

Beihefte zur Zeitschrift für
Altorientalische und
Biblische Rechtsgeschichte (BZAR)

Herausgegeben von
Eckart Otto und Dominik Markl

Band 19

2017
Harrassowitz Verlag · Wiesbaden

Writing Laws in Antiquity
L'écriture du droit dans l'Antiquité
Edité par Dominique Jaillard
et Christophe Nihan

2017
Harrassowitz Verlag · Wiesbaden

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Acknowledgments

The present volume goes back to a conference held at the University of Lausanne in May 2011 entitled “Codes de lois et lois sacrées: la redaction et la codification des lois en Grèce et dans l’Israël ancien”. The conference was funded by the Swiss National Science Foundation (SNF, project number 10CO12_131427), as well as by the Institut d’Archéologie et de Sciences de l’Antiquité (IASA) and the Institut Romand des Sciences Bibliques (IRSB) of the University of Lausanne. The IRSB also helped fund the publication of this volume. We are grateful to these institutions for their support.

Several people contributed to the preparation of this volume. The manuscript was edited with the assistance of Mss. Anne-Sophie Augier, Chen Bergot, Aurélie Matthey and Julia Rhyder. Ms. Camille Evêquoz contributed to the preparation of the Index. Last but not least, our colleagues Dr. Anna Angelini and Dr. Giuseppina Lenzo, both from the University of Lausanne, generously provided their expertise with regard to several research and editorial matters.

To all of them, we wish to express our sincere thanks for making the publication of this volume possible.

Lausanne, January 2017

Dominique Jaillard & Christophe Nihan

Bibliografische Information der Deutschen Nationalbibliothek
Die Deutsche Nationalbibliothek verzeichnet diese Publikation in der Deutschen Nationalbibliografie; detaillierte bibliografische Daten sind im Internet über <http://dnb.dnb.de> abrufbar.

Bibliographic information published by the Deutsche Nationalbibliothek
The Deutsche Nationalbibliothek lists this publication in the Deutsche Nationalbibliografie; detailed bibliographic data are available in the internet at <http://dnb.dnb.de>.

For further information about our publishing program consult our website <http://www.harrassowitz-verlag.de>

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Printed on permanent/durable paper.
Printing and binding: Memminger MedienCentrum AG
Printed in Germany
ISSN 1439-619X
ISBN 978-3-447-06894-9

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Introduction: Written Laws in their Ancient Contexts

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The present volume comprises papers that were initially delivered at a conference held at the University of Lausanne in May 2011. The general purpose of the conference was to compare the creation and the transmission of legal collections in ancient Greece and in the ancient near East, including Mesopotamia, Egypt and Israel. The following introduction will briefly present the aims of this volume; outline the contents of its essays; and finally enumerate some of the perspectives they open for future study of ancient written laws and legal collections from a comparative perspective.

1. The Aims of the Present Volume

Ancient laws and legal collections have been the subject of significant scholarly interest in the last few decades.¹ The focus of the conference, however, was more specifically on the comparison between *written* laws in ancient societies. In the context of predominantly oral societies, whose judiciary was largely defined by unwritten norms and customs, the production, publication and transmission of written laws raise several significant issues for historians. These issues include (but are not restricted to) the relationship between written and unwritten laws; the institutional contexts and authorities involved in the production of these documents; as well as the distinct functions of written laws in the judiciary and their impact on the legal practice of ancient societies. Additionally, from a more theoretical perspective, the study of written laws also raises several important issues regarding the analytical categories used to describe these documents. In particular, a significantly disputed issue is whether, and to what extent, terms like 'codes' and 'codification' provide relevant descriptors for ancient collections of written laws. This issue has been the subject of a longstanding discussion in the case of Mesopotamian laws,² but similar questions have been raised in the case of Greek written laws in recent years.³ These discussions do not

1 A comprehensive overview of the scholarly literature on this topic is beyond the scope of the present essay. Among recent publications with a strong comparative component, see, in particular, Lévy (ed.), *Codification*, as well as Witte and Fögen (eds.), *Kodifizierung*. Compare also Barta et al. (eds.), *Recht und Religion*; K. Seybold and J. von Ungern-Sternberg (eds.), *Gesetzgebung in antiken Gesellschaften*; Lang et al. (eds.), *Staatsverträge*; Legras (ed.), *Transferts culturels et droits*; Artus (ed.), *Loi et Justice*.

