OANNES
2026, 8(1) March

Research Article DOI: 10.33469/oannes.1522965

Theft from Historical, Cultural, and Legal Perspectives: A Comparative Study of Ancient History and Modern Turkish Criminal Law

Çağlayan YÜCEBAŞ
Author
Independent Researcher, Türkiye.
caglayann.yucebas@gmail.com

Yasin TOPALOĞLU
Corresponding Author
Atatürk University, Faculty of Letter, Department of History, Erzurum, Türkiye.
tyasin@atauni.edu.tr

Abstract

Theft is a significant violation of property rights and has posed a major threat to individuals and society throughout history. Individual losses undermine the concept of property, so theft has always been sought to be prevented to ensure public safety. Even before legal rules, theft was attempted to be prevented through moral regulations. Although there were exceptions, theft has always been considered a serious crime throughout history, as in Ancient Greek Law. Although Spartan boys, who received a purely military education, were taught that stealing what they needed was acceptable, the punishment for theft was death, as Plato advocated. Therefore, since Ancient Greek Law, the act of theft has been considered a crime, as it is today, and has been subject to criminal sanctions. At the same time, it has been considered a shameful act and is subject to legal sanctions.

This study attempts to compare the crime of "theft" in Ancient Greek Law, which forms the indirect basis of the Turkish Legal System originating from the European Legal System, with the Modern Turkish Legal System. Our study believes that it provides a good comparison of the Ancient Greek/Roman and Turkish Legal Systems in terms of their origins and modern application. In addition to the legal effects of theft, the study also examines its impact on social ethical values, the concept of justice, and social norms in the pursuit of an ideal legal system. This assessment seeks to reveal the transformation of the values underpinning the idea of punishment over time.

Keywords: *Theft, Criminal Law, Law, Ancient Greek/Roman Law, Modern Turkish Law (TCK).*

Submitted	17.02.2024
Revision Requested Last	13.01.2026
Revision Received	14.02.2026
Accepted Date	23.03.2026
Publication Date	25.03.2026

Cite this article
Topaloğlu, Y. & Yücebaş, Ç. (2026). Theft from Historical, Cultural, and Legal Perspectives: A Comparative Study of Ancient History and Modern Turkish Criminal Law, *Oannes*, 8(1), March, pp. 1-18.

Genişletilmiş Özet

Hırsızlık, bireysel mülkiyet haklarına karşı ciddi bir ihlal olarak tarihin her döneminde toplumların düzenini tehdit eden evrensel bir olgudur. Bu çalışmada da evrensel ve tarihsel olarak önemli bir konu olan "hırsızlık suçu" kültürler ve zamanlar arası karşılaştırmalarla ele alınmaya çalışılmıştır. Antik Yunan ve Roma ile modern Türk Ceza Hukuku'nun hırsızlık kavramına yönelik algıları, tanımı ve cezaları analiz edilmiştir. Hukuki, felsefi ve mitolojik unsurlara göre yapılan bu analiz, hırsızlığın yalnız bir suç değil, ahlaki ve kültürel bir problem olarak da ele alındığını göstermektedir.

Çalışmada, hukuki bir durum olarak genellikle değerlendirilen hırsızlığın efsanevi ve toplumsal yönlerine de yer verilmiştir. Hırsızlık eyleminin hukuksal etkilerinin yanında ideal bir hukuk sistemi oluşturma yolunda toplumsal etik değerlere, adalet anlayışına ve sosyal normlara etkileri de ele alınmıştır. Dolayısıyla çalışma, tek tip bir bakış açısının ötesinde hırsızlığın kültürel, toplumsal ve hukuki boyutlarını aynı düzlemde bir araya getiren bütüncül bir değerlendirme içermektedir.

Antik Yunan'da hırsızlık suçu hem filozofların görüşlerinde hem de uygulamadaki yasalar aracılığıyla ele alınmıştır. Platon, bireyin karakterinin eylemlerini belirlediğini vurgularken, hırsızlık gibi eylemleri, ahlaki zayıflığın bir göstergesi olarak yorumlar. Sparta'da ise bu suç, alışılmışın dışında bir yaklaşımla eğitimin bir parçası hâline getirilmiştir. "Agoge" adı verilen eğitim sisteminde çocuklar, gizlilik, hızlı düşünme ve çeviklik gibi beceriler kazanmaları için hırsızlık yapmaya teşvik edilmişlerdir. Ancak yakalanmaları durumunda ağır şekilde cezalandırılmışlardır. Bu durum, hırsızlığın pedagojik bir araç olarak kullanıldığı ender örneklerden biridir.

Drakon'un Atina'da uyguladığı yasaları ise çok daha katıdır. Bu yasalar, çalınan malın değeri ne olursa olsun, ceza olarak ölümü öngörmüştür. Daha sonra Solon'un getirdiği düzenlemeler, cezanın orantılılık ilkesine göre yeniden şekillendirilmesini sağlamış, hırsızlık suçu için hapis, para cezası ve utanç cezaları gibi yaptırımlar getirilmiştir.

Roma hukukunda ise "furtum" olarak adlandırılan hırsızlık suçu, kapsam olarak yalnızca fiziksel çalmayı değil; zimmete para geçirme, malı saklama gibi fiilleri de içermektedir. İlk başlarda kamu suçu değil özel suç sayılan hırsızlık, 12 Levha Kanunları ile sistematik hâle getirilmiştir. Malın çalındığı anda yakalanan (furtum manifestus) kişi daha ağır bir cezaya çarptırılırken, daha sonra tespiti yapılan (furtum nec manifestus) hırsızlık için öngörülen cezalar daha hafiftir. Genellikle çalınan malın 2-4 katı tutarında tazminat ödenmesi gerekmektedir. Hırsızlık gece işlendiğinde, hırsızın öldürülmesi hâlinde ceza verilmemesi gibi uygulamalar mevcuttur. Ayrıca kölelerin cezalandırılmasında bedensel cezalara başvurulması yaygındır.

Modern Türk Ceza Hukuku ise bu tarihsel süreçlerin sonucunda oluşan ve orantılılık, caydırıcılık, birey haklarının korunması ilkelerine dayalı bir sistem sunar. Nitelikli hırsızlık hâlleri (gece, afet zamanı, kamu malı, ibadethane, bilişim hırsızlığı vs.) için cezalar 3-7 yıl arasındadır. Çocuklar ve reşit olmayanlar için ceza yaş aralıklarına göre farklılaştırılmıştır.

Bu çalışmada hukuki kayıtların yanında, kutsal metinlerdeki (Kur'an-ı Kerim, İncil, Tevrat) hırsızlık algısına ve mitolojik figürlerin (Prometheus, Hermes) hırsızlıkla ilişkilendirilmesine de yer verilmiştir. Bu örnekler, hırsızlığın kültürel bellekte yer etmiş bir eylem olduğunu ve sembolik anlamlar taşıdığını göstermektedir. Prometheus'un tanrılardan ateşi çalması, bir tür medeniyetin başlangıcı olarak yorumlanırken, Hermes'in hırsızlıkla özdeşleştirilmesi bu eylemin tanrısal düzlemde bile temsiliyet bulduğunu ortaya koyar.

Antik metinlerden (Platon, Aristoteles, Ksenophon, Herodotos) modern hukuk kaynaklarına kadar çok çeşitli ve zengin bir literatür taranması sonucu, hırsızlığın yalnızca mülkiyetin kutsallığına bir saldırı değil, aynı zamanda ahlaki, kültürel ve sosyal bir problem olduğu da görülmüştür. Antik Yunan ve Roma'da ölüm ya da kölelik gibi cezalarla karşılanan bu suç, günümüzde daha insancıl ve yenilikçi yöntemlerle cezalandırılmaktadır. Ortaya konulmaya çalışılan bu unsurlar ceza anlayışının temelini oluşturan değerlerin tarih boyunca geçirdiği dönüşümü sergilemektedir. Tarihsel karşılaştırma yöntemiyle hazırlanan çalışma söz konusu uygarlıkların cezai yaptırımlarının salt hukuki bir tercih olmadığını ortaya koymuştur. Öyle ki yapılan incelemeler yaptırımların insan yaşamına verilen değer, devlet otoritesinin sınırları ve toplumun adalet algısı gibi çok geniş kültürel ve siyasal unsurlarla şekillendiğini göstermektedir. Çalışma ayrıca mukayese edilen uygarlıkların yaptırımlarındaki amaçsal farklılıklara da ulaşmıştır. Bu kapsamda tarihsel bir perspektif üzerinden suç kavramının ve cezalandırma anlayışının dönüşümünü inceleyerek günümüz hukuk sistemlerinin daha iyi anlaşılmasına katkı sunmaya çalışmaktadır.

