2024 | *Hau: Journal of Ethnographic Theory* 14 (2): 403–417

ARTICLE

Law as ritual

Evoking an ideal order

Fernanda Pirie, *University of Oxford*

In the modern state most laws enshrine practical social norms in a way that everyone can be aware of. Laws take a legalistic form, as generalizing rules and abstract categories. But turning to historical and ethnographic examples, we find legalistic rules that do not bear a neat resemblance to the details and disputes of quotidian life. This raises questions about their purposes and effects. Some of the earliest laws ever made—in Mesopotamia, Israel, and Rome—consisted of ostensibly practical rules, yet they evidently enshrined grander social visions. In this article I examine the connections between the practical and the symbolic. An analogy with ritual performance suggests that even partial sets of laws may connect people with visions of justice and order, thereby garnering loyalty and helping to legitimize the aspirations of the law-makers.

Keywords: law, legalism, ritual, subjunctive world, historical anthropology, ethnography of legal texts

What is law for? Anthropologists have analyzed the social role and effects of law in multiple different ways: according to Bronislaw Malinowski (1926: 15), the laws of the Trobriand Islanders were unwritten rules "conceived and acted upon as binding obligations"; law has been identified in the processes and strategies through which people address and resolve conflict (Comaroff and Roberts 1981); law is an instrument of the state and a means of encoding, legitimating, and enacting power (Starr and Collier 1986); human rights laws attempt to address fundamental social issues (Goodale and Merry 2007); Clifford Geertz (1983) and Lawrence Rosen (1989) describe the role of law in creating meaning and reflecting culture. How are we to make sense of these different accounts of law's role in societies? Is it a basis for social order, an instrument of power, or an aspect of culture? As Peter Just (1992: 376) asks, must we choose between moving outward into the historical machinations of class and power, or moving inward to those of meaning and belief? Are the different phenomena related or would we better regard them as distinct, only apparently connected because the broad concept of "law" encompasses so much in the English-speaking world?[1]

In this article, I suggest that these multifaceted aspects of law deserve attention in their own right. Law needs to be understood as a distinctive social form, a manner of describing the world and prescribing human conduct, most evident in the general rules and abstract categories of legal texts. Understood in this way, the same phenomenon can be both practical and symbolic. Explicit laws can provide rules for social conduct, while they also create a sense of community and belonging; they guide interpersonal relations and also give shape to a society by delineating a social ideal; they can evoke order at the same time that they provide the machinery for achieving it. To put it in the most general terms, there are connections between the practical and the symbolic.

Just (1992) suggests that anthropologists tend to focus on one aspect of law, considering it as an instrument of power, government, and social regulation, or else illustrating the ways in which laws create meaning and reflect culture. In this article, I directly address the connections between the practical and the symbolic. To do so, I consider a number of examples, both historic and contemporary, from Mesopotamia, Israel, ancient Rome,

1. Gellner (2023) makes this argument about the concept of religion which, he points out, can be used to refer to what are quite distinct phenomena in different parts of the world.

 https://doi.org/10.1086/730785

medieval Armenia, and traditional Tibet. All involve explicit laws ostensibly oriented towards practical ends, including the regulation of social relations and resolution of disputes. Closer analysis, however, reveals that these laws present important social visions. In each case, apparently practical laws turn out to have symbolic effects, to evoke, even if they do not fully describe, a vision for a just and ordered world.

This aspect of law, I suggest, can best be understood by analogy with anthropological studies of ritual, in which ritual is described as evoking a subjunctive world (Seligman et al. 2008). Both rituals and legal texts are built on rules—those according to which the ritual plays out, or those made explicit in the laws. In both cases, the rules, despite being formulaic and pragmatic, evoke a sense of an ideal world. It may be a vision that no one expects to become a reality, but which they feel it is worth aspiring to by performing the ritual or writing out and quoting the laws. In these ways, I argue, ostensibly practical laws, apparently designed to regulate interpersonal social relations, may be intended and come to have powerful symbolic effects.

Law-making and legalism

The starting point for my analysis is a distinctive feature of most laws, that is, their social form. Explicit laws are legalistic. A number of scholars, considering a range of anthropological and historical examples, have highlighted legalism, both as an aspect of explicit laws and as a point of departure for comparative studies.[2] Legalism is "an appeal to rules that are distinct from practice [and] the explicit use of generalizing concepts" to describe the world and to order community and social life (Dresch 2012: 1). As I have put it elsewhere, legalism is "a way of thinking and acting," which "describes and prescribes human conduct in terms of rules, categories, and generalizations" (Pirie 2013: 131; see also 2022). Legalism is typically a feature of written rules and law codes, although oral rules might also be explicit and enduring in similar ways.[3]

The appeal to legalistic rules allows a certain style of argument and critical reflection. This has been noted in studies of courtroom argument, not least by Lloyd Fallers (1969) in his analysis of the processes of Busoga courts.[4] Here, as he noted, argument might range between legalism, when litigants used explicit categories to characterize activities, thereby narrowing the issues for discussion, and the contrasting "moral holism," when they ranged widely over the issues in dispute, invoking all the moral uncertainties of ordinary life. A similar distinction was drawn, albeit not in these terms, by Fredric Cheyette (1970), in his historical study of medieval France. He noted a shift in styles of argument during the twelfth century, from more general appeal to notions of honor to processes that relied upon legal categories and rules. Geertz and Rosen, when they describe the language of the courtroom as expressing culture and creating meaning, do not distinguish between legalistic and morally holistic styles of argument.[5] This is one reason, I suggest, that their analyses of law as culture and meaning has seemed incompatible with its analysis as social regulation and power.

As a style of thought and argument and a way of describing and seeking to order the world, legalism has multiple uses. It can be deployed as an instrument of power, given its ability to classify and divide people and things. It can enshrine governmental decisions and create explicit regulations, manage resources, and control populations as, for example, described by James C. Scott (1998). At the same time, appeal to laws can be a means to challenge power holders, particularly in arguments based on human rights; it provides a language that can be heard.[6] Legalism may also, less obviously, be a means to evoke a social vision. Through legalism, Paul Dresch (2012: 11–12, 36–37) suggests, people invoke a vision of

2. The principal publications are: Dresch and Skoda 2012, Pirie and Scheele 2014, Dresch and Scheele 2015, and Kantor, Lambert, and Skoda 2017.

3. The concept of legalism does not serve to define what law is—the category of law is too heterogeneous for neat definition; it is what Needham (1975) would describe as a "polythetic" category. But the concept of legalism draws our attention to important and distinctive characteristics amongst empirical examples. It serves to distinguish law from negotiated orders, the problem highlighted by Roberts (2005), while also avoiding a close association between law and the state or centralized government, which would, in turn, draw our attention away from many historic and other examples.

4. Fallers's study, like that of Cheyette (1970), was among the inspirations for the cited work on legalism (Dresch 2012).

5. Cover (1983–1984) analyzes law in similar terms.

6. This includes people whose own ways of conceptualizing their world barely resonates with the language of "rights" and legal entitlements. I have discussed these aspects of legalism elsewhere (Pirie 2013, 2022).

the world whose reach is indefinitely broad, although its historical conditions may be obscure to them. The question I address in this article is how rules ostensibly designed to regulate interpersonal social relations can also evoke such visions.

