


Pamela Barmash

**ANCIENT NEAR EASTERN LAW**

The oldest documented law comes from the ancient Near East. The earliest legal texts come from about 2600 B.C.E., a few hundred years after the invention of writing, and they predate by millennia the documentation...
for law from the other early civilizations of China and India.

This entry will survey the law of three cultural spheres: (1) Mesopotamia and surrounding countries, (2) Egyptian law, and (3) Persian law of the Achaemenid period. These legal systems continued through the conquest of Alexander; while the legacy of Alexander and the spread of Hellenism had a significant impact on law and culture, many features of ancient Near Eastern law continued to prevail for a number of centuries, and culture in the ancient Near East in classical times reflected a confluence of eastern and western features.

The laws of Mesopotamia and surrounding cultures represent shared traditions of law formally characterized for much of this period by a cuneiform writing system, a writing system in which clay tablets were impressed with a stylus. This law is often denoted as "cuneiform law." In the first millennium B.C.E., an alphabetic writing system recorded with ink on leather, papyrus, and potsherds started to replace cuneiform writing, with the result that documents written on such material were more perishable. Biblical law, a tradition influenced by cuneiform law and thought by a number of scholars to be part of the Mesopotamian law tradition, is preserved in a manuscript tradition, a unique case of the preservation of alphabetic material recorded on perishable material. Cuneiform law remains the best attested type, extant in vast quantities of material, with particularly rich resources preserved for the Old Babylonian period (nineteenth to sixteenth centuries B.C.E.) and the Neo-Babylonian period (sixth to fourth centuries B.C.E.). In contrast, Egyptian law and Persian law are sparsely documented.

A number of caveats must be kept in mind. The nature and quantity of the sources vary greatly from period to period, and it is debatable whether we can reconstruct many aspects of a legal system. While the documentation for cuneiform cultures is massive, the evidence is widely abundant only for certain period and places: it is sparse and nonexistent for long stretches of time. Moreover, it must be questioned whether we can extrapolate from one period to another or from one territory to another. Scholars generally analyze agglomerations of sources from one territory and time period, and making generalizations is fraught with pitfalls. Furthermore, all of the documentation that remains derives from urban settings, and while some documents were archived from settlements that interacted more often with pastoralists, they nevertheless reflect the lives of settled people. The evidence for legal activity among nomadic and seminomadic people is, therefore, sparse at best. It may also be that a distinct set of customary rules governed those living in small, self-contained villages. Lastly, the scribe writing down a legal document of various types might choose to record only a limited number of crucial elements. One modern anthropologist studying "native" law noted that substantive differences existed between the notes he took about a case and the notes of the "native" court reporter (Bohannan, 1957).

Moreover, scholarly differences when comparing legal systems depend heavily on whether a scholar is trying to find similarities or differences: one scholar writing about particular features or cases might emphasize the conceptual gulf between legal systems in regard to a particular case (Finkelstein, 1981) while another taking a different perspective might emphasize the commonalities of legal cultures in this period, especially in comparison to modern systems (Westbrook, 2003).

Also important to note is the fact that certain features of these ancient legal systems would not be considered part of a modern system. Ancient legal systems contained regulations on the behavior of human beings to the divine, such as sacrificial laws addressing rituals and offering, festivals, and cultic purity. Appeals to a divine court if justice cannot be had in a human court were part and parcel of ancient Near Eastern legal systems. What would be considered today as nonrational means of evidence, such as the river ordeal, was a normal part of the machinery of justice. Oaths used today in court are not imprecatory devices calling for divine retribution to fall upon the one uttering the oath, as they were in ancient Near Eastern law. In these and several other ways ancient legal systems differ fundamentally from modern ones.
Cuneiform Law. Different terms for aspects of law are found in cuneiform law. The Akkadian term *dimum* refers especially to judgments made in court cases by judges, and a party to a case is called *bel dimum*. The collections of statutes, whatever their derivation, perhaps resulting from actual judgments or theoretical derivations of scribes, are called *dinati*. Another term, *simdatum*, referred to the decrees made by a king in the legal arena. The term *kitum* referred to the cosmic, transcendental sense of justice; all legal acts, indeed all actions in human society, were to be held up to an ideal of justice. Yet another term, *misharim*, often used with *kitum*, referred to equity: when *misharim* prevailed in society, then *kitum* existed in society. It was the king’s responsibility for ensuring that *misharim* existed in society.