Introduction

The Etymological, Philosophical, and Theological Foundations of Theft

The concept of theft is reflected in the Old Turkish word "uğru," the Arabic word "sârik / liş," and the Greek word "kleptēs / κλέπτης" (Sinanoğlu, 1953, p. 141; Bardakoğlu, 1998, p. 385). The origin of the French word "kleptomani," referred to as the "thief disease," is also based on the Greek expression "Kletēs" (Sinanoğlu, 1953, p. 141). Aristophanes defines a thief as someone who breaks into a house. He describes the attitude of a thief who cannot reach valuable items in the home as follows: "He entered my house and could take nothing; everything he found was locked away. He called my precaution cowardice." (Aristophanes(b), 32; Hunter, 2007, p. 8)

Plato argues that people's characters are decisive in determining the professions they will pursue and the actions they will take. On this basis, he describes the temperament of those who commit theft and temple robbery as follows:

"...gentle people become merchants on land and sea, in short, servants, while the bold become aggressive and insolent, turning into bandits, thieves, and temple robbers. Sometimes, even though they are not at all inclined to do so, these are actually unfortunate people." (Plato(a), 315).

The act of theft, defined in Turkish as "stealing, pilfering," is the taking of property that does not belong to the individual without the owner's knowledge. Alternatively, it is the dishonest acquisition of something for the purpose of gaining profit from it, its use, or its possession (Bauman, 1996, p. 55; Plessis, 2010, p. 329; Soyaslan, 2010, p. 363; Koca & Üzülmez, 2016, p. 515). However, for stolen goods to be considered theft, they must fall within the category of movable property (Soyaslan, 2010, p. 366; Koca & Üzülmez, 2016, p. 523). In his work "Nicomachean Ethics," which Aristotle wrote about the good life, he lists theft among the actions that embody evil in their very names and always lead a person astray:

"...some of these contain evil in their very names: for example, envy, insolence, jealousy; and in their actions, adultery, theft, murder, for it is said that all these and similar things are evil in themselves, not in their excesses or deficiencies. Therefore, it is impossible to be correct in these matters. Falling into error is inevitable." (Aristotle(b), 97).

Aristotle's approach, reflecting the general perception in Ancient Greece, bears similarities to the views on theft held by some ancient civilisations. Indeed, civilisations such as the Hittites, Assyrians, Babylonians, and Sumerians also regarded theft as a reprehensible act that should be deterred through punishment (Bardakoğlu, 1998, p. 384).

In the Hittite society, the penalties for theft were shaped by social class. If the person who committed the crime is a free individual, they must first return what they have stolen. Subsequently, they must pay the victim twelve shekels as compensation. If the person who committed the act is enslaved, they are similarly responsible for returning what they have stolen (Dinçol, 1990: 93; Bryce, 2003: 69). An enslaved person who owes six shekels is also punished physically by having his nose and ears cut off by the person he has wronged (Dinçol, 1990: 93). Punishment by cutting off facial features as a result of the crime of theft was also applied in Assyrian laws. According to this law, if a male or female slave takes stolen goods from the wife of a free man, both the male and female slave shall be punished by having their ears and noses cut off (Tosun & Yalvaç, 1989, p. 246). The prevailing perception also applies to Babylon and Sumer. While this crime was punishable by death in the laws of Hammurabi and Ur-Nammu, it was punishable by a fine of 10 shekels of silver in the statutes of Lipit-Ištar (Dinçol, 2003, pp. 12–14; Galanti, 2002, p. 59; Tosun & Yalvaç, 1989, p. 64).

Although it still exists today, this act, which has been considered a crime throughout the ages, has not been accepted by the Abrahamic religions. According to Judaism, one of the Ten Commandments given to Moses on Mount Sinai is 'Thou shalt not steal' (Exodus 20:19). The prescribed punishment for this crime is that the person must repay what they have stolen; if repayment is not made, they are condemned to slavery (Exodus 20:3). Islam state that the punishment for men and women who steal is the cutting off of their hands The punishment varies depending on whether the individual repeats the theft. For a second theft, the left foot is amputated, and for a third theft, the left hand is amputated. For the fourth theft, the right foot is cut off, and for the fifth theft, the punishment is death (Quran, Al-Ma'idah, 38–39; Atay, 2002, p. 11). In Christian law, theft is clearly an unacceptable act. So much so that Paul advises in the chapter on Ephesians, 'Let the thief no longer steal' (Letter to the Ephesians, 4:28). Although the term theft is not used explicitly, this religion also believes that the punishment for sins committed by the individual's hands should be administered through the limbs (Matthew 18:8).

Theft is not a behavior specific to a particular region, culture, or period. In societies, property violations have been seen as actions that disrupt social order; therefore, theft has been considered a crime subject to various criminal penalties. Although exceptions may exist, societies and religions are united in their view that theft, or taking what does not belong to one, is wrong. Religion, while being a system of belief, is also a set of values that regulates human behavior. Principles such as honesty, justice, and respect for others' rights are standard moral codes emphasized by every religion to guide individuals towards a virtuous life. In this context, theft, which violates these principles, is considered in religious teachings not only a worldly crime but also a behavior that disrupts the moral and divine order. Consequently, theft has been recognized as a behavior that must be prevented to maintain order in all areas and stages of human life. Therefore, although

the selection of measures to prevent crime and the sanctions imposed for crime may differ across cultures, the unacceptability of theft is a common perception.

The Crime of Theft and Its Penalties in Ancient Greece

In Ancient Greece, theft was a multifaceted phenomenon that transcended a single discipline and permeated various layers of society. This multidimensional nature, which shaped cultural memory, moral values, and social order, gave rise to varied approaches and sanctions across periods. One of the oldest written sources in which theft is mentioned is Homer's epic poem "The Odyssey." In the poem, Homer mentions that Melanthios, who was caught stealing weapons from the treasury, was punished by being hanged with his hands and feet bound (Homer, 351). Another narrative about theft concerns the daughters of King Proitos of Tiryns. What the daughters set out to steal is Hera's gold. Having lost their minds and gone mad as a result of this theft, the daughters are punished by being turned into cows (Apollodoros(a), 147; Thomson, 2007, p. 217). According to stories from many communities, fire's first encounter with humanity occurred when it was stolen from animals, gods, or the land of fairies. In most stories, the thieves are birds or four-legged animals. Some Aboriginal people in Western Victoria say that fire was stolen from crows by a fire-tailed bush bird. According to the Booandik tribe in South Australia, the owner of fire was a parrot who kept it in its beak, but a small parrot stole it from him. The natives of the Eastern Islands in the Torres Strait, on the other hand, say that the first owner of fire was an older woman who carried it on her finger. Animals inhabiting another island discover it through its smoke and engage in a struggle to steal it. Finally, a lizard bites off the woman's finger, stealing fire for humanity. In ancient Greece, fire was seen as belonging to the gods. In the legend, Prometheus steals fire from the god Zeus, opening a whole new door for humanity. Hyginus says that this theft took place in the sky and that Prometheus stole fire by lighting a fennel stalk (Apollodoros (b), 459-461). Plato, on the other hand, says that Prometheus stole fire and art from the workshop of Hephaestus and Athena and gave them to humans (Apollodoros(a), 327; Plato (b), 39). Aeschylus and Hesiod mention that Zeus punished Prometheus for his theft. It is stated that Prometheus was chained to a rock on the summit of the Caucasus (Aeschylus, 13, 38; Hesiod, 82; Burkert, 1985, p. 171). Hesiod, however, mentions that he was tied to a high pillar and that an eagle ate his liver. According to the story, every time the eagle tore off a piece of his liver, it regenerated (Apollodoros(a), 52; Hesiod, 82; Burkert, 1985, p. 171; Eco, 2017, p. 275). Aeschylus recounts the theft and punishment in Prometheus's own words:

Hermes is both a messenger and a god of theft. Hermes, who was born at dawn and played the lyre at noon, stole Apollo's cattle in the evening (Aristophanes(b), 463; Apollodoros(a), 9; Burkert, 1985, p. 156; Friedell, 1999, p. 44; Rodgers, 2012, p. 389; Eco, 2017, p. 571; Berens, 2020, p. 113). Apollo, whose cattle were stolen, speaks of Hermes, the god of theft, as follows:

> *"You sly, deceitful, cunning trickster, I am sure you have robbed many times. You have plundered many well-built houses tonight, leaving no place to sit. You have stripped the man's house bare without a sound. How you speak... Because from now on, this will be your privilege among the immortals; you will always be called the leader of thieves" (Homer's Hymns, 84).*

Some opinions, however, hold that Hermes' relationship with theft is quite the opposite. Proponents of this view state that the god protects traders' goods from thieves. They say that statues of Hermes were placed in marketplaces and along the routes where merchants carried their goods, and that these statues protected the goods from thieves (Bonnard, 2004, p. 188).

In mythology, in contrast to Hermes and Prometheus' tendency to steal, Priapus, the protector of fertility, is believed to punish thieves with rape (Horace, 268; Eco, 2017, p. 15; Berens, 2020, p. 164).

