

G R E A T S I N G O V E R N A N C E

JUSTINIAN AND THEODORA

Architects of Law and Order



CHANDLER
INSTITUTE OF GOVERNANCE

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All good governments need good laws. They are the foundations for building a safe and prosperous society. Today, many of us take it for granted that the law is fair and transparent - that someone is innocent until proven guilty. But this was not always the case. These foundations were laid down 1,500 years ago, by the Byzantine emperor Justinian I.

Justinian the Great ruled from modern-day Istanbul between 527 - 565 AD. He and his trailblazing wife, Empress Theodora, introduced transparency and morality into the empire's legal system and new laws to protect the most vulnerable members of society.

Justinian built one of the world's greatest buildings, the Hagia Sophia, but his reforms to the law are his most inspired and enduring achievement. To change the world, sometimes you need to change the rules.





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The Emperor Justinian, by Benjamin Constant (1886)

The Emperor Who Never Sleeps

It is before dawn. The city of Constantinople is shrouded in an inky darkness. High in the city's Sacred Palace, candles are burning through the night. Justinian, the recently-coronated emperor of Byzantine, is wide awake and hard at work. The ambitious young emperor has many plans - to expand the empire's borders, restore its former glory and mend its inefficient tax system. But now, just months into his reign, Justinian is working on the one issue that will reshape his empire and define his legacy. This coming day, he will appear before the Senate and announce his plans to reform and simplify his empire's broken legal system.

Justinian knew this would be a massive undertaking. Byzantine law was a centuries-old patchwork of rulings, statutes, and legal writings inherited from Roman emperors, lawyers, and judges. One estimate calculates that the law exceeded 2,000 different books and three million lines of legal text. The law puzzled even the professionals who studied and practiced it. One historian has described Byzantine law as 'a splendid mess of confusion'. Simple issues could not be resolved because of contradictory rulings between old and newer laws. One case dragged on for nearly forty years! This sort of inefficiency troubled the energetic Justinian, who would become known as The Emperor Who Never Sleeps.

Why did Justinian Care about the Law?

Justinian and his wife Empress Theodora enjoyed the ‘divine right’ of being above the law. Their daily lives were not really impacted if the law was fully functioning or not. So why did they devote so much time and resources to reforming it?

Firstly, it is important to consider Justinian’s relatively lowly upbringing. He was born into a family of modest means (as was Theodora) in modern-day North Macedonia, around 400 miles north of Athens. His fortunes followed those of his uncle, Justin. As Justin rose to power – from swineherd to soldier, to imperial guard and ultimately to become the Emperor himself – he also elevated his nephew Justinian to increasingly influential positions. These humble origins may have given Justinian a sense of the way the law worked – or failed to work – for all manner of people across the empire. Justinian wrote of how justice should be universal:

“Justice is the firm and continuous desire to render to everyone that which is his due”.

Secondly, there were pragmatic reasons. Justinian wanted to extend the same legal jurisdiction to all parts of his empire. The law affected everyday people – when they bought goods or sold land; when they signed contracts or borrowed money; when they had disputes over inheritances or grievances over unpunished crime. Improving the legal system would make their lives more productive – and raise their approval of him as a leader. A more efficient legal system also promised to root out corruption, reduce waste, and in turn, bolster the Byzantine economy to make it one of the world’s most sophisticated and powerful marketplaces.



A gold ‘solidus’ coin, the obverse featuring Justinian I and, on the reverse, a standing angel; minted in Constantinople c.545-565.

Creating a more Accountable and Accessible Legal System

A New Foundation Based on Values

To really overhaul and strengthen a system of law you need to start with its foundations. Justinian began by addressing the structural causes of the problem, rather than just alleviating the symptoms. Contradictions in the old laws allowed those with money to bribe judges and jurists and purchase the ruling they desired. Justinian and his advisors reorganised existing laws and also created new ones. The values of fairness to all and consistency would guide this process.