2 Among recent publications, compare, e.g., Roth, *Law Collection*; Westbrook, *Codification and Canonization*; Démare-Lafont, *Codification et subsidiarité*; Otto, *Kodifizierung und Kanonisierung*; Charpin, *Le statut des 'codes de lois'*. See also the essay by Sophie Démare-Lafont in this volume.

3 Especially, but not exclusively, in the case of the Gortyn 'Code': see, e.g., Davies, *Deconstructing Gortyn*; van Effenterre, *La codification gortynienne*. See also the essay by Françoise Ruzé in this volume.

merely highlight the need for terminological clarification and more accurate definitions.⁴ They also point, more substantially, to basic disagreements regarding the status and functions ascribed to written laws in antiquity. In the case of cuneiform laws, for instance, the key issue is whether these laws were effectively used in the Mesopotamian judiciary – and if so, where and at which level(s) of that judiciary – or whether they should be regarded as mere literary compositions with no legal force. In the end, therefore, the debates surrounding the use of terms like ‘code’ and ‘codification’ – and other terms as well⁵ – take us back to the larger issue of the place of written laws in ancient societies, as well their relation to legal and judicial practice in those societies.

While these and related issues have already been the subject of several studies, these studies have often restricted their investigation to a given culture, like Greece or Mesopotamia (or Mesopotamia and the Levant). Comparative approaches to written laws in the ancient world have been few, and have usually focused on a specific aspect of these laws such as the notion of codification in antiquity,⁶ legal and cultural interactions between East and West,⁷ or the emergence of an ‘international’ law in the ancient Mediterranean world.⁸

The approach of our conference was somewhat distinctive, and was characterized in particular by two methodological insights that are also reflected in the organization of this volume and therefore deserve a brief comment at this point.

First, the conference sought to promote a contrastive, or ‘differential’ approach to the comparison of ancient laws (*comparatisme différentiel* in French). This is not to deny the interest and relevance of several recent studies that have focused on possible (mutual) influences between Greek and ancient near Eastern laws, especially in light of the mounting evidence for cultural contacts and borrowings between ancient Mediterranean societies from an early period onward.⁹ Alongside this recent trend, however, there is also room for an approach that focuses on the many differences that can be observed between legal traditions of ancient societies. Such an approach has already been theorized in other domains of antiquity, such as especially the comparative study of religion,¹⁰ and it is the contention of

4 Although this point has not always been given enough attention, it is important to mention that the definition of ‘codification’ is significantly complicated by the fact that there are substantial differences between the usage of this term in modern legal cultures (e.g., American and French), and that these differences impact in turn the ways in which ancient codification is understood and interpreted. Compare, e.g., the approaches to ‘codification’ exemplified by Roth, *Law Collection*, and by Démare-Lafont, *Codification et subsidiarité*.

5 The so-called ‘sacred laws’, for instance, are another case in point. See further below.

6 With respect to codification in the ancient world, see, especially, Lévy (ed.), *Codification*, as well as Witte and Fögen (eds.), *Kodifizierung*.

7 On this issue, see now especially the essays collected in Legras (ed.), *Transferts culturels et droits*.

8 On this issue, see, e.g., Bederman, *International Law*; as well as the various essays collected in Bouineau (ed.), *Droit international et Antiquité*.

9 Regarding Eastern influences on the formation of Greek laws, see, e.g., Thür, *Rechtstransfer*. In the case of biblical and Greek laws, see Hagedorn, *Between Moses and Plato*, as well as Knoppers and Harvey, *The Pentateuch in Ancient Mediterranean Context*. The definition of categories such as ‘influence’, ‘borrowing’, ‘transfer’ and the like in legal contexts raises several conceptual issues, the discussion of which is beyond the scope of this short Introduction. See further Legras (ed.), *Transferts culturels et droits*; and compare also the relevant remarks by Otto, *Rechtstransfer im antiken Mittelmeerraum*.