> *"I too have become a god, a unique scarecrow for birds and thieves, keeping thieves away..." (Horace, 51).*

Plato does not consider taking what belongs to another to be fitting for free individuals or even gods, defining robbery as shameful (Plato(a), 455).

> *"...let no one think that theft or robbery is not something to be ashamed of because the gods do the same thing. These stories are not true, nor do they resemble the truth. No god or child of a god can act against the laws and do such a thing." (Plato(a), 455).*

There is evidence that Athenians were greatly afraid of being subjected to violence and of having their belongings stolen in the streets or public areas (Roth, 2014, p. 38). One of the most serious crimes committed on the streets of Athens was the theft of valuable cloaks that people carried outside. Antiphon mentions that these garment thieves could kill someone wandering the streets of Athens at night (Antiphon, 20; Hunter, 2007, p. 11). In response to this theft, some Athenians did not go out at night, while others took security measures to protect themselves and their valuables at home (Hunter, 2007, p. 11). Aristophanes, one of the famous writers of ancient Greek comedy, touched on this subject in his work:

> *" I was asked to the Tenth-day feast of a childe; and I drank ere the feast was begun; Then I take my repose; and anon the cock-crows; so, thinking it daybreak I run to return from the City to Halimus town d; but scarce I emerge from the wall, When I get such a whack with a stick on my back from a rascally thief, that I fall, and he skims e offmy cloak from my shoulders or e'er for assistance I can bawl. Then a Kite was the Sovereign of Hellas of old and ruled with absolute sway. The Sovereign of Hellas! Moreover, taught by his rule, we wallow on earth to this day, when a Kite we espy."* (Aristophanes(a), 177).

The crises experienced by the aristocratic classes in Athens, both among themselves and with the impoverished landowners, pushed the government to seek solutions. Subsequently, in 621 BC, it was believed that this chaotic environment could be improved with the law book prepared by Draco (Freeman, 2003, p. 151). Draco's laws are the written form of the customary law that was applied before literacy (Roth, 2014, p. 41). The laws were presented to the public, with those containing religious regulations written on wooden pillars and the others on bronze, so that everyone could see them (Roth, 2014, p. 41). The Drakonian laws, the first written laws of Athens, stood out not only for this aspect but also for their severe penalties (Friedell, 1999, p. 93; Yetiş, 1999, p. 168; Coulanges, 2011, p. 293; Mansel, 2014, p. 196; Eco, 2017, p. 327; Özkan, 2017, p. 4). In fact, the laws are no more punitive than customary law (Roth, 2014, p. 41). Nevertheless, the expression "written not with ink but with blood" has been used for these laws (Friedell, 1999, p. 93; Yetiş, 1999, p. 168; Bozkurt, 2006, p. 61; Bozkurt, 2009, p. 73; Eco, 2017, p. 328). The lawmaker faces criticism from the Athenian people, who are disappointed because he has not made any radical changes to the legal system (Roth, 2014, p. 41). The legal provision regarding theft stipulates the death penalty regardless of the value of the stolen goods (Gellius, p. 415; Friedell, 1999, p. 93; Freeman, 2003, p. 151; Bozkurt, 2006, p. 61; Coulanges, 2011, p. 293). So much so that the death penalty imposed for murder and acts of disrespect towards the sacred was also deemed appropriate for stealing certain vegetables and fruits (Roth, 2014, p. 41), Plutarch describes this situation as follows: "...even those convicted of idleness were executed, and those who stole salad or fruit received the same punishment as those who committed disrespect or murder." (Plutarch, 451; Roth, 2014, p. 41).

Draco answers the question of why he mostly deemed the death penalty appropriate for the crimes committed as follows: "Some crimes required the death penalty. Since I could not find a more severe punishment for many crimes that were much more serious than these, I was forced to impose the death penalty for them as well." (Plutarch, 451).

By the 11th century BC, it became clear that Draco's laws were not very solution-oriented. With a new quest in mind, Solon was elected archon in 594 BC to revise the laws and the state (Freeman, 2003, p. 152). Solon was a fierce advocate of the rule of law. He believed that the rule of law could be achieved by punishing crimes such as theft or embezzlement of public funds (Roth, 2014, p. 42). Unlike Drakon, he deemed a lighter punishment appropriate, namely the payment of double the value of the stolen goods (Gellius, p. 415). The Spartan Cheirisophus, in "Anabasis," states that despite the severe penalties for theft in Athens, the Athenians were skilled at embezzling state funds. He argues that those who carried out theft most effectively were the rulers, who were Athens' best men (Xenophon(a), 175). As Cheirisophus says, even if they were skilled, those who embezzled money or were accomplices to this crime were subject to specific criminal penalties. Demosthenes states that, according to the law, a person who helps another embezzle money is held responsible for theft, even if the stolen money is not in their possession (Harris, 2009-2010, p. 57).

The statutes issued by Solon regarding the crime of theft are as follows:

-If a man is found guilty of theft and is not punished by death, he shall be sentenced to imprisonment (Demosthenes, 440).

-If a person steals anything at night, regardless of its value, it is legal for the victim to pursue, injure, or even kill that person (Demosthenes, 447).

-If a man is found guilty of theft, the normal penalty is double compensation, but the court also has the authority to add a five-day, five-night prison sentence in addition to the fine. This practice aims to ensure that the thief is visible to everyone in prison (Demosthenes, 447; Bauman, 1996, p. 56; Mirhady, 2015, p. 352).

Solon's view on this matter is that those who commit shameful acts should not be let off simply by returning the stolen money. This is because a system in which a thief who is not caught keeps the loot but, if caught, returns the goods, will not deter theft in society. For this reason, the person should pay double the amount stolen and be imprisoned, spending the rest of their life in shame. Demosthenes states that, in contrast to Solon's harsh punishment for theft, Timocrates punished theft with a simple payment. If a person steals more than 50 drachmas during daylight hours, they can be arrested immediately (Demosthenes 447; Bauman 1996, p. 56; Harris 2009-2010, p. 55). Stealing something insignificant, such as a cloak or oil lamp, from educational institutions known as the Lyceum, Academy, or Cynosarges, or stealing a tool worth more than 10 drachmas from the gymnasium or port could result in the death penalty (Demosthenes, 447; Cohen, 1983, p. 40; Bauman, 1996, p. 56; Harris, 2009-2010, p. 55; Mirhady, 2015, p. 352).

Aristotle questions why the punishment for theft committed in a bathhouse, gymnasium, market, or any similar (public) place is death, while the punishment for theft committed in a house is twice the value of the stolen item. According to the philosopher, homes are secure places with solid walls, locked doors requiring keys to enter, and servants responsible for safeguarding belongings. In contrast, public spaces such as bathhouses and gyms are high-risk for theft. This is because individuals have nothing but their own eyes to protect their belongings in these areas. Perhaps from this perspective, lawmakers deemed the guards in these places insufficient and enacted the death penalty for theft. Individuals who show a tendency toward such theft and survive do not attempt to create a good impression in order to be released. The reason for this is that they know it is futile to claim to be good people to those who know them. Such people remain morally bad even after being proven guilty. The sole reason for imposing such a severe punishment as death for theft committed in public areas is not the personal harm suffered by the victim. Attempts to commit such crimes in public areas will also undermine the city's reputation (Aristotle (a), 247-248; Mirhady, 2015, pp. 352-354).

In Athens, Draco, and in Sparta, Lycurgus attempted to shape society through laws. Lycurgus, who held power in the 9th century BC, expressed his views on the methods of punishment for theft used by previous lawmakers. Emphasizing the inconsistency of criminal penalties, Lycurgus states that whether the amount stolen during the act of theft was 100 talents or 10 drachmas, the punishment remained unchanged and the person was sentenced to death (Cohen, 1983, p. 4; Gagarin, 2001, p. 177). In Sparta, an educational model called "agoge," attributed to Lycurgus, was implemented. Boys who reached the age of 7 were taken from their families, divided into groups, and subjected to education. The act of theft was also part of this education, unique to Sparta. In this system, which could be described as an ideal Spartan upbringing program, children were subjected to very low living standards in an attempt to build their resilience. The children's diet was structured around not being able to eat the food they wanted, leaving them half-hungry. In addition, they were given the option of stealing food to satisfy their hunger (Xenophon(b), 92-93; Moore, 1975, p. 77; Burkert, 1985, p. 262; Kennell, 1995, p. 23; Mutluay, 2007, pp. 78-79; Rodgers, 2012, p. 493; Kishlansky, 2013, p. 118; Eco, 2017, p. 668). Stealing requires organization, planning during the day based on possibilities, staying awake at night to observe, and finding people who can provide information if necessary. Therefore, while children are encouraged to steal, the real goal is to develop their ability to move quickly without being noticed, think practically, and cope with difficulties (Xenophon(b), 93; Moore, 1975, p. 77; Kishlansky, 2013, p. 118). To such an extent that children would even steal from each other to develop these skills. They would steal food from other groups' tables to show each other that if they were not alert and careful, they could go hungry (Usta, 2005, p. 43).