The genres of legal sources. Extant sources for cuneiform law stem from many genres, and the nature of these sources presents considerable methodological issues and requires prudence in determining their utility in reconstructing legal practice. Among these concerns are the following quandaries: Did royal edicts actually initiate reforms in society or were they a literary genre meant to cement a monarch’s authority? Were law collections intended to provide new legislation or incorporate existing legal practices? Moreover, were they intended to promote royal ideology and provide justification for the king’s rule, and were the statutes therefore ancillary? To what extent do legal records reflect actual legal practice? Do they articulate the legal principle(s) or identify the evidence that proved crucial to the resolution of a dispute?

Royal decrees. A number of texts recount specific decrees issued by kings regulating the economy and society. In general, the edicts dealt with ameliorating social and economic problems. Over time, the focus of the edicts shifted somewhat, from social harmony in households and behavioral instructions to government officials to debt release, especially on invalidating loans, pledges, and sales and on canceling debts. They were dated to a specific time at which their provisions were to come into effect.

The earliest edict is documented for the early twenty-fourth century B.C.E. by Enmetena, by which social inequality was to be corrected and the abuse and corruption of officials were to be curtailed. Urukagina (or Uru-inimgina or Irigagina), ruler of Lagash in the mid-twenty-fourth century B.C.E., issued a general amnesty. This reform is recounted in a dedicatory inscription in which the king is depicted as righting the wrongs of previous kings and defending the weak. Since Urukagina was not the son of the previous king, it may be that he was a usurper who assumed the throne out of dissatisfaction with the previous ruler or who presented himself as a reformer in order to justify, and gain support for, his seizure of the throne.

There are three examples of an edict of *misharum*, equity, known from the Old Babylonian period: the Edict of Samsu-Iluna (r. 1749–1712 B.C.E.), the Edict of Ammi-ditana (r. 1683–1647 B.C.E.), and the Edict of Ammi-Adadu (r. 1647–1626 B.C.E.). Economic activity was regulated in these edicts, including the prices of commodities, and taxes and debts owed to the monarchy and to private creditors were to be canceled. From the Hittite Empire, the Edict of Tudhaliya IV (r. 1265–1240 B.C.E.) recounts that abuses had been committed by officials while the king had been out of Hattusa on a military campaign; upon his return the citizens appealed to him to reverse the abuses.

That at least some of these reform decrees took effect can be surmised from other contractual documents that contain the provision that the transaction is incontestable and cannot be reversed by a decree of amnesty.

Records of legal transactions. These texts include contracts that deal with commercial arrangements and matters of personal status; deeds for real estate; and conveyances, quitclaims, and receipts. They include the names of the parties of the agreement or of the dispute, the details of what was agreed or disputed, the names of the witnesses, and often the seals of the parties and witnesses. Thousands, if not tens of thousands, of these documents are extant from almost every region and time period. It would seem that they reflect what was actually occurring in society, but it must be noted that these documents represent the agreements of private parties who may seek to circumvent or exploit the law; they do not explicitly state the law as it prevailed.
**Trial records.** A set of documents from the actual practice of law consists of records from court cases decided by judges in formal proceedings at law. They often record lawsuits over breach of contract, and they offer data about judicial proceedings and legal institutions. Fewer of them are extant than the records of legal transactions, but they are similar to the latter in recording the names of the parties and the witnesses, and in having seal impressions. They also often record the name(s) of the judge(s). Generally, they were prepared and kept for the benefit of the successful party in order to have a record of the decision. Other trial records were made at an interim point in litigation. A very limited number of these texts are a handful of copies of model court cases from Nippur in the Old Babylonian period, excavated from the remains of a scribal school.

**Letters.** Another source of legal material is found in letters: official and private. Kings sent orders regarding legal matters to officials by letter, and officials dispatched letters to other officials. Private parties sent letters of inquiry and petition to those in authority as well as letters to other private parties referring to the activities involving the law. Although the letters concern particular individuals, there is good reason to believe that they availed themselves of laws of general applicability as well as special directives for particular circumstances. Even so, the letters by and large do not contain explicit articulations of legal norms in which the writers and addressees are functioning.

