, according to the importance of the cases. For in all the offices of the state there were higher and lower grades, up to highest, who were the presidents or viceroys of the four divisions of the empire. These reports were to show that justice had been rightly administered, and to prevent the inferior judges from becoming careless; and if they were so, they were punished severely. This was a sort of secret inspection, which took place every month. *The way of making these reports to the Ynca, or to those of his Supreme Council, was by means of knots, made on cords of various colours, by which means the signification*

was made out, as by letters. The knots of such and such colours denoted that such and such crimes had been punished, and small threads of various colours attached to the thicker cords signified the punishment that had been inflicted, and in this way they supplied the want of letters."

5. To what accomplishments these two talented racial groups—the Maya-Aztecs and the Incas—might have attained, in this region isolated from all influences of borrowing or imitation, we can only speculate. Cortez arrived in Central America in 1519; Pizarro arrived in Peru in 1522. At this period both of the Amerindian groups were weakened by internal dissensions. Conquest with bloody violence ensued, followed by enslavement. In another generation the native systems were brought to ruin.

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IV. THE MADAGASCAN LEGAL SYSTEM

In Madagascar we have the story of an Oriental people remarkable for mental alertness; combining patriotic conservatism with progressive adaptability; an absolute ruler with free local self-government; emerging into the modern era, after centuries of feudal struggle, with a high degree of political organization, and entering upon an era of systematic legal development, but too late to save themselves from invasion and absorption into the colonial system of an ambitious Occidental power. Had this island nation devised or adopted writing a few centuries earlier,—instead of only a century and a half ago—and had not its territory lain directly in the path of modern European commercial ambition, it might have survived.

1. Who were this people?

The population of Madagascar was mixed. But it is certain that the dominant race—the Merinas—developed for centuries independently of outside juristic influences. Hence, its racial identity is important to discover. Down the middle of the island—some 200 miles long—runs a narrow high sierra, or hogsback, flanked by a plateau having some 3,000 feet elevation, and sloping to a tropical coast. In the central highland lived the Merinas, in the province of Imerina, with a capital city Tananarivo. Along the coast were other racial elements. According to the best opinion, the sequence of settlement was this: (1) An early instalment, B.C., of Africans (high class Bantus); (2) An Indonesian Hinduized immigration from Sumatra, A.D. 100-300, conquering the earlier people; (3) An Arab settlement on the coast, A.D. 600-900; (4) A second Sumatran immigration about A.D. 950, taking possession of the highlands and becoming the dominant race; (5) A small Persian settlement; (6) Another Arab settlement on the coast, A.D. 1500.

The Sumatran element—the Merinas—was by far the largest,

and after several centuries their ambition led them to subjugate the others. It is the Merinas that represented the nation. By the beginning of the 1800s they were politically well organized, with an elaborate system of finance, administration, property, irrigation, family and inheritance, courts and judges.

This is important, because it is the only instance in which a branch of the Malay race has developed independently to that level.

2. The Merinas were divided into two general classes, the nobles, or Andrianas, and the plebs, or Hovas. (At one time, the name Hova used to be applied erroneously by foreigners to the whole race). Their religion was based on ancestral reverence; they had no priests, and the administration was entirely secular. They were ruled by a long line of autocratic kings and queens. Their social constitution recognized many castes and sub-castes, both in the Andrianas and the Hovas. In more modern times, by marriage, the Hovas furnished many capable advisers to the rulers. But throughout all periods, the race maintained in a remarkable way a unique feature of democratic self-government. This institution was the Fokonolona, or village assembly.

3. In the Fokonolona not only were all members of equal status, but in the Assembly women voted as well as men, and youths as well as adults; for when a child could count up to ten, he was admitted to take part. Collective local responsibility provided for all social relations. All civil acts must be done and sanctioned in the presence of the Fokonolona, or of some committee thereof. The refusal of their sanction signified a boycott, and perhaps exile; for no member of the village could transfer into another village without the latter's consent. The Fokonolona had the management of the land system, of public works, of charitable help, of local police, and of funerals (an important institution), as well as of the formulation of the general customary law.

Under the great organizing king, Andrianam Poini-Merina (1789-1810) this local customary law, adopted at the town meeting (or *kabary*) began to be reduced to writing, in a sort of town-charter (or *fanehem*). Gradually these multiplied. Like the Five-Men-Company Books of Japan they contained many of the standard royal regulations, together with such local rules as each Fokonolona desired for itself. The Fokonolona (in the words of Julien, a great French administrator) "was the cell-base of the social, political, and administrative structure of Madagascar."