10 See, e.g., Borgeaud, *Réflexions sur la comparaison*, as well as the essays collected in Calame and Lincoln (eds.), *Comparer en Histoire des religions antiques*.

the present authors that it can also be fruitfully applied to the study of ancient written laws.¹¹ To put it succinctly, a ‘differential’ approach to the comparison of ancient laws may help us achieve two related goals: on the one hand, to question or even deconstruct some problematic generalizations in the study of ancient laws (a ‘code’, for instance, does not necessarily mean the same thing in Greece and in Mesopotamia); and on the other, to illuminate the specifics of the social structures and institutional processes involved in the writing of laws in each culture – specifics which often remain insufficiently considered when that culture is studied in isolation from others. We will return to some of these issues in the final part of this Introduction.

Second, as is reflected in this volume’s title, the conference also sought to integrate, or reintegrate, the case of the so-called ‘sacred laws’ in Greece in the discussion of ancient legal collections. The category of ‘sacred laws’ has long been used in the field of classical Greek studies to denote a – more or less homogeneous – body of legal inscriptions whose primary subject matter concerns the ritual practice of various Greek cities. The category is now the subject of considerable discussion among specialists, many of whom would question or even dispute its relevance, although no consensus has emerged so far on an alternative classification.¹² Furthermore, the study of the so-called ‘sacred laws’ has remained largely divorced from other aspects of legal codification in ancient Greece. This situation is understandable, in some regards, not the least because of the distinct subject matter of these laws. In other regards, however, it is nonetheless problematic. The separation between ritual matters and legal matters proper (such as civil law, or criminal law) may be satisfactory for the modern (Western) mind but it does not necessarily correspond to the practices of ancient societies, in which rituals and (more generally) ‘religion’ were embedded in virtually all aspects and dimensions of the life of the city, from the household to popular assemblies.¹³ Furthermore, some of the institutional processes and authorities involved in the collection, compilation and publication of the so-called ‘sacred laws’ are at least comparable to – if not identical with – the processes and authorities involved in the creation of other legal collections. To be clear, this is not to deny that the so-called ‘sacred laws’ present many distinctive features, not only in terms of the matter of these inscriptions but also of their genre and their social function. But the assumption of a neat division between ‘sacred laws’ and other types of laws is an issue that needs to be reexamined. Moreover, such a reexamination has broader implications for the rest of the ancient world, where the distinction between ‘ritual’ and ‘legal’ texts is likewise problematic in many cases.¹⁴

11 See also, in this context, the essay by Anselm Hagedorn in the present volume.

12 For a critical discussion of this category, see Parker, *What Are Greek Sacred Laws?*, as well as Carbon and Pirenne-Delforge, *Beyond Greek ‘Sacred Laws’*; most recently, Georgoudi, *L’écriture en action*. See also the essay by Jean-Mathieu Carbon and Vinciane Pirenne-Delforge in this volume.

13 On the ‘embedded’ character of religion in the case of Athens, which is by far the best documented among Greek cities, see, e.g., the comprehensive study by Parker, *Polytheism and Society at Athens*. This is not to deny, however, that *some* delineations between the various domains of human activity were actually enforced, but the mapping of these delineations is arguably significantly more complex than what our modern categories allow for. On this fascinating issue, see especially the essay by Pierre Brulé in this volume.

14 The biblical laws present a fascinating illustration of this phenomenon, as they regularly include ritual norms, especially in the case of the ‘Holiness’ legislation of Leviticus. On the comparison between Greek and Israelite laws from this perspective, see the contribution of Anselm Hagedorn to this volume.

2. An Overview of the Essays in this Volume

In keeping with the methodological perspectives defined above, this volume has been organized in two main parts. Part One, entitled “Codes, Codification and Legislators”, comprises four essays that discuss various key aspects of the processes involved in the creation of legal collections in Mesopotamia, Greece, Israel and Egypt, as well as the relevance of the analytical categories used to describe these processes. Part Two, entitled “Writing Ritual Prescriptions: Meanings and Functions”, includes three essays that address more specific issues related to the codification of ritual norms in Greece and in Israel.

