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PAMELA BARMASH, *The Laws of Hammurabi: At the Confluence of Royal and Scribal Traditions*, New York: Oxford University Press, 2020, X+320 S. (ISBN 978-0-19-752540-1)

Pamela Barmash offers what she calls a “*histoire totale*” of the Laws of Hammurabi (LH), contextualizing how the genre of the royal law collection developed out of royal inscriptions in late third millennium BCE Sumer and reached its apogee of scope and sophistication during the reign of Hammurabi of Babylon. Redefining A. Leo Oppenheim’s famous conception of literary transmission in Mesopotamia,¹ she argues that the royal law collections represented a new “stream of tradition” that diverged from their generic precursors and came to inspire Hittite and biblical law. In addition to its predecessors and scribal origins, Barmash examines the reception of Hammurabi’s law collection in his own time, as well as its copying and circulation for centuries after it entered the scribal curriculum as a classic of Mesopotamian literature. In course of its transmission, the laws became fixed – giving rise to a formal commentary and becoming the object of intellectual interpretation.

Consisting of seven chapters and a lengthy excursus after the fourth, the book is clearly structured around central themes that define each section. The first chapter focuses on the how the materiality and iconography of the stela communicated the political authority of Hammurabi. The second chapter explores the ideological framework surrounding the act of royal lawgiving, including the relationship between the human king and the gods. In the third chapter, Barmash argues that the LH were structured as a royal inscription, one demonstrating the king’s commitment to justice through the inclusion of 282 legal statutes. The fourth chapter turns to the methods and aims of scribes who composed the laws, who “refracted” legal praxis by offering exemplary statutes about what was just and equitable (i.e., law as it should be). In her excursus to the fourth chapter, Barmash explores the role that scribal education played in the composition of the LH. Using the statutes of adoption as a case study, Chapter 5 illustrates both the compositional techniques employed by the scribes and the “artificiality” of these statutes when compared to contemporary practical legal documents. In Chapter 6, Barmash explores the relationship between the LH and the king’s legal authority. Specifically, she asks whether the laws represented new legislation modifying existing law, a collection of royal edicts/decisions, and the application of the laws in legal cases. The seventh and final chapter explores the reception history of Hammurabi’s law collection after it entered the stream of tradition as a classical work of Mesopotamian literature and how it influenced the creation of similar legal collections in Hittite and biblical tradition.

In her introduction, Barmash provides a brief history of scholarship on the nature, form, and function of the LH. She outlines the early theories that understood the stela as an example of royal legislation, moving to early revisionists who saw it as scientific/scholastic literature, and ending with scholars who took Hammurabi’s laws as purely royal propaganda. Missing from the literature review is more recent continental European scholarship, especially those Assyriologists working in law departments, who continue to understand the

1 A. Leo Oppenheim, *Ancient Mesopotamia: Portrait of a Dead Civilization*, rev. ed. (Chicago, IL: University of Chicago Press, 1977), 13.

legal validity of the LH in terms of their official source.² To Barmash's credit, she does engage with this scholarship elsewhere in her study, but the omission in her review of literature gives the false impression of a status quaestionis that is in fact still a matter of considerable debate. Turning to more recent theories, including her own, Barmash asserts that the laws represented scribal reflections on justice that exerted influence over legal praxis not through the authority of the king, but rather through the education of scribes who would be "involved in legal matters."

The first chapter offers a thorough analysis of the materiality of the stela and the investiture scene carved in relief at the top of it. Barmash cogently observes how the scene on Hammurabi's stela differs from earlier precursors in that there is nothing separating Šamaš from the human king, demonstrating how the image "contains elements that exemplify Hammurabi's subordination to the god as well as other elements that exalt him to a level near that of the god" (p. 26). Hammurabi's stela was innovative in its combination of iconography and an extensive inscription, which together reinforce the monumentality of the artifact – as was the intention of its creators. Barmash rightly observes that Hammurabi is both commissioned by the gods of justice to maintain order and compares himself to them when exercising his judicial prerogatives, calling himself the sun god of Babylon.