In Xenophon's Spartan education system, based on theft, it is described as follows:

"Spartans, you have been trained in theft since childhood. Moreover, you consider it not shameful but honorable to steal things other than those prohibited by law. I believe you have even legislated that if you are caught, you will receive a flogging to strengthen your ability to keep secrets and to make yourself a theft expert." (Xenophon(a), 175).

In this system, children were assigned tasks according to their abilities and strengths to meet their needs. Those among them who were weak and unskilled were asked to obtain vegetables and medicinal plants. However, the rule was that these vegetables and medicinal plants had to be obtained by stealing. Children, who were taught the art of thievery, would enter homes and gardens and steal any food they could get their hands on (Plutarch, 261; Moore, 1975, p. 100; Usta, 2005, p. 43; Mutluay, 2007, pp. 79-80). To achieve their goals, they waited for times when people were asleep or distracted (Plutarch, 261; Xenophon(b), 94). Being caught during such thefts entailed various penalties. Children were punished with flogging and starvation not only because theft was an evil act, but also because of their failure (Plutarch, 261; Xenophon(b), 94; Moore, 1975, p. 78; Kennell, 1995, p. 23; Usta, 2005, p. 43; Rodgers, 2012, p. 493; Eco, 2017, p. 668). Being caught stealing was not only subject to severe criminal penalties but was also humiliating. A Spartan story clearly illustrates the effect these penalties had on children. A young Spartan steals a baby fox and tries to hide it under his clothes. However, the fox under his clothes begins to tear his body apart with its claws and teeth. The child, preferring to endure this pain rather than be caught stealing, dies there (Plutarch, 263; Moore, 1975, p. 100; Kennell, 1995, p. 122; Usta, 2005, p. 44; Martin, 2012, p. 141).

Theft is a necessary act in some societies for a specific purpose. In Ireland (Clare), it is believed that warts can be treated by rubbing them with a piece of stolen meat. It is thought that stolen leeks will protect the home from evil. In Wales (Pembroke shire), it is believed that a stolen turnip can reveal the person one will marry. In Morocco, a stolen piece of linen is used to perform a beauty spell (Rose, 1941, p. 5). Furthermore, theft is central to the rituals of some societies. In fact, in a ritual at the Temple of Artemis Orthia (Sparta), some young men attempt to steal cheese from the temple while others try to prevent the theft with whips. This ritual, which previously involved the sacrifice of humans and the spilling of blood, has, over time, taken the form of dripping blood onto the altar as a result of whipping. In the ritual of stealing and whipping, the thieves have a purpose that goes far beyond simply resisting without showing any sign of pain. They are focused on stealing as much cheese as possible from the temple of the goddess (Schnabel, 1910, p. 49; Rose, 1941, p. 2; Lawler, 1944, p. 26; Burkert, 1985, p. 262; Kennell, 1995, p. 126; Eco, 2017, p. 668). Herodotus mentions that the Corinthian tyrant Periander sent three hundred Corsican children to the east to be castrated (the Kerkyra dispute). However, on Samos, the children were told to take refuge in the Temple of Artemis to save themselves. Due to the temple's sanctity, the Corinthians could not intervene there. Instead, they blockaded the temple, starving them. As a result, the children stole food from the Artemis Temple's offerings of cheese, sesame, and cakes to fill their stomachs. The theft of sacred objects in ritual contexts has been documented in Sparta and Samos. (Herodotus, 188; Rose, 1941, p. 2).

In his work Against Eratosthenes, Lysias associates thieves with adulterers, who, like thieves, enter other people's homes. According to him, adulterers should be punished with death, just like thieves. Otherwise, thieves who break into other people's homes could claim to have committed adultery if caught. Thus, they could present their theft as adultery and escape punishment. The most important aspect of Lysias's approach is that he views thieves as criminals who must be punished severely in order to deter theft (Lysias, 21).

Plato presents certain views on types of theft and the criminal penalties to be imposed on the perpetrator. The philosopher states that water, soil, sun, and wind are important elements in gardening activities such as growing vegetables and fruits. However, it is not really possible to change the direction of the soil, sun, or wind, or to add poison or steal them. In contrast, all of these harmful practices can be carried out on water. In such a situation, Plato refers to the following law: If an individual is found guilty of harming another individual's spring or reservoir water through theft, poisoning, or opening a different channel, the person should be punished by cleaning the reservoir or spring (Plato(a), 334).

Plato argues that the punishment for theft should be uniform. Whether the stolen property is large or small, valuable or worthless, it should not affect the punishment (Plato(a), 346; Saunders, 2002, p. 64; Hunter, 2008, p. 196; Cohen, 1983, p. 119). According to the philosopher, the person who commits theft

should pay twice the value of the stolen property as punishment, in addition to their share of the lottery. However, if the person does not have the means to pay this amount, they must remain in prison until they can obtain the money or convince the person from whom they stole the goods (Plato(a), 346; Saunders, 2002, p. 64; Shuchman, 1963, p. 38). In the theft of state property, just as in the theft of citizen property, no distinction is made between large or small items. Plato states that both large and small items are stolen with the same greed. He views the theft of a small item as a sign of the thief's inability, while the theft of a large item is an injustice. The philosopher considers the punishment for theft of state property based on the criteria of "correctable" and "incorrectable" (Plato(a), 445). If the individual is an enslaved person or a foreigner, they are brought to court based on the possibility of correction. Subsequently, options such as how much they will pay or, if they cannot pay, imprisonment are considered (Plato(a), 446). However, if the individual is educated and has committed theft against the state, they are punished by death without any consideration of the possibility of reform (Plato(a), 446; Saunders, 2002, pp. 70-71). Plato, who regulates criminal penalties for theft, holds that the same criminal penalty should be imposed on an individual who knowingly purchases stolen goods as on the person who committed the theft (Plato(a), 473; Cohen, 1983, p. 85).

The philosopher, who considers a single type of punishment necessary for theft regardless of whether the stolen goods are large or small, does not share the same opinion regarding the compensation to be paid. The compensation paid by an individual who causes harm to the other party by robbery or theft should be directly proportional to the damage caused. If the damage caused is excellent, the compensation should be high; if the damage caused is minor, the compensation should be low (Plato(a), 448; Saunders, 2002, p. 64). Plato does not consider the death penalty a necessary punishment for someone who commits theft. This is because, according to the philosopher, killing someone who enters a person's home in the middle of the night with the intention of stealing does not constitute a crime (Plato(a), 369-370; Shuchman, 1963, p. 30; Cohen, 1983, p. 72; Mirhady, 2015, p. 353).

Plato's view on temple robbery is that it should be addressed through a lecture of advice. According to him, what drives a person to steal is the madness that has taken root in their soul because of the failure to punish injustices that occurred before. Suppose a person feels the urge to rob a temple. In that case, they should distance themselves from bad friends, go to the temples of the gods to pray, listen to and internalize the speeches of virtuous individuals that guide them toward righteousness, and participate in purification rituals. According to Plato, by doing these things, a person can save themselves from this misfortune (Plato(a), 342). Otherwise, the philosopher argues, the individual should choose death. For death is infinitely more beautiful than temple robbery (Plato(a), 342; Yayla, 2016, p. 148). The penalties for temple robbery, which Plato prefers to death as a form of annihilation, vary according to social status.

If an enslaved person or a foreigner is caught stealing from a temple, their hands are first branded, and they are flogged as many times as the court deems appropriate. Then, all their clothes are removed, and they are expelled from the country (Plato(a), 343; Saunders, 2002, p. 64; Shuchman, 1963, p. 39). If the person caught stealing from a temple is a citizen, they are punished by death (Plato(a), 343; Saunders, 2002, p. 64; Yayla, 2016, p. 148). Diogenes' view on temple robbery is that taking items from there to commit theft is not inappropriate behavior (Diogenes, 283). In the section of his work "Lives and Teachings of Famous Philosophers" where he discusses the philosopher Zeno, Diogenes mentions the punishment given to an enslaved person who committed theft. When asked, "What is a friend?", he replied, "The other me." He was whipping an enslaved person who had committed theft; when the enslaved person said, "Theft is my destiny," he replied, "So is being whipped" (Diogenes, 310). According to Athenian law, temple theft was a serious crime punishable by death. The property of anyone caught stealing from a temple was confiscated, and they were not even allowed to be buried in Attica (Bauman, 1996, p. 57).