The first essay, by Sophie Démare-Lafont (p. 21–32), addresses the central issue of the relevance of the terms ‘code’ and ‘codification’ applied to the Mesopotamian laws. She begins with a historical retrospect, in which she surveys the origins of the use of these terms for cuneiform laws, the debates surrounding this usage, as well as the meaning of the terms themselves. She remarks, in particular, that the notion of ‘codification’ entails two different aspects – codification as a legal *technique* and as a legal *program* – and then proceeds to analyze cuneiform laws from this twofold perspective. With regard to codification as a legal technique, Démare-Lafont identifies three successive stages: the gathering of materials, their organization, and their publication. She argues that all three aspects can be identified in most of the cuneiform collections, such that these collections satisfy the formal requirements of codification. She then discusses various aspects related to cuneiform laws as a legal program, arguing in particular that (a) these laws correspond to an understanding of codification as “compilation” of existing laws; (b) while not exhaustive, they provide a comprehensive set of norms for legal decisions; and (c) the relationship of these laws to local rules and customs corresponds to a principle of *subsidiarity*, in which the higher judicial level was activated only when legal decisions at the lower levels failed to satisfy one of the parties involved.

The next essay, by Françoise Ruzé (p. 34–49), aptly complements the previous one by providing a comprehensive discussion of codification in ancient Greece. Ruzé begins by discussing the main sources available for the creation of the first legal collections between the seventh and the fifth century B.C.E., namely, the traditions about the ‘nomothetes’ as well as the inscriptional evidence, especially the Gortyn Code. She concludes from this survey that the sources point to a trend toward ‘codification’ during this period (in the sense of the writing down and organization of various laws around a common topic), but that such codification always remains partial rather than comprehensive. She then analyzes the innovation introduced by the *public* writing of laws and its relationship to oral laws. She notes, in particular, that the written and oral laws have different and – at least to an extent – complementary functions, and that the writing down of laws often takes place in a context of social conflicts, the role of the written law being then to ‘stabilize’ social relations. Following these remarks, Ruzé returns to the question of the paucity of written laws before the fifth century B.C.E. She argues, in particular, that this phenomenon reveals key aspects about the relationship between oral and written laws in archaic Greece, which she comprehensively discusses. At the end of her essay, Ruzé also points to the implications of this observation for the notion of ‘codification’ as it is applied to Greek laws.

The essay by Gary N. Knoppers (p. 50–77) presents a rich discussion of the parallels between the traditions about Greek lawgivers and the eastern Mediterranean world, specifi-

cally the figure of Moses. In discussion with A. Szegedy-Maszak and others, Knoppers begins by reviewing the typical features that characterize the great lawgivers in the Greek tradition such as, e.g., their rigorous training, their virtue, or the challenges that the new legislation they sought to impose had to face. He then discusses the question of whether, and to what extent, the resulting typology can be applied to the figures of lawgivers elsewhere in the ancient Mediterranean, especially to Moses. He argues, in particular, that while the divine origin of the legislation associated with Moses (the Torah) signals a basic difference between Greek and Israelite legal traditions and their authoritative figures, the line between these two legal traditions should not be drawn too rigidly (contra Szegedy-Maszak): first, because the relationship between divine and human roles in the origins of the law is more complex and more nuanced in the biblical traditions than it has sometimes been assumed; and second, because the notion of the divine origin of the law is not unknown either in the Greek traditions about lawgivers. Based on these remarks, Knoppers proceeds to a detailed discussion of the parallels between Moses and Greek lawgivers (p. 63–69 of his essay). He concludes that the parallels are as significant as the differences that can be observed, and that this observation, in turn, calls for a study of ancient lawgivers that is not merely restricted to the Greek cities but takes into account the larger Mediterranean context.

The first part of this volume concludes with the essay by Sandra Lippert (p. 78–98), which provides a comprehensive discussion of the evidence for the compilation of a legal code in Egypt under Darius I. Diodorus Siculus (I.75), whose information appears to be based on pre-Ptolemaic sources, mentions that the creation of the Egyptian judiciary goes back to six legislator kings, the last of whom was Darius, and that the Egyptian legislation was contained in eight books used in tribunals. The narrative preserved in a portion of Papyrus BN 215 verso (column c, lines 6–16) documents the command given by Darius to his satrap to collect, write down and organize Egyptian laws into sections (up to the 26th dynasty), as well as to provide an Aramaic translation of these laws. According to Lippert, the ascription to Darius would make little sense under the Ptolemaeis. Hence there is no reason to question the historicity of this narrative. The second part of her essay analyzes various sources that arguably reflect the contents of this code. Her survey includes, in particular, manuscripts preserving Demotic versions of the Egyptian laws, such as the Codex Hermopolis or the so-called ‘Zivilprozeßordnung’, which she identifies as copies of Darius’ code, as well as other manuscripts that can be interpreted as commentaries on the laws of this code. She also compares these sources to the evidence available from trial records. She concludes that the available evidence warrants the existence of an Egyptian codification, presumably going back to Darius I; and that this codification, which was initially translated in Aramaic in the Persian period, was probably translated later into Greek under the Ptolemaeis and continued to be copied under the Roman administration up to the second century C.E.

