Overview cuneiform law (compare class Powerpoint slides throughout)

Cuneiform law
1) Urukagina ca. 2350 abuse and reform
2) “Urnammu” (Shulgi) ca. 2050 protasis/apodosis, if … then
3) Lipit-Ishtar ca. 1900 Sumerian, less severe, fines
4) Eshnunna / Tell Harmal ca. 1800
5) Codex Hammurapi ca. 1750 lex talionis / eye for an eye

First well-known code was CH, published 1902, but long suspected that other “codes” predated CH; Lipit-Ishtar Steele AJA 1948; closest parallels in Eshnunna Code, written ca. 50 years before CH; proof of Sumerian precursor in Kramer 1954 “Urnammu” Likely that king issued meššarum (royal debt remission) in first or second year, regularly šimdat šarrim, and later more general codes (as per historical section of prologue); see Finkelstein JAOS 81, p. 368. Codes on steles possibly in city temples, CH epilogue, litigant reads his rights on public monument

More on cuneiform law
Introduction:
A. Definition
E. Adamson Hoebel, The Law of Primitive Man, (about the Cheyenne) p. 28:
“A social norm is legal if its neglect or infraction is regularly met, in threat or in fact, by the application of physical force by an individual or group, possessing the socially recognized privilege of so acting.”
Emphasis on lifting enforcement from a personal to impersonal level

B. Elements here
1) Regularity: law is a social norm, the doctrine of precedent
2) Official authority, “an explicit capacity to direct the behavior of others on behalf of the entire society”
3) Sanction, “the distinctive and ultimate sanction of law is the application of physical force, be it whipping, mutilation, imprisonment, exile or death” (Pospisil, Law and Society Review vol. 7/4, p. 545)

C. Functions of Law (Hoebel, Law of Primitive, 275ff.)
1) Defines relations among members of a society to maintain at least their minimal integration, “social contract”
2) Tames naked force and directs force to the maintenance of order
3) Disposes of trouble cases as they arise
4) Redefines relations between individuals and groups as the conditions of life change, maintains adaptability (see meššarum)
Structure of codes

D. Structure of codes (s. article “Gesetze” in RA)

1) Prologue
   a) Theological: invocation of Anu and Enlil (authority and force), city god (Nanna of Ur, Nin-isina of Isin, Marduk of Babylon (CH does not mention Shamash!), Lawgivers
   b) Historical, background of ruler’s reign, political and military events (thus promulgation late in reign)
   c) Moral-ethical, earlier abuses, ruler’s sympathy for his abused “children”, ethical observations, for example, in CL that fathers must care for sons and vice versa; finally, that the powerful should not abuse the weak, widow and orphan, note here the clear parallel to Urukagina’s reforms

2) Corpus
   “Laws” (*dinātum* !) in rather chaotic order

3) Epilogue
   only know from CL and CH, restatement of praise of ruler, instruction to obey the code’s commands, curse of anyone breaking it, reflection of close of treaties, and Biblical covenant

Urukagina

Reforms of Urukagina

provenience of sources, history of king
date according to Deimel *AnOr* 2, 76, year of accession to king, i.e., second regnal year

structure like that of law codes:
1) abuses committed above all by palace against temples
2) reforms (§§1-4, abolition of fees taken from temple personnel, §5 restoration of divine property rights, §6 abolition of sheriff mashkim, §§7-8 new rates for burial, standard rations, §§11-12 protection of possession-rights of ama-uku₂, §13 amnesty, protection of widow and orphan, in *Plaque ovale* abolition of polyandry and slander, no more thieving)

Purpose? A possible struggle between priests/aristocracy and ensi₂, but effect is debated (wife Sasa remained head of Baba temple; e-dab₁ texts continued through Urukagina’s 5th year (F. S. Stephens, RA 49, 129ff. therefore dates reforms to his 6th year)