Theft Crimes and Penalties in Rome

In Ancient Rome, theft was defined by the word ‘furtum,’ which means “dark” or ‘black.’ The fact that theft was often committed at night and out of sight explains the connection between the term ‘furtum’ and secrecy and concealment. On the other hand, some opinions suggest that the word derives from the verbs ‘to deceive’ or ‘to take away’ (Paulus, Digest 47.2.1). However, it cannot be said that "furtum" in Roman law corresponds solely to the word theft. The word also encompasses crimes such as embezzlement, concealing

goods obtained through theft, and gaining the trust of individuals to benefit from it (Rado, 1952, p. 483; Rado, 2001, p. 189; Tamer, 2009, p. 96; Erdoğmuş, 2005, p. 122; Tahiroğlu, 2011, pp. 296-297; Harris, 2018, p. 232). If a person is subjected to this type of victimization, they have the right to file a criminal lawsuit called "actio furti" (Rado, 2001, p. 191; Türkoğlu Özdemir, 2005, p. 221; Tamer, 2009, p. 126; Erdoğmuş, 2005, p. 124; Tahiroğlu, 2011, p. 301). This lawsuit is not only directed at the person who committed the act, but can be brought against anyone involved in any stage of the act (Türkoğlu Özdemir, 2005, p. 221; Erdoğmuş, 2005, p. 125; Tahiroğlu, 2011, p. 302). As a result of the lawsuit, the person found guilty of theft is ordered to pay double the amount of the damage and is also labeled with the dishonorable epithet of "dishonorable" (Türkoğlu Özdemir, 2005, p. 224; Erdoğmuş, 2005, p. 125; Tahiroğlu, 2011, p. 301; Tahiroğlu & Erdoğmuş, 2014, p. 151). If more than one person was involved in the theft, each is liable for the entire penalty. To put it more clearly, if one of the offenders paid, the others could not be released (Buckland, 1921, p. 547).

Furtum was not initially considered a public offense but was classified as a private crime. Prior to the 12 Tablets Law, the circumstances surrounding the apprehension of a thief were governed by customary law and subject to different regulations. The penalties applied to individuals caught in the act of theft or whose theft was discovered later differed (Berki, 1950, s. 382). The phrase ‘fur manifestus’ is used when a person is caught in the act of theft or when the stolen goods are still in the person's possession (Ulpianus, Digest 47.2.3). The individual who was the victim of the theft had to remedy the damage themselves. If the person caught the thief red-handed, they would get their property back, and the thief's punishment was left to the victim's discretion. During the punishment phase, the victim's close circle, consisting of their friends and relatives, acted as a kind of court. This legal system, shaped by customs and traditions, also sanctioned the victim's seizure of the thief's physical presence (Tahiroğlu, 1975, p. 18). If the thief was not caught red-handed and it was necessary to search for the stolen property, the suspect's home could not be entered directly. The search of the home could be carried out within specific parameters (Berki, 1950, p. 382). Anyone wishing to search must do so naked, wearing only a "llicium " and holding a bowl in their hand (Gaius, p. 377). If the stolen property was found during the search, customary law granted the victim the right to seek revenge (Tahiroğlu, 1975, p. 18).

Leges Duodecim Tabularum also included criminal penalties for theft. Criminal sanctions vary depending on the nature of the offence and the circumstances of the offender (Gaius, p. 377).

If a person is caught in the act of theft (furtum manifestum), they are taken before the magistrate, punished by flogging, and handed over to the person they have wronged by the magistrate (Gaius, p. 375; Rado, 1952, p. 484; Tahiroğlu, 1975, p. 38; Sandalcı, 1993, p. 55; Rado, 2001, p. 191; Tahiroğlu, 2011, p. 300; Türkoğlu, 2017, p. 27). Gaius also states that this person must pay four times the value of the stolen goods (Gaius, p. 377).

If the theft is not caught in the act (furtum nec manifestus) but is discovered later, the penalty changes. The person's punishment is now to pay twice the value of the stolen goods to the victim (Gaius, p. 525; Gellius, p. 416; Umur, 1974, p. 200; Tahiroğlu, 1975, p. 22; Tahiroğlu & Erdoğmuş, 2014, pp. 49-50). The amount corresponding to the stolen property can be determined by an arbitrator selected by the parties or by agreement between the parties. If no agreement can be reached, the judge determines the amount to be paid by the guilty individual. The criterion for the judge is the material value of the stolen property, rather than the victim's interests (Tahiroğlu, 1975, p. 22).

The law provides for different penalties depending on the time of day when the crime was committed. Thus, if an individual is caught and killed while committing theft at night, the person who caused the death is not held responsible (Gellius, p. 415; Stephen, 1883, p. 10; Sandalcı, 1993, p. 55; Umur, 1999, p. 88; Rado, 2001, p. 191; Tahiroğlu, 2011, p. 300; Jones, 2016, p. 96; Türkoğlu, 2017, p. 27). However, if the theft occurs during the day, the penalties change. While killing someone who commits theft at night is not a crime, a thief who uses a weapon during the day can be killed. If such a situation occurs, the individual must immediately call out to people to witness the situation. The purpose here is to demonstrate that the person killed the thief out of necessity (Stephen, 1883, p. 10; Tahiroğlu, 1975, p. 21).

Leges Duodecim Tabularum apply different penalties depending on the person's position in society. The penalty for an enslaved person committing theft is to be thrown from the Tarpeian Rock. In contrast, if the thief is a free individual, they are punished by having their freedom revoked and becoming the slave of the person they stole from (Gaius, pp. 375-377; Gellius, p. 416; Rado, 1952; 495; Stephen, 1883, p. 10; Sandalcı, 1993, p. 55; Rado, 2001, p. 191; Ekinci, 2011, p. 189; Türkoğlu, 2017, p. 27). The individual who was robbed could treat this enslaved person in any way they wished, such as selling them or putting them to work according to their own needs (Rado, 1952, p. 495).

The punishment for theft committed by an individual who has not reached adulthood is, in addition to being beaten by the praetor's decision, to pay the amount of damage caused to the victim (Gellius, p. 416; Stephen, 1883, p. 10; Sandalcı, 1993, p. 55). However, over time, the sanctions have been relaxed. According to the new regulation, the penalty for being caught stealing is to pay four times the amount of the damage. On the other hand, if the theft is discovered at a later time, the person pays twice the amount of the damage as a penalty (Stephen, 1883, p. 10; Umur, 1999, p. 88; Rado, 2001, p. 191; Erdoğmuş, 2005, p. 124; Ekinci, 2011, p. 189; Tahiroğlu, 2011, p. 300; Türkoğlu, 2017, p. 27).

During the Republican era, furtum moved away from the narrow interpretation found in Leges Duodecim Tabularum and took on a broader meaning. To such an extent that during this period, the seizure of individuals' real estate, attacks on their property rights, and the unjust damage to their property were included within the scope of "actio furti" lawsuits. In addition, land and houses were now included in the content of furtum, which previously only included enslaved people and objects (Tahiroğlu, 1975, p. 72). Gellius also states that theft is not only applicable to people or movable objects, but also to land and houses. He mentions that a tenant who sold the land he had rented and secretly took possession of it from the owner was also convicted of theft (Gellius, p. 416). This new scope shows how much the content of furtum was expanded during the Republican period (Tahiroğlu, 1975, p. 72).

The strict regulations of Leges Duodecim Tabularum regarding furtum were softened by the activities of the praetors (Rado, 1952, p. 484; Tahiroğlu, 1975, p. 81). To such an extent that all crimes within the scope of furtum, including theft in flagrante delicto, were punished with fines (Tahiroğlu, 1975, p. 81). The regulations implemented in this regard are as follows: The individual who has suffered the theft of their property and the thief can agree on a compensation amount. However, this amount should not exceed four times the value of the stolen property (Berki, 1950, p. 383; Rado, 1952, p. 496). In this sense, if no settlement can be reached, another sanction is the "manus injectio" (Berki, 1950, p. 383) imposed on the thief. In praetorian law, the two fundamental criteria in furtum cases are that the theft has been committed and that the thief has been caught. The criterion of catching the thief with the stolen goods, which was previously important in praetor law, has now lost its significance (Tahiroğlu, 1975, p. 83).