**Law collections.** Collections of formal law are extant from Mesopotamia from the end of the third millennium B.C.E. They are the following:

<table>
<thead>
<tr>
<th>Name of Collection</th>
<th>Language</th>
<th>Date</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Laws of Ur-Nammu (LU)</td>
<td>Sumerian</td>
<td>ca. 2100 B.C.E.</td>
<td>Ur</td>
</tr>
<tr>
<td>Laws of Lipit-Ishtar (LL)</td>
<td>Sumerian</td>
<td>ca. 1930 B.C.E.</td>
<td>Isin</td>
</tr>
<tr>
<td>Laws of Eshnunna (LE)</td>
<td>Akkadian</td>
<td>ca. 1770 B.C.E.</td>
<td>Eshnunna</td>
</tr>
<tr>
<td>Laws of Hammurapi (LH)</td>
<td>Akkadian</td>
<td>ca. 1750 B.C.E.</td>
<td>Babylon</td>
</tr>
<tr>
<td>Hittite Laws (HL)</td>
<td>Hittite</td>
<td>ca. 1650–1500 B.C.E.</td>
<td>Hattusha</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(new recension, ca. 1500–1180 B.C.E.)</td>
<td></td>
</tr>
<tr>
<td>Middle Assyrian Laws (MAL)</td>
<td>Akkadian</td>
<td>ca. 1076 B.C.E.</td>
<td>Assur</td>
</tr>
<tr>
<td>Neo-Babylonian Laws (LNB)</td>
<td>Akkadian</td>
<td>ca. 700 B.C.E.</td>
<td>Sippar</td>
</tr>
</tbody>
</table>
with each topical grouping appearing on a separate tablet, perhaps prepared as an aid to a judge in deciding cases. A Neo-Hittite copy of the Hittite Laws contains revisions to the Old Hittite version of the Hittite Laws, and even the Old Hittite text includes notations that there was a difference with earlier law (Hoffner, 1995).

The law collections mentioned above are often extant in copies made by students, rather than an official publication of the monarchy. There are also student exercises that contain statutes similar to ones incorporated in the law collections (Iroth, 1997). In addition, the lexical series ana ittiša (from the royal library of Assurbanipal, a Neo-Assyrian king, in the seventh century B.C.E.) and the canonical series ḪAR-ra = hubballu contain standard legal clauses that scribes were expected to master as well as short explanations of the circumstances to which the legal clauses might apply.

The law collections, although they originate in varied time and place, exhibit certain characteristics that are evidence for their being part of a scribal tradition (Barmash, 2008). For one thing, the law collections share much material, but how they do so is instructive: (1) There are statutes whose word choice is exactly or nearly exactly the same in a number of law collections (e.g., LL §§9/LE §§12; LL §§13/LH §§21/HI §§93; LI §§10/LH §§59; LI §§d, e, f/LH §§209–210, 213); (2) there are statutes whose content is nearly the same but whose word choice is substantially different (e.g., LI §§41/LH §§167; LL §§28/LH §§148; LI §§29/LH §§160/LE §§25/LI §§15; LE §§26/LH §§130/MAL A §§12; LE §§28/LH §§129/MAL A §§15/LH §§197–198); (3) there are statutes treating the same topic but whose content is substantially different (LU §1/LH §§1/LE §§2; LU §§3/LE §§22–24/LH §§114–116; LL §§d, e, f/SLEX §§1–2; LL §§25/LH §§170–171; LI §§31/LH §§105; LU §§18–22/LE §§42–46/LH §§196–201/HI §§7, 11–16); (4) instances in which the order of the parallel statutes is the same in a number of law collections (LI §§24–25/LH §§167, 170–171; LL §§3–32/LH §§165–166; LI §§d, e, f/LH §§209–210, 213; LE §§53–55/LH §§250–252); and (5) instances in which the order of the parallel statutes is the same in two law collections but different in others (LE §§36, 42/HI §§12–13, 7/HI §§197, 201; LU §§18–22/LE §§42–46/HI §§196–201/HI §§7, 11–16; LL §§24–27/LOx §§3, 1, 2, 4/LH §§247–248; LE §§26–30/LH §§930, 128, 129, 135–136). Specific cases occur repeatedly, as does particular word choice and the parallel ordering of statutes. These characteristics occur in law collections that vary widely in language and point of origin. They recur in statutes addressing a variety of cases and are not limited to specific cases. But there is also substantial variation in the law collections. It is not simply that they address the same cases: if material were shared in the law collections in only that way, it could be argued that the similarities originate in the fact that specific areas of conflict recur in the similar societies of Mesopotamia and surrounding countries. It is also not simply that the law collections share word choice: if material were shared in the law collections in only that way, it could be argued that it is because the Mesopotamian scribes were trained in the use of a distinct repertoire of phrases. Finally, it is not simply that the law collections share the same order: if material were shared in only that way, it could be argued that it is simply an instance of word-for-word copying. The situation is thus more complex: the parallels in ordering shared by a number of law collections but not by all indicate a common tradition that goes beyond typical conflicts or canons of scribal training. The dissimilarities in word choice in a number of law collections but not in all indicate a common tradition that is more a matter of memorizing canonical texts. These characteristics are evidence for a scribal tradition in which a scribe would demonstrate his legal talent and skills by revising, reworking, redrafting, and revamping certain cases. A scribe may have studied certain texts, not for the sake of learning them by rote but for absorbing their worldview and acquiring their terminology. A scribe had the autonomy and authority to recast law, reflecting the porous boundary between encapsulating (and transmitting) law as it is or was and law as it should be, in the scribe's perspective.

