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Sacred Law: Greek, Roman, Jewish

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Abstract

"All laws of men are nourished by one law, the divine law." So wrote the fifth-century Greek philosopher Heraklitos. The concept of "sacred law" on the other hand is likely the remnant of a category first used in 1906 CE to define a particular corpus of Greek inscriptions pertaining to cult practice. It constitutes a subcategory of the vast category-- "all laws of men" -- that includes the intersection of the normative and the divine. Sacred law is not the abstract, pervasive, and diffuse notion of divine sponsorship--however conceived--of state power, or the vast realm captured between the terms "religion and law," but rather covers a subcategory of explicit norms that govern religious cult practice.

Disciplines

Ancient History, Greek and Roman through Late Antiquity | History of Religion | Jewish Studies | Legal | Religion | Religion Law

Suggested Reading

- Castagnoli, F. *Enea nel Lazio archeologia e mito*. Ed. Ministero per I Beni Culturali e Ambientali Soprintendenza Archeologica per il Lazio. Fratelli Palombi Editori, 1981.
- Castagnoli, F. *Lavinium II: le tredici are*. Consiglio Nazionale delle Ricerche, 1975.

LAW, SACRED

"All laws of men are nourished by one law, the divine law." So wrote the fifth-century Greek philosopher Hēraklitos. The concept of "sacred law" on the other hand is likely the remnant of a category first used in 1906 CE to define a particular corpus of Greek inscriptions pertaining to cult practice. It constitutes a subcategory of the vast category—"all laws of men"—that includes the intersection of the normative and the divine. Sacred law is not the abstract, pervasive and diffuse notion of divine sponsorship—however conceived—of state power, or the vast realm captured between the terms "religion and law," but rather covers a subcategory of explicit norms that govern religious cult practice.

Despite being shaped by a particular curatorial moment, the term is a useful rubric for entry into the ancient materials, since the study of practice is an important cognate to studies of theology or belief. SACRIFICE and the apparatus that developed to regulate it were perhaps the most important religious institutions in the ancient world—the stakes of obedience were cosmic in scale. Though modern readers may be accustomed to dismissing the legalistic component of ancient religion as primitive and though the laws themselves can be tedious to read, they are nonetheless a critical language through which these cultures communicated their idea of divinity. Moreover, they permit scholars an important inroad for comparison of phenomena, the commonalities of which would be lost were one to look only (and anachronistically) at "theology." Moreover, one cannot understand religion at all in the ancient Mediterranean through the category of belief alone; right action, or ORTHOPRAXY, was not only what could be prescribed, but was what mattered.

Sacred laws are preserved in a variety of corpuses, each of which presents challenges concerning analytical method. Within each culture, sacred laws—a category classified by content—must also be considered according to the genres in which they appear. While historical, literary and other material evidence tell us much about how religion was practiced, our concern here is with legal sources that take prescriptive and normative form. The standard compendia of Greek sacred law are made up of inscriptions, and so preserve distinctly public and emphatically local data, while Jewish sacred laws are preserved largely through textual collections composed in both earlier and later ages. The main sources here are the priestly materials in the TORAH, a collection of laws governing the cult compiled in the Persian Period (fifth century BCE) or slightly earlier, but which take as their stated object the TABERNACLE, or tent of meeting, of earlier narratives. The second major source is the MISHNAH, an early third-century CE legal collection that emerged from the rabbinic movement. The RABBIS, who thrived after the cessation of Jewish sacrifice following the destruction of the SECOND TEMPLE in 70 CE, were a group of lay Torah experts whose complex relationship to the temple cult is belated and ambivalent, holding archival, nostalgic and polemical motives in tension. Roman sacred laws are found in a wide array of sources, and much of what we know comes from collections compiled under the Christian Empire, which combines a similar dual stance—conservative and polemical—toward the cultic traditions.

Sacred laws are difficult to use as historical data. Their narrow focus and paradigmatic content testify to their profound conservatism across time and space, such that a phenomenological approach may be best. It is not unusual to see an inscription from the fifth century BCE anthologized alongside or discussed seamlessly and without comment beside another from the first century CE. Compounding this is the fact that most sacred law is technical and telegraphic—these laws have been compared to recipes for master chefs, so in lieu of a full recipe, we may have only an

abbreviated list of ingredients. Given the ubiquity and centrality of sacrificial religion, the vast bulk of regulatory cultic law was likely not written down. The written record then, is already only partial.

