

Roman law: the art of the fair and good? The Twelve Tables

The Twelve tables came about as the result of a continued struggle between the upper and lower classes. The lower class, the plebeians, wanted fair rights for all citizens and threatened to leave the city which without them, would have ground to a halt.

In 451 BC a board of ten men (the first Decemviri) were appointed to draw up a set of laws. When the ten men were in agreement they brought the laws to the people so that the people could read them and come back with any disagreements or alterations.

Livy *History of Rome* 3.34 (translation C. Sweeney & J. Goshfield)

versarent in animis secum unamquamque
rem, agitent deinde sermonibus, atque in
medium quid in quaque re plus minusve
esset conferrent.

*Every citizen should quietly consider each
point, then talk it over with his friends, and,
finally, bring forward for public discussion
any additions or subtractions which seemed
desirable.*

Once there was a consensus among the people the Twelve tables were inscribed on bronze and displayed publicly in the forum.

For such an important document, it is quite surprising that the original text has been lost. The original tablets were probably destroyed when the Gauls burnt down Rome in 390 BC.

What we have left of them today are brief excerpts and quotations from other Roman writers.



Why do you think it was so important for the plebeians to have a formal law code?

What do you think about the process for approving the laws?
Could it be a feasible way of writing legislation nowadays?

Cicero *de Legibus* 2.59

dscebamus enim pueri XII ut carmen
necessarium, quas iam nemo discit.

*For as boys we used to learn the Twelve
Tables [by heart] as a compulsory verse,
which no one learns nowadays.*

Why do you think Cicero learnt the twelve tables by heart?

How well do you know the laws that you are governed by? How do you know them?

The following gives examples of some of the items on each table (in summary form).

<p style="text-align: center;">TABLE I</p> <p>All persons summoned before the magistrates must attend. If one party fails to attend, the magistrate shall pronounce judgement in favour of the present party.</p>	<p style="text-align: center;">TABLE II</p> <p>Someone whose witness has failed to appear may summon him by loud calls before his house every third day.</p>	<p style="text-align: center;">TABLE III</p> <p>Someone who has incurred a debt will have 30 days to pay it. If he fails to pay, a creditor can keep him at his house in fetters (<i>stipulations follow for feeding the debtor</i>).</p>
<p style="text-align: center;">TABLE IV</p> <p>A dreadfully deformed child shall be quickly killed. If a father sells his son three times, the son shall be free. A child born 10 months after his father's death cannot claim an inheritance.</p>	<p style="text-align: center;">TABLE V</p> <p>Females should remain in guardianship even when they have attained their age of majority.</p>	<p style="text-align: center;">TABLE VI</p> <p>Formal declarations of bonds and selling of properties are legally binding.</p>
<p style="text-align: center;">TABLE VII</p> <p>Should a tree on a neighbour's farm be lean over your farm, you may remove that tree. You may pick up fruit from your tree that has fallen on another's land.</p>	<p style="text-align: center;">TABLE VIII</p> <p>If one is killed while committing theft in the night, he is justly killed. Any person found guilty of giving false witness shall be hurled from the Tarpeian Rock. No person shall hold meetings in the city at night.</p>	<p style="text-align: center;">TABLE IX</p> <p>Capital punishment for judges who have been bribed. Capital punishment for treason. Putting any man to death unconvicted, whoever he might be, is illegal.</p>
<p style="text-align: center;">TABLE X</p> <p>No one shall bury or burn a corpse in the city.</p>	<p style="text-align: center;">TABLE XI</p> <p>Marriages should not take place between plebeians and patricians.</p>	<p style="text-align: center;">TABLE XII</p> <p>Whatever the people had last ordained will be held as binding by law.</p>

How varied are these laws? Which do you think are the most important?

Further reading:

<http://www.historyguide.org/ancient/12tables.html>; http://www.ancient.eu/Twelve_Tables/;
http://www.constitution.org/sps/sps01_1.htm