

Bringing Order to an Uncertain World



2 ▼ *THE JUDGMENTS OF HAMMURABI*

Mesopotamia's characteristic sense of insecurity resulted in its producing not only great philosophical literature but also detailed legal codes. The so-called *Code of Hammurabi* is the most famous but certainly not the earliest of the many collections of law produced throughout the first three thousand years of Mesopotamian civilization. Discovered in 1901, this Babylonian text from the eighteenth century B.C.E. is inscribed on a stone pillar (technically known as a *stèle*) that measures over seven feet in height and more than six feet in circumference. Apparently Hammurabi wanted it to last forever.

Whether Mesopotamia's numerous compilations of law were Sumerian, Babylonian, Assyrian, or Chaldean, a number of common elements united them. Chief among them was the expressed purpose, as the prologue to Hammurabi's collection declares, "to promote the welfare of the people . . . to cause justice to prevail in the land, to destroy the wicked and the evil, that the strong might not oppress the weak." There is good reason to believe that even conquerors such as Hammurabi (reigned ca. 1792–1750 B.C.E.), who briefly united Mesopotamia and transformed Babylon into the capital of an empire, sought to promote justice through law.

Hammurabi's code is actually not a coherent and systematic code of laws but rather a compilation of decisions, or *misharum* (equity rulings), that the king made in response to specific cases and perceived injustices. Nevertheless, this collection of judgments covers a wide variety of crimes and circumstances, thereby

allowing extensive insight into the structure and values of eighteenth-century Babylonian society.

QUESTIONS FOR ANALYSIS

1. What specific actions did Hammurabi take in his attempt to provide for the good order of society and the basic welfare of his subjects?
2. What evidence is there of class distinctions in Babylon?
3. What was the status of women in this society? Did they enjoy any protection or liberties?
4. What about children? What was their status? Did they enjoy any protection or liberties?
5. Mesopotamian society has been characterized as a *patriarchal* (dominated by male heads of households) society. Does the evidence in this collection of decisions tend to support or refute that judgment?
6. What seem to have been the principles and assumptions that underlay these judgments? In other words, what does this collection reveal about the world view, basic values, and ideals of Hammurabi's Babylon?

PROLOGUE

When Marduk¹ had instituted me governor of men, to conduct and to direct, Right and Justice I established in the land, for the good of the people.

THE ADMINISTRATION OF JUSTICE

3. If in a lawsuit a man gives damning evidence, and his word that he has spoken is not justified, then, if the suit be a capital one,² that man shall be slain. . . .
5. If a judge has heard a case, and given a decision, and delivered a written verdict, and if afterward his case is disproved, and that judge is convicted as the cause of the misjudgment, then he shall pay twelve times the penalty awarded in that case. In public assembly he shall be thrown from the seat of judgment; he shall not return;

and he shall not sit with the judges upon a case. . . .

FELONS AND VICTIMS

22. If a man has perpetrated brigandage, and has been caught, that man shall be slain.
23. If the brigand has not been taken, the man plundered shall claim before god³ what he has lost; and the city and governor in whose land and boundary the theft has taken place shall restore to him all that he has lost.
24. If a life, the city and governor shall pay one mina⁴ of silver to his people.⁵ . . .

PROPERTY

29. If his son is under age, and unable to administer his [deceased] father's affairs, then a third part of the field and garden

¹The chief god of Babylon.

²A case in which death is the penalty.

³The god or goddess of the city. Each city had its special protector deity.

⁴About five hundred grams of silver. A mina was divided into sixty shekels.

⁵The family of the slain person.

shall be given to his mother, and his mother shall bring him up. . . .

38. A captain, soldier, or official may not give his field, or garden, or house to his wife or his daughter; neither can they be given as payment for debt.⁶
39. He may bequeath in writing to his wife or daughter a field, a garden, or a house that he may have bought, and may give it as payment for debt. . . .

