

## Property Rights and Law Among the Ancient Greeks

By [Gregory F. Rehmke](#) • 2 1997 • Vol. 47/Issue 2

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Greek art, architecture, literature, philosophy, and politics clearly mark the beginning of Western civilization. But the Greek contribution to the Western world runs far deeper than its intellectual and artistic accomplishments, its stunning architecture, and its masterful works of philosophy and literature. Greek customs and institutions provided protection to private property unique in the ancient world, and by instilling a strong sense of equality before the law, laid the foundations for Western democracy and the rule of law.

I had long assumed the main Greek contributions to Western civilization were the great philosophical works of Plato and Aristotle, the histories of Thucydides and Herodotus, and the surviving plays of Aeschylus, Euripides, and Sophocles. But taking an art history course on ancient Greece stimulated my curiosity about its economics and politics, and since then I have worked my way through a number of thoughtful books on the Greek world. I don't claim to be an expert on the subject, but I have noticed that many classical experts don't show much appreciation for markets or the role of property rights in economic and cultural progress. Yet here the contributions were also enormous.

Central to the rapid progress of Greek civilization was its very lack of a political center. No great king ruled the Greeks. Instead, dozens and later hundreds of independent *poleis*, or city-states, developed in concert but with full political independence. They flourished, both in Greece and in its colonies around the Mediterranean and Black Seas, from 800 to 300 B.C.

Each city-state became a testing ground for small innovations in laws, economic policies, and political organization. Greeks shared a common heritage, but institutions, customs, and circumstances in each *polis* varied significantly, with totalitarian Sparta and democratic Athens as extremes. City-states whose laws and customs encouraged innovation and wealth creation passed on news of these practices through trade, and exported their laws and institutions by establishing

colonies (which competed with the colonies of other Greek cities). Travel and intermingling at the Olympic Games and other athletic and religious festivals cross-pollinated the Greek world, communicating political ideas, economic policies, and business practices between citizens of independent Greek cities.

Cities with relatively high taxes and duties or other barriers to commerce discouraged agricultural and commercial progress and therefore tended to stagnate or decline. The city of Corinth, for example, became the early commercial leader of the Greek world by developing its harbor and port facilities to take advantage of its prime location. By the early fifth century B.C., however, Athens had supplanted Corinth as the commercial center of the Greek world. When its policies made it less competitive with Athens, Corinth, which had no political power over other Greek cities, was unable to hold onto its commercial power.

Wars among the early Greeks (before the Persian and Peloponnesian wars) were mostly border disputes between cities, and well-armed farmers mobilized for brief pitched battles. Early Greek cities supported no standing armies, battle strategies were minimal, and casualties in these conflicts were usually light. The citizen infantries or *hoplites* were the key defensive forces for both city and countryside.

The freedom of Greek citizens was based on their membership in a society of equals, unlike hierarchical oriental despotisms where all served their superiors and a king. Freedom meant not that the Greek citizen necessarily enjoyed self-government, but that "however his polity was governed it respected his rights. State affairs were public affairs, not the private concern of a despot." <sup>1</sup> Of course, not all Greeks were Greek citizens; women and slaves had no political rights and neither, in the beginning, did immigrants and other classes of noncitizens who lived and worked in Greek cities. Still, this was wider representation in civic affairs than existed in other ancient civilizations.

"It has often been said," writes F. A. Hayek, "that the ancients did not know liberty in the sense of individual liberty. This is true of many places and periods even in ancient Greece, but certainly not of Athens at the time of its greatness . . . ; it may be true of the degenerate democracy of Plato's time, but surely not of those

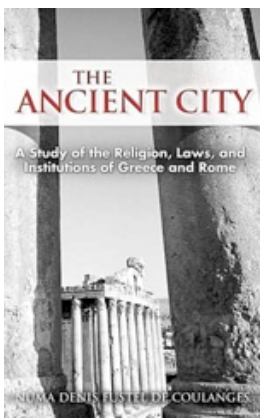


Athenians to whom Pericles said that ‘the freedom which we enjoy in our government extends also to our ordinary life [where], far from exercising a jealous surveillance over each other, we do not feel called upon to be angry with our neighbour for doing what he likes.’ ”<sup>2</sup> According to Hayek, the Athenian view that citizens should have freedom to live as they pleased influenced the development much later of the rule of law in England.

### Protecting Family Property

The powers of the early *polis* were limited by the same Greek tradition that served to protect private property: a deep respect—even worship—of the family. Unlike most states founded with the conquest of one people over another, the Greek *polis* had its origin in pacts, probably for defensive reasons, between neighboring clans and tribes. Each clan or tribe had its own traditions of worship, and each family had a sacred enclosure protecting its sacred hearth and flame. Families governed their own affairs. Even the marking of property boundaries was a religious ceremony. “Thus the men of the early ages . . . arrived . . . by virtue of their belief, at the conception of the right of property; this right from which all civilization springs, since by it man improves the soil, and becomes improved himself.”<sup>3</sup>

Though this religion made it difficult to transfer property between families, it provided powerful barriers to the



expansion of government. “Every transfer of property needed to be authorized by religion. If a man could not, or could only with difficulty, dispose of land, for a still stronger reason he could not be deprived of it against his will. The appropriation of land for public utility was unknown among the ancients. Confiscation was resorted to only in case of condemnation to exile.”<sup>4</sup> Fustel

de Coulanges also notes that this strict protection of property rights lasted until the later democratic age of Greek cities.