In her second chapter, Barmash explores how the establishment of justice reinforced and legitimized royal authority. She outlines how the LH claimed to constrain the authority of lower judicial officials and subsumed their activities under the theoretical umbrella of royal law. Yet as she rightly points out, these local administrative groups largely maintained their judicial independence from royal overseers. According to the stela's prologue, the ideological purpose and result of "establishing justice" was to institute "truth" (*kīttum*) and "equity" (*mīšārum*) in society. In practice, Mesopotamian kings achieved justice through: (i) generic "acts of equity;" (ii) more targeted "edicts of equity" (typically known as *mīšarum*-edicts); and (iii) the promulgation of law collections. The difference between acts and edicts of equity is one of textual genre for Barmash: acts of equity are mentioned in royal hymns and inscriptions but are not necessarily the central focus of such texts, whereas edicts of equity are texts that appear in the Old Babylonian period and focus on regulating economic activity rather than promoting social concord. Summarizing the nature, content, and date of the seven extant law collections from Mesopotamia and Hatti, Barmash then examines the relationship between the acts of equity, the reform edicts, and the law

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- 2 Eva Cancik-Kirschbaum, "König der Gerechtigkeit": Ein altorientalisches Paradigma zu Recht und Herrschaft," in *Torah Nomos Ius: Abendländischer Antinomismus und der Traum vom Herrschaftsfreien Raum*, eds. Gesine Palmer et al. (Berlin: Vorwerk, 1999), 55; Dominique Charpin, "Le statut des 'Codes de Lois' des souverains babyloniennes," in *Le législateur et la loi dans l'Antiquité: Hommage à Françoise Ruzé. Actes du Colloque du Caen 15–17 mai 2003*, ed. Pierre Sineux (Caen: Presse Universitaire de Caen, 2005), 96–97; idem, *Writing, Law, and Kingship in Old Babylonian Mesopotamia*, trans. Jane Marie Todd (Chicago, IL: Chicago University Press, 2010), 74; Sophie Démare-Lafont, "Ancient Near Eastern Laws: Continuity and Pluralism," in *Theory and Method in Biblical and Cuneiform Law: Revision, Interpretation, and Development*, ed. Bernard Levinson, JSOTSupp 181 (Sheffield Academy Press, 1994), 95; eadem, "Les actes législatifs des rois mésopotamiens," in *Auctoritates Xenia R.C. van Caenegem oblata, Iuris Scripta Historica: La formation du droit et ses auteurs*, eds. S. Dauchy, et al, *Iuris scripta historica* 13 (Leuven: Peeters, 1997), 3–7; Gerhard Ries, *Prolog und Epilog in Gesetzen des Altertums. Müncher Beiträge zur Papyrusforschung und Antiken Rechtsgeschichte* 76 (München: C. H. Beck, 1983), 27–30.

collections. She concludes that the acts of equity and the prose frames around the law collections share many affinities, as do the edicts and the statutes of the law collections.