A number of scholars have hypothesized that the impulse for the statutes in the law collections came from Mesopotamian science, the method of which was to create lists. A forerunner of this intellectual
effort was the composition of lexical lists, a practice that inspired the creation of lists of legal words and phrases, as found in the texts mentioned above (ana ittišu and HAR-ra = huballu). This endeavor developed certain genres of texts in the realm of Mesopotamian science: scribes created lists classifying medical symptoms and unusual occurrences (omens) in casuistic form and in sets of variants (see Bottero, 1992; Kraus, 1960; Renger, 1995). If this science of lists inspired the statutes in the law collections, this may mean that some statutes recorded actual happenings, with others being purely hypothetical.

The statutes reflect a variety of origins. Some may be abstractions of cases. A particular lawsuit adjudicated by the monarch or other judges would have been put into an abstract casuistic form: the particulars of a case (e.g., the names of the judges, parties, and witnesses, and evidence and arguments deemed irrelevant) were put into the protasis of the conditional sentence, and the remedy was put into the apodosis. Some statutes may be theoretical variants from these cases as constructed by scribes inspired by the science of lists. Others may be typical cases by which a scribe might show his flair for legal writing. Others might have been inspired by other law collections that the scribe had studied.

The relationship between the royal edicts and the law collections has been debated. Finkelstein argues that because an edict was to have a lasting effect on particular economic circumstances, it had a relationship to law collections (Finkelstein, 1961). This was so, even though an edict remitted obligations for a limited time. The initial statutes of the Laws of Eshnunna are rules about economic matters expressed in apodictic style, a style assumed typical of a reform decree, and the Laws of Hammurapi contains statutes that could be economic reforms of a more permanent nature. Finkelstein argued that a reform was not articulated through an official text with elaborate details, but only later was a text including all the provisions compiled. Finally, a royal apologia in the form of a law collection was issued, clarifying to the gods and human beings that the king had fulfilled his duty to ensure justice. According to Veenhof, there were two types of reform edicts, one of which may have had strong links to law collections (Veenhof, 1997). The earliest royal decrees were intended to help the weak, but over time their subject matter shifted to voiding debts; these decrees were promulgated at the accession of a king to the throne. A king would also issue regulatory decrees in which certain penalties would be prescribed for breach of contract and for liabilities for certain behavior. Unlike debt cancellation, which was an act of limited duration, these regulations were restricted only in subject matter, not in terms of duration, and Veenhof speculates that these decrees were later integrated into law collections.

The evidence in the law collections for their relationship to royal edicts is to be found in the apodictic (declarative) form of statutes included in the Laws of Eshnunna and, most interestingly, in the nullification of one statute of the Laws of Eshnunna in the Edict of Samsuiluna. Laws of Hammurapi §119 prescribes that the term of servitude for a debt slave is three years, but the Edict of Samsuiluna negates any limit for debt slavery. This may indicate that the Laws of Hammurapi statute was put into effect but found to be problematic in some way. Although the law collections are never explicitly quoted in legal records, there are tantalizing references to decisions made "according to the words of the stèle" (see Bottero, 1992; Kraus, 1960).

While the law collections directly articulate legal standards, it is debated as to whether they reflect law as it was actually practiced. It may be that the statutes embody what scribes felt should have been legal norms, and while those could have a relation to actual practice, it is impossible to determine what is realistic and what may have been created in the imagination and thought processes of the scribe. It must be underscored that scribes were not mere copyists, nor were students in scribal schools merely studying to learn how to copy. They learned how to write but that was part of a larger process of education and acculturation (Carr, 2005). Scribes learned legal phrases as part of their training, and they were used by parties to an agreement to record the agreement in the proper written form. Graduates of scribal schools thus worked as officials, military officers, and merchants as well as freelance scribes.
The law collections have been called “codes,” but scholars have shied away from this term in recent decades, preferring law “collections,” because many worry that the term “code” indicates that the laws were actually put into effect, and carries connotations regarding the effects of a “law code.” It can be debated, however, that the term “code” must refer to a set of laws put into actual practice.