The writtenness of the sacred law is, however, an important component of the extant corpuses. Writing in and of itself in Antiquity frequently marks alteration, not consistency, and signals a change if not in practice, then in practitioner or in some other measure. Writing is particularly dense around religious sites, appearing in inscribed sacred laws and priestly books, but also in votives and prayers, curse tablets, *tituli* ("placards") used in religious processions, burial inscriptions and graffiti from the individual, as well as gods' words in oracular texts/inscriptions. In a world of limited literacy writing itself was clearly a significant currency in the economy of divine human interaction. It is not a mistake to set sacred laws at the center of this exchange, and the meaning of the written laws must be assessed carefully in local context.

For preserved sacred laws, scholarly analysis is fruitfully complicated by attempting to understand the data and meaning in the home culture (synchronic), and further by the accrued and shifting significances over time of what are in general a fairly stable and conservative set of premises and practices (diachronic). How, namely, does one compare laws in LEVITICUS to the Greek sacred laws—even when, or especially when, their content, categories and concerns look manifestly similar? How is one to read a given sacred law against the variations of local contexts, or when reiterated over time in changing political landscapes as in the Romanized eastern *poleis*, or ROME's own bristling and growing imperial sacred landscape?

While Heraklitos reminds us that any severing of religious law from general or civil law is artificial, for heuristic and comparative purposes sacred law holds together a wide variety of materials with common concerns: the sacrificial cult and adjunct regulations. Despite wide religious diversity both within and between cultures, the categories and content of laws regulating the cult is remarkably consistent across the eastern Mediterranean. We find in Greek, Roman and Jewish traditions detailed prescriptions concerning a short list of common concerns: cultic personnel, acquisition of sacred office (PRIESTHOODS) and their perquisites; proper sacrificial ritual and objects; concern for the SANCTUARY as holy place, and care for its properties both moveable and immovable; temple treasuries; tithes; festal CALENDARS and PROCESSIONS; EXPIATION; PURITY and control of POLLUTION (as from corpses, childbirth, etc.); distribution of sacrificed meat (including rules for association behavior and membership, banqueting); adjudication; VOWS; DIVINATION; and founding charters.

Authorizing sources of sacred laws range from direct divine revelation to a range of human governing bodies, though many presume their inherent authority. Sacred laws, to be such, must be prescriptive, and thus imply or state consequences of transgression ranging from fines to more numinous and ominous apodoses. Often however, the laws appear as instructions ("The priest shall remove the fat from the kidneys") and do not indicate explicit consequences for practitioner errors or omissions. Common to cultic law in each tradition is a focus on orthopraxy, and a general absence of explicit moral concerns or questions of belief or attitude.

Sacred laws function to delineate boundaries across several registers. Their primary function is to define, and mediate the human and divine realms—keeping them clearly apart, but with the protection of rigidly followed rituals, permitting safe and efficacious contact between them. Because RITUALS serve to demarcate the pure and the impure, the sacred and profane in time and space, and to contain dangerous miasmatic and daemonic pollutions of every sort, sacred laws express ideal social relationships and hierarchies within a given community. Since fealty to a god and sanctuary is a group-defining affiliation, sacred laws are part of the articulation of ancient ethnos and group membership, and can extend the idea of the state or empire. In addition, cultic laws regulate what is "religion" and what conversely is MAGIC, HERESY or other illicit cognate practices or venues. All of these functions are of course interrelated.

Given the statist bias of modern legal systems, it is easy to forget that religious cult was a distinctly local institution in the ancient world. This point may be especially true among the Greeks,

and yet even for them religion seems, despite the proliferation of cults and gods, to have provided a common language binding a diverse collective of local polities into a "common" culture. Jewish and Roman sacred laws certainly complicate the narrow concerns of the individual city or grove and its gods. For Jews the one licit temple in Jerusalem forces a broadening of cultic jurisdiction, and Jews developed a pan-local sense of identity through allegiance to a Jerusalem-based god. The creation of a "diasporic consciousness" may render Jewish laws closer to Greek and Roman MYSTERY CULTS, which had sanctuaries in multiple locations, than to traditional site-based Greek and Roman religious laws. For Romans, the expansion of the empire and the realities of power in a multiethnic empire existed in tension with the Roman stated ethos of religious pluralism and localism—the IMPERIAL CULT is a case in point.