My examples encompass a number of historic laws. In a world dominated by forms of state laws with European roots, historical legal material provides excellent examples of "radical alterity," often unjustly neglected by anthropologists (Da Col and Graeber 2011: xiv). Interpreting such material can prove a challenge but, as Paul Dresch and Wendy James (2000) point out, this is not so different from the way in which we have to interpret more traditional anthropological material. We still need to ask what things mean, what assumptions lie behind them, "seeking for connections among parts of the obvious which locally remain unstated" (Dresch and James 2000: 3, 23). Historically, law-making was generally the preserve of a literate elite, so the first questions often concern who made them and why. But, as I seek to show here, law-making often demanded extensive resources and must have been intended—and assumed—to have wide effects.

Hammurabi

The first laws of which evidence survives were made in Mesopotamia in the third millennium BCE. The oldest is a short and rather mundane set of rules created by Ur-Nammu, conqueror and then ruler of the city of Ur at the end of the third millennium BCE (Roth 1995: 13–22). The laws were inscribed on a tablet, following a record of Ur-Nammu's claim to have brought justice to his people. He had, he announced, "liberated" the surrounding towns, established systems of taxation, and standardized weights and measures. He had also relieved poverty and redressed inequalities.

Similar statements had been made by earlier Mesopotamian rulers (Cooper 1986), but Ur-Nammu followed his statement with a set of rules. These specified how wrongdoing should be addressed and they use the simple casuistic form: "If . . . then . . .", of most modern legislation. For example, Ur-Nammu declares that, "if a man (wrongfully) detains another he shall be imprisoned and he shall weigh and deliver fifteen shekels of silver" (Roth 1995: 17). His laws were ostensibly intended to regulate future relations.

The thirty-seven surviving laws are far from comprehensive and, certainly by later standards, not very sophisticated. They direct punishment or compensation for murder, injury, false imprisonment, and sexual offenses of different kinds; they specify what should happen to slaves who have relations with their owners or otherwise behave badly; and there are rules for divorce and marriage, oaths and accusations, and agricultural disputes. These are the sorts of rules that a judge could, in principle, apply when making a decision. The puzzle is that there is no evidence that any judge ever did. There were courts in Ur and surviving tablets record their decisions, but they do not refer to the laws (Roth 1995: 5).

A much more extensive set of around three hundred laws was created by Hammurabi, ruler of Babylon, in the 1770s BCE (Roth 1995: 71–142). Like Ur-Nammu, Hammurabi had established his power and dominion through warfare, conquering the cities of practically all his Mesopotamian rivals, and it was in the latter years of his reign, secure in his position, that the king asked his scribes to create a code of laws (Yoffee 2004: 104). The result was an ostensibly practical set of laws, which apparently reflected the sorts of problems that Mesopotamian citizens took to their judges and mediators—agricultural disputes, relief from debt, compensation for injuries, penalties for theft, family relations, the status of slaves, and legal procedures.[7]

Like Ur-Nammu's laws, Hammurabi's rules were legalistic, that is, general statements which classified people and things and specified relations between them. They referred to creditors and debtors, doctors and patients, thieves and victims, parents and adopted children, as well as dividing the population into three distinct classes: freemen, dependent citizens, and slaves. They used the same casuistic form as Ur-Nammu's laws:

> If a man cuts down a tree in another man's date orchard, without his permission, he shall pay thirty shekels of silver.
>
> If a man has given a field to a gardener to plant as a date orchard, when the gardener has planted it he shall cultivate it for four years. In the fifth year, the owner and gardener shall divide the yield in equal shares and the owner shall choose his share first.[8]

7. Extensive debates over the interpretation of these laws are helpfully summarized by Yoffee (2004: ch. 4) and Barmash (2020).

8. These are laws 59 and 60, following the numbering used by Roth 1995.

Yet the evidence of the many case records is that the rules were never explicitly referred to (Yoffee 2004: 107; Richardson 2017: 28). Jean Bottéro (1992), among others, suggests that the code should be regarded as a primarily academic exercise, related to Mesopotamian literature on omens. However, many of the rules are quite specific, concerning the compensation that a doctor should receive after treating a patient with a bronze lancet, for example:

> If a doctor has used a surgeon's knife on a man and saved his life . . . he shall receive ten shekels of silver.
> If it was a working man's son, he shall receive five shekels of silver.
> If it was a slave, the slave's owner shall give him two shekels of silver.[9]

The fact that these laws do not refer to other sorts of medical intervention suggests that they have been abstracted from actual cases, chosen to illustrate a more general principle about compensation due for specialist services.[10] The resulting rules were thus closely linked to judicial practices. The result was a set of laws that may have been partial and specific but which represented principles that underlay the orderly conduct of much social life and the fair resolution of disputes.

Hammurabi's laws appear, then, to represent the beginning of a process whereby scribes abstracted general laws from particular cases.[11] Yet this was not a provisional or preliminary set of laws. Hammurabi commissioned multiple copies, several of them inscribed onto granite stones, topped by an image of the king standing before the god of the sun. He also introduced the code with a grand claim about the justice he had meted out to his people:

> [W]hen the god Marduk commanded me to provide just ways for the people of the land and to ensure appropriate behaviour, I established truth and justice as the declaration of the land, and I enhanced the well-being of the people.[12] (Roth 1995: 80–81)

He also promised future justice. A long epilogue states:

> These are the judicial decisions that Hammurabi, the king, has established to bring about truth and a just order in his land . . . So that a man unjustly treated, implicated in a case, may come before my image, as king of justice, and read what is written on my stele, and may understand my precious commands; that my stele may demonstrate his position, that he should realize his case, that his heart should be lightened. (Roth 1995: 133–34)

Hammurabi went on to demand that all future rulers should respect his laws and, invoking the gods, called down a series of dreadful misfortunes on any who might not.

This apparently practical set of rules covered many of the issues that we can assume Babylonian citizens took to judges and mediators in the normal course of daily life, then, and was probably based on actual cases.[13] But it was presented as the work of a divinely blessed ruler, who was promising justice to his people. By writing out the laws and making them public, Hammurabi was clearly seeking to demonstrate his benevolence (Yoffee 2004: 102–12; Barmash 2020: ch. 2). The specificity of the laws apparently gave his promises a sense of reality, demonstrating the ways in which he had (so he claimed) already enacted justice.

Why should Hammurabi have endowed this set of rules with such constitutional significance, presumably confident that it would impress his people? Seth Richardson (2012) argues that the goals of Mesopotamian rulers during this period were more about controlling people than land. Although a successful warlord might sack the cities of his rivals and enslave their populations, there were numerous groups of people, largely nomadic pastoralists, who evaded the control of the urban administrators. Like other rulers, Hammurabi still had to persuade both conquered and marginal populations to accept his sovereignty. Promising justice was one way to do this. Several laws specify that Babylonian citizens will be protected, for example from chattel slavery (laws 280–81). Addressed to all Babylonian citizens, both actual and potential, the laws offered protection more than punishment (Richardson 2012).