**Oral and written aspects of law.** The evidence we have about ancient Near Eastern law is in written form. However, the textual nature of the evidence should not obscure the oral nature of ancient Near Eastern law. Utterances, such as oral articulations of agreements, oaths, and ceremonies, constituted legal acts, and the documents we possess are for the most part memoranda of oral proceedings. The names and seals of witnesses to contracts were not used to create a legal act in the physicality of the tablet but were rather intended to insure that the written document was an accurate transcript of the proceedings and to identify the witnesses to be called upon in case of a dispute. Even official monuments set up in a public place or official copies made for distribution were meant to publish the word of the legal authority. Far different is later legal culture in which the legal text became a form of authority. Citation and explication of a text would become a dominant mode of legal activity and innovation.

**Authoritative sources of law.** While it cannot be known for certain, it would seem that most acts in the realm of law were governed by customary law, a general acceptance that certain practices were fair and just or were otherwise received as normative by tradition.

The king was a source of legislation and could issue legislation by giving a personal order. There does not seem to be any hint that members of a legislative body had the authority to issue law.

Citing previous cases before a court is unknown in ancient Near Eastern law. Biblical texts contain isolated narratives in which an earlier decision is cited. In certain instances, the earlier decision becomes a law of general validity (Num 27:1–11).

It is unclear what legal import the law collections were to have. Clearly, they were intended to promote a king’s authority by recounting his acts in care for the gods and protection of the citizens of the territory he controlled. He was responsible to the gods for ensuring justice in his realm. However, it is not clear what the publication of the statutes in a law collection was supposed to accomplish.

**Shared Characteristics of Cuneiform Law.** There are a number of characteristics that are shared by the cuneiform law collections. These include matters of jurisdiction, legal parties, trial procedure, family law, gender, slavery, property, contracts, and crime.

**Jurisdiction.** The king’s responsibility before the gods to ensure justice in the society over which he presided meant that he could take a role in resolving disputes. If the activity of Hammurapi was typical, the king could be heavily involved in judging cases, whether serious or trivial, and it was apparently his prerogative whether to sit in judgment himself or to send the case to another court (Leemans, 1968). Even if the latter was the situation, there is evidence that the king would preside over cases involving the death penalty (Le §48; HiL §11; Mal A 1 §5), but it cannot be determined how often this was the case. In the Nippur murder trial, the king sent the case to the city assembly made up of ordinary citizens.

It must be emphasized that while the king had much authority, he was not an absolute ruler. Cities were divided into a number of administrative units, whose exact nature is unknown, but the headman or mayor (denoted as hazanna in earlier periods and as rabianu), the assemblies of citizens, and professional groups had autonomy and responsibility for many areas of life, including in the resolution of legal disputes (Yoffee, 2000).

There was no hierarchy of courts. A party who refused to accept a decision could resort to different judicial bodies hoping for a more favorable decision, and a party could appeal to an official higher than the court that made the judgment and eventually to the king. A court could consist of a group of judges, such as the administration of a temple or a local council, who otherwise had administrative functions outside of the judicial realm. So too could an official of the central, provincial, or local bureaucracy exercise judicial function. There were also official judges, usually
working in panels. There is little evidence as to whether they served permanently as judges, and whether their designation as "royal judges" or "judge of a certain city" meant a special status or function. Whether they were trained in the profession of judges, like modern judges, is also unclear. There were court officers who had the responsibility for executing the judges' orders. It is uncertain whether a special location was set aside for settling disputes before the Neo-Babylonian period because there is no term for the word "courthouse" before that period.

**Parties.** Men and women had the right of access to the courts, but social custom dictated that women were often represented by a male family member. There is no evidence that minors were allowed to be parties to a dispute. The age of majority is unclear. Slaves had access to the courts, but usually in lawsuits claiming their freedom or as persons being claimed as slaves. This situation changed in the Neo-Babylonian period with slaves frequently appearing in court acting as agents of merchant houses.

**Trial procedure.** If one party could not bring the opposition to court, the presiding court could summon the latter. There is little evidence for the process of the trial. It appears that the parties presented their case and offered witnesses and other evidence, such as documents and physical evidence, for their claim. The judges could question the parties and the witnesses, as well as summon additional witnesses. Valid witnesses included men and women (but rarely slaves), whether or not they were litigants to the dispute. Witnesses did not testify under oath, although taking an oath might be required later of one of the parties or of the witnesses. Making an oath had the effect of making the oath-taker's testimony irrefutable, but the seriousness of an oath, with its appeal to divine retribution, often caused one person to refuse an oath and comply with the other party's claim or inspired the parties to come to a settlement.

