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# Why Ancient Law

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# WHY ANCIENT LAW?

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Why should modern legal scholars be interested in ancient law? Why should ancient historians and area experts be interested in modern legal theory? This symposium is dedicated to answering these questions, both by direct argument and by example.

We proposed this symposium to bring together two sorts of scholars that might be able to contribute to each other's work. On the modern side, we were struck by the fascinating work by legal theorists, particularly in law and economics, using ancient legal systems to explore modern questions of theoretical interest. We thought that this body of work was now substantial enough that some of its major practitioners could profit from a more extensive exposure to experts in the areas being examined. In short, the modernists could stand to learn more about the societies about which they were theorizing.

On the ancient side, we thought that historians, translators, and area experts could profit by being exposed to modern theories of the role of law, the organization of the household, liability rules, efficient property ownership patterns, and cliometric techniques. We also believed, for example, that area experts in Mesopotamia could profit by talking with scholars of Germanic and Canon law. In short, the ancient scholars might stand to learn more about modern theory and economics, as well as about what issues interest some modern academics.

To facilitate interchange, in March 1995 the *Robbins Religious and Civil Law Collection* at the University of California at Berkeley hosted a conference (co-sponsored by the *Chicago-Kent Law Review*) where papers were presented and discussed. These papers range in time from about 3000 B.C. through about A.D. 1000, with a few articles (e.g., M.T. Fögen's paper on preambles) making twentieth-century connections. Their subject matter ranges in location across three con-

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tinents, from China through Northern Africa to England. The participating scholars' main interests include legal history, religious studies, ancient languages, law and society, and law and economics. The papers discuss the ancient legal systems of Mesopotamia, Asia Minor, Egypt, Greece, Rome, China, India, Germanic Europe, early Britain, Islam, the Bible, and the Catholic Church. Such diversity obviously has its disadvantages, as well as its advantages. Yet we think that you will be surprised how often the same themes and problems arise in articles examining different legal systems, even those papers that are not comparative in approach.

The symposium will be published in two issues. This first issue contains two parts:

Part I: The Development of Law in Classical and Early Medieval Europe; and
Part II: The Development of Law in the Ancient Near East.

The second issue will contain the last two parts:

Part III: Ancient Rights and Wrongs; and
Part IV: Ancient Near Eastern Land Law.

Our last motivation for this symposium was our belief that the stunning ignorance of law professors about ancient law is beginning to be replaced by curiosity. It seems like the right time to try to crystallize this growing interest and to expose a larger group of our profession to the mysteries of ancient law. The ancient materials are exceptionally rich. For example, over 100,000 business and legal documents survive from Mesopotamia alone. Nearly all of the concerns of modern legal theorists of whatever stripe find their expression in one or more ancient legal systems. It is our hope that this symposium will be a small step in reviving interest in ancient law and in stimulating new scholarship in the economics and sociology of ancient legal systems.

# THE DEVELOPMENT OF LAW IN CLASSICAL AND EARLY MEDIEVAL EUROPE