Note: Gudea Statue B vii 42-43 (//Cylinder B xviii, 6-7) “the rich man can’t act against the orphan, the powerful man can’t harm the widow”

Urnammu 1

Urnammu (Shulgi) Code

earlier references to this code (cf. Szlechter, RA 47, 1953, 5-6), poorly preserved tablet
Ni 3191 of Istanbul museum first published by Kramer, *Or* 23 (1954) 40-48, Old Babylonian school copy from Nippur with part of prologue and corpus (Ur fragments Gurney/Kramer, *AS* 16, 13-20)

1) Prologue: theological An, Enlil, Nanna; historical, short, slew ensi₂ of Girsu, etc.; ethical, note relation to Urukagina reforms and to *melārum* edicts, ll. 162-168 standard protection of orphan and widow
2) Corpus: first understandable laws deal with sex crimes, see Finkelstein, “Sex Offenses in Sumerian Laws,” *JAOS* 86, 1966, 355ff., with distinction of married and unmarried women, and coercive and consensual cohabitation (married and coercive harsh penalty on man, married and consensual harsh on woman, unmarried and coercive mild (fine), thus adultery a very grave offense against the husband, not vice versa; rape of unmarried woman treated lightly, usually fines since her value has been decreased

§2 married woman seduces man, she is killed he is set free
§3 rape of virgin slave girl, 5 shekel fine
§§15-19 severed nose, etc., fines equate 1 nose with 20 teeth
§§21-23 slave woman offenses; insolence punished by scouring mouth with 1 quart of salt
§§27ff. possession rights of fields

**Laws of Lipit-Ishtar**

Laws of Lipit-Ishtar

first 4 fragments published 1919-20, school texts from Nippur (Landsberger: not code but scribal exercises; *SD* II 232-3), F. R. Steele’s publication *AJA* 52 (1948) 425-50 of 4 new fragments also from Nippur showed it was really a code of Lipit-Ishtar, according to epilogue originally on stele. Totaled 1200 lines, of which 400 preserved (35§§ of original 200, still well short of CH’s 300)

1) Prologue: An and Enlil pick Nin-isina as head of Isin, LI selected to establish justice (*nig₂-si-sa₂*) in the land, emancipation of enslaved people of Nippur, Ur and Isin, re-establishment of equitable family relations
2) Corpus: first half of code broken, covers real-estate and slave regulation, inheritance and marriage rights, penalties for accidents and rented oxen

   cf. M. Civil, “New Sumerian Law Fragments,” *AS* 16, 1-12, notes CL 28 ~ CH 148, man’s wife disabled (possibly leprosy, symptoms blindness and paralysis), he must keep her if/when he takes a second wife; CL 31 ~ CH 165
3) Epilogue: self-praise of LI, praise of him who treats the stele well, long curse of whoever tampers with the stele
Laws of Eshnunna

first published A. Goetze, *Sumer* 4 (1948) of tablets excavated in 1945 and 1947 at Tell Harmal (Shaduppum) near Baghdad and part of Eshnunna kingdom; dated perhaps just a few years before CH in reign of Dadusha or Ibal-pi-el (Edzard, *ZZB* 72, 166)

no prologue, but great affinities with CH, 3/4 reproduced more or less directly in CH, e.g. LE 6 ~ CH 257-60 wrongful seizure of property, LE 53-55 ~ CH 250-252 ox goring; in beginning are wage and price regulations, end of CH. Chaotic order of laws in LE might point again to clay tablet school copies, found in context with lexical lists and mathematical exercises

Laws of Hammurapi

First fragments of CH from Kuyunjik, published by Peiser 1890, Meissner 1898 first said probably from Hammurapi code (14 Kuyunjik fragments)

Then 1900 Scheil excavated 7 foot stele in Susa, carried there by Shutruk-Nahhunte from Sippar or Babylon ca. 1200 B.C., now in Louvre

other fragments 4 OB, 3 mA, 2 nA, 3 nB, clay copies indicate school use
dated to end of reign, not before 40th year, since H. mentions restoration of Kish temple Emeteursag (36th year) and conquest of Larsa and Rim-Sin (30th), didn't control entire empire until 39th year