From one vantage, there appears to be wide divergence along small scales within each of these categories that deserve individual comparison, both within and between traditions. Regulations for the cult of JUPITER were rather different from the regulations concerning Di PENATES, and the rituals for treatment of leprosy were not the same as those attendant on corpse impurity: the animal sacrifice may have to be male or unblemished, or pregnant, or red, while the supplicant may have to pour a LIBATION, or avoid approaching the deity on a market day. The categories of concern may be strikingly consistent across cultures, but the particular "recipes" will have had locally specific meanings and will resonate differently through broader cultural or social symbol systems. They can concern large questions such as who is imagined to have sanctioned the rules (gods or men), or narrow such as which parts of the animal may be eaten by the priest. But what may be a small difference in structural comparison is precisely the sort of detail that will have made the most difference at the level of the local usage. For an ancient practitioner the gender of the priest (to choose but one small example) was of utmost symbolic and cultural significance, as it bore on the efficacy of the rite—which had stakes that were, ultimately, cosmic. This methodological caveat applies equally to diachronic analysis. While Greek and Jewish sacred laws, for example, in some cases share an aversion to the sacrifice of pigs, how each culture accounts for this is significant. Moreover, as the Jewish avoidance of pigs in everyday diets is unique, and as this becomes an increasingly defining feature of Jews in polemical literature, the cultic stance takes on new and more laden valences through time.

Beyond religious and structural analyses, these legal sources offer a great deal of fodder that is often avoided in studies of the ancient world. Anthropologists and students of ritual or political science can reveal the many ways that sacred laws reify or challenge regnant power structures, how religion relates to the state, how rites reflect, facilitate or resist changing alliances, or "foreign" influence, or how the publication of festal calendars may communicate a growing ambition of sanctuary or region. Economic historians can use the sacred laws as evidence for land use, the movement of wealth, the class status of colonial elites, the movement of public expenditures and the values of local commodities, from building materials to livestock, and more.

As one approaches the enormous variety of ancient cults, it is worthwhile to underscore the deep commonalities binding the ritual prescriptions of sacred rites in the ancient world. Disciplinary habits tend to isolate these technical corpuses from comparison. Moreover, both scholarly inclination and the explicit rhetorical thrust of the ancient sources, emphasize *difference* between this (legitimate) rite and that (illegitimate) one. However, when treated together one can see their shared prescriptive argot and ritual priorities and concerns. Structural parallels are furthered by a cultural conservatism surrounding these practices in each culture. Yet while the prescribed acts of worship may remain relatively steady on their face, their meaning and interpretation is reactive and changeable, as can be seen in the meta-cultic reflections of OVID, PAUSANIAS, VARRO, CICERO, FLAVIUS JOSEPHUS or the QUMRAN sectarians, to name but a few. They all describe cultic laws in their attempt to communicate and mediate their own concerns in a changing world. The trick then is to balance the systemic with the particular, to move from the "what" of sacred law to the myriad and

shifting “whys”—which requires attention to a kaleidoscopic range of perspectives and contexts, among them place, geography, power, medium, performance and rhetoric.

Greek Sacred Law

The materials known collectively as “Greek sacred laws” are a varied corpus of regulations that relate to religious sanctuaries and the cult. We find examples deriving from a range of authorizing bodies (though significantly *not* attributed to divine revelation). Much of the material is articulated without a named authority and might be better termed sacred *nomoi* (“customs”) whose authority is presumed. As a body of writings, they are widely represented both temporally and spatially and predate virtually all other written records.

The jurisdiction and focus of Greek sacred laws were overwhelmingly local and bound to the sanctuary, or territory allotted to the sacred and the sacrificial rites there enacted. They are often closely tied to nature—both the movement of the seasons and the topography of the natural world. However, the diversity and proliferation of local cults to a wide array of gods is counterposed by a strong commonality to the regulations attendant on each. Greek sacred laws are not regular in genre or literary form, and among them are counted a range of texts from statutes to oracles, testaments to treaties, calendars, inventories and contracts and more. They are traditionally treated as a collection on account of their legal-sacred nexus, and as a corpus share categorical commonalities with other non-Greek cults that share this “canon” of cultic concern, though finer-grained taxonomies are certainly warranted. The shared koine of cultic practice made the distinctive and local a *de facto* expression of “Greekness” that, according to HERODOTOS, united the Greeks as Greeks more than any other factor. Associations made, reiterated or changed by local cult participation gave critical voice to individual identity, locating any given worshipper not only in relationship to his natural and supernatural surroundings, but also expressing his social and civic standing. Ritual law could allow alternate social mappings than those of political or familial structures—slaves and women for example, had voices in some religious or oracular confines that they were denied elsewhere. Sacred laws also mediated Greek engagement across larger horizons, expressing the mediation of contact and growing boundaries of a community, and integrating and naturalizing external imperial incursions. A widely publicized festal calendar, for example, was one way for growing polities to secure their regional hegemony—and conversely small cultic modifications could signal or ease regional alliances or their dissolution. Rituals and traditions of veneration of deified kings was one important avenue for Hellenic integration into the Roman Empire.