In her third chapter, Barmash builds one of her central arguments in the book: that the LH represent a royal inscription, albeit one with some notable innovations. Largely following the work of Victor Avigdor Hurowitz,³ Barmash sees the prose sections of LH as a coherent literary composition (a royal inscription), with the laws representing the fulfillment of the divine mandates mentioned throughout the so-called “prologue” and “epilogue.” She also agrees with Hurowitz that the authors of the LH followed the literary template of a specific royal inscription dedicated to Hammurabi (RIME 4, E4.3.6.7), though Barmash proposes that it was spliced together with another inscription (RIME 4, E4.3.6.2) to produce the literary structure seen in the LH. The parallels Barmash identifies are compelling, if not all that surprising given the tendency of scribes to recycle stock phrases and royal epithets across multiple genres. Yet, some of the parallels Barmash attributes to these royal inscriptions – such as the use of the temporal particle UD.BI.A/*inūmišu* “at that time” to introduce the legal statutes – were already a hallmark of the law collection genre, with precursors stretching back to Urukagina’s reforms.⁴ This possibility is raised in the chapter’s conclusion: “the fact that the Laws of Lipit-Ishtar has a similar structure to the LH may be evidence that the structure of the LH was based on the antecedent pattern of a law collection” (p. 132). She resolves this dilemma by proposing that these earlier law collections were also based on the template of royal inscriptions, which may well be true, but contradicts what she proposes throughout the rest of this chapter: that the LH are based on two specific royal inscriptions composed during Hammurabi’s reign. More problematic is her subjective estimation of royal inscriptions as “dull,” “banal,” “mundane,” “trite,” “boilerplate,” and “pedestrian,” an opinion that will probably agitate those who deal most closely with these texts. This dismissive characterization marginalizes the diversity of this genre and adds little to her overall argument. Nonetheless, Barmash convincingly demonstrates the coherence of the LH as a single literary composition and there can be little doubt that Hammurabi’s scribes relied on structural conventions of other royal inscriptions to frame the prose sections of the work.

In her fourth chapter, Barmash seeks to achieve two goals: (i) to demonstrate that the source of the statutes in the LH emerged from the imagination and training of scribes, and (ii) to describe these scribes’ compositional methods over and against their counterparts who composed earlier legal collections. In general terms, Barmash attributes the similarities and differences in the content, order, and phrasing of specific statutes in different collections to a common literary tradition that taught scribes “typical cases,” from which they were free to improvise new hypothetical cases that modified specific details. In contrast to the compositional method of earlier jurists, who relied on maximal or polar variants to circumscribe all possibilities of a single case, the scribes composing the LH relied on “incremental variation” that accomplished greater systematization and substantially expanded

3 Victor Avigdor Hurowitz, *Inu Anum šīrum*: Literary Structures in the Non-Judicial Sections of Codex Hammurabi, OPKF 15 (Philadelphia, PA: University Museum, 1994).

4 Horst Steible, “Zu den Nahstellen in den altnesopotamischen Codices,” in *Assyriologica et Semitica: Festschrift für Joachim Oelsner anlässlich seines 65. Geburtstages am 18. Februar 1997*, ed. Joachim Marzahn, Hans Neumann, Andreas Fuchs (Münster: Ugarit-Verlag, 2000): 447–455.

the scope of the collection. As previous scholars have similarly concluded, by assembling numerous variations dealing with a specific legal matter, the authors of the LH defined the parameters around latent legal principles (i.e., negligence, intention, liability, reflective punishment) – without the need to articulate such principles in formal, abstract terms. The casuistic form of the laws and their organization into lists reflects a mode of “casuistic reasoning” with the epistemological aim of “placing phenomena into an order.” By closely examining clusters of legal statutes, scholars can extract the latent principles that Hammurabi’s scribes relied on to organize their patron’s legal collection. The rest of the chapter explores the themes and principles guiding the systematization and conceptualization of the statutes. Most interestingly, Barmash examines three Old Babylonian copies of the LH that contain rubric titles written in Sumerian for groups of statutes, such as “ordinance concerning property taken from a house” (DI.DAB₅.BA NÍG É ZIG.GA) and “ordinance concerning field, orchard, and house” (DI.DAB₅.BA A.ŠÀ^{gi}KIRI ù É). The labels confirm what previous scholars have observed about Mesopotamian epistemology, a tendency towards concretism in favor of abstraction—even if they were capable of both.⁵ Barmash makes a strong case for the organizing principles surrounding the legal statutes of the LH, illustrating the nature and variety of legal themes that give shape to the composition. What remains unclear is the source or inspiration for these clusters that scribes then expanded through incremental variation.