Another method of appealing to the divine, the river ordeal, was also utilized. The ordeal was carried out at a river, where one or both of the parties was required to swim or carry an object in water a prescribed distance. The river, conceived of as a god, would pull down and drown a guilty party. However, the guilty party might be rescued first in order to receive punishment from human hands.

**Family law.** The head of the household, usually the oldest male but sometimes a widow or female divorcée, could use members of the household, whether free or enslaved, in legal transactions. He could, for example, sell them into slavery, but he did not have power of life and death over them. If he committed an offense, they might be subject to vicarious punishment or collective liability. The subordinate members of a household did have legal capacity.

Marriage was arranged privately without the interference of state or temple. A number of steps were taken in the creation of a marriage in general in ancient Near Eastern law. The groom (or if he was young, his father, mother, or older brothers) and the parent or guardian of the bride (or the bride if she was autonomous) made an agreement, perhaps required to be in written form. The subsequent payment of the bride price created an "inchoate marriage": the couple could still renege on the agreement (with penalties), but the couple was in a state of marriage in relationship to outsiders, that is, the rape of the bride was punishable to the same extent as the rape of a wife. The marriage was completed by different means: an utterance, consummation, cohabitation, or entry into the husband's house. Little information is extant regarding the marriage ceremony.

Divorce could be effected by either the groom or the bride, but marriage contracts often curtailed the right to do so at will. Some contracts contain far more severe penalties if the wife wishes to divorce than for the husband, but others are more equal.

**Gender.** The principal head of a household was generally the oldest male, but a woman who was a widow or divorcée, alone or with her adult sons, could run the household. Rarely, a single person, either male or female, could act as an autonomous household. The women in this situation were generally priestesses, innkeepers, wet nurses, or prostitutes—the limited number of occupations that were open to women. Women generally found themselves in a subordinate role, and this limited their ability to act. Women did have legal capacity, but social custom dictated that they acted in coordination with a husband, adult
son, or brother. Women were generally excluded from public positions. Women rarely served as witnesses to contracts, although they did give testimony as witnesses in trials. Jack Sasson (2003) urges prudence in the analysis of legal texts to adduce the position of women in cuneiform culture. Literary texts, most of which were presumably written by men, and letters written by and to women reflect a major role for women in the public sphere. It may be that legal texts give a misleading slant on society, and Sasson suggests that modern scholars of antiquity have tended to moralize when dealing with sexual matters.

**Slavery.** A slave was a person considered to be the property of another person. A slave could be bought and sold, hired, pledged as collateral, and inherited like other types of property. If a newly purchased slave had deficiencies not apparent at the time of purchase, the new owner could seek to return the slave or receive damages. If a slave was injured, killed, or sexually assaulted, compensation was paid to the owner, just like damage to other types of property.

Persons could be subordinate to other persons. At times, this was more a political and social concept than an economic one. The king and the citizens of a country were called slaves to the gods. The citizens of a country were called slaves to the king. Even social subordinates might use the term slave to refer to themselves when speaking to a social superior, out of deference. At other times, being subordinate to another had more of an economic cast. The head of a family could sell family members into slavery, use them as collateral for debt, and inflict corporal punishment. Even so, there were limits: a wife or child sold into slavery still retained their original status in the household and maintained certain rights. Wives and children still had inheritance rights and were not considered property to be inherited, unlike slaves. Assault on a wife or child entailed different remedies that were more perilous than compensation for property loss. Another type of subordinate, a person pledged to another, was required to work for a creditor, losing his freedom like a slave. However, a person in pledge could not be bought or sold, and once payment of the debt or the term of contract was concluded, the person in pledge went free. The relationship between the person pledged and a creditor was that of a contract. Similarly, the sale of a person into slavery might include a contract that would ameliorate the conditions of slavery and limit the master's rights. A contract might also make the terms of slavery harsher.

The legal systems of the ancient Near East generally made a distinction between debt and chattel slaves and between native and foreign-born slaves. A king might intervene to protect and even free debt slaves—citizens who were sold into slavery due to economic duress. By contrast, a foreign slave had the least likelihood of being protected and was the most exploited.

**Property.** Private individuals could own land. Even at Nuzi, where land could not be purchased or sold outright, the legal fiction of adoption was used as the means of transfer.

In the general situation of a man who died intestate, his sons from a legitimate marriage were the primary heirs. If a son was deceased, his legitimate children would assume his share. If there were no sons or grandsons, the relatives along the male line would inherit. The firstborn son received a double share. Daughters had only limited rights of inheritance and then in only a few ancient Near Eastern legal systems. Family property could not be given as an inheritance to outsiders. However, adoption was used to circumvent this restriction: the outsider was adopted and given an inheritance. Furthermore, testamentary documents allowed a father to transfer the firstborn's extra share to another as well as to otherwise divide his property as he wished among his family. A wife could be given an inheritance. A daughter could be given an inheritance, and specific property could be assigned to heirs. Lastly, a son could be disinherited for cause.