Jewish Sacred Law

A discussion of Jewish sacred law must begin from the idea of the divine revelation of the law at Mt. SINAI, and its derived tradition, known now collectively as HALAKHAH. This direct divine revelation is distinctive in the legal landscape. Jewish law does not recognize a distinction between what might be seen as civil and criminal law, and the laws governing the cult. All are attributed directly to divine command and authorized by the same divine revelation; maintenance or transgression of any aspect of it has similar impact on God’s protection of the Judean collective.

The Jerusalem cult is distinguished by its MONOLATRY; the literary sources insist that from the Persian Period forward only a single altar at Jerusalem was proper, which was maintained by an inherited priesthood drawn solely from an elite subsection of one of the tribes of Israel, the LEVITES. The rejection of other deities ruled out Jewish participation in the civic rites of their neighbors. The Jewish sacrificial calendar in the Hellenistic and Roman eras was lunar, with a set cycle of daily, weekly and monthly, and annual offerings and festivals. Individual and ad hoc offerings were made at the same central shrine, as were collective sacrifices. The laws that we have, then,

concern a single cult site and its personnel, rather than a variety of local cults as we have when we talk categorically of Roman or Greek sacred law.

Even given the size of the corpus, like all cultic laws, what we have is partial. The bulk of what regulated daily operations was presumably unwritten and passed on orally within the guild of priests, though some may have been preserved in the Torah. Since inscriptional evidence and other sources of cultic law, as say with the extant Greek corpus, tend to be the traces left by a *reorientation* in practice or personnel or constituency of a given shrine (the bulk of the law not requiring writing), the stability of location and personnel in the Jerusalem Temple means we have scarce indications of quotidian events. Beyond the biblical and mishnaic legal sources (abetted by the very rare inscription), evidence for cultic practice must (as also with the Greek and Roman materials) be extracted from non-legal genres such as histories and literary depictions of festivals and sacrifices as in Josephus and elsewhere. The textual sources—now canonical—are complex to plumb, each highly redacted and ideological. The rabbinic corpus significantly was written *not*, as far as we can tell, by priests, and not during the time of a functioning temple. Moreover, its genre itself is elusive: i.e., while formally legal, it may be better treated as a schoolbook or jurisprudential work than a set of laws per se.

The upside of the evidentiary confluence of a single shrine and large attendant legal corpus is that we get quite a clear vista into a well-rounded conceptual vision of cult (from at least one perspective), and we can see how the cultic regulations of one location operate as part of the bigger covenantal system working together with other legal and social structures to maintain divine presence in history. What is gained in knowledge from the idealized horizon communicated through these two major legal corpora of sacred law, however, is lost from the granular knowledge of the daily cult, as it obscures the rich traces of lived religion found in the more fragmentary corpora like the Greek inscriptions, such as contracts for the lease of sacred lands, the worries of and questions posed of the gods by individual worshippers, the problem of where to store all the gifts left for this or that divinity, squabbles over who got to partake in the sacrificial meal and the nuisance of dumping in sacred groves.

That said, reading with care, one can see preserved in the HEBREW BIBLE—from the parts labeled as the Priestly source according to the DOCUMENTARY HYPOTHESIS—and in the early rabbinic (TANNAITIC) sources, a set of concerns and prescriptions with a purview that is in substantial ways indistinguishable from that of found in the Greek inscriptional materials: namely, regulations concerning cultic personnel, proper sacrificial practice, maintenance of the sanctuary itself, those permitted to enter the area, modes of purification, adjudication, tithes, sacred property both mobile and immobile, punishments for transgressions, festal calendars and meals, and so on.

Each source sees cultic regulations, scrupulously observed, as a way to determine and preserve a religio-ethnic identity sharply distinguished from its neighbors. For Jews, Torah law conceived as a whole is consistently mobilized both in practice and in rhetoric as the premier way to draw a boundary around Jewish identity vis-à-vis neighboring peoples. By contrast, in the Hellenistic and Roman periods, when we do see what we might recognize as Jewish “sacred laws” in literary sources, they are most commonly deployed in *inner-Jewish*, largely sectarian debates. Purity, legitimacy of the HIGH PRIEST, and the calendar are the central bones of debate over Jewish authenticity and legitimacy.