Prologue

History of Hammurapi’s reign

Corpus

show class distinction, *awilum* full citizen (?), *muškēnum* “lower than a.”, *wardum*, “slave” (see Kraus, *Edikt*, pp. 147ff. for discussion, a. = upper class, m. = Babylonian commoner, rejects free and semi-free of Finkelstein, Gelb)

Note: in §§138-140, *muškēnum* pays 1/3 the divorce settlement of an *awilum*, but still 1/3 mina not for the poor; in cases of assault, lex talionis for hitting *awilum*, fines for hitting *muškēnum*; §§215-217, physicians fees, 10 shekels for *awilum*, 5 for *muškēnum*, 2 for slave of *awilum*

Death penalty very often in offenses by *awilum*

§23 restitution by city for goods stolen in its territory

§48 loan moratorium for flood or drought year

§108 a barmaid cheats customers, she is thrown in water

§109 death for barmaid who allows criminals to gather in her tavern

§110 burning death for any priestess who enters a tavern

§128 no contract, no wife

§278 protection in slave purchase against *epilepsy*, as often seen in contracts

Purpose of CH? Driver and Miles p. 286, Hammurapi merely deals with particular cases which have been the subject of dispute
Epilogue
more self-praise, including clause ‘strong should not oppress the weak, justice for widow and orphan’ (rev. xxiv, 60-61)
“Let any oppressed man who has a cause come into the presence of my statue and then read carefully my inscribed stela and give heed to my precious works, and may my stela make the case clear to him; may he understand his cause; may he set his mind at ease.” (rev. xxv 4ff.) … “my deeds have no equal, only to the fool are they empty.”
Curse reads almost like An:Anum, An, Enlil, Ninlil, Enki, etc. all to curse laws’ defiler

Middle Assyrian legal
1) MA law code from reign of Tiglath-Pileser I, ca. 1100 B.C.
best preserved parts deal with sexual crimes, homosexuality, marriage; for adultery death, mutilation; bourgeois women must cover heads with veils, prostitutes must not veil themselves, to marry a concubine “to veil her”
2) Harem edits controlling movement of, and access to, palace women

We cannot be sure whether these codes were used, but two other types of documents certainly were:

Other legal
Special ordinances, decrees, edits
Landsberger SD 2, 220, mentions that where we might expect “according to §20 of the laws,” we have reference to the simdatu–restricted, except one case, to Hammurapi and successors
1) simdatu: definite ordinance sent out by the king doubtless on legal counsel, administrative necessity, functions to 1) fix exchange rates ana pi šimdat šarrim, 2) regulate sale stipulations (sales of slaves, oxen, fields, groves, houses, e.g. of epilepsy or escape of slave), and 3) offer guidelines in legal cases (H. instructed governors to try cases of disputed property kima šimdatim ša mahrika ibaṣṣu ) they were periodic, in Rim-Sin 41, a transaction carried out warki šimdat šarrim 3-KAM, “3rd royal decree” (VS 13, 81:9)
see Ellis, JCS 24, 74ff., CAD sub simdatu, Kraus Edikt 196ff., Driver and Miles Babylonian Laws I 17ff.. Landsberger, Die babylonischen termini 225ff.

