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Burckhardt, Leonhard, Klaus Seybold, and Jürgen von Ungern-Sternberg, eds.

Gesetzgebung in antiken Gesellschaften: Israel, Griechenland, Rom

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These are the collected papers of a symposium (presumably of the same title) organized in 2005 by the Swiss National Research Project 1214-067816 “Rechtsentwicklungen und Gesetzgebung im mediterranen Bereich der Antike—Interkulturelle Beziehungen zwischen dem vorderen Orient, Griechenland und dem frühen Rom.”

On pages 1–65, L. Burckhardt presents “Elemente der Vergleichbarkeit von Gesetzgebung: Deuteronom [*sic*]—Gortyn—XII-Tafelgesetze. Eine Skizze.” According to him and, with variants, the other contributors, Deut 12–26 represent the last collection of laws of an independent Judean state (4, 11). In note 36 (p. 11), the reviewer learned to his surprise that Deuteronomy is made up of Yahwistic, Elohist, and Priestly layers (only the latter can be regarded as widely accepted). Burckhardt’s treatment of the twelve Gortyn stela, a Cretan law collection from the fifth century B.C.E., might be of more interest to the readers of *RBL*. The collection is unsystematic and incomplete. Previous law that is not updated in this collection is supposed to remain in use (18; this corresponds exactly to the point of view of E. Otto on the relationship between Book of the Covenant, Deut 12–26, and Lev 17–25). The law of the Latin Twelve Tables, known only fragmentarily from later quotations, might (or might not) derive from the fifth century, too. In Gortyn and in Rome, the gods guarantee the law and sanction its violation, but it is the people who give

the law. In both cities, the laws are published by epigraphy (as envisaged in Deut 27:2–4). The regular public reading as instituted by Ezra in 398 B.C.E. is unknown.

H.-P. Mathys, in “Zum Vergleich von Gesetzeskodizes: Einige allgemeine Überlegungen” (68–75) votes for possible Assyrian influence on biblical law (without referring to the “vassal treaty” structure of Deuteronomy*) and points out that Hammurapi’s law still was part and parcel of the “classical” tradition in Assyrian palace libraries. He has no doubt that a “core” in Deut 12–16 (and in Exod 20–23?) comes from the Assyrian period but fails to see (in accordance with the other contributions) that this “core” is nothing but common law, as is Hammurapi’s legislation. But legitimizing the already legitimate, the king—or the god—basically legitimize themselves.

G. Thür’s “Elemente der Vergleichbarkeit von Gesetzgebung: Bemerkungen zur Großen Gesetzesinschrift von Gortyn” (77–85) interprets, against Burckhardt, the Gortyn codex as a collection of precedents directed to the acting officials and organized in the interest of “aristocratic equality,” another common law feature.

In “Die Zwölf Tafeln im Vergleich mit griechischen und israelitischen Kodifikationen” (87–101), D. Liebs starts with an Athenian parallel to the Roman “publication” of the laws (88) but surprises the reader with a very idiosyncratic version of Ezra’s law (89).

K. Seybold and J. von Ungern-Sternberg, in “Josia und Solon: Zwei Reformer,” compare the incomparable. In his perception of Josiah “the reformer” (105–7), Seybold follows largely R. Albertz, whose views were seminal in the 1990s but appear heavily outdated now. The present consensus on Josiah is best expressed by R. G. Kratz, *Die Propheten Israels* (Munich, 2003):

Im Windschatten der medisch-babylonischen Koalition hatte er [Josiah] versucht, Juda von der assyrischen und der drohenden ägyptischen Fremdherrschaft zu befreien und sein Herrschaftsgebiet auf das Territorium des ehemaligen Nordreichs auszudehnen. Sein politischer Wagemut wurde ihm hoch angerechnet. Nach der Katastrophe von 587 v. Chr. hat ihn die theologische Überlieferung zum Streiter für den Herrn und sein Gesetz erkoren und ihm die Befreiung von der eigenen (zerstörten) Vergangenheit, eine radikale Kultreform nach Maßgabe des Deuteronomiums, angedichtet (2.Kön 22-23). (73)

Ungern-Sternberg shows how little we know with certainty about Solon (107–9), and his respondent (*infra*) will make that even less. But as “law-giver” and “reformer,” Solon represents a type that fits the needs of the early polis, whereas “reforming” kings in the ancient Near East perceived themselves and were perceived always as “restorers.” Should

there be a single true “reform-report” in the Hebrew Bible instead of “restoration reports,” it must be due to Greek influence.

After a short history of research (109–14), Seybold/Ungern-Sternberg offer a detailed comparison of both laws (115–61), which, as a contrasting of two texts, remains a viable endeavor even if the historical presuppositions of the authors turn out to be fictional.

K. Raaflaub’s “Josias und Solons Reformen: Der Vergleich in der Gegenprobe” (163–91) responds to Seybold and Ungern-Sternberg. He would like to maintain the belief in a Solonic legal “core” (171) but is forced to show that any history of Solon’s Athens takes a walk in a quagmire. He knows that Josiah’s reforms were never implemented (179)—correct, but given the twelve to thirteen years between the “discovery of the law” and Josiah’s death, this can only mean that they never existed in the first place, at least not until the demise of Judean kingship in 586/582.

C. Dietrich, in “Asylgesetzgebung in antiken Gesellschaften” (193–219) compares no more than Greece and Israel, both laws and (literary) cases. U. Rütterswörden replies with “Erwägungen zum Asyl in Dt[n] 19” (221–31), preferring for Deut 19 an exilic/postexilic rather than a royal context. A. Chaniotis joins in with “Die Entwicklung der griechischen Asylie: Ritualdynamik und die Grenzen des Rechtsvergleichs” (233–46). *Asylia* is a state resulting from the ritual of *hikesia*, a ritual addressed to the gods, which transfers the culprit from human to divine justice. In Greece, asylum was not a question of the law; it was a question of religious observance. In Israel, asylum is not granted by the king (*pace* 243); rather, keeping the (divine) law becomes, in the course of time, the predominant act of “serving God.” There are no indices to this volume.

For comparative legal studies between the “classical world” and the ancient Near East, biblical “law” is the worst possible point of departure with the possible exception of the Book of the Covenant (Exod 20–23*), *if* we are dealing here with a scribal record of traditional common law from the seventh century (one might doubt even that). The rest of the Torah represents Persian period theology. Rome and Athens needed a written law as soon as there was no king any longer to govern the community, to protect the weak, and to guarantee justice. The same holds true for Israel. The ratio of occurrences of “money” per chapter is 2.0 for the Book of the Covenant, 1.0 for the Holiness Code (Lev 17–26), and 0.47 for Deut 12–26. Exodus 20–23 then reflect the prosperous seventh century; Lev 17–26 the slow recovery of Judea’s economy after 450 B.C.E.; and Deut 12–26* the depression from the sixth through the first half of the fifth centuries. Credulists believe in the “historicity” of narratives; social historians look for data that they can count and then calculate long-term developments. The only “reform” Josiah can be credited with was the installation of YHWH (still with wife and son) as supreme deity in Jerusalem,

still sufficient reason for Neco to kill him, for a vassal of Egypt had to accept that the supreme god was no other than Amun-Re. This is the state of the Judean religion that emigrants from the Benjamin region took to Egypt after 586/582 and that they documented in their archives, found at Elephantine, until the end of the fifth century B.C.E. Of the theological revolution that had taken place in the meantime at Jerusalem, they took no notice.