Jewish sacred law in general was, with brief respite, subject to the oversight and approval of an external dominant power in Antiquity. The granting of modified autonomy according to their “ancestral laws” by several Hellenistic kings—and reiterated through the Roman Period—meant that the working of the cult (as opposed to the criminal or civil component of the revealed corpus) was for the most part unaffected, and Jews were exempted from the civil cultic religion of the Greeks, then Romans. Jews even managed to avoid the widely manifested and wildly popular imperial cult by offering sacrifice on behalf of and not to the emperor. The contingency of cultic autonomy is made clear when in 66 CE, the High Priest Eleazar halted the daily sacrifices made on behalf of Rome as a declaration of war.

Roman Sacred Law

The Roman orator Cicero claimed that “our state could never have become so great without the goodwill of the immortal gods.” While Cicero’s line could have been voiced by a patriot of virtually any premodern state, the Roman iteration is revealing of the intricate and expansive intertwining of religion and state, and a heightened sense of the interrelationship between *PIETAS*, the *PAX DEORUM* and the success of *ROME*. Yet standard introductions to “Roman law” regularly omit sacred law, and the study of religions in Rome has long been clouded by a Protestant historiographic bias against the “empty” or “primitive” ritualism of Roman religion. The Romans, however, understood themselves to be an exceptionally pious people, and respect for proper *observance* was an essential part of daily life domestically and civically. Religion and “secular” law were explicitly linked. During the republic the highest political and religious offices were shared among the same senatorial elite. Priesthoods were part of the portfolio of every successful statesman. The senate appointed, funded and staffed the pontifical *COLLEGIA*, controlled the most important oracles, and adjudicated the ontological status of *PRODIGIES* and determined their interpretations. This deep integration carried into the Principate. At the turn of the third century CE, the jurist Ulpian underscores the bond between government and cult: “public law” he writes, “consists in *sacra*, priests, and magistrates” opposing it to private or civil law. Rome’s sense of its superior piety defined and justified the imperial project. The connection between “secular” and religious institutions tends to beg a cynical and instrumentalist assessment of the place of religious laws in Roman history, but this is a modernist bias.

Unlike the relatively circumscribed corpuses where one can find Greek and Jewish laws regulating cults, the Roman material is dispersed across its vast legal remains. There is by many measures a strong continuity between cultic practices, and thus the *nomoi* that prescribe the workings of the cult in the Roman and Greek materials. Roman cultic regulation not only partook of the common religious vocabularies of the region, but Rome was also committed ideologically to the preservation of ancient religious rites. Given this continuity, which is redoubled by an explicit Roman interest in the diverse practices of a diverse empire, it is worth seeing the actual interplay of imperial power and the decidedly local iterations of sacred laws. While close look at this or that cult reveals a tremendous capacity for adaptation and accommodation to change, and especially under empire, these are rarely digested as innovation—the discourse of the hoary and venerable was paramount.

Though one may no longer dismiss Roman ritual as merely instrumental, the centrality of sacred law to right rule does point to a place where Roman laws magnify an important element of the ritual law in its performative aspect. Roman sacred laws regulate—and thus point us repeatedly to—the mass spectacle of ritual from imperial funeral processions, to games (*LUDI*) at which the gods were honored spectators, to the broad publication of festival calendars (*FASTI*), to imperial cult as competitive sport in the East, to the close relationship between theaters and temples. The complex role of this technical law then to the expression of power, maintenance of cosmic order, shaping of a citizenry, the definition, domestication, or excision of the foreign and the communication of empire are emphatically visible in these displays and write large the matrices in which even the quietest domestic rites participate.

Suggested Reading

- Ando, C., and J. Rüpke, eds. *Religion and Law in Classical and Christian Rome*. Franz Steiner Verlag, 2006.
- Barchiesi, A., J. Rüpke, and S.A. Stephens, eds. *Rituals in Ink*. Franz Steiner Verlag, 2004.
- Lupu, E. *Greek Sacred Law: A Collection of New Documents (NGSL) I & II*. Brill, 2004/2009.
- Milgrom, J. *Leviticus: A Book of Ritual and Ethics*. Fortress Press, 2004.
- Parker, R.C.T. “What Are Sacred Laws?” In *The Law and the Courts in Ancient Greece* (E.M. Harris and L. Rubinstein, eds.), 57–70. Duckworth, 2004.