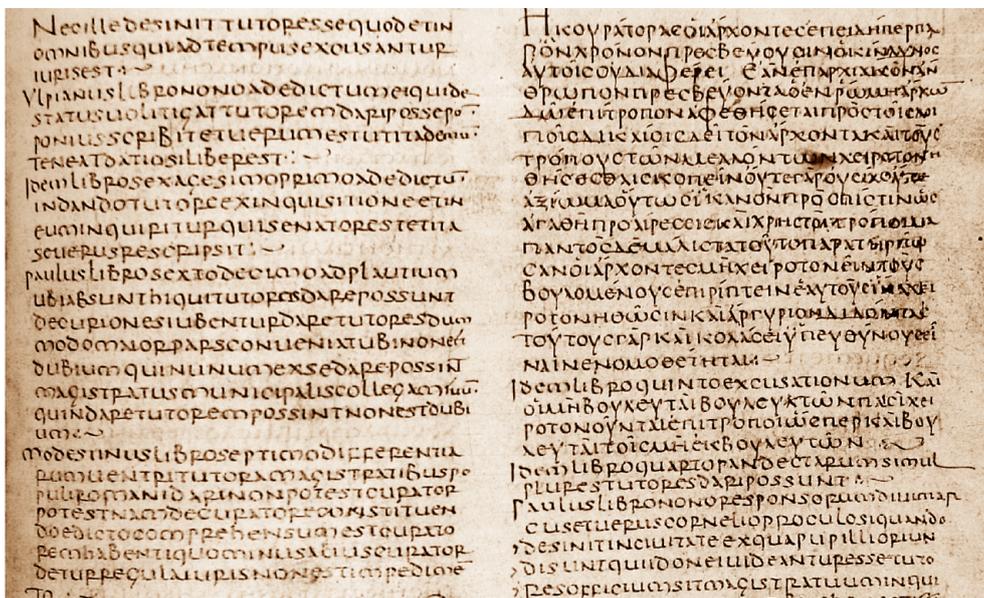
Between 529 and 534, Justinian and his team of legal advisors revised all aspects of Roman Law. This meant hundreds of years' worth of law regarding criminal codes, punishments, private law, ecclesiastical law, the powers of the emperor and other high officials, administrative codes, tax law, local government powers, the civil service and martial laws, and rules on contracts, marriage divorce, inheritance, succession and property ownership. All these and more became a coherent, consistent compilation of laws and texts known as the *Corpus Juris Civilis* (Body of Civil Law). The Corpus texts are the founding documents of the Western legal tradition.

Among the new laws promulgated by Justinian included one to 'suppress the avarice of creditors', capping the interest rates that could be charged on goods, such as grain and dried fruits. Another law limited how long appeals could last (two years), while another empowered local judges to make decisions on their best judgement, rather than having to wait for imperial orders. Other rulings promoted meritocracy, created greater rights for women, and most importantly enshrined the principle of being innocent until proven guilty.

Justinian's wife, Empress Theodora, shared the emperor's passion for legislative reform. She is credited with creating and enacting a number of laws focused particularly on women's rights: prohibiting sex trafficking, freeing women forced into prostitution and criminalising the system that forced those women into prostitution. Theodora also

improved women's rights in divorce, guardianship, and property ownership. Rather than protecting the powerful and enriching the wealthy, Theodora looked to the law to protect the weak and downtrodden.

Together, they forever changed not only the rule of law, but also the role of law in society. Of the four new legal texts of what is known as the 'Justinian Code', the first two were published in Latin, the language of the law; the latter two were published in Greek, the language of the empire. Doing so made it possible for Byzantine's citizens, many for the first time, to understand the laws under which they lived.



This page from the *Pandectarum codex Florentinus*, is the oldest extant edition of Justinian's Digest, copied just after its promulgation in the sixth century. As illustrated on this page, the manuscript is written in both Latin and Greek.

The Byzantine Empire

In 330 AD, the Roman emperor Constantine moved his empire's capital city from Rome to Byzantium (the city would later be renamed Constantinople, and is today Istanbul). The move reflected that the eastern portion of the Roman empire was growing in military and economic importance, while the western sections were waning on both fronts. The western Roman Empire would collapse and fall by the end of the 5th Century; the eastern part of the empire became the Byzantine Empire.