WINESELLERS AND TAVERNS

109. If rebels meet in the house of a wineseller and she⁷ does not seize them and take them to the palace, that wine-seller shall be slain.
110. If a priestess who has not remained in the temple,⁸ shall open a wine-shop, or enter a wine-shop for drink, that woman shall be burned. . . .

DEBT SLAVERY

117. If a man has contracted a debt, and has given his wife, his son, his daughter for silver or for labor, three years they shall serve in the house of their purchaser or bondsmaster; in the fourth year they shall regain their original condition. . . .

MARRIAGE AND THE FAMILY

129. If the wife of a man is found lying with another male, they shall be bound and thrown into the water. If the husband lets his wife live, then the king shall let his servant⁹ live. . . .
134. If a man has been taken prisoner, and there is no food in his house, and his wife en-

ters the house of another, then that woman bears no blame.

135. If a man has been taken prisoner, and there is no food before her, and his wife has entered the house of another, and bears children, and afterward her husband returns and regains his city, then that woman shall return to her spouse. The children shall follow their father.
136. If a man has abandoned his city, and absconded, and after that his wife has entered the house of another, if that man comes back and claims his wife, because he had fled and deserted his city, the wife of the deserter shall not return to her husband.
137. If a man has decided to divorce . . . a wife who has presented him with children, then he shall give back to that woman her dowry,¹⁰ and he shall give her the use of field, garden, and property, and she shall bring up her children. After she has brought up her children, she shall take a son's portion of all that is given to her children, and she may marry the husband of her heart.
138. If a man divorces his spouse who has not borne him children, he shall give to her all the silver of the bride-price,¹¹ and restore to her the dowry which she brought from the house of her father; and so he shall divorce her.
139. If there was no bride-price, he shall give her one mina of silver for the divorce.
140. If he is a peasant, he shall give her one-third of a mina of silver.
141. If a man's wife, dwelling in his house, has decided to leave, has been guilty of dissipation, has wasted her house, and has neglected her husband, then she shall be

⁶The monarch retained ultimate ownership of the property handed out to soldiers and bureaucrats who received land as payment for their services.

⁷Women traditionally filled this role in ancient Mesopotamia, perhaps because the wine deity was the goddess Siduri (see source 1).

⁸Thereby breaking her vow to devote her life to serving the temple deity.

⁹The wife's lover.

¹⁰The required money or goods she brought to the marriage.

¹¹The price he paid her family in order to marry her.

- prosecuted. If her husband says she is divorced, he shall let her go her way; he shall give her nothing for divorce. If her husband says she is not divorced, her husband may marry another woman, and that [first] woman shall remain a slave in the house of her husband.
142. If a woman hates her husband, and says "You shall not possess me," the reason for her dislike shall be inquired into. If she is careful, and has no fault, but her husband takes himself away and neglects her, then that woman is not to blame. She shall take her dowry and go back to her father's house. . . .
148. If a man has married a wife, and sickness has seized her, and he has decided to marry another, he may marry; but his wife whom the sickness has seized he shall not divorce. She shall dwell in the house he has built, and he shall support her while she lives. . . .
168. If a man has decided to disinherit his son, and has said to the judge, "I disown my son," then the judge shall look into his reasons. If the son has not been guilty of a serious offense which would justify his being disinherited, then the father shall not disown him.
169. If the son has committed a serious offense against his father which justifies his being disinherited, still the judge shall overlook this first offense. If the son commits a grave offense a second time, his father may disown him. . . .
199. If he has destroyed the eye of a man's slave, or broken a bone of a man's slave, he shall pay half his value.
200. If a man has knocked out the teeth of a man of the same rank, his own teeth shall be knocked out.
201. If he has knocked out the teeth of a peasant, he shall pay one-third of a mina of silver.
202. If a man strikes the body of a man who is superior in status, he shall publicly receive sixty lashes with a cowhide whip. . . .
206. If a man has struck another man in a dispute and wounded him, that man shall swear, "I did not strike him knowingly"; and he shall pay for the physician.
207. If he dies of his blows, he shall swear likewise; and if it is the son of a free man, he shall pay half a mina of silver.
208. If he is the son of a peasant, he shall pay a third of a mina of silver.
209. If a man strikes the daughter of a free man, and causes her fetus to abort, he shall pay ten shekels of silver for her fetus.
210. If that woman dies, his daughter shall be slain.
211. If he has caused the daughter of a peasant to let her fetus abort through blows, he shall pay five shekels of silver.
212. If that woman dies, he shall pay half a mina of silver. . . .

