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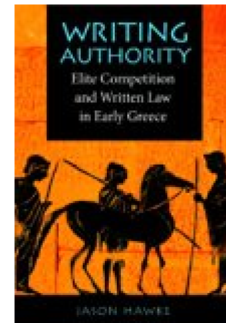
Jason Hawke. *Writing Authority: Elite Competition and Written Law in Early Greece.* DeKalb: Northern Illinois University Press, 2011. x + 285 pp. $45.00 (cloth), ISBN 978-0-87580-438-5.



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Elites and Law-Writing in Ancient Greece

Why did the Greeks start writing laws in the mid-seventh century BCE? Offering answers to this old chestnut of a question has become something of a cottage industry in the past few years, with the publication of Michael Gagarin's *Writing Greek Law* (2008) and Zinon Papakonstantiou's *Lawmaking and Adjudication in Archaic Greece* (also 2008). Now comes Jason Hawke, an assistant professor in the History Department of Roanoake College, with his own take. While none of these works is entirely persuasive, Hawke's book is a comprehensive and nuanced analysis of the problem and a compelling statement of one of the more plausible explanations.

To set the stage for Hawke's analysis it helps, however, to set aside a number of alternate hypotheses as probably inadequate. For example, did the Greeks begin writing law because writing itself became available in proto-literate Archaic culture? No. In fact, the Greeks wrote for other purposes for more than a century before they began writing laws. Law-writing was clearly considered different than other sorts of written communication, and was only embraced when circumstances were deemed appropriate. Command of writing as a craft was a necessary, but not sufficient, condition of law-writing itself.

A spin on this approach posits that conservatism played a role in the Greeks' slow shift to law-writing. Communities, the argument goes, may not start inscribing critical values like law until such time as they have confidence in the survivability, usability, and/or cultural accessibility of the written medium. This might account for the delay that torpedoes our first hypothesis, but the facts unfortunately seem to play the other way. The central truths of ancient Greek culture were set down not so much in law as in the Homeric epics, but those were "translated" from oral tradition into writing long before laws were inscribed. So conservatism per se seems to be an inadequate rationale for the chronological gap between writing and law-writing.

A third possible reason for the Archaic practice of law-writing looks outside of Greece, suggesting that Greek law-writing was essentially imitative of foreign practice, in particular the practice of Near Eastern city-states and monarchies that had been generating written law collections for a millennium prior to the Greek Archaic period. When Greek expansion and colonization in the ninth and eighth centuries took the Greeks into the Mediterranean in force they made direct and indirect contact with these cultures and supposedly copied them, an exercise perhaps rendered even more attractive as new Greek colonies far away from home may have needed "potted" law collections to ground their own legal processes and structures without benefit of long-standing local oral tradition. This hypothesis is attractive, especially as it privileges inter-cultural explanations of Greek change that have become more convincing to scholars as our own globalized world becomes more obviously interdependent, but clear evidence of causation is lacking. The Greeks may have had close contact with the Phoenicians in particular, and the latter were undoubtedly within the

sphere of Near Eastern law-writing cultures, but there is as yet nothing like a Greek Rosetta Stone or any other surviving document overtly linking Greek and Near Eastern legal texts or traditions in the Archaic period.

With these approaches rejected, most scholars have relied on social, or–perhaps more accurately–political, explanations for Greek law-writing. Here recent focus has tended to be on elites and non-elites. One political hypothesis is that written law provided a means for Greek elites facing challenges from upstart non-elites (e.g., the so-called "hoplite class") to "freeze" law and power relationships in a pattern that would preserve elite advantages past the point where elites' practical class power would have waned. Law-writing in this context was something of a social insurance policy. Conversely, some scholars have suggested that law-writing was actually a tool useful for non-elites wishing to constrain the discretion inherent in the application of elite or magisterial "memory," and that written law's growth was a measure and instrument of elite decline.

Hawke goes up the middle here, arguing that law-writing was actually a device used by elites to manage changing circumstances of competition among themselves in conditions where intra-elite social consensus founded on traditional values was coming apart under the influence of expanding population, commerce, and increasing social strife. Law-writing was not aimed primarily downward against the *demos*. Nor was it aimed upward against the elite. Instead it was part of lateral reordering of elite power relationships aimed at ensuring (however unsuccessfully, perhaps) that power was not overly concentrated in the hands of a few elite families or individuals.

Hawke is hardly the first to make this suggestion, but his defense of the position is the most elaborate to date and he makes some very telling points. Certainly there was significant elite competition in the period he discusses. It is probable that law and law-writing were factors in managing that. Whether elite competition was the only or even the main factor behind law-writing is still, however, debatable. As Gagarin has argued, the texts of some of the laws themselves have to be accounted for, and several of those laws make reference to the *polis* approving written legislation. This suggests prima facie that more than elites were involved or complicit in law-writing.

This does not, however, settle the case against Hawke. Today as well, legislators from less exclusive backgrounds may support and endorse legislation, but that not mean that it is necessarily adopted at their behest. Indeed, they may just be recruited by competing elites to do the elites' bidding, and elites may use democratic rationales and even overt invocations of democratic values as stalking horses for their own self-interest. So in Archaic Greece, noting that certain written laws were explicitly approved by the polis ultimately settles little. We would be better off looking at the content of the law, the physical form and location of its expression, and the comparative concerns of the elites (and the demos) to determine whether, on balance, regulation of elite competition was the primary cause of law-writing.

Ultimately, however, definitive evidence of both action and motivation escapes us. The Archaic record is disconcertingly partial. And Greek society–let alone human nature–being what it is, I and perhaps others will wonder whether there is a single explanation for Greek law-writing, even (or perhaps especially) at the political level. The Greeks (if we can even usefully reduce the citizens of the myriad city-states to such a collective noun) never did anything with perfect consistency. So at the end of the day I suspect that there may be more than one right answer to the basic question Hawke addresses. The Greeks probably wrote their laws for several different reasons, and the reasons themselves may have differed somewhat from instance to instance and context to context. But this does not diminish the value of Hawke's work in unpacking the dynamics of elite competition and very plausibly relating them to the debut of written law.

As a monograph, the volume itself is energetically written and well documented. It is not a "quick read" by any means, but it certainly repays the reader's effort. The occasional Germanic sentence can be forgiven, although the twelve-line monstrosity on pages 187-188 should have been subjected to the editor's red pen. Like much recent scholarship in history, classics, and other fields (including contemporary law), the work is also burdened by excessive in-text references to other scholars that might have been relegated to the endnotes. This rhetorical practice admittedly helps to make the book dialogic and gives the writing some academic context, but it might be off-putting to a general reader for whom the ideas Hawke discusses matter more than their individual exponents. I also have to wonder whether the name-dropping diminishes the long-term readability of the text, as the multiple scholarly players–outside of a handful of key ones, like Gagarin–may not be instantly familiar to even specialized academic readers fifty or one hundred years from now. None of this, however, gainsays the fact that Hawke's book is a significant scholarly achievement

and a very welcome addition to the burgeoning literature on the provenance and practice of law-writing in ancient Greece.

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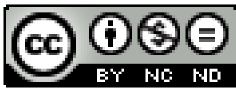

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