A somewhat preliminary set of rules, ostensibly designed to regulate interpersonal relations among Babylonian

9. Laws 215–17.

10. Historians have made the same remarks of Anglo-Saxon laws: Wormald 1999: 10.

11. This largely accords with the interpretation of Barmash (2020: ch. 4), although she places more emphasis on scribal practice and expertise.

12. I have reworked the English versions slightly after consulting other translations.

13. A number of different people and bodies probably decided Babylonian disputes (Yoffee 2004: 109–12).

citizens, seems to have been designed, that is, to assert the ruler's ability to mete out justice and to confirm the source of his authority in the sanction of the gods. Hammurabi must have assumed that his stele would impress people, making it worth the effort to commission scribes, stonemasons, and the labor needed to transport the heavy stones to distant parts of his realm.

The laws of the Israelites

The importance that Hammurabi's laws came to have is evidenced by the fact that they were preserved, copied, and recopied over generations, including by invading Assyrians and Persians (Barmash 2020: ch. 7). They also influenced the creation of laws in a very different context, that of the Israelites who put together the early books of the Old Testament around a millennium later. The five books of the Pentateuch combine sections written in a variety of styles—narratives, instructions, exhortations, and moral guidance—which evidently have different origins (Barton 2019: ch. 1). There are several sets of rules and instructions concerning worship, ritual, and sacrifice, including extremely detailed instructions for how the Israelites should construct the ark and its tabernacle (Exodus 25–31), along with famously elaborate dietary rules (Leviticus 11:1–46; Deuteronomy 14:3–21). There are also directions about how the Israelites should practice purity in different aspects of their lives, including what they should wear, how they should construct their houses, how they should conduct warfare, as well as what they should eat (Douglas 1966).

What one might call social and moral guidance is scattered throughout, including injunctions to the Israelites to be generous with the poor and to institute periodic debt amnesties (Leviticus 25; Deuteronomy 15). The most legalistic set of social rules is found in the book of Exodus, which recounts Moses's receipt of the Ten Commandments and a set of practical rules for his people (Exodus 21:1–22:16). These rules, which form about twenty-one distinct laws, are generally known as the Mishpatim (Jackson 2006).[14] They tell the Israelites how to make arrangements for their slaves, how to deal with cases of murder and assault, the injuries caused by wayward livestock, theft, seduction, and damage to agricultural property. They concern practical social relations, presented as part of God's covenant with his chosen people. So who wrote them, who chose the legalistic form, what were they intended to achieve, and what effects might they have had?

Biblical scholars consider that the Pentateuch took its final shape after the fall of the last kings, following the Assyrian invasion of Israel in 722 BCE and the Babylonian overthrow of Judah in 587–586 BCE.[15] But the origins of the Mishpatim must lie in the social norms of the Israelite tribes who inhabited the region before the turn of the first millennium BCE. As Bernard Jackson (2006: ch. 1) argues, we should think of the Mishpatim as "wisdom laws," reflecting social traditions and practices. They make explicit, in lawlike form, the most important principles of the Israelites' social organization, and many of them must date back to premonarchical times.[16] Several concern agriculture, for example: "If a man causes a field or vineyard to be grazed over, or lets his beast loose and it feeds on another man's field, he must make restitution from the best of his own field, and of his own vineyard" (Exodus 22:5).[17] There are rules concerning livestock, including those on the "goring ox":

> If an ox gores a man or a woman to death, the ox shall be stoned and its flesh shall not be eaten; but the owner of the ox shall be clear. But if the ox has been accustomed to gore in times past, and its owner has been warned but has not kept it in, but it kills a man or a woman, the ox shall be stoned, and its owner also shall be put to death. (Exodus 21:28–29)

The rules of the Mishpatim identify wrongs—forms of injury or theft—that are particularly grievous, meriting punishment or death. They also identify exceptions—involving injuries to servants, for example—to the general principle of retaliation (Exodus 21:18–27).

14. Deuteronomy 12–26 contains a similar set of laws and seems to be an updated version, maybe written under Josiah in the second century BCE (Barton 2019: 75).

15. There have been extensive debates about the significance and meaning of the laws and their relationship with social practices and the broader Near Eastern tradition (Jackson 2006; Wells 2008). To a large extent I follow the interpretation of Jackson (2006).

16. Wells (2008) has identified a number of correspondences between the Pentateuch's laws and social practices in the wider Near East.

17. The biblical quotations are lightly amended from the Revised Standard Version.

The laws provide that killing through ambush or treachery attracts the death penalty whereas if the killing is in response to an attack, the perpetrator should be able to seek a safe haven (21:12–14). Causing injuries that later heal attracts compensation for loss of time and the costs of treatment (21:19). Stolen livestock must be compensated for, but if the thief still has the animal, he may return it with another (21:37, 22:3). Someone who seduces a virgin must pay the bridewealth and marry her, unless her father refuses, in which case he just has to pay the bridewealth (22:16, 17).

The Mishpatim's rules are legalistic in form, making clear the consequences of particular actions. But the impression one gets is that basic principles of justice were well known and the laws primarily identified exceptions and recurrent problems. Injuries, killing, and theft were probably dealt with through direct retaliation or equivalent compensation, as reflected in the verses that read "life for life, eye for eye, tooth for tooth, burn for burn, wound for wound, and stripe for stripe" (Exodus 21: 23–25).[18] But exceptions for self-defense or accidents had to be spelled out. For example, "He who strikes a man, so that he dies, shall be put to death. But if he did not lie in wait for him, but God let him fall into his hand; then I will appoint for you a place to which he may flee" (Exodus 21:12–13). This would also explain why the laws are far from comprehensive. They only refer to certain types of livestock and agricultural property, for example, and there are no rules on the exchange of goods (other than the loss of borrowed property) or for credit and debt (rather than the status of those in debt bondage). These issues are, instead, the subject of more general moral instructions, set out in later sections, for example: "If you lend money to any of my people with you who is poor you shall not be to him as a creditor, and you shall not exact interest from him" (22:25). There are many general moral exhortations: "You shall not wrong a stranger or oppress him, for you were strangers in the land of Egypt" (22:21).

The laws of the Mishpatim clearly had their roots in basic principles of social organization that the Israelites considered important: ideas of equivalence and just compensation. Revenge should be proportionate, unintentional killing should not be punished by death, injuries should be appropriately compensated for, and women and children should be protected. These must have been defining principles for the Israelites' tribes, dating back to premonarchic times, when disputes would have been mediated by tribal leaders, councils, and ritual specialists. But why, when the scribes eventually reduced them to writing, did they choose the casuistic ("if . . . then . . .") form for these rules? Other rules in the Pentateuch take the form of much more detailed and comprehensive sets of instructions (in "apodictic" form), for the construction of the tabernacle and matters of diet and dress, for example: "you shall make the tabernacle with ten curtains of fine twined linen and blue and purple and scarlet stuff; with cherubim skillfully worked . . . The length of each curtain shall be twenty-eight cubits, and the breadth of each curtain four cubits" (Exodus 26:1–2). Other passages are framed as general exhortations and statements of moral principle.