While the scope of furtum was broadened during the Republican period, it was restricted by new regulations during the Classical and Early Imperial Periods. Thus, attempts to deceive the other party by fraud and extortion were excluded from the scope of furtum (Tahiroğlu, 1975, p. 92). Another change in the content of furtum was that attempts made with intent and malice were also included in the scope of theft. This regulation makes a person liable for theft even if the stolen property does not come into their possession, if they incite their slave to commit theft (Gellius, p. 418). In the early ımperial period, the classical period, the criminal penalty for both free individuals and enslaved people was to pay four times the value of the stolen property in cash. However, since enslaved people had no property, they were unable to pay this amount. For this reason, the case was brought against the enslaved person's master. The master could either accept and pay the amount or refuse to pay and hand over the enslaved person to the person who brought the case. The same procedure applies to children who commit crimes from families without any property (Rado, 1952, p. 496). Gaius states that for the child's theft to be considered a crime, the child must have reached mental maturity, approaching adolescence (Gaius, p. 389). In cases where a child with criminal responsibility commits a crime, the head of the family is the defendant. Therefore, it is at their discretion whether to pay the fine or not and to hand over the child (Rado, 1952, p. 496)

According to Roman law, if an individual incited an enslaved person belonging to another person to commit theft or escape, a lawsuit called "actio servi corrupti" would be filed against that person. The penalty for this lawsuit, which was a lawsuit for abuse of an enslaved person, was similar to that of "actio furti,"

requiring payment of twice the amount of the damage caused. If a person competing with the enslaved person's master encouraged the enslaved person to steal his master's property, that person would be held liable for theft. Whether or not the enslaved person gave the stolen property to that person did not change the situation (Türkoğlu Özdemir, 2005, pp. 222-225). However, according to Gaius, if an enslaved person informs his master about the person who encouraged him to steal his master's property and does not commit the theft, no legal action can be taken against that person. This is because the property has not changed hands and the enslaved person has not been misused (Gaius, p. 381). On the other hand, Justinian deemed a different criminal sanction appropriate and required not only the 'actio servi corrupti' lawsuit but also the 'actio furti' lawsuit for theft to be filed (Buckland, 1921, p. 591; Türkoğlu Özdemir, 2005, pp. 225-226). In Rome, the concept of slavery was sometimes seen as a criminal sanction. Those who failed to repay their debts, deserters, and those caught red-handed committing theft were punished by being sold into slavery (Ekinci, 2011, p. 172; Çelebican Karadeniz, 2012, p. 134; Beard, 2018, p. 144).

As in every society, people in Rome also wanted to feel spiritually and legally protected. They believed that the fire in their homes protected them and their living spaces. This sacred fire, found in almost every home, represented sacred beings and religion. The Romans believed that the presence of this sacred fire in the home made the home inviolable and that thieves would be driven away by the household god (Coulanges, 2011, p. 66). Evil deeds committed against sacred areas in Rome were subject to severe penalties. In fact, according to Roman law, theft from temples was punishable by death (Bauman, 1996, p. 57).

Criminal Provisions Regarding Theft in Modern Turkish Criminal Law

In Turkish Criminal Law, theft is treated as a crime that directly threatens social order, individuals' sense of security, and property rights. Within this scope, provisions relating to theft are addressed in detail and are subject to penalties that vary according to the nature of the crime. According to the law, theft is defined as taking movable property belonging to another person without their consent for the purpose of gaining a benefit. This action, which is not recognized by law, is punishable by imprisonment for a term of one to three years (TCK, 2004: 9002/ Article 141). However, the location where the crime was committed, the method used, elements related to the victim, the perpetrator's age, and their circumstances may play a role in determining the severity of the criminal penalties. Although the law does not provide for a separate "theft penalty" for children, the provisions regarding the criminal responsibility of children also apply to the crime of theft. According to the regulation, those under the age of 12 do not bear criminal responsibility. The criminal responsibility of children between the ages of 12 and 15 is related to whether or not they understand the meaning of the act. On the other hand, children between the ages of 15 and 18 are held criminally responsible and sentenced to varying prison terms depending on the scope of the crime (TCK, 2004: 8972/Article 31). The law also applies separate penalties based on the location where the theft occurred. Theft committed in places of worship, public institutions, and areas protected for security purposes is considered a general threat. It carries a penalty of imprisonment ranging from two to five years (TCK, 2004: 9002/Article 142). In the Turkish Penal Code, taking advantage of the victim's defenselessness, taking measures to avoid recognition, or committing the crime at night are considered aggravating circumstances and play a role in increasing the penalty (TCK, 2004: 9002/ Articles 142-143). On the other hand, the property's low value, the crime being committed among partners, or the property being intended for temporary use only are factors that reduce or eliminate the penalty. The law also explicitly regulates cases of necessity. Accordingly, if a person commits a crime to meet a critical and urgent need, the judge has discretion to reduce the penalty or not impose a penalty (TCK, 2004: 9002/Articles 144-147).

The differentiated sanctions in the law reflect that various aspects of this crime are taken into account to protect public safety, guarantee property rights, and maintain social peace. Thus, the Turkish Penal Code provides a comprehensive legal framework aimed at reducing the damage that theft can cause in social life and protecting the relationship of trust between individuals.

Comparison of Legal Regulations on Theft

Criminal sanctions for theft have undergone a significant transformation from ancient times to the present day. The political organization of societies, their perceptions of property, economic needs, and

expectations regarding public order have shaped the nature of these sanctions. From Ancient Greek and Roman law to the Turkish Penal Code, it can be said that criminal policy has undergone a sharp change in both its purpose and its methods. This change can be seen more clearly in specific circumstances, such as the time period when the crime was committed, the perpetrator's age, and the location where it occurred. The criminal norms established by Drakon in Ancient Greece represent the harshest understanding of punishment of that period. The description of the laws as “written in blood” is an important statement that symbolically expresses the prevalence of the death penalty in sanctions (Friedell, 1999, p. 93; Yetiş, 1999, p. 168; Coulanges, 2011, p. 293). Indeed, the fact that even stealing a piece of fruit was punishable by death demonstrates that the proportion between crime and punishment was extremely strict and disproportionate (Roth, 2014, p. 41). In contrast, Solon attempted to soften Drakon's excessively harsh penal system and prescribed imprisonment as punishment for theft (Demosthenes, 440). In Roman law, the Twelve Tables prescribed different punishments for theft based on different criteria. If the thief is caught in the act, he is flogged; if caught later, he is punished by paying double the value of the stolen goods (Gaius, 375; Gaius, p. 525; Rado, 1952, p. 484). The obligation to pay double the value of the goods as a penalty shows that the crime is approached from both a punitive and a compensatory perspective. This approach reveals that theft is considered both a criminal act and a property offense. The Turkish Penal Code's approach to theft is based on the principle of protecting the individual's right to property and the security of property. The imprisonment penalty prescribed for this crime demonstrates that a balance has been struck between the severity of the penalty and the nature of the act, and that it has been shaped in accordance with human rights principles (TCK, 2004: 9002/Article 141).

The fact that the theft was committed at night has been considered an aggravating factor in all three legal systems. In Ancient Greece, Solon's laws deemed it lawful for an individual to kill a thief who entered their home at night (Demosthenes, 447). Similarly, in Rome, the Twelve Tables stated that a person who killed a thief in the act of theft at night would not be punished (Stephen, 1883, p. 10; Sandalcı, 1993, p. 55). The Turkish Penal Code's approach to this act is more balanced. In fact, according to Article 143 of the Turkish Penal Code, the fact that the theft occurred at night is treated as an aggravating circumstance that requires an increase in the penalty by one third (TCK, 2004: 9002/Article 143). Therefore, the right of defense that legitimized killing in both Ancient Greece and Rome has been evaluated as an aggravating circumstance in the Turkish Penal Code with a proportional punishment approach.

Another act of theft punishable by death in Ancient Greece and Rome was theft from temples or places of worship. In Ancient Greece, not only were the bodies of those who committed this crime not allowed to be buried in Attica, but their property was also confiscated (Bauman, 1996, p. 57). These severe penalties reflect cultural and religious sensitivity to the inviolability of sacred places under the law. The Turkish Penal Code classifies such acts as aggravated theft. The law prescribes a prison sentence of two to five years for theft committed in places dedicated to worship (TCK, 2004: 9002/ Article 142). In this context, the historical sensitivity of crimes against sacred places has been evaluated as an approach that remains important, albeit measured. An element that illustrates the differences in criminal sanctions across legal systems is theft committed by children. In Sparta, Lycurgus's educational system viewed theft as a tool for developing children's abilities, but if they were caught, they were punished with flogging and starvation (Plutarch, 261; Xenophon(b), 94). The punishment for this under the Twelve Tables was both beating the child thief and requiring them to pay four times the amount of the damage caused (Gellius, p. 416; Stephen, 1883, p. 10; Sandalcı, 1993, p. 55). The Turkish Penal Code contains detailed regulations on this subject, classifying children's criminal responsibility by age. In these regulations, which vary by crime, the most severe punishment is imprisonment (TCK, 2004: 8972). For crimes other than those requiring severe sanctions, measures such as educational programs, psychosocial support, and supervision are used to rehabilitate rather than punish (TCK, 2004: 5393). These measures show that the child is approached not only as the perpetrator of the act but also as an individual who needs protection and support.