2) mešārum
goes back to Urukagina, Old Babylonian two well-known edicts:
1) Edict of Ammisaduqa (10th ruler OB, 1646-1626), F. Kraus, SD 5, 1958, from Nippur and Sippar, issued first regnal year; remission of debts and other obligations
§§2-3 debt remission for men involved in palace business
§4 general remission
§§5-7 hypothetical violations of §4
§§8-9 exceptions to §4, when transaction was business investment rather than loan
§§10ff. specific applications of §§2-3

evidence of mešārum application, see Finkelstein, AS 16, 233-246: a Sippar text
dated to middle of First Babylonian Dynasty, a petition protesting official decision
hinging on relevance of mešārum-act to a particular instance; mešārum commission
determined he was not to lose his land but higher official smashed his documents,
thus this protest to the king

2) Edict of Samsu-iluna, publ. Kraus AS 16, 225-232; Sippar text, with rev. 1’-7’ almost
sign for sign copy of Ammisaduqa §21

mešārum remission edicts seem to have been regular, about every ten years:

<table>
<thead>
<tr>
<th>King</th>
<th>Years</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rim-Sin of Larsa</td>
<td>26, 35, 41</td>
</tr>
<tr>
<td>Hammurapi</td>
<td>1, 12(?), 20-21, 30(?)</td>
</tr>
<tr>
<td>Samsu-iluna</td>
<td>1,8</td>
</tr>
<tr>
<td>Abi-esuh</td>
<td>1, plus another</td>
</tr>
<tr>
<td>Ammiditana</td>
<td>1, 20-21</td>
</tr>
<tr>
<td>Ammisaduqa</td>
<td>1, 9-10</td>
</tr>
<tr>
<td>Samsuditana</td>
<td>2-3</td>
</tr>
</tbody>
</table>

reason for royal debt remissions were systemic problems in economies, interest
rates 20–33 1/3%, but unclear even if this was annual; sharecropping taxes
often 50%; Bottéro, JESHO 4, 1961, 160f.: “had the modest goal of mitigating
imbalance in an iniquitous system”

Case law

ditila’s of neo-Sumerian period, Falkenstein, Die neusumerischen Gerichtsurkunden
(1956-57) with 224 texts, mostly ditila’s from Girsu
The Court usually consisted of several (most often three) judges acting together
from apparent pool of judges; line of authority: king, énsi, judge; another official
the mashkim, “enforcer”

proceedings: complaint to judge; defendant informed and directed to bring
documents; appearance; complainant’s case; defense with witnesses, documents;
decision (decision occurs at beginning of text)

Oath: mu lugal … pa₃, or zi-lugal … pa₃; if guilt not established with oath, often
river ordeal: innocent did not drown

very few trial protocols; Nippur homicide trial Jacobsen, Studia et Orientalia 3,
130ff. Sumerian text ca. 1850, with school copies Nippur Samsu-iluna reign:
three men kill PN, tell his wife and she remains silent; king remits case to Nippur
assembly, there heard; 9 men rise and condemn all to death; oldest version omits wife from death penalty

Ur III rights:
shown that women had full legal, economic right; a woman can sue for economic redress, marriage right; could own and sell slaves, houses, oxen; slaves could own property and act as witnesses
male slaves for 2/3 to 55 shekels, usually about 15-20
female slaves 1/2 to 10 shekels
slave family of four: 30 shekels

Old Babylonian
several thousand texts, Sumerian and Akkadian: family inheritance, sales, judicial proceedings
W. F. Leemans, “King Hammurapi as Judge”, Symbolae Iuridicae … David dedicatae vol. 2, 107-129, notes kings of OB handled many cases, mostly involving land tenure and revenues: 1) king makes judgment, 2) king determines ‘point of law’ and remits case to local authorities, 3) remits entire case to locals (Nippur homicide)
critical importance of sealed documents shown in OB letter, Renger, Seals and Sealing p. 76
Note also scholastic texts dealing with law, particularly ana ittišu (MSL 1), used by scribes to learn legal terminology in Nippur schools; Sumerian phrases of legal nature heavily favored

International law
ED in Enmerkar and Lord of Aratta detailed ambassadorial negotiations already shown
Ebla treaties
OB Mari archive show that in treaties 1) parties took an oath, 2) a ritual or symbolic act was performed, such as killing a donkey foal
vassals were expected to refrain from relations with enemies of ruler, supply military support when necessary; guarantee of passage to allies