Jackson (2006: 477) suggests that the Mishpatim was compiled from different sources in a general move towards literacy, as were the narratives, proverbs, edicts, and apodictic rules that make up the bulk of the Pentateuch. The authors of the Mishpatim must have been specialist scribes who worked in the urban centers established by their kings. These scribes drew on the tradition of legal writing that went back to Hammurabi (Jackson 2006: 433; Wright 2009; Barton 2019: 76). As Eckart Otto (1996: 219–21) puts it, the drafting techniques of the Israelite scribes were deeply rooted in the cuneiform legal tradition. Legal education was part of their curriculum and Mesopotamian cuneiform texts were well known. These would have included the ancient Babylonian law codes, which the Israelite scribes used as models, and they simply copied the casuistic form to record the social norms, edicts, and problems of their own tradition.

So what was the purpose of writing out these laws? Jackson suggests that although the later part of the Mishpatim reflects premonarchic values, the first part reflects the concerns of an urban population and its kings (2006: 445–46).[19] The opening rules on slavery, in reality debt bondage, must date from a period in which resources had been centralized and patterns of credit had emerged; they might reflect royal edicts (2006: 450–56). After the establishment of urban centers, elders in Jerusalem decided cases "in the gate," the marketplace just inside a

18. As Jackson (2006: 27–29) points out, these were rules of limitation, rather than demanding retaliation.

19. The rules that protect certain killers from retaliation must also date from this period: in the books of Numbers and Deuteronomy God orders that the Israelites should build cities, where those fleeing from vengeance could be properly judged (Numbers 35:1–34; Deuteronomy 4:41–43).

town's walls (Barton 2019: 84), while later books (Deuteronomy17: 8–13; 2 Chronicles 19:5–19) describe a central court in Jerusalem, where people could consult both judges and priests. However, there is no evidence of a centralized system of justice or that judges applied any general laws (Jackson 2006: 418, 473). It seems highly unlikely that the laws of the Mishpatim were ever applied directly.

The creation and enforcement of the laws is not, moreover, attributed to any king. Deuteronomy (17: 14–20) directs the people to choose a king, but advises them to take care that he be not corrupt (Jackson 2006: 405, 415–16).[20] Ultimately, principles of justice were presented as located in traditional wisdom and in God. Parts of the Mishpatim may have reflected royal interests, then, but the ideology was divine. Whatever their origins and the context in which they were first written, when they were incorporated with the other texts of the Pentateuch, the laws were attributed firmly to God. They are presented as instructions given by God to Moses, aspects of his covenant with his people.

The compilation of the Pentateuch in its final form was, scholars agree, a priestly project. As Mary Douglas (1999) puts it, the authors of the Pentateuch—Leviticus in particular—were trying to rebuild faith and trust among the Israelites after the disasters of conquest. Whatever the origins of the various texts, they were brought together by a small and literate elite, probably under Assyrian and Babylonian domination in the sixth and fifth centuries BCE, when the Israelites were in a state of social disorder (Barton 2019: 33–34, 85). The priestly authors were trying to resynthesize aspects of their ancient religion, insisting on the justice of God and the covenants between him and his people (Douglas 1999: 5, 104–108). The object was to systematize a theory of divine justice, reaching back beyond the time of the kings to the original form of the religion that God had given to Moses (Douglas 1999: 8, 12). In a similar way, they reached back to the original laws, said to predate the time of the kings, seeing in the laws of the Mishpatim a reflection of ancient, ultimately divine, justice.

The scribes who created the Mishpatim reproduced rules originally formulated to regulate social relations among the Israelites and provide means to address recurrent sources of tension, then, and to do so they adopted the form of the Mesopotamian tradition. But they were representing the justice of God. Like Hammurabi, they were trying to unite a dispersed people but, unlike him, they were primarily concerned to provide moral guidance to their people. To this end, they placed authority for the social and moral guidance provided by the rules firmly in the hands of God.

The Twelve Tables

A sense that laws reflect higher principles of justice is also evident in the earliest legal project of Rome's citizens. Rome in the sixth and fifth century BCE was just beginning to challenge the rulers of surrounding regions and it was a time of considerable political turmoil within the city's government.[21] In the late sixth century, the Romans deposed their king and replaced him with an oligarchic elite, headed by a number of consuls. But tensions continued between the citizens at large, the consuls, and their officials, the magistrates. By the middle of the fifth century, the citizens had established their own assembly and elected tribunes to represent them (Drummond 1989). The tribunes made a series of demands, concerned about growing levels of debt and wanting a fair allocation of the land acquired in military campaigns. They also demanded laws. Tradition has it that the consuls suspended normal political activities and appointed a commission to travel to Athens to study its laws.[22] There is little or no evidence for this journey, but scholars think that the Roman scribes were inspired by Hellenic laws, which they may have seen or known about from a number of Greek cities. They could also have learned about the wider Near Eastern tradition from mercantile contacts, such as Phoenician traders (Cornell 1995: 275; Westbrook 1988). In any event a Roman commission did formulate a set of laws, adopting the legal form of the Near Eastern tradition, and these became known as the Twelve Tables.

Roman historians later presented these laws as a great victory for the plebeian classes, which placed restraints on the powers of the magistrates. But the rules

20. Elsewhere the Bible records kings claiming to respect divine justice and instructing judges to do the same (2 Chronicles 19:4–7).

21. For general background, I have relied upon Cornell 1995 and Lomas 2017.

22. There is considerable debate about political structures and events during this turbulent period. It is possible that the Decimvirate, the commission appointed to draft the laws, was meant to supplant the consuls, but there was dissatisfaction surrounding the creation of the final two laws and in 449 the old power structures were reconfirmed (Cornell 1995: ch. 11).

are rather limited and mostly pragmatic.[23] Tim Cornell (1995: 279) describes them as a set of "terse injunctions and prohibitions," marked by grammatical ambiguity, undefined pronouns, changes of subject, and an inability to generalize or express abstractions. By modern legal standards, they are rather basic. In substance, they contain procedural rules for court cases and they deal with the sorts of subjects that probably gave rise to disputes in the normal course of Roman life: compensation for injuries, theft and other minor crimes, wills and inheritance, debt, obligations, and damage to property. For example, "If someone makes a will concerning his goods or guardianship, it is to be a source of rights" (Table V, 3).[24] Several laws concern procedures for dealing with debtors and debt bondage. If a debt is admitted: "The creditor is to take the debtor to a pre-trial. Unless he pays (the agreed amount) or someone acts as guarantor, the creditor is to take (the debtor) with him. He (may) bind him with a rope or shackles, with no more than fifteen pounds" (Table III, 3). Other laws confirm the status of the *paterfamilias*, the head of the household, while another limits funeral expenses, apparently to avoid conspicuous consumption. A couple of clauses concern the organization of boundaries and roads, for example specifying that a road is to be eight feet wide and sixteen at the corners (Table VII, 6–7). But most deal with private relations between citizens.