The second part of the volume, which focuses on ritual laws, opens with the essay by Pierre Brûlé (p. 101–116). In this insightful piece, Brûlé addresses the question of the so-called ‘sacred laws’ from the perspective of the evidence regarding deliberations on religious matters in the Greek cities. The first part of his essay highlights the distinction between *hiéra* and *hosia* in classical sources describing the functioning of deliberative assemblies in Greek cities (especially, albeit not exclusively, Athens). The relationship bet-

ween *hiéra* and *hosia* remains somewhat unclear in these sources; what is clear is that the *hiéra* were usually discussed first in the assemblies. The second part of the essay highlights further aspects of the *hiéra* and their place in the deliberations of the assemblies. Brûlé notes that the majority of the ‘sacred laws’ originate in the institutions of the *politeia*; while in Athens (and presumably elsewhere as well) the number of decrees concerning the *hiéra* is proportionally low (about 5% of the total number of decrees according to Brûlé), the epigraphic record suggests that these decrees were often published. In addition, Brûlé notes, the distinction between ‘sacred’ and other matters is not always easily established in these decrees. The third and last part of the essay specifies the meaning of *hosia* through the analysis of the expression *περὶ τε τὰ θεῖα καὶ τὰ ἀνθρώπινα* in various documents dealing with the attribution of *politeia* to an individual or a collectivity. Brûlé concludes that, even though the lexical and semantic field of *hosia* remains difficult to circumscribe, the term appears to denote *human* matters (whereas *hiéra*, for its part, belongs to the field of divine matters). Based on this, he argues, the rendering of *hosia* with ‘profane’, and even the notion of a distinction – but not an opposition – between ‘sacred’ and ‘profane’ in Greece, are not without relevance.

The next essay, by Anselm Hagedorn (p. 117–140), offers a wide-ranging comparison between Greek and biblical laws. After surveying the state of the discussion, his essay compares and contrasts both legal traditions in light of two related issues: the involvement of the gods in writing laws (and other materials), as well as the sacred character of the law. With regard to the first issue, Hagedorn shows that even though the references to Yhwh’s writing activity are comparatively limited with respect to the evidence for writing gods elsewhere in the ancient Near East, the characterization of Yhwh as the author or writer of Israelite laws plays a key role in the Pentateuch, especially in the late stages of the formation of this collection. By contrast, the references to writing gods are marginal at best in Greece, and Greek gods are never presented as the authors of the written laws. This contrast points to a more basic difference in the understanding of the relationship between the gods and the laws in both cultures, which is explored in the next part of Hagedorn’s essay. Here, Hagedorn begins by noting that the biblical law codes are intrinsically religious documents and that this aspect also permeates the depiction of Moses as lawgiver, in contrast to Greek lawgivers. Following these remarks, he then discusses the role of the gods and the place of sacred or religious issues in various laws from the Gortyn Code, as well as in the law of Selinus. As he notes in conclusion, the comparison highlights first and foremost the differences between Greek and biblical laws. While the written law may be viewed in both cultures as an ‘identity marker’, the status and meaning of these laws with regard to the community and its god(s) remain markedly distinct. In particular, the scribal processes underlying the composition and revision of the biblical laws “removes the law from human activity” (p. 132) in a way that is unparalleled in the Greek world.