On the other hand, physical punishments in Ancient Greece and Rome show that childhood was viewed as a period requiring discipline rather than one of vulnerability and the need for protection. However, in Rome, children were subject to the same sanctions as adults in terms of penalties aimed at compensation for damage. Therefore, these harsh and disproportionate approaches were shaped solely by the deterrent effect of the crime, ignoring the child's psychology, level of development, or ability to understand the meaning of

the act. The historical course of criminal sanctions for theft shows that legal systems are not merely normative regulations but are also shaped by social values. In this context, penalties have evolved from harsh sanctions to individualized, human-centered approaches. Crimes that were subject to harsh sanctions, such as the death penalty, in ancient societies are now punished under the Turkish Penal Code, which aims to rehabilitate offenders and reintegrate them into society. In ancient Greece and Rome, property violations were seen not only as individual harm but also as behavior that undermined collective order and authority. Consequently, this action, considered disruptive to public order, was punished with severe sanctions, including death. The state's absolute power of disposal over the individual indicates that the right to life was not perceived as a supreme value. Turkish Criminal Law, however, is based on values that are entirely different from this understanding. Today, the right to life and the inviolability of the body are considered fundamental and inalienable rights by both national and international law. Within this framework, there is no question of applying severe penalties for crimes against human life in any of the crimes against property. Consequently, the perpetrator, whose bodily integrity cannot be violated, is a threat to social order but also an individual who must be reintegrated into society. This comparison between civilizations shows that penalties for theft crimes have undergone significant evolution throughout history. In ancient Greece and Rome, punishment was a means of demonstrating the absolute power of authority. Here, the sanctions applied regardless of the nature of the crime aimed to protect the order of society and maximize deterrence. In Turkish Criminal Law, the crime of theft is handled within a more measured framework, with principles such as proportionality in punishment, human rights, and the individual's reintegration into society. At this point, it is evident that the cultural and temporal differences in criminal sanctions for theft stem from the diversity of societies' understandings of justice, perceptions of property, and criminal policies.

Conclusion

Defining theft solely as an attack on property is insufficient to express this concept. Throughout history, from Ancient Greece and Rome to Turkish Criminal Law, theft has also been seen as a moral, cultural, and social problem. This study compares the meanings attributed to this phenomenon in different periods and cultures, the reasons associated with the crime, and the sanctions applied. In this context, it is undeniable that theft has been a persistent social concern throughout history, albeit one that has changed over time. Indeed, the data from Ancient Greek, Roman, and Turkish Criminal Law show that theft has been a common reference point in social and legal development.

The Ancient Greek world's approach to theft goes beyond a violation of the law. In the eyes of philosophers, this act reflects the individual's character and harmony with the social order. While their assessments emphasize the psychological and moral elements of the crime, lawmakers imposed harsh sanctions to maintain order. Drakon deemed this crime worthy of the death penalty, while Solon's laws responded with much lighter sanctions. However, the use of theft as an educational tool in Sparta during the same period demonstrates the changing conceptual boundaries of crime within the cultural context. This diversity reveals that the ethical and functional meanings attributed to theft were shaped by society.

In Roman law, theft carries criminal penalties differentiated by elements such as being caught in the act, intent, time of occurrence, and degree of victimization. However, it is also possible to speak of a class-based understanding of justice that takes into account the perpetrator's status. Penalties that varied depending on whether the person was an enslaved person, a child, or a free person clearly demonstrated the class distinction of the crime. In Turkish Criminal Law, this concept encompasses a normative framework that protects rights and maintains social order. The principle of proportionality, the perpetrator's intent, and the nature of the crime are the fundamental elements of the act. In line with these criteria, measured sanctions have replaced the corporal punishments of Antiquity. This situation is valuable because it reflects the transformation in the value placed on human life and dignity throughout history.

A comprehensive assessment of the study indicates that the phenomenon of theft has both similar and distinct dimensions in different civilizations. It is a common belief among the civilizations examined that theft is universally unacceptable behavior and poses a serious threat to social order. However, differences in punishment methods, social values, political structures, and cultural norms give rise to these distinctions.

Indeed, the harsh penalties of Ancient Greece, the legal system of Rome, and the principles of modern law based on human rights are the most apparent manifestations of this diversity.

Ultimately, although theft has been approached differently throughout history, it has prompted efforts to maintain order in every society. Within this framework, the study presents societies' understandings of order and their methods regarding crime. Highlighting the similarities and differences between them reveals the temporal change in social perceptions and the background of contemporary penal systems.

Ethics Committee Approval: Ethics committee approval is not required.
Peer-review: Externally peer-reviewed.
Conflict of Interest: The authors have no conflicts of interest to declare.
Financial Disclosure: The authors declared that this study has no financial support.

References

Ancient Sources

Aeschylus, *Aeschylus* (Trans. H. W. Smyth). William Heinemann; G. P. Putnam's Sons. (Loeb Classical Library). 1922

Apollodorus(a), The Library (Trans. J. G. Frazer). William Heinemann; G. P. Putnam's Sons. (Loeb Classical Library).1921

Apollodoros(b), *Bibliotheka Yunan Mitolojisi*. (Trans. N. Nirven). Pinhan Publication. 2017.

Aristophanes(a), *Aristophanes II: The Peace, The Birds, The Frogs*. Trans. Benjamin Bickley Rogers. William Heinemann; G. P. Putnam's Sons, (Loeb Classical Library). 1927

Aristophanes(b), *Aristophanes III: The Lysistrata, The Thesmophoriazusae, The Ecclesiazusae, The Plutus*. (Trans. Benjamin Bickley Rogers. William Heinemann; Harvard University Press. (Loeb Classical Library). 1946.

Aristoteles(a), *Problemata Physica*. Akkademie-Verlag. 1962.

Aristoteles(b), The Nicomachean Ethics (Trans. H. Rackham). William Heinemann; G. P. Putnam's Sons. (Loeb Classical Library). 1926.

Demosthenes, *Against Meidias, Androtion, Aristocrates, Timocrates, Aristogeiton*. William Heinemann. (Loeb Classical Library). 1987.

Diogenes Laertios. *Ünlü Filozofların Yaşamları ve Öğretileri*. (Trans. C. Şentuna). Yapı Kredi Yayınları. 2003.

Gaius, *The Institutes of Gaius* (Trans.W. M. Gordon & O. F. Robinson). Cornell University Press. 1988.

Gellius, A. *Noctes Atticae: Books XI–XX* (L. Holford-Strevens, Ed.). Oxford University Press. (Oxford Classical Texts). 2020

Herodotus, *The Persian Wars, Books III–IV*. William Heinemann / Harvard University Press. (Loeb Classical Library).2000.

Hesiodos, *İşler ve Güler*-Tanrıların Doğuşu. (Trans. F. Akdemir). Say Yayınları. 2018.

Homer, *The Odyssey*, Volume II. William Heinemann / Harvard University Press (Loeb Classical Library). 1946.

Homer's Hymns, Homeroscu İlahiler. (Trans. E. Gören). Yapı Kredi Yayınları. 2020.

Horace, *Satires I*. (ed. E. Gowers). Cambridge University Press. 2012.

Kitabı Mukaddes

Ksenophon(a), *Anabasis*. (Trans. S. Ceviz). Parola Yayınları. 2014.

Ksenophon(b), *Şölen Spartalıların Anayasası*. (Trans. B. Umar). Sergi Yayınları. 1984.

Lysias, *Lysias* (Trans. W. R. M. Lamb). Harvard University Press. (Loeb Classical Library). 1967

Platon(a), *Yasalar*. Kabalcı Yayınları. 2007.

Platón (b), *Protagoras*. Say Yayınları. 2014.

Plutarch, *Plutarch's Lives in Eleven Volumes. Theseus and Romulus, Lycurgus and Numa, Solon and Publicola*. (Trans. B. Perrin). Harvard University Press. (Loeb Classical Library).1914.

The Holy Quran=Kur'an-ı Kerim

Modern Sources

Atay, H. (2002). Dinde Reformun Yöntemi ve Bir Örnek: Hırsızlık. *Ankara Üniversitesi İlahiyat Fakültesi Dergisi,* 43(2), 1-18.

Bardakoğlu, A. (1998). Hırsızlık. *Türkiye Diyanet Vakfı İslâm Ansiklopedisi*-17, 384-396.

Bauman, R. A. (1996). The Interface of Greek and Roman Law. Contract, Delict, and Crime. *Dans Rida,* 43, 40–62.

Beard, M. (2018). *Spqr*. (Trans. İ. Sağlamer). Pegasus Yayınları.

Berens, E. M. (2020). *Antik Yunan ve Roma'nın Mitleri ve Efsaneleri*. (Trans. P. Gülben). Kanon Yayınları.

Berki, Ş. (1950). Roma'da Borçların Kaynakları. *Ankara Üniversitesi Hukuk Fakültesi Dergisi,* 7(3-4), 378-413.

Bonnard, A. (2004). *Antik Yunan Uygarlığı-I İlyada'dan Parthenon'a*. (Trans. K. Kurtgözü). Evrensel Basım Yayın.

Bozkurt, H. A. (2006). *Hukukun Öyküsü*. Kişisel Publication

Bozkurt, H. A. (2009). Antik Yunan'da Hukuk ve Mitoloji, *Hukuk Gündemi Dergisi*, 11, 71-75.

Bryce, T. R. (2003). *Hitit Dünyasında Yaşam ve Toplum*. Dost Kitabevi.