Under Justinian's rule, the Byzantine Empire would reclaim much of the western land that had once been under Roman rule. However, historians regard these campaigns as ultimately having overextended the empire financially and militarily. Byzantine's borders would gradually recede, until the empire fell to the Ottomans in 1453.



'The vain titles of the victories of Justinian are crumbled into dust; but the name of the legislator is inscribed on a fair and everlasting monument. Under his reign, and by his care, the civil jurisprudence was digested in the immortal works...'

- The eminent historian, Edward Gibbon, on Justinian I

Putting Principles into Practice

A Clear Mission for an Elite Team

How did Justinian tackle such a complex task so quickly and comprehensively? He began by recognising that he could not do it alone, despite his tireless work ethic. One of Justinian's first moves in 528, after announcing his intention to reform the Empire's legal system, was to establish a commission of high-ranking bureaucrats and legal experts from across the empire. They hailed from Beirut, Constantinople and Rome. He tasked them with collecting all the rulings issued by Roman emperors, and gave them the authority to clarify contradictions and exclude laws that had become outdated or



obsolete. Within a year, the commission had done the job. He would use this tactic again, establishing separate commissions to tackle new legal problems as they arose.

Heading several of these commissions was **Tribonian**, whom historians have called 'the greatest legal mind of the day'. Justinian's elite teams had fewer than 20 members. The standards for membership were exceptionally high. Justinian also appreciated the need for diverse thinking and perspectives, assembling a commission that reflected the makeup of the empire it was serving, rather than simply those nearest and most loyal to him.

A Relentless Focus on Implementation

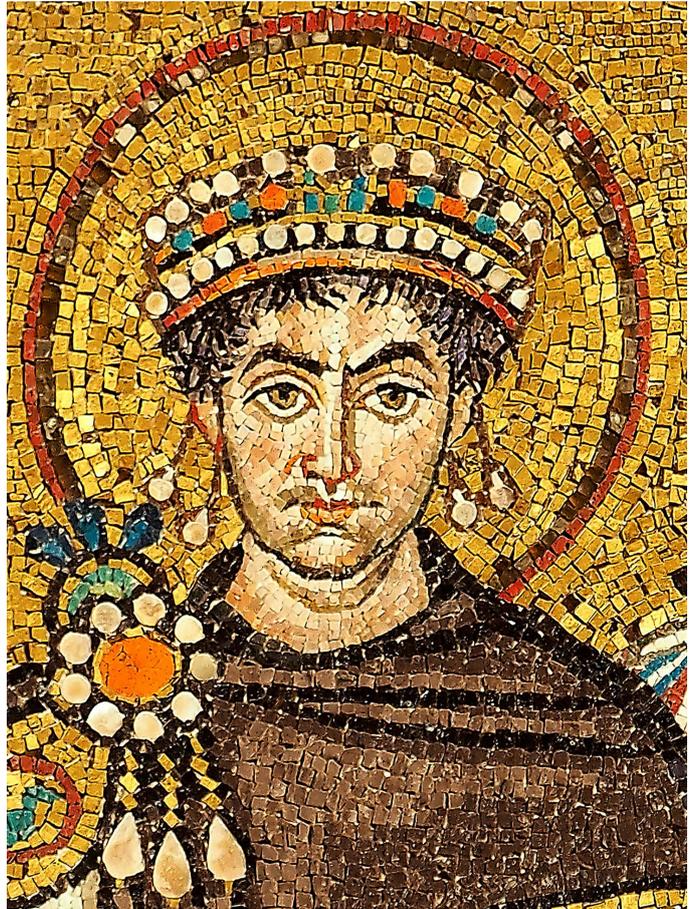
Once Justinian had committed to his vision of reforming the law, he did not wait around for ‘the right moment’ to proceed. He seized the opportunity to act early in his rule and created incredible momentum within his legal teams. They were given the resources and decision-making power to deliver results in very short periods of time.

The scope of the project was huge but production was tireless. In the space of five years, the first three books of The Justinian Code had been published. They cleared up issues that had crippled the legal system for centuries, and they standardised a curriculum for law students across the empire.