In an excursus to the fourth chapter, Barmash argues that the scribes who composed the LH developed the juristic skills necessary to improvise on a traditional repertoire of cases in the course of their scribal training. The Old Babylonian Edubbas expected scribes to memorize extensive sections of literary exemplars, which they would then redeploy in the composition of new works. The role of law in the training of Babylonian scribes is well established, though Barmash highlights how casuistic statutes like extracts from the Laws of Lipit-Ištar and the Sumerian Laws Exercise Tablet (YBC 2177) appear in contexts and on tablets associated with scribal education. The evidence is clear that certain statutes that appear in several legal collections, such as the famous ox laws, were clearly developed, learned, and reproduced in the context of scribal curricula. Barmash’s excursus treats the question of scribal education in broad strokes, leaving more specific questions about the relationship between scribal education and the law collections unanswered. Were the authors of the LH the pinnacle of the educated elite? Was their interaction with legal praxis purely curricular or did they also draft legal documents? Were there legal specialists/jurists, or were all scribes polymaths who were expected to compose many different kinds of texts? The data may be too limited to answer such questions, but they are nonetheless important to ask.

In her fifth chapter, Barmash uses the example of adoption to reveal the dissonance between the LH’s author’s conception of justice from Old Babylonian legal praxis. In Old Babylonian practical legal texts and letters, most cases of adoption concerned the fictive incorporation of adults into another family for economic purposes. In the LH, by contrast, most statutes on adoption concern children, which Barmash takes as a demonstration of the

5 Sophie Démare-Lafont, “Les lois dans le monde cunéiforme: codification ou mise par écrit du droit?,” in *Writing Laws in Antiquity. L’écriture du droit dans l’Antiquité*, eds. Dominique Jaillard et Christophe Nihan, BZABR 19 (Wiesbaden: Harrassowitz Verlag, 2017), 25.

artificiality of these statutes. In the Old Babylonian period, adoption was a critical legal mechanism used to secure old age care, lines of succession, transmit heritable property, and secure business ventures. For Barmash, the statutes on the adoption of children in the LH are an “unrepresentative cross-section” of this robust legal mechanism. It would be easier for the reader to assess Barmash’s assertions in this chapter if she had clearly articulated the source of the “typical cases” that inspired clusters of incremental variation. Did they emerge from judicial practice, or were they invented out of whole cloth in the setting of scribal schools? If some of the cases in the LH derive from actual cases later expanded through scribal elaboration, then their specificity is perfectly comprehensible.

Barmash turns to this very question in her sixth chapter dedicated to the legal authority of the LH. Examining numerous legal cases brought to and adjudicated by Babylonian kings, Barmash asserts that any claim that the statutes in the LH derive from actual legal cases requires “specific evidence.”⁶ It would have been useful here for Barmash to enumerate the criteria by which she and other scholars can definitively conclude if a legal case was the source for a statute in the LH, but each case is dealt with on an individual basis. The latitude she grants to scribal transformations of statutes found in earlier law collections (such as the transformation of the rule on homicide in LU §1 into a rule on perjury in LH §1) (p. 165) is not extended to royal legal decisions found in letters and legal documents.⁷ Despite her cogent description of clusters of statutes dealing with a single legal principle and incremental variation in Chapter 4, she does not allow such scribal techniques to explain the differences witnessed between royal verdicts and legal statutes in the LH. In response to documentary evidence that Babylonian kings would formulate general impersonal laws on the basis of particular legal cases,⁸ and that legal officials would copy and store such decisions, Barmash considers the evidence “suggestive, not decisive” (p. 238). Few of the “typical cases” that developed in scribal settings would stand up to the same scrutiny that Barmash subjects these legal documents and letters to. This is bewildering because acknowledging royal legal decisions as the source of some – not all – statutes in the LH would not undermine her overarching argument. In many respects, it would strengthen it by explaining where Hammurabi’s scribes would have encountered the typical cases not found in other legal collections. Such a possibility does not even deny the role of scribes in this process, as the royal scribes who composed letters and transmitted the king’s legal decisions must have worked in close proximity to the composers of the LH, if they were not the same individuals.