Buckland, W. W. (1921). *A Text-Book of Roman Law from Augustus to Justinian*, Cambridge University Press.

Burkert, W. (1985). *Greek Religion*. Harvard University Press.

Cohen, D. (1983). *Theft in Athenian Law*. C. H. Beck.

Coulanges, F. (2011). *Antik Site Yunan'dan Roma'ya Kadar Tapınma, Hukuk ve Kurallar*. (Trans. İ. Kılınç). Epos Yayınları.

Çelebican Karadeniz, Ö. (2012). *Roma Hukuku*. Yetkin Yayınları.

Dinçol, A. M. (1990). Hitit Yasalarının Ana Çizgileri ve Eski Ön Asya Hukuku ile Etkileşimi. *Anadolu Araştırmaları,* 1(12), 83-100.

Dinçol, B. (2003). *Eski Önasya Toplumlarında Suç Kavramı ve Ceza*. Ege Yayınları.

Eco, U. (2017). *Antik Yunan*. (Trans. L. Basmacı). Alfa Yayınları.

Ekinci, E. B. (2011). *Hukukun Serüveni*. Arı Sanat Yayınları.

Erdoğmuş, B. (2005). *Roma Borçlar Hukuku Dersleri*. Der Yayınları.

Freeman, C. (2003). *Mısır, Yunan ve Roma Antik Akdeniz Uygarlıkları*. Dost Yayınları.

Friedell, E. (1999). *Antik Yunan*'ın Kültür Tarihi Hıristiyanlık Öncesi Yaşam ve Efsane. (Trans. N. Açа). Dost Yayınları.

Gagarin, M. (Ed.). (2000). *Lysias*. (Trans. S. C. Todd). University of Texas Press.

Gagarin, M. (Ed.). (2001). *Dinarchus, Hyperides, and Lycurgus*. (Trans. L. Worthington, C. R. Cooper, E. M. Harris). University of Texas Press.

Gagarin, M. (Series Editor). (1988). *Antiphon & Andocides*. (Trans. M. Gagarin & D. M. Macdowell). University of Texas Press.

Galanti, A. (2002). *Üç Sami Kanun Koyucu Hamurabi, Musa ve Muhammed*. Anka Yayınları.

Harris, E. M. (2009-2010). What are the laws of Athens about? Substance and procedure in Athenian statutes? *Dike,* 12-13, 5-67.

Harris, H. M. (2018). Some Recent Developments in The Study of Ancıent Greek Law. *Journal of Ancient Civilizations,* 33(2), 187–266.

Hunter, V. (2007). Did the Athenians have a Word for Crime? *Dike,* 10, 5–18.

Hunter, V. (2008). Plato's Prisons. *Greece and Rome,* 55(2), 193–201.

Jones, P. (2016). *Geldim Gördüm Yendim*. (Trans. F. Sezer). Say Yayınları.

Kennell, N. M. (1995). *The Gymnasium of Virtue: Education & Culture in Ancient Sparta*. University of North Carolina Press.

Kishlansky, M. A. (2013). *Batı'nın Kaynakları Batı Medeniyeti Okumaları I* (Başlangıçtan 1600'e). (Trans. K. Atalar). Açılım Yayınları.

Koca, M., & Üzülmez, İ. (2016). *Türk Ceza Hukuku Özel Hükümler*. Adalet Yayınları.

Lawler, L. B. (1944). The Dance of the Ancient Mariners. *Transactions and Proceedings of the American Philological Association*, 75, 20–33.

Mansel, A. M. (2014). *Ege ve Yunan Tarihi*. TTK Yayınları.

Martin, T. R. (2012). *Eski Yunan Tarihöncesinden Helenistik Çağ'a*. Say Yayınları.

Mirhady, D. C. (2015). Problemata 29 and Athenian Law. In R. Mayhew (Ed.), *The Aristotelian Problemata Physica: Philosophical and Scientific Investigations* (pp. 352–354). Brill Academic.

Moore, J. M. (1975). *Aristotle and Xenophon on Democracy and Oligarchy*. University of California Press.

Mutluay, N. (2007). *Yunan ve Roma Uygarlığında Çocuk*. Ütopya Yayınevi.

Özkan, E. B. (2017). Yasalar ve Gelenekler Işığında Arkaik ve Klasik Yunan ve Cumhuriyet Dönemi Romalı Kadınların Aile Hayatı. *İstanbul Üniversitesi Kadın Araştırmaları Dergisi*, 15, 1-25.

Plessis, P. (2010). *Borkowski's Textbook on Roman Law*. Oxford University Press.

Rado, T. (1952). Gaius'a Göre Klasik Roma Hukukunda Furtum Suçu. *İstanbul Üniversitesi Hukuk Fakültesi Mecmuası,* 18(1-2), 479-519.

Rado, T. (2001). *Roma Hukuku Dersleri Borçlar Hukuku*. Filiz Yayınları.

Rahimov, İ. (2014). *Suç ve Ceza*. (Trans. T. Veli). Türkiye Barolar Birliği.

Rodgers, N. (2012). *The Illustrated Encyclopedia of Ancient Greece: A Comprehensive History with 1000 Photographs*. Lorenz Books.

Rose, H. (1941). Greek Rites of Stealing. *Harvard Theological Review*, 34(1), 1–5.

Roth, M. P. (2014). *An Eye for An Eye: A Global History of Crime and Punishment*. Reaktion Books.

Sandalcı, S. (1993). *12 Levha Yasaları*. Unpublished MA Thesis. İstanbul Üniversitesi.

Saunders, T. (2002). Plato and the Athenian Law of Theft. In P. Cartledge, P. Millett & S. C. Todd (Eds.), *Nomos: Essays in Athenian Law, Politics and Society* (pp. 63–83). Cambridge University Press.

Schnabel, H. (1910). *Kordax, Archäologische Studien Zur Geschichte Eines Antiken Tanzes Und Zum Ursprung Der Griechischen Komödie*. C. H. Beck.

Shuchman, P. (1963). Comments on the Criminal Code of Plato's Laws. *Journal of the History of Ideas,* 24(1), 25–40.

Sinanoğlu, S. (1953). *Yunanca-Türkçe Sözlük*. TTK Yayınları.

Soyaslan, D. (2010). *Ceza Hukuku Özel Hükümler*. Yetkin Yayınları.

Stephen, J. F. (1883). *A History of the Criminal Law of England*. MacMillan.

Stone, I. F. (1988). *The Trial of Socrates*. Little, Brown and Company.

Tahiroğlu, B. (1975). *Roma Hukukunda Furtum*. İstanbul Üniversitesi Yayınları.

Tahiroğlu, B. (2011). *Roma Borçlar Hukuku*. Der Publications.

Tahiroğlu, B., & Erdoğmuş, B. (2014). *Roma Hukuku Dersleri*. Der Yayınları.

Tamer, D. (2009). *Roma Hukuku Uygulamaları*. 12 Levha Yayınları.

Thomson, G. (2007). *Eski Yunan Toplumu Üstüne İncelemeler: Tarihöncesi Ege*. (Trans. C. Üster). Homer Kitabevi.

Tosun, M., & Yalvaç, K. (1989). *Sumer, Babylon, Asur Kanunları ve Ammi-Şaduqua Kanunu*. TTK Yayınları.

TCK- Turkish Criminal Law /Türk Ceza Kanunu. (2004). Sayı: 25611, Tertip: 5, Cilt: 43.

TDK-Türk Dil Kurumu. (1998). *Türkçe Sözlük II* (8. bs.). TDK Yayınları.

Türkoğlu, H. G. (2017). *Roma Hukukunda Suç ve Ceza*. Seçkin Yayıncılık.

Türkoğlu Özdemir, G. (2005). Roma Haksız Rekabet Hukukuna İlişkin Olarak Actio Servi Corrupti. *Ankara Üniversitesi Hukuk Fakültesi Dergisi,* 54(4), 213-233.

Uğurlu, İ. H. (2010). *Hırsızlık Suçu*. Adalet Yayınevi.

Umur, Z. (1974). *Roma Hukuku*. İstanbul Üniversitesi Yayınları.

Umur, Z. (1999). *Roma Hukuku Ders Notları*. Beta Basım Yayım Dağıtım.

Usta, S. (2005). *Sparta'da Mükemmel Toplum : Lykurgos Yasaları*. Kaynak Yayınları.

Watson, A. (Ed.). (1998). *The Digest of Justinian* (Vol. 4). University of Pennsylvania Press.

Yayla, A. (2016). J. M. Zane'in Platon Eleştirisi. *Liberal Düşünce Dergisi*, 82, 139-151.

Yetiş, M. (1999). Antik Atina'da Demokrasinin Gelişimi: Soloncu Pasif Devrimden Peisistratos'un Tiranlığına. *Ankara Üniversitesi SBF Dergisi,* 54(2).