This focus on outcomes allowed Justinian to witness real change during his lifetime. His leadership approach encouraged speed. He would step in when needed, but refrained from micromanaging, allowing the commissions to operate efficiently. Rather than waste time seeking his approval on small matters,

Justinian’s commissioners were empowered to act according to their best judgment. He often deferred to their advice. Yet he didn’t shy away from making ‘the big decisions’ that only a leader can make. In 530, for instance, the commission could not agree on 50 different rulings and so Tribonian made sure that Justinian had the final say.

Justinian also refused to allow ‘great to be the enemy of good’. He ordered the first edition of a book on rulings to be published as soon as it was ready, rather than spend years trying to make it perfect. As it became clear that the compilation needed edits and amendments, a subsequent edition was published four years later. The particular wording of the Code mattered much less than the ideas it stood for and the ideals it defended. Justinian understood that legal decisions built upon the foundation of timeless principles – such as justice and fairness – stand the best chance of becoming timeless themselves.



Detail of Mosaic of Emperor Justinian I and attendants, Basilica of San Vitale in Ravenna (built A.D. 547)

Theodora - Trusted Advisor and Co-ruler

Many books have also been written about Justinian's wife - the charismatic and capable Theodora. She had a colourful early career as an actress but it was her intelligence and political acumen that made her Justinian's closest advisor and trusted counsellor. In a preface to one legislative ruling, Justinian admitted that he hadn't known what to do – so he asked Theodora.



*Mosaic of Empress Theodora and attendants,
Basilica of San Vitale in Ravenna (built A.D. 547)*

It was her wisdom and insight that saved his life. In 532, just five years into his reign, the 'Nika Riots' erupted. At the time, chariot-races drew huge crowds of up to 100,000 spectators - around one fifth of the city's population. The main chariot-racing teams and their supporters were highly politicised. Unrest at the races sparked city-wide riots. Buildings were burned and thousands killed. The fury of the riots was eventually directed toward Justinian and his palace, which overlooked the chariot-racing Hippodrome. Justinian and his advisors planned to flee the city. But Theodora took a brave stance and argued that they should remain, to defend the palace and their position:

"Whether or not a woman should give an example of courage to men, is neither here nor there. At a moment of desperate danger one must do what one can. I think that flight, even if it brings us to safety, is not in our interest. Every man born to see the light of day must die. But that one who has been emperor should become an exile I cannot bear ... If you wish safety, my Lord, that is an easy matter. We are rich, and there is the sea, and yonder our ships. But consider whether if you reach safety you may not desire to exchange that safety for death."



The Empress Theodora, by Benjamin Constant (1887)

Theodora's argument and her example carried the day. The riots were eventually quelled, and the pair ruled as a team until she died in 548.



The Legacy of a ‘Wise Prince’

Over the course of his reign, Justinian witnessed a plague that killed nearly 40 percent of the residents of Constantinople. His armies fought battles across North Africa, Italy, modern-day Spain and Syria. He reformed the empire’s tax collection system, expanded its military, and overcame the deadly Nika Riots. Despite his many wise decisions and championing of virtuous causes, Justinian was not without fault. He was short-sighted with his military budget - he over-extended and over-spent. Some of his closest advisors became corrupt. Fierce violence was used to suppress the Nika Riots and political enemies were silenced. But for Justinian, his legacy now lies in what he did for the law and how it still impacts lives today.

Under Justinian’s guidance, one more enduring wonder was created: the Hagia Sophia. When it was built in 537, the church was the world’s largest building and it remains an architectural wonder. It shares some uncanny parallels with Justinian’s Code. Immense work was required to complete them, and both took only five years to create. The Hagia Sophia was erected on a site where an old church had once stood, and Justinian chose to build something grander, upon the ruins. He did much the same with the Code: he took the crumbling ruins of the Roman legal system and had it entirely rethought and reassembled – an accomplishment, which, like the Hagia Sophia, remains with us today.

“...the laws of Justinian still command the respect or obedience of independent nations. Wise or fortunate is the prince who connects his own reputation with the honour or interest of a perpetual order of men.”

- Edward Gibbon

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