PERSONAL INJURY

195. If a son has struck his father, his hands shall be cut off.
196. If a man has destroyed the eye of another free man, his own eye shall be destroyed.
197. If he has broken the bone of a free man, his bone shall be broken.
198. If he has destroyed the eye of a peasant, or broken a bone of a peasant, he shall pay one mina of silver.
215. If a physician has treated a man with a metal knife for a severe wound, and has cured the man, or has opened a man's tumor with a metal knife, and cured a man's eye, then he shall receive ten shekels of silver.
216. If the son of a peasant, he shall receive five shekels of silver. . . .
218. If a physician has treated a man with a metal knife for a severe wound, and has caused the man to die, or has opened a man's tumor with a metal knife, and

CONSUMER PROTECTION

- destroyed the man's eye, his hands shall be cut off. . . .
229. If a builder has built a house for a man, and his work is not strong, and if the house he has built falls in and kills the householder, that builder shall be slain.
230. If the child of the householder is killed, the child of that builder shall be slain.
231. If the slave of the householder is killed, he shall give slave for slave to the householder.
232. If goods have been destroyed, he shall replace all that has been destroyed; and because the house that he built was not made strong, and it has fallen in, he shall restore the fallen house out of his own personal property.
233. If a builder has built a house for a man, and his work is not done properly, and a wall shifts, then that builder shall make that wall good with his own silver. . . .

EPILOGUE

The oppressed, who has a lawsuit, shall come before my image as king of justice. He shall read the writing on my pillar, he shall perceive my precious words. The word of my pillar shall explain to him his cause, and he shall find his right.

¹²The sun-god, god of justice, and vindicator of the oppressed. During the eighteenth century B.C.E. he rose in prominence among the deities of Babylon. The sculpture that is carved at the top of the stele on which Hammurabi's

His heart shall be glad [and he shall say,] "The Lord Hammurabi has risen up as a true father to his people; the will of Marduk, his god, he has made to be feared; he has achieved victory for Marduk above and below. He has rejoiced the heart of Marduk, his lord, and gladdened the flesh of his people for ever. And the land he has placed in order." . . .

In after days and for all time, the king who is in the land shall observe the words of justice which are written upon my pillar. He shall not alter the law of the land which I have formulated, or the statutes of the country that I have enacted. . . . If that man has wisdom, and desires to keep his land in order, he will heed the words which are written upon my pillar. . . . The . . . people he shall govern; their laws he shall pronounce, their statutes he shall decide. He shall root out of the land the perverse and the wicked; and the flesh of his people he shall delight.

Hammurabi, the king of justice, am I, to whom Shamash¹² has granted rectitude. My words are well weighed: my deeds have no equal, leveling the exalted, humbling the proud, expelling the haughty. If that man heeds my words that I have engraved upon my pillar, departs not from the laws, alters not my words, changes not my sculptures, then may Shamash make the scepter of that man to endure as long as I, the king of justice, and to lead his people with justice.

judgments are inscribed shows the king humbly receiving from Shamash a measuring-line and a rod, the symbols of equity and justice.

Egypt: The River of Two Lands

Civilization seems to have arisen in Egypt shortly after it first appeared in Sumer. Although there is evidence of early Sumerian contact with the Egyptians, Egypt's civilization was largely self-generated, and its history and cultural patterns differed substantially from those of Mesopotamia. Egyptians, however, shared the same myth-making way of perceiving reality.

An integral element of Egyptian myth was the belief that Egypt was the land of divine harmony ruled by a living god-king, or *pharaoh*, who balanced all conflict-