This higher-law foundation of Greek civilization precluded for centuries active law *making* by tyrants or aristocracies. “Solon, Lycurgus, Minos, Numa, might have reduced the laws of their cities to writing, but they could not have made them. If we understand by legislator a man who creates a code by the power of his genius, and who imposes it upon other men, this legislator never existed among the ancients. Nor did ancient law originate with the

votes of the people. The idea that a certain number of votes might make a law did not appear in the cities until very late, and only after two revolutions had transformed them. Up to that time laws had appeared to man as something ancient, immutable, and venerable.”<sup>5</sup> Aristotle echoes this tradition in the *Politics* when he says that “it is more proper that the law should govern than any of the citizens” and that those appointed to power should be but “guardians and servants of the law.” Aristotle condemns governments where “everything is determined by majority vote and not by law” for in such cases “the people govern and not the law.”<sup>6</sup>

Sophocles’ play *Antigone* turns on the existence of this higher law, which even the king cannot or should not ignore. Antigone, disobeying the direct orders of Creon, the king, buries her brother according to the sacred rituals, and tells the king, “Nor did I think your orders were so strong that you, a mortal man, could over-run the gods’ unwritten and unfailing laws. Not now, nor yesterday’s, they always live, and no one knows their origin in time. So not through fear of any man’s proud spirit would I be likely to neglect these laws. . . .”

### Expanding Commerce

The Greeks traded with and drew heavily from civilizations around them, adapting an alphabet from Phoenician traders, for example, and early sculptural styles and skills from Egyptian craftsmen. “So far as we know,” F. A. Hayek wrote, “the Mediterranean region was the first to see the acceptance of a person’s right to dispose over a recognised private domain, thus allowing individuals to develop a dense network of commercial relations among different communities. Such a network worked independently of the views and desires of local chiefs, for the movements of naval traders could hardly be centrally directed in those days.”<sup>7</sup>

But the Greeks were far more dynamic than their ancient neighbors. The Greeks benefited both from a sense of the good life that emphasized the pursuit of individual excellence (*arete*) and from an entrepreneurial vigor given free rein by political and economic decentralization. Over time and in response to increasing population and changing views, the governments of Greek cities shifted from their ancient clan-based traditions. A series of revolutions swept through the cities, each expanding the protections of Greek law and limiting the power of aristocratic families.

Solon, a successful merchant and accomplished poet, revised Athenian laws in 594 B.C. to grant fuller property rights to a wider range of Greeks. Solon refused to

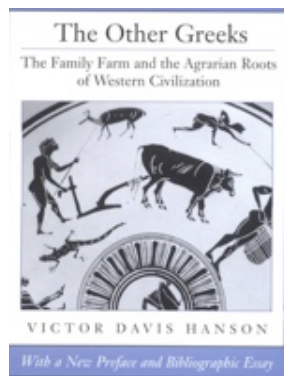
confiscate and redistribute land, but his reforms canceled or reduced debts for small farmers and allowed them to own property—freeing them of their historical clientship to aristocratic families. In addition, Solon encouraged local industry by offering citizenship to craftsmen willing to immigrate to Athens, and encouraged the production and export of olive oil (in part by banning the export of any agricultural products except olive oil). Solon’s reforms applied the same law to all citizens and eliminated the privileges of the aristocratic Eupatrids, the network of aristocratic families who had long held political power in Athens.

Across the Greek world, the aristocrats by birth lost their control of public affairs, and were replaced by a new class of citizens who by virtue of independent wealth took over civic responsibilities, including defense. Greek cities prospered during this period. Fustel de Coulanges points out that the “aristocracy of wealth” gave a higher status to labor: “This new government gave the most political importance to the most laborious, the most active, or the most skillful man; it was, therefore, favorable to industry and commerce. It was also favorable to intellectual progress; for the acquisition of this wealth, which was gained or lost, ordinarily, according to each one’s merit, made instruction the first need, and intelligence the most powerful spring of human affairs.” [8](#)

### The Importance of the Farm

Indeed, as Victor Davis Hanson points out in his recent book *The Other Greeks: The Family Farm and the Agrarian Roots of Western Civilization*, the disciplined life and hard labor on the thousands of small, independent farms developed Greek character, generated Greek wealth, and defended Greek city-states. Our image of the success of ancient Greece, he argues, is too much shaped by the surviving writings of authors who were members of a later urban elite.