4. The Fokonolona was an ancient institution. But a royal address of King Andrianam-Poini-Merina, in the 1790s, at a national assembly, formulated a sort of charter of its powers of justice, as follows:

"I cannot allow my palace to be treated like a village mill, where everybody may enter as he pleases. Here I am establishing stages for doing justice:

"1. If one of you finds that he is being blamed for wronging another person, begin by expressing to him your regrets, thus: 'Pardon me, if I have done you wrong.' If this ends the matter, I shall be pleased that you two are reconciled, for then I can sleep in peace.

"2. Further dispute must be brought before the Village Assembly (or the feudal chief if on feudal lands).

"3. If by these means no settlement is reached, the case must be taken before one of my judges, who will inform me of it, so that I can judge it according to the laws of the Kingdom. If after my decision a party is not satisfied, we shall resort to further means to discover who is the falsifier.

"So understand well, my people, that there are these three stages of justice. Whoever neglects to follow them will be punished. And every one of my judges who fails to deal impartially with you shall be punished with death.

"And so, my Village Assemblies, if you cannot succeed in settling a dispute, send it to me, to be adjudged according to the laws of the Kingdom. It is in your power to deal with all matters that affect my subjects,—rice land, inheritance, ancestral estates, marriage, adoption, and the like. But only after you cannot settle the case are you to send it to me. I alone am the fountain of justice. I shall pay no heed to rumors, I shall listen only to the words of your representatives.

"For a suit brought to the Assembly, I appoint two or three of the family-heads to settle it, and when thus settled it is as though done by myself. So, when my subjects come to you with their disputes, and you succeed in settling them, bring to me the royal fee.¹ The village fee you will divide among yourselves. If a party refuses to abide by your settlement, he shall be fined 150 francs and a bull.

"Cases of petty importance, you are not to refer to me; you, my Assemblies, must put an end to them, for you must see to it that litigation does not waste the substance of my

1. Like the old English "fine," paid to the king for doing justice.

subjects. The judgment that you render will be as though rendered by myself.

"When you, my Assemblies, assign a time for the parties to appear, he who appears not shall lose the case.

"As to the rules of custom that obtain with you, I shall make no alterations, for, as cattle are caught by the lasso, so men are constrained by custom. Hence, in no respect do I change the rules or penalties which you enforce; except that in a case involving one of the 12 great crimes, which are not in your authority, you will refer it to me.

"As to suits involving inheritance, money, and family property, you are to seek to conciliate; yet if the parties fail to accept your decision, though urged, you are to refer the case to me. To attain such conciliation, you are to say to them: 'Since we are all of the same stock, why do we not all strive to reach a settlement, for nothing is better than mutual concessions?' Since you are all one family, you must seek to bring the parties together. For you must realize that if the suit has to be brought up to myself, you cannot avoid heavy expense, to the detriment of your possessions. In a lawsuit, both winner and loser are at some loss. A suit brought to me cannot be ended without expense, so that while he who loses may be ruined, yet he who wins may also come to naught. A hole in your garment no larger than your finger, if not sewn up, may become as large as your head.

"This I enjoin upon you, to save you from vain expense."

5. Onward from the period of King Andrianam-Poini-Merina begins a long period of gradual codification and modification of the ancient legal system. Printing in Roman characters was introduced in 1820. Under King Radama I (1820-1828), Queen Ranavalona I (1828-1861), and Queen Ranavalona III (1868-1883), there were partial codifications of 1828, 1862, 1863, and 1868, culminating in the Code of 1881 with 305 articles; each of these building upon and developing the prior ones, and all compiled under the native prime ministers.

6. But the doom of the nation's independence had long been preparing. Since the 1700s, or earlier, British Protestant missionaries and French Catholic missionaries had been admitted to the island. They were intense in their rivalries. English and French trading posts had been competing for trade opportunities. As the 1800s progressed, the encroachments of the Occidentals had aroused the patriotic resistance of the native rulers. One after

another, the native ministers strove to maintain the nation's independence. But the usual incidents ensued—a few killings, then a “punitive expedition,” then a treaty (1885) by which France obtained a protectorate; Great Britain relinquishing its claims in return for a corresponding protectorate over the adjacent island of Zanzibar. Then more disputes, and another military “intervention” by France, with much native carnage. Finally, in 1896, came annexation by France as a colony.

France has given to the Madagascans an excellent colonial government, maintaining the native institutions in all possible features; but as a legal system independence has ended.

At that very period Japan was holding its own, with high success, against foreign encroachments. And it is interesting to speculate whether, if the Merinas had brought writing with them, a thousand years ago, their people and their institutions would by the 1800s have developed to a status enabling them to maintain the independence of their nation and their legal system.

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