A woman's heirs were her sons from all her marriages. She could make her own will and divide her estate as she wished.

**Contracts.** Parties could come to an agreement that would be enforced by a court, and documents recording contracts are arguably the most common of all legal documents from the ancient Near East. It must be noted that a contract was made orally and that the extant written documents may not include all of the terms of a contract. The law collections assume
certain terms that were not articulated in contracts; these terms may stem from customary law.

The contracts deal with transactions familiar from modern law including partnership, loan, deposit, hire, sale, and pledge. Contracts also governed slavery, adoption, and marriage as well as payments between a victim (or a victim's family) and an offender.

**Crime.** Relatively few records of criminal cases are preserved, especially in comparison to the records of other mostly economic transactions and disputes. This may be because the great majority of legal activity was commonplace, everyday transactions between individuals, not episodes of violence. The nature of the archives, whether private or official, may also play a part in the nature of the evidence. It is debatable as to which type of archive would be more likely to contain records of criminal cases since crimes were considered a private offense, even if the remedy was regulated by the state.

For the scribes of the law collections, certain criminal cases may have been scholarly problems through which a scribe could show his skill. If so, it would mean that the law collections do not always reflect exactly how a case would have been adjudicated; but even then the cases reveal how scribes conceived of the issues, and these scribes likely had a close involvement with legal activities.

It should be noted that the contemporary legal distinction between types of offenses that merit one kind of sanction, such as imprisonment or corporal punishment (i.e., "criminal law"), as opposed to another kind repaid with damages or sanctions (i.e., "civil law") is foreign to cuneiform law (Reniger, 1977). Status often determined the nature of the remedy.

**Egyptian Law.** Documentation of law from Egypt is sparse. A minute number of inscriptions from temples, monuments, and tombs attest to legal activities. Legal materials in the form of papyri and ostraca have also survived but barely: generally those materials survive only when out of range of the yearly flood of the Nile River, perhaps preserved at cemeteries at the edge of the desert. Material from the Hellenistic period is more prevalent, but still spotty. Making generalizations with such fragmentary data is fraught with pitfalls, especially across the long history of Egypt. The lack of a law collection until the Demotic Law Code of Hermopolis has led to speculation regarding whether it provides evidence of a tradition of legal collections that has not survived or if the pharaoh was considered the living source of law, such that no law collections were needed.

The term *hp*, "rule," is related to *maat*, the order given to the world by the creator at the creation of the cosmos. *hp* is every variety of rule, written or unwritten, public or private, criminal or civil.

The pharaoh was not as directly involved in everyday matters as the Mesopotamian kings. A vizier, or viziers, was appointed to deal with the administrative affairs. A vizier or other official could decide to adjudicate a dispute. Local courts as well as local councils of villagers could judge disputes. Local courts could be ad hoc as the Egyptian term *qnb † n hrw pn*, "court of the day," suggests.

Daughters had inheritance rights in equal shares with their brothers. New Kingdom texts attest that women could manage their own assets without needing anyone else's consent and that they could serve as witnesses.

**Persian Law.** The earliest evidence for Persian law is from the Achaemenid period. The fragmentary evidence must be pieced together from the writings of Greek and Roman authors; Persian royal inscriptions; cuneiform tablets from Persepolis and Babylonia; Aramaic papyri found from Elephantine in Egypt; and biblical texts. Greek and Roman writers, the most voluminous source, were especially interested in the customs of foreign peoples, but their accounts contain distortions and misinterpretations. Moreover, their accounts of Persian law are mainly limited to political offenses.

The king is portrayed as the one who ensures justice, and his responsibility in the realm of justice is conceived to have been designated by the god Ahura Mazda: this is similar to the depiction of the Neo-Assyrian and Neo-Babylonian kings prior to the Achaemenid dynasty. Contracts were guaranteed by the god Mithra.

The term *arta*, justice and truth, indicates behavior that is faithful to the law of Ahura Mazda and to the power of the king. In royal inscriptions, the
term *dāla* refers to law that has been fixed and therefore promotes order in society. In the biblical books of Esther and Daniel, the term is used to refer to a royal ordinance, and in its sole occurrence in the tablets from Persepolis, it refers to administrative and financial regulations (Briant, 1995).

