

superior to the Roman Law, which, after the lapse of many ages still continues to guide legislators and jurists of nations that have arisen and flourished since the Roman power has passed away.

One of the institutions that Justinian considered peculiar to the Romans, though in this he appears to have been mistaken, as the Galatians seem also to have possessed it, was the *Patria Potestas*, the exclusive, absolute, and perpetual dominion of the father over his children by a lawful marriage. It is said to have had its origin in the barbarous customs of the earliest Romans, and from them to have passed into their laws, and to have been sanctioned by the laws of their kings long anterior to the XII tables. And this Royal law of the Paternal authority was transferred by the Decemvirs into the 4th of the XII tables, as Dionysius relates, who sums up the particulars of this authority as permitting fathers to beat their children with whips, to confine them in prison, to make them work in chains in the fields, to sell them, and in fine to kill them. The Romans were not allowed to disown or deny their children, but only to order them out of their presence, and thus dismissed from home they did not lose their right to their father's property, unless they were disinherited. Armed with these rights the paternal authority was deservedly deemed peculiar to the Romans, and a part of the civil law, since elsewhere it had never attained such a height. The father was appointed as it were a family magistrate with the power of the sword. Only Roman citizens could exercise it; and if the citizenship were lost so was this authority, as in the case of those to whom fire and water were interdicted. Livy terms it *Patria Majestas*. For the father could treat his sons as he did his slaves; who in this respect were better off than sons that by one sale and manumission they attained their liberty, while sons were only liberated by a third manumission. Sons had this advantage however that while by manumission slaves only acquired the condition of *freedmen* (still owing certain duties to their former master and patron) sons reached the condition of their original free birth; which was so highly esteemed that it was not lost by the sale, but rather covered; and when manumitted this innate condition was recovered as if by bursting its bonds. Hence it was said that fathers could not take liberty from their sons. And by fictitious sales and manumissions a mode of liberating the son from the operation of the paternal authority was devised, and thus acquiring irrevocable liberty. A father could not sell his son if he married with his father's consent. The Romans began to modify the atrocity of the paternal power after acquaintance with humaner studies, and intercourse with more polished nations had rubbed off the original rust of their manners. In later times the supreme authority was rarely