The final essay, by Jan-Mathieu Carbon and Vinciane Pirenne-Delforge (p. 141–157), provides a detailed and thorough reassessment of the notion of ‘sacred laws’ in ancient Greece and their codification. After noting the disparate character of this collection as well as the issues involved with the terms ‘sacred laws’, and after surveying the state of the discussion, the first part of their essay discusses the terminology used for ritual norms in these documents. Based on various examples, they show that the terms used (i.e., e.g., *patria* or *nomoi*) are often fluid, and therefore make it difficult to identify a clear-cut classi-

fication (or ‘stratigraphy’ to use A. Chaniotis’ terminology) within these norms. This finding leads Carbon and Pirenne-Delforge to raise a related question in the second part of their essay, namely, whether the Greeks themselves had a specific expression to denote ‘sacred laws’ or ‘sacred traditions’. Special attention is given in this context to the expression *hieros nomos*: based on a comprehensive survey of the occurrences of this phrase in various sources, Carbon and Pirenne-Delforge show that, except for those cases where *hieros nomos* explicitly refers to a written norm, in all other instances a reference to ‘sacred custom’ or ‘sacred tradition’ cannot be ruled out. The fluidity evinced by this category reflects the diversity of usages characteristic of Greek city-states and sanctuaries, within which the formalization and codification of *hieroi nomoi* as written norms (or ‘sacred laws’) should be seen as a specific case. Connected to this point, the third part of the essay addresses the relationship between the written norm and ritual customs. Against a common view, the authors show that, based on the epigraphic evidence, the written prescriptions do not exclusively concern deviations from, or exceptions to, the ritual norm: “Except in the case of the most basic forms of sacrifice, ritual norms could indeed be codified in some detail, such as one finds in the *patria* of the Praxiergidai, or at Selinus. That a background or oral, unrecorded norms still remained behind these texts need not imply that their content was always exceptional or new” (p. 154). In conclusion, the authors highlight the need for a comprehensive reexamination of this material and the terminology used to describe it; ‘ritual norms’, while not entirely unproblematic, may arguably provide a better descriptor than ‘sacred laws’.

3. Some Perspectives for Future Discussion

Finally, by way of conclusion to this short introduction, we would like to outline some key issues that emerge from the essays collected in this volume – issues which have significant implications for future discussions on written laws in ancient society from a comparative perspective.

(1) The first issue concerns the relationship between written and unwritten laws,¹⁵ which is centrally addressed in several essays of this volume (see, especially, the essays by S. Démare-Lafont, for cuneiform laws, as well as by F. Ruzé, P. Brûlé, and J.-M. Carbon and V. Pirenne-Delforge, for Greek laws). It is now clear that there was no linear development from unwritten to written laws in ancient societies, and that in most cases the written law did not merely replace unwritten norms, or customs, but rather *coexisted* alongside them. The essays in this volume highlight the complexities of the relationship between written and unwritten laws, and provide some significant pointers for future comparisons of the relationship between written and unwritten laws in ancient societies. In particular, some essays suggest that a number of common assumptions regarding the function of written laws are problematic and need to be reassessed; this is the case, for instance, for the idea that the written law would only codify exceptions to or deviations from the (oral) norm or

¹⁵ Although this issue has been the subject of discussion, there is no compelling reason in our opinion to reserve or restrict the term ‘law’ to *written* laws exclusively. This division is not supported by ancient terminology (compare, e.g., the Greek term *nomos*, or the Hebrew term *tôrah*, which can equally designate written or unwritten laws), and appears to project a modern understanding of the ‘law’ as referring to a written corpus.

custom (see J.-M. Carbon and V. Pirenne-Delforge). Likewise, these essays also suggest that some classical oppositions between written laws in Greece and in the ancient near East need to be reexamined: for instance, written laws in Mesopotamia arguably served other roles than mere royal propaganda (S. Démare-Lafont), whereas written laws in Greece were not necessarily a factor of ‘democratization’ (F. Ruzé). This is not to deny, of course, that there were important differences between the status and function of written laws in these cultures. But these differences are arguably more complex than has been previously assumed. Finally, the larger point raised by several essays in this volume is the way in which the production, publication and transmission of written laws is often closely related to more general social, economic and political changes in ancient societies, such as the development of social conflicts in Greek cities in the fifth century (F. Ruzé), or the establishment of new forms of royal administration in Mesopotamia (S. Démare-Lafont in the case of Hammurabi’s laws) or in Egypt (S. Lippert in the case of legal codification under Darius I). This observation, in turn, implies that the comparison of written laws in antiquity should not merely focus on the *contents* of these laws (as it has sometimes been done) but, rather, on the *social processes* as well as the *institutional contexts* in which these laws are embedded. It is from this perspective that the various issues pertaining to the relationship between written and unwritten laws – such as the degree to which written laws innovate, or the logic underlying the selection of laws that are subjected to writing in a given context – can be helpfully illuminated.