None of the laws explicitly restricts the magistrates' powers, although Table IX does provide that decisions concerning the *caput* (the life or, possibly, the privileges) of citizens shall not be passed except by "the greatest assembly." The exact meaning of this is not clear—it could refer to the citizens' assembly or the smaller *comitia centuriata*—although it does imply a widening of the numbers involved in the administration of justice (Crawford 1996: 696–701). But at most, this is a very preliminary move to limit the legal and judicial authority of the consuls and magistrates.

Scholars have long debated the constitutional and legal status of the Twelve Tables, whether and how they were applied, and what changes they may have brought about to the governance of Rome and the lives of its citizens (Drummond 1989; Lintott 1999; Ibbetson 2015: 26–27). My question is why they were drafted in the first place, and why in this form? Why did a group of citizens demand a series of rules concerning relatively mundane matters amidst the political turmoil of the mid-fifth century? What did they think such a text could achieve within the constitutional negotiations between consuls, magistrates, and tribunes? Drummond (1989) suggests that the principal virtue of the Twelve Tables was to make at least some laws public and fixed. In principle, the laws should have protected defendants, sanctioned defaulting witnesses, and restrained the arbitrary and corrupt administration of justice. Even if it seems unlikely that they were applied to these ends, the rules did make explicit provisions for how justice should be enacted. Possibly more importantly, they were a de facto reflection of the will of the people (Drummond 1989: 233). The authority of the tribunes rested on popular support (1989: 224–25) and their demand for laws reflected the interests of the citizenry. Accepting the Twelve Tables demonstrated consular, as well as public, recognition of the importance of the issues that mattered to the citizenry at large (1989: 231).

The Twelve Tables were the project of a group of citizens, then. Their content clearly reflected their most pressing concerns, primarily relief from debt and fairness in legal processes. The rules might seem, to modern eyes, little more than a half-hearted attempt to generalize and formulate a handful of abstract laws to regulate interpersonal relations. Nevertheless, by demanding even this limited set of rules, the citizens were confirming the authority of their assembly over matters that concerned them and the right to be protected from the arbitrary exercise of judicial authority. Justice was now a matter in which all citizens were supposed to have a stake.

In this project of law-making, the Roman scribes formulated a number of rules ostensibly designed to regulate relations between citizens and they adopted the legal form of the Mesopotamian tradition. Like the Israelites, they adapted it to their own purposes, to express the will of the citizens, organized as an assembly with their own leaders. It was a symbolic move within their efforts to establish a new political order, one in which they should have at least some influence over the decisions of their rulers.

The examples of Babylon, Israel, and Rome involve quite limited sets of rules, which stipulated how social life should be regulated and how everyday disputes should be dealt with. However, by specifying where such laws originated and who had authority to implement or

23. What is known of the text, reconstructed from later sources, is presented in Crawford 1996: 555–721.

24. The translations are lightly amended from Crawford 1996.

change them, the texts spoke to wider moral and political concerns: they were the work of a warlord claiming divine authority, symbolizing his status as the guarantor of justice; they were God's commands for his chosen people, which would enable them to act justly and maintain their identity in the face of foreign domination; and they were the voice of Rome's citizens, asserting their right to have a say in their city's political affairs. By committing the rules to writing, the authors were making statements about political and moral order and how it should be maintained.

Armenia

A similar purpose was made explicit by the Armenian author of a code written in the twelfth century in the face of threats to his people's autonomy.[25] The Armenians adopted Christianity in 301 CE and the priests and bishops continued to minister to their people, founding churches and monasteries, despite incursions by Greeks, Parthians, Romans, Sasanians, and Byzantines. Priests translated the pronouncements of the major Christian councils and gradually created an extensive Armenian canon of ecclesiastical literature. But in 1071 their territories were overrun by the Muslim Seljuks and, although the new rulers largely allowed the Armenians to practice Christianity, the Seljuks did not accept Armenian forms of justice. Rather, they insisted that disputes should go to their own courts, where Armenians would be subjected to Islamic law. So the bishops encouraged their scholars to create an Armenian law code. Some translated the Syrio-Roman laws, while others turned to codes of the Byzantine emperors, along with military regulations made by the Greeks. It was a *vardapet*, a priest and teacher, named Mxit'ar Goš, who put together the most successful and enduring legal text. Beginning his work in 1184, he created the code that Armenians came to think of as their law and which they continued to consult into the sixteenth century.

Mxit'ar Goš based his text on material from the Old Testament, along with the Armenian canons and a penitential text recently created by one of his compatriots. The text starts with the roles of judges, secular leaders, and ecclesiastics, followed by chapters on marriage, divorce, and children. He intersperses these sections with others on princes and peasants. Many concern church matters but others deal with secular issues, taking laws on farming from the Biblical books of Exodus, Leviticus, and Numbers, and adding provisions that probably reflected Armenian customs on farm animals, the wrongful cutting of crops, arson, mills, and livestock sales. Mxit'ar also noted that he had drawn on oral sources, particularly in his discussion of divorce, defenses to homicide, and marriage between kin. Elsewhere, he cites no sources, for example in the rules concerning cases of "hatred between husband and wife" caused by "demonic affliction": if the husband demands a separation, he "is not authorized to marry again, but the wife may take another husband, taking her dowry and a third from the husband's, because he dishonoured her marriage" (chapter 9).[26]

Many of the provisions are quite specific and legalistic, but they include discussion and explanation of the rule in question, particularly when it is drawn from a biblical source. Some combine legalistic provisions with moral exhortation:

> If a lord mercilessly orders a peasant to work more than the norm and thereby danger of death by their lords befalls those subject to him, let (even) the greatest lords be liable to blood judgement, and in a worthy manner, let them demonstrate penitence with humility and recompense the others for the harms—the cost of healing and the loss—and pay the fines (compensation?) for those who are incurable. (chapter 35)

Many sections are based on the laws of the Pentateuch, for example chapter 64 is based on the rule of Exodus (21:26) concerning masters who injure their servants, and the next chapters draw on the Mishpatim's rules concerning dangerous animals.

To modern eyes, the majority of the 251 clauses appear somewhat random. Thomson (2000: 27–28) has concluded that Mxit'ar simply took extracts from his different sources, transcribing rules and commentaries from parts of each in turn, so that the provisions on many topics are scattered throughout several different sections.

In his lengthy introduction, Mxit'ar explains that by having their own law code Armenians should be able to

25. The text has been translated and analyzed by Robert Thomson (2000). Further background is provided by Cowe (1997: 297–301).

26. The references and translations are those of Thomson 2000.

avoid the infidels' courts. He makes pejorative references to Muslim customs and insists that Armenians should engage with them, if at all, in ways that avoid adopting their most problematic rules. His book, he declares, will enable Armenians to recall the right law for any particular situation. Just as important, "we shall indicate to foreigners that we live by a lawcode, so that being put to silence thereby, they may not become reproachful of us" (Thomson 2000: 73). Mxit'ar clearly hoped that Muslim officials, used to consulting their own legal texts, would be impressed by his code and more willing to allow Armenians to run their own courts. Mxit'ar also explained that, as well as laying down penalties to be meted out by courts, he was offering religious guidance and discussing appropriate forms of penance. Possibly inspired by the Old Testament and Christian canons, he created rules for conduct with moral and spiritual aims, as well as laws designed to be applied in practical situations (Thomson 2000: 103–104). Spiritual concerns, he emphasized, should always take precedence over written rules. Mxit'ar did not, that is, present his text as a definitive law code and he described its rules as neither the redaction of ancient custom nor a comprehensive guide to practice (Thomson 2000: 32–36).