The king was the court of appeal and probably could be the court of first instance if the king so desired. Otherwise, there were tribunals of judges appointed by the king to adjudicate political offenses and probably everyday offenses in Persian communities. Their decisions were subject to review by the king.

The Persian Empire allowed communities to follow local customs and laws. The Babylonians, for example, governed themselves according to their accustomed legal practices, and Darius ordered that Egyptian sages be convened to gather the laws of Egypt. The only regulations imposed by the imperial power were those governing the relationship between the Persian overlords and subject peoples. The two sides of law in the Persian period is reflected in Artaxerxes’s command for Ezra’s mission: Ezra is authorized to establish regulations for Judah according to the law of the Israelite God, and the Persian king issued sanctions against those Judeans who might disobey the law of their God and the law of the Persian king (Ezra 7:26). The documents from Elephantine demonstrate that legal cases were adjudicated according to local law (Lipiński, 2000).

The imperial authorities intervened only if imperial interests were endangered. Otherwise, neither king nor satrap (governor appointed by the king) interfered in internal matters.

Legacy. Cuneiform law exerted influence on later legal systems. A number of scholars have highlighted the similarities between the Roman XII Tables and the cuneiform law collections. Biblical law, shaped by cuneiform law as well as by the socioeconomic contours and religious and cultural ideas of ancient Israel, has left, in turn, its own imprint on subsequent Jewish and canon law. It has also left its impressions on the patterns of Western thought. The systems of law influenced by ancient Near Eastern law—Greek, Roman, biblical, and canon—have also had some bearing on the modern legal systems of common law and civil law (Finkelstein 1963).

[See also Adoption; Amnesty and Reform Texts; Biblical Law, subentry Hebrew Bible; Blessing and Cursing; Book of the Covenant; Capital Punishment; Children; Civil Law; Commandments; Debts, Loans, and Surety; Deeds of Sale and Transfer; Deposit and Pledge; Divorce; Early Christianity; Early Modern Period, subentries on Catholic Canon Law, Civil Law Countries, Common Law Countries, and Orthodox Canon Law; Egyptian Legal Texts; Elephantine Legal Texts; Epigraphic Texts; Gender, subentry Ancient Near East; Historical Records; Hittite Laws; Homicide, subentry Ancient Near East and Hebrew Bible; Inheritance; Injury and Assault; Intent; International Law; Justice; Labor; Laws of Eshnunna; Laws of Hammurapi; Laws of Lipit-Ishtar; Laws of Ur-Namma; Legal Experts, subentry Ancient Near East and Hebrew Bible; Legal Institutions; Legal Rhetoric; Marriage; Methods in Studying Ancient Law, subentry Ancient Near East and Hebrew Bible; Middle Assyrian Laws; Military Crimes; Monarchy and Administration, subentry Ancient Near East; Neo-Babylonian Laws; Nuzi Texts; Oaths and Vows; Ordeal; Persian Law; Property; Punishment and Restitution; Release from Debt; Roman Law; Samaria Papyri; Scribes and Scribalism; Sexual Legislation; Slavery, subentry Ancient Near East and Hebrew Bible; Sociology of Law; Testimony and Witness; Theft; Torts; Trial Procedure; Widows; and Witchcraft and Sorcery.]

**BIBLIOGRAPHY**


Pamela Barmash

ANIMALS

Animals are both the objects and subjects of legal concern in biblical texts. This fact must be underscored as it stands in strong contrast with much modern thinking concerning the nature of animals and their relationship to human beings. While it is true that much biblical material understands animals as merely the objects of laws meant ultimately to regulate human behavior, it is equally true that many laws assume animals to be agents capable of following or violating norms of behavior. Animals are thus both objects and potential moral-legal subjects in the biblical tradition. This article will cover four topics: (1) various (nonlegal) understandings of the human-animal relationship in biblical texts; (2) sacrificial and dietary laws regulating the slaughter, consumption, and use of animals; (3) compassionate treatment toward animals and its limits; and (4) possible moral agency attributed to animals in the biblical and postbiblical tradition.
EDITORIAL BOARD

SERIES EDITOR
Michael D. Coogan
Harvard University

EDITOR IN CHIEF
Brent A. Strawn
Emory University

AREA EDITORS
Pamela Barmash
Washington University in St. Louis
Charlotte Elisheva Fonrobert
Stanford University
Clare K. Rothschild
Lewis University
Jeffrey Stackert
University of Chicago Divinity School
John Witte Jr.
Emory University

CONTRIBUTING EDITORS
Ryan Bonfiglio
Columbia Theological Seminary
Rebecca Hancock
Harvard University