Family-owned and -operated farms provided both the wealth and the *hoplite* defense for early ancient Greek cities. “Their achievement,” argues Hanson, “was the precursor in the West of private ownership, free economic activity, constitutional government, social notions of equality, decisive battle, and civilian control over every facet of the military—practices that affect every one of us right now.” [9](#)



These independent farmers carved their farms out of the wilderness around cities and developed apart from the estates long operated by the great aristocratic families. The independent farmers slowly and steadily expanded their holdings through decades of experimentation with crops and improvement of farmlands. Rugged hills and the thin-soiled uneven lands between were gradually brought into cultivation. Crops included cereals, fruit trees, olives, and vines, as well as livestock. Secure property rights were essential for encouraging the long-term investments made by farming families. The year-round cycle of planting, pruning, and harvests both distributed the workload through the year and allowed time for Greek citizen-farmers to participate in the affairs of the *polis*.

### The Influence of Homer and Hesiod

The Greeks had no Bible to organize their worship and educate their young. The books that were central to Greek life and education were the *Iliad* and the *Odyssey* by Homer, and Hesiod’s *Works and Days* and *Theogony*. The works of Homer and Hesiod appear at the very beginning of widespread Greek literacy, around 750 B.C. These books, learned in childhood and often memorized, deeply influenced the character and culture of all Greeks. Central to *Works and Days* is the idea of private farms owned by individual farmers and a steady disdain for the large estates of the “bribe-swallowing barons.” “At all times in the poem,” notes Hanson, “private ownership and thus the theoretical ability of the farm to expand or contract are assumed.” [10](#)

In *Works and Days* Hesiod “exhorts the farmer to labor for profit, yet at the same time to see his farm as more than a mere livelihood. Crucial to that dual idea is work: Hesiod is obsessed with hard labor, distinguishing his farmers from peasants, who hope for little more than general subsistence.” [11](#) Competition between farmers motivates them to work hard and improve their farms: “In a phrase almost reminiscent of Adam Smith, Hesiod sings that the power of competition can ‘stir up even the lazy to work, for a man wants work once he sees his neighbor, a rich man, eager to plough, to plant and to put his house in good order.’” [12](#) Hard work leads to profit and the accumulation of surplus, Hesiod says: “If there is desire for wealth in your heart, then do the following: Work with work on top of work.” [13](#)

The independence of Greek farmers seems to have carried over into the growing manufacturing sectors of Greek cities, for example, the pottery industry in Athens. Athenian potters and painters grew wealthy from their successful workshops, and Athenian pottery was highly

prized and often copied around the Greek world.

The success of Western civilization owes much to the unique world-view and institutions passed on to the ancient world and later to the modern world by the Greeks. The sanctity of private property and contract shared by most Greek city-states and by Rome influenced later writers and philosophers who influenced America's founding fathers. Today, when the accomplishments of Western civilization and the institution of private property are under sustained attack in our colleges and universities, the study of ancient Greece and of the classics is in steep decline. What interest there is concentrates on the status of women in ancient Greece or turns to the ancient world for support of various left-wing ideological causes.

Looking on the bright side, however, since most of us were little exposed to ancient Greece in high school or college, we are less likely to be disposed against it. So as adults we have the whole stunning landscape of the ancient world to discover on our own. We can each chart our own course through this stretch of centuries where people first turned the powers of reason upon the natural world, and first turned to the power of the marketplace to launch the Western world on its unique course.

[Recommended readings beyond those cited above are: John Boardman, et al., eds., *The Oxford History of the Classical World: Greece and the Hellenistic World* (Oxford University Press, 1991); William I. Davisson and James E. Harper, *European Economic History: The Ancient World* (Irvington Publishers, 1972); Bruno Snell, *The Discovery of Mind in Greek Philosophy and Literature* (Dover Publications, 1982); and Lord Acton's essay The History of Freedom in Antiquity, in *Essays in the History of Liberty* (LibertyClassics, 1985).]

## Notes

1. H.D.F. Kitto, *The Greeks* (New York: Penguin Books, 1991), p. 9.
2. F.A. Hayek, *The Constitution of Liberty* (Chicago: University of Chicago Press, 1960), p. 164.
3. Numa Denis Fustel de Coulanges, *The Ancient City* (Baltimore: Johns Hopkins Univ. Press, 1980 [originally pub. in 1864]), p. 59.
4. Fustel de Coulanges, p. 63.
5. Fustel de Coulanges, p. 180.
6. Cited in Hayek, *The Constitution of Liberty*, p. 165.
7. F.A. Hayek, *The Fatal Conceit: The Errors of Socialism* (Chicago: Univ. of Chicago Press, 1988), p. 29.
8. Fustel de Coulanges, p. 316.
9. Victor Davis Hanson, *The Other Greeks* (New York: The Free Press, 1995), p. 9.
10. Hanson, p. 98.
11. Hanson, p. 98.
12. Hanson, p. 99.
13. Cited in Hanson, p. 100.

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