Despite its rather provisional and unsystematic nature, the code was embraced by Armenians and over the next century different scholars produced two revisions (Cowe 1997: 299). A minister in the Armenian kingdom of Cilicia wrote a third in 1265, using the vernacular, and reordered the subject matter, presumably to bring the laws better into line with local conditions. Mxit'ar's text had now become a more practical set of rules, used by people trying to maintain their autonomy against the imperial ambitions of powerful neighbors (Cowe 1997: 300).

Armenian Cilicia eventually fell to the Muslim Mamluks in 1375, but under the Seljuk onslaught, many Armenians had fled northwards ending up in Galicia and Volhynia. Here, they clustered in the larger towns where they established their own quarters, working as artisans and traders and building their own churches. When the Polish king Casimir III occupied the region in 1340, he recognized their economic importance and granted them the right to maintain their own traditions. He also declared they could practice their own laws. In towns such as Lvov, the Armenians set up their own courts, where elected elders sat with judges to hear legal cases and, at least nominally, applied the laws of Mxit'ar Goš. They created a new edition of the code, which they translated into Latin so that the Polish king could read it (Cowe 1997: 301). It was clearly important to the Armenians that they maintain their own traditions and their own laws. Over the following centuries, merchants also took copies of Mxit'ar's code to the colonies they established in Russia, the Ottoman Empire, Persia, India, and beyond. The code, maybe no longer of great practical use, still stood for the fact that, as Armenians, they had their own laws and customs.

The Armenian laws were always symbolic as much as practical, then. Originally designed to impress the Seljuks and encourage them to respect Armenian practices of justice, they would have been difficult to use, organized by source not subject, and the rather tentative introduction by Mxit'ar Goš indicates a reluctance to specify how Armenians should behave. Nevertheless, the legalistic form must have reinforced the sense that they were laws for all Armenian people and reflected custom and practical social issues. The code became a symbol of national unity for a dispersed people, but more than that, by preserving, updating, and (nominally) applying these practical rules, Armenian leaders and communities in very different contexts asserted that they could and should control their own practices of justice.

Tibetan pastoralists

My final example is more recent, coming from the culturally Tibetan region known as Golok, now part of Qinghai province in China.[27] Here, a number of Tibetan tribes, historically engaged in nomadic pastoralism, formed a confederacy, nominally related through their leading families. Occasionally they combined to face an external threat, but they often came into conflict amongst themselves, as they still do today. Practices of revenge occasionally escalate into long-running feuds, although the tribesmen also expect that these can and should be resolved through well-established processes of mediation (Ekvall 1964; Pirie 2009).

These practices of mediation were and are essentially oral. However, at some point in the period before the Chinese occupation of the 1950s, at least one of the tribes produced a written code. This has been reproduced in a modern history of the region and a number of tribal

27. I have discussed this case, based on ethnographic fieldwork in the region, in more detail in earlier articles (Pirie 2009, 2015).

leaders confirmed that it reflects older codes destroyed during the upheavals of the Cultural Revolution (Pirie 2009: 150–51). The content of the written rules reflects the tribes' mediation practices, as recounted both by Ekvall and my own informants. They are detailed and elaborate. In reality, mediation practices have always revolved around displays of oratory. Both the advocates for the parties and the mediators themselves have to be able to speak well, citing maxims and proverbs, often esoteric and obscure, in their attempts to persuade the mediators to accept the justice of their case. There is no question of mediators applying any rules to impose a solution. They have to persuade angry tribesmen to accept their proposals.

So what were the laws for? As one mediator put it, "we don't need to refer to the rules, we know what it is in them." As I have described elsewhere (Pirie 2009), it seems obvious that the laws were more important for what they symbolized than how they might help a mediator settle an intractable feud. They were referred to as "the yellow and red law books," according to the color of the cloth in which they were wrapped, and they must primarily have been markers of tribal identity. Each tribe, one of the mediators explained to me, had its own rules and the leaders within the Golok confederacy would discuss them when they gathered annually to debate common issues.

The introduction to the rules also refers to Songtsen Gampo, the semi-mythical founder of the Buddhist kingdom. In Tibetan historiography, this king is credited with introducing both Buddhism and writing to Tibet and one of his first acts was, it is said, to make a set of laws. In fact, the content of the Golok code bears no resemblance to any historic legal texts from central Tibet, but this statement indicates that the Golok tribes were part of the wider Tibetan Buddhist world. They may have safeguarded their autonomy, but in religious terms they acknowledged the supremacy of the Dalai Lamas.

The creation and maintenance of these laws was clearly symbolic more than practical, then. But the question is how the rules, which no one can have imagined they would directly apply, acquired such significance. As I asked in an earlier article (2009: 158–59), what could these detailed and specific rules add to more obvious markers of tribal unity and autonomy, such as communal gatherings, the veneration of territorial deities, origin stories, and the very fact that the tribesmen did, and do, combine to wage wars and avenge wrongs? What was the point of a series of rules, carefully wrapped in cloth, kept by the leading family, which most people could not read?

The legalistic form clearly had significance for the Golok tribespeople and their leaders. The rules asserted the authority of these families to preside over both warfare and justice. The section on warfare emphasizes, again and again, the duties of loyalty on the part of individuals called to participate in a campaign, while the section on mediation spells out the status of the mediators—always members of the leading families—and the respect they must be shown.[28] By setting out, in some detail, the processes by which truces could be called and disputes settled, the authors were making explicit the nature of the justice that these families were promising their people. As well as leading their tribes into conflict, they were promising to resolve the damaging and destructive conflicts that arose regularly among their tribes.

The rules of these codes, in such ways, linked the very real concerns of the tribesmen with the authority claimed by their hereditary leaders. The rules promised that loyalty would be rewarded both in war and in peace.

Conclusions

The authors of the laws described here all drew inspiration from earlier traditions but their subjects were contemporary social concerns: debt, injuries, theft, family matters, agricultural practices, commercial exchanges, and legal procedures. Their rules could, in principle, have been enforced to regulate interpersonal relations and many may have served to guide aspects of daily life. Yet the laws were all symbolically important in ways that went far beyond what the rules could have achieved in practical terms. Pragmatic and often preliminary, they did not map out an ideal order in any detail. Yet they seem to have been invested with considerable symbolic significance—they promised justice for all, God's favor, citizens' rights, and autonomy in the face of more powerful political forces. The question I have addressed here is how mundane rules about debt, theft, and legal procedures can promise so much.

Their legalism distinguishes these laws from the sorts of courtroom argument described by Rosen and Cover

28. The Golok tribes were unlike many of their neighbors who might call on high status Buddhist lamas to mediate serious conflict (Pirie 2005).