6 She is largely responding to cases proposed by Charpin, *Writing*, 71–82.

7 A legal verdict from Hammurabi (AbB 14 98) addresses the issue of the legal absence (*[n]abātum*) of a soldier (*rēdūm*) whose land has been sold/given away and the claims that his heirs have to the land and the *ilkum*-obligations attached to it. In the cluster of statutes on legal absence in the LH §§27–32, every detail of this specific case appears: the social status of the soldier (*rēdūm*), the question of legal absence (*[n]abātum/duppurum*), inheritance rights, and *ilkum*-service.

8 She specifically examines the Rescript of Samsu-iluna, a letter preserved in numerous copies at Sippar, which records Samsu-iluna’s formulation of a law in response to a particular legal case involving *nadītums* at the Sippar cloister. See Charpin, *Writing*, 73–74; Caroline Janssen, “Samsu-iluna and the Hungry *Nadītums*,” *NAPR* 5 (1991): 3–39; Dylan Johnson, *Sovereign Authority and the Elaboration of Law in the Bible and the Ancient Near East*, *FAT* 2/122 (Tübingen: Mohr Siebeck, 2020), 43–58; Démare-Lafont, “Ancient Near Eastern Laws,” 97.

Turning to the legal authority of the LH, Barmash argues that looking for citation of its statutes in practical legal texts is a misplaced endeavor. She argues that the LH were not designed to serve as bending precedent but were rather an articulation of how its scribes perceived justice and equity. Inculcating scribes and royal judicial officials in the concepts of justice and equity was clearly a preoccupation of Babylonian administrators, as judicial officials represented a subsidiary system of legal appeal to those who felt local courts had “wronged” (*ḥabālum*) them.

In her seventh and final chapter, Barmash convincingly demonstrates how a “typical case” was used and manipulated by jurist-scribes in the composition of law collections, through the examples of violent miscarriage and reflective justice (talion). The Mesopotamian legal tradition entered the West through its scribal curriculum during the Middle and Late Bronze Ages, with evidence of individuals reading and cuneiform during the first millennium BCE in the southern Levant. Confronted with the familiar dilemma of two potential vectors of cultural diffusion between Mesopotamian and biblical literature, Barmash argues in favor of the more indirect mode influence through a shared scribal tradition and not direct textual borrowing. As for the Greco-Roman world, Barmash sees analogous literary constructions but finds no evidence for the direct influence of Mesopotamian law in Greek or Roman tradition. Nonetheless, the legacy of the LH as a masterpiece of Babylonian literature is clear from its copying into the Persian period and a Late Babylonian commentary (BM 59739) dedicated to glossing obscure terms and Sumerograms.

Barmash achieves her goal of offering an *histoire totale* of the LH, synthesizing many of the key debates surrounding this celebrated Babylonian artifact and contextualizing its antecedents, its composition, and its reception throughout Mesopotamian history. The book’s greatest strength is Barmash’s attention to scribal praxis and scribal culture in the production of the LH, though at times this leads her to deny *a priori* connections between the LH and legal praxis. No doubt certain scholars will take umbrage with some of Barmash’s interpretations and conclusions beyond those raised in this review, with continental European scholars probably ardently disagreeing with the content of Chapter 6. Nevertheless, Barmash’s book is well-founded in the North American paradigm developed by Raymond Westbrook, in whose work (along with Victor Avigdor Hurowtiz and Martha Roth) specialists of ancient Near Eastern law will have encountered many of her arguments. Overall, *The Laws of Hammurabi* offers a helpful synthesis of primary and secondary literature that can introduce students and scholars to the field of ancient Near Eastern legal history through the text that has and will likely continue to define it.

Dylan R. Johnson (Zürich)