(2) A second issue, which is closely related to the previous one, has to do with the relationship between written laws and traditional structures of authority in ancient societies. This issue is likewise centrally addressed, albeit in different ways, by several essays in this volume, and provides an important perspective for future comparative approaches of ancient written laws. Key aspects that emerge from these essays include: (a) the need to consider not only the processes through which legal collections were constituted, but also the processes and the institutions through which these collections were enforced and acquired authority in ancient Near Eastern and Greek societies (see, especially, S. Démare-Lafont and P. Brulé); (b) the fact that the writing down of laws went along with the development of traditions about lawgivers as authoritative figures, not only in Greece but throughout the ancient Mediterranean world (G.N. Knoppers and F. Ruzé; compare also A. Hagedorn); (c) the function of legal codification in the establishment or consolidation of new power structures (see, especially, S. Lippert on the codification of Egyptian laws under Darius I, as well as S. Démare-Lafont in the case of Hammurabi; and note that a similar point could be raised, for instance, with regard to the production of written laws in the context of synecisms in ancient Greece). Yet other aspects of this issue should be considered, such the relationship between the development of written laws and the emergence of new forms of legal expertise in the ancient world. All in all, the question of the ways in which the development of written laws had an impact on, or more generally interacted with, traditional structures of authority in the ancient world emerges as a central but fairly complex issue, which requires an approach at several levels simultaneously.

(3) Finally, another significant issue raised by the essays collected in this volume concerns the relationship between laws and religion in ancient societies.¹⁶ This point is particularly clear, of course, in the case of the codification of ritual norms in these societies (i.e., the so-called ‘sacred laws’ in Greece). But the issue cannot be limited to this corpus and needs to be broadened to include other legal norms as well. In a sense, this question is not new, but the comparison between ancient near Eastern and Greek laws has often been focused on (and sometimes even restricted to) the role of the gods in the transmission and/or the enforcement of the law. As the essays in this volume make clear, however, this approach is arguably too narrow. To begin with, the essay by G.N. Knoppers, in particular, suggests that we should not merely compare the role of the gods in legal contexts, but rather the ways in which divine and human agencies interact in the production of legal norms. From this perspective, as Knoppers argues, the contrast between the role of the gods in ancient Near Eastern and Greek legal cultures may be more relative than absolute. Additionally, other essays suggest that the religious dimension of legal norms cannot be restricted to the explicit mention of the gods in these laws (or the absence thereof) but needs to include other aspects as well, such as the relationship of written laws to sanctuaries, or the place of rituals in the codification of laws. The essay by P. Brulé on *hiéra* and *hosia*, in particular, offers a fitting illustration of the intricacies of the relationship between ‘law’ and ‘religion’ in ancient Greece. ‘Sacred’ matters are distinguished from other matters, but they are all decided by the same legislative body; furthermore, as Brulé remarks, it is sometimes difficult to decide whether a given matter belongs to the *hiéra* or the *hosia*; and the whole decisional procedure is preceded by a ritual in which the gods of the city are invoked. A similar point could be made for other ancient societies, although the specifics may significantly differ from one culture to another. A comparative approach to this issue, along the lines suggested earlier in this introduction, would arguably serve a twofold function: to help us understand more precisely how the relationship between ‘law’ and ‘religion’ was negotiated in ancient societies, and where the main differences reside; and to challenge or deconstruct a number of modern assumptions and divisions that are still operative in some recent treatments of this issue. According to the approach advocated here, the codification of ritual norms should be regarded as one specific instance of the relationship between ‘law’ and ‘religion’ in ancient societies, which can shed significant light on the religious structures and institutions involved in the codification of laws. In short, all this means that it is relevant to consider the codification of laws also from the perspective of a compared history of ancient religions, and it is the hope of the present authors that this volume will somehow contribute to such an approach.

16 Although the present authors are fully aware of the conceptual issues involved in the use of the term ‘religion’ in the context of ancient (polytheistic) societies, this term is merely used here as a convenient descriptor. A comprehensive discussion of this question would be the topic for another essay.

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Part One

Codes, Codification and Legislators

Première partie

Codes, codification et législateurs