(and, implicitly, Geertz). Even if such processes are governed by procedural rules and framed by substantive laws, courtroom argument is liable to range widely over the particulars and context of the issues. Evoking communal cultural ideas, it may be characterized by "moral holism" as much as by "legalism" (Fallers 1969). The specificity of legalistic rules, by contrast, makes social dynamics, ideas, and issues more concrete. As Dresch (2012: 15) puts it, such laws stand apart from the flux of events and personalities; they suggest an order of affairs that outlasts the moment. Yet in the examples considered here, what is more important than the detail of the rules, I have suggested, is the fact that they indicated how and by whom life could and should be ordered. They illustrated how justice ought to be meted out. In the case of Hammurabi they explicitly affirmed the authority of the king; in the case of the Pentateuch, it was God (via Moses) who had given the laws for his chosen people; the Roman laws were made at the request of the citizens, giving them a voice independent of the consuls; the laws of Mxit'ar Goš represented the fact that the Armenian people had their own religious tradition and followed a Christian order; while the Golok laws represented the authority of the tribes' chief families to lead their people at times of both war and peace. All specified not just how daily life should be regulated but who had the authority to mete out justice. In these ways, they lent legitimacy to the political configurations they reflected, to the authority of the ruler, the priests, the citizens' assembly, and the tribal leaders. At least, that is what the law-makers must have hoped.

At the same time, by speaking to ordinary life, reflecting contemporary social concerns, the laws promised practical justice; they evoked the sort of society that people must have felt they could live in, in which justice might be hoped for by all.[29] They connected ordinary people to the vision of a broader moral and political order, seeking loyalty by promising justice. Some of the laws made their visions for power and political order explicit: Hammurabi introduced his code by making clear the extent of his royal duties and power. In other cases, where authority was dispersed, as it was among the Israelite tribes and the Armenian diaspora, the laws also symbolized the very existence of a community, setting out the principles that united them as a people. Laws can suggest a sense of what "we" do, a sense of common ideals, a vision for justice (Pirie and Scheele 2014). And, as I have argued here, whether that vision was explicit or implicit, the laws made it real by creating the impression that there were means to bring it about. Even a set of pragmatic legalistic rules could, in such ways, exemplify an ideal social order and suggest there were ways to achieve it.

Rule and ritual

The laws I have described here could be said to do the same work as ritual performances. Jonathan Z. Smith (1982) describes how, prior to embarking on an expedition, circumpolar hunters would enact a ritual hunt, in which the bear eventually submitted willingly to its fate. As Adam Seligman et al. (2008: 26–27) point out, the performance of this ritual was expressive more than instrumental. It created an imagined world, a "subjunctive" state of affairs, as they put it. And, as they go on to explain, this world is necessarily in tension with lived reality: none of the participants can have imagined that performing the ritual would actually cause the bear to be caught. The ritual must have had meaning and importance precisely in the gap between what it represented and the world that everyone knew they lived in.

Laws, I would suggest, may do the same thing, representing a subjunctive world in the specificity of their rules. Performing a ritual involves following a script and when that script is not written, as in the case of the bear hunt, the performance itself enacts the script; when the participants act out the ritual, they represent the subjunctive world. In the case of laws, performance is not needed—the act of writing and publishing the text is, itself, the expressive act. In both cases, whether enacted or written, the rules create a sense of fixity, the sense of something both more objective and more permanent than the reality of everyday life.

As Seligman et al. (2008: ch. 1) emphasize, that subjunctive world is itself imperfect and in tension with the world of lived experience. Rituals present patterns, built out of the particulars of human experience, but it is never-ending work, a recurrent, always imperfect, project of dealing with human behavior (2008: 42). In the same way, a legal text may be partial, even preliminary, yet still represent an ordered world. As with ritual, legal rules convey a sense of precision, of something patterned, something that is more than a hope or aspiration. A rule that can, at least in theory, be followed connects

29. "All" here, of course, means those to whom the laws were addressed, generally citizens with status rather than slaves, women, and children, although many of the laws did give at least some rights to these classes.

the reality of daily life to the subjunctive world it invokes. Hammurabi's citizens were supposed to read his laws; by following their rules, the Israelites could practice purity; the Armenians could observe canonical traditions; and the Romans could quote standards that judges were supposed to respect. All these rules, and their legalism, created a sense of moral certainty, even if the world they evoked was only partially represented, and obviously in tension with the reality of their social existence.

Made explicit, they also connected Babylonian and Roman citizens, the dispersed nations of Israelites and Armenians, and Tibetan tribesmen, offering a common vision of justice and the means to achieve it. Laws suggest transcendent values, then, but they also promise links between the real and the ideal for a community of people, the sense of a path that would bring them closer to, if never right up to, the ideal. This is why laws can be invested with meaning, why they can be the repository of aspirations, even if they are, in form, designed to regulate practical interpersonal relations, sometimes barely abstracted from actual cases.

Laws are socially significant and put to use in multiple ways, then: they provide practical guidance for interpersonal relations, they may be useful as instruments of rule, to manage and order a society, but—often at the same time—they may have symbolic significance. As described here, they can indicate who has the authority to mete out justice as well as invoking a vision of an ideal social order. Their very specificity connects the concerns of daily life with the sense of an achievable ideal.

Acknowledgments

This article has benefited from discussions with colleagues and editors of previous publications too numerous to list. I must particularly acknowledge the very helpful criticisms and suggestions of four anonymous reviewers for HAU and the meticulous editorial input from Louisa Lombard. I am very grateful to them all.

References

Barmash, Pamela. 2020. *The laws of Hammurabi: At the confluence of royal and scribal traditions*. New York: Oxford University Press

Barton, John. 2019. *A history of the Bible: The book and its faiths*. London: Allen Lane.

Bottéro, Jean. 1992. *Mesopotamia: Writing, reasoning, and the gods*. Translated by Zeinab Bahrani and Marc Van De Mieroop. Chicago: University of Chicago Press.

Cheyette, Fredric L. 1970. "Suum cuique tribuere." *French Historical Studies* 6 (3): 287–99.

Comaroff, John, and Simon Roberts. 1981. *Rules and processes: The cultural logic of dispute in an African context*. Chicago: University of Chicago Press.

Cooper, Jerrold S. 1986. *Sumerian and Akkadian royal inscriptions*, Vol. 1. New Haven, CT: The American Oriental Society.

Cornell, Tim. 1995. *The beginnings of Rome: Italy and Rome from the Bronze Age to the Punic Wars (c. 1000–264 BC)*. London: Routledge.

Cover, Robert. 1983–1984. "Nomos and narrative." *Harvard Law Review*97 (1): 4–68.

Cowe, Peter. 1997. "Medieval Armenian literary and cultural trends." In *The Armenian people from ancient to modern times*, Vol. 1, edited by Richard Hovannisian. Los Angeles: University of California Press.

Crawford, M. H. 1996. *Roman Statutes*, Vol. 2. London: Institute of Classical Studies, School of Advanced Study, University of London.

Da Col, Giovanni, and David Graeber. 2011. "The return of ethnographic theory." HAU 1: vi–xxxv.

Douglas, Mary. 1966. "The abominations of Leviticus." In *Purity and danger: An analysis of the concepts of pollution and taboo*, 41–57. London: Ark.

———. 1999. *Leviticus as literature*. Oxford: Oxford University Press.

Dresch, Paul. 2012. "Introduction." In *Legalism: Anthropology and history*, edited by Paul Dresch and Hannah Skoda, 1–38. Oxford: Oxford University Press.

Dresch, Paul, and Wendy James. 2000. "Introduction: Fieldwork and the passage of time." In *Anthropologists in a wider world*, edited by Paul Dresch, Wendy James, and David Parkin, 1–26. Oxford: Berghahn.

Dresch, Paul, and Judith Scheele, eds. 2015. *Legalism: Rules and categories*. Oxford: Oxford University Press.

Dresch, Paul, and Hannah Skoda, eds. 2012. *Legalism: Anthropology and history*. Oxford: Oxford University Press.

Drummond, A. 1989. "Rome in the fifth century: The citizen community." In *The Cambridge ancient history*, Vol. 7 (2), edited by F. W. Walbank, A. E. Astin, M. W. Fredericksen,

R. M. Ogilvie, and A. Drummond, 172–242. Cambridge: Cambridge University Press.

Ekvall, Robert. 1964. "Peace and war among the Tibetan nomads." *American Anthropologist* 66 (5): 1119–48.

Fallers, Lloyd. 1969. *Law without precedent: Legal ideas in action in the courts of colonial Busoga*. Chicago: University of Chicago Press.

Geertz, Clifford. 1983. "Local knowledge: Fact and law in comparative perspective." In *Local knowledge*, 167–234. New York: Basic Books.

Gellner, David. 2023. "The spaces of religion: A view from South Asia," *Journal of the Royal Anthropological Institute* 29 (3): 553–72.

Goodale, Mark, and Sally Merry. 2007. *The practice of human rights: Tracking law between the global and the local*. Cambridge: Cambridge University Press.

Ibbetson, David. 2015. "Sources of law from the Republic to the Dominate." In *The Cambridge companion to Roman law*, edited by David Johnston, 25–44. New York: Cambridge University Press.

Jackson, Bernard S. 2006. *Wisdom-laws: A study of the Mishpatim of Exodus 21:1–22:16*. Oxford: Oxford University Press.

Just, Peter. 1992. "History, power, ideology and culture: Current directions in the anthropology of law." *Law and Society Review*26 (2): 373–411.

Kantor, Georgy, Tom Lambert, and Hannah Skoda, eds. 2017. *Legalism: Property and ownership*. Oxford: Oxford University Press.

Lintott, Andrew. 1999. *The constitution of the Roman Republic*. Oxford: Oxford University Press.

Lomas, Kathryn. 2017. *The rise of Rome: From the Iron Age to the Punic Wars (1000–264 BC)*. London: Profile Books.

Malinowski, Bronislaw. 1926. *Crime and custom in savage society*. London: Kegan Paul.

Needham, Rodney. 1975. "Polythetic classification: Convergence and consequences." *Man*10 (3): 349–69.

Otto, Eckart. 1996. *Kontinuum und Proprium, Studien zur Sozial- und Rechtsgeschichte des Alten Orients und des Alten Testaments.* Wiesbaden: Harrassowitz.

Pirie, Fernanda. 2005. "Segmentation within the state: The reconfiguration of Tibetan tribes In China's reform period." *Nomadic Peoples* 9 (1): 83–102.

———. 2009. "From tribal Tibet: The significance of the legal form." In *Law and anthropology*, edited by Michael Freeman and David Napier, 143–63. Oxford: Oxford University Press

———. 2013. *The anthropology of law*. Oxford: Oxford University Press.

———. 2015. "Rules, proverbs, and persuasion: Legalism and rhetoric in Tibet." In *Legalism: Rules and categories*, edited by Paul Dresch and Judith Scheele, 104–28. Oxford: Oxford University Press.

———. 2022. "Legalism: Rules, categories, and texts." In *The Oxford handbook of law and anthropology*, edited by Olaf Zenker, Maria Sapignoli, Marie-Claire Foblets, and Mark Goodale, 318–32. Oxford: Oxford University Press.

Pirie, Fernanda, and Judith Scheele, eds. 2014. *Legalism: Community and justice*. Oxford: Oxford University Press.

Richardson, Seth. 2012. "Early Mesopotamia: The presumptive state." *Past and Present* 215 (1): 3–49.

———. 2017. "Before things worked: A 'low-power' model of early Mesopotamia." In *Ancient states and infrastructural power: Europe, Asia, and America*, edited by Clifford Ando and Seth Richardson, 17–62. Philadelphia: University of Pennsylvania Press.

Roberts, Simon. 2005. "After government: On representing law without the state." *Modern Law Review*68 (1): 1–24.

Rosen, Lawrence. 1989. *The anthropology of justice: Law as culture in as Islamic society*. Cambridge: Cambridge University Press.

Roth, Martha. 1995. *Law collections from Mesopotamia and Asia Minor*. Atlanta: Scholars Press.

Scott, James C. 1998. *Seeing like a state*. New Haven, CT: Yale University Press.

Seligman, Adam B., Robert P. Weller, Michael J. Puett, and Bennett Simon. 2008. *Ritual and its consequences: An essay on the limits of sincerity*. Oxford: Oxford University Press.

Smith, Jonathan Z. 1982. *Imagining religion: From Babylon to Jonestown*. Chicago: University of Chicago Press.

Starr, Jane, and June Collier. 1986. *History and power in the study of law: New directions in legal anthropology*. Ithaca, NY: Cornell University Press.

Thomson, Robert. 2000. *The lawcode (Datastanagirk') of Mxit'ar Goš*. Amsterdam: Rodopi.

Wells, Bruce. 2008. "What is biblical law? A look at Pentateuchal rules and Near Eastern practice." *The Catholic Biblical Quarterly* 70 (2): 223–43.

Westbrook, Raymond. 1988. "The nature and origins of the Twelve Tables." *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte* 105 (1): 74–121.

Wormald, Patrick. 1999. *Legal culture in the early medieval West: Law as text, culture, and experience*. London: Hambledon Press.

Wright, David P. 2009. *Inventing God's law: How the covenant code of the Bible used and revised the laws of Hammurabi*. New York: Oxford University Press.

Yoffee, Norman. 2004. *Myths of the archaic state: Evolution of the earliest cities, states and civilizations*. New York: Cambridge University Press.

Fernanda PIRIE is Professor of the Anthropology of Law at the University of Oxford. She has used her ethnographic studies of two different Tibetan populations to work comparatively with other anthropologists, historians, classicists, and lawyers in The Oxford Legalism Project. She developed new approaches to legal anthropology in *The anthropology of law* (Oxford University Press, 2013) and to global legal history in *The rule of laws: A 4,000-year quest to order the world* (Profile, 2021). She continues to work on historic Tibetan law.

Fernanda Pirie
fernanda.pirie@csls.ox.ac.uk