

1.5 The Code of Hammurabi

From 2000 to 1600 B.C.E., the city-states of Mesopotamia endured a period of nearly continuous warfare that saw shifting alliances and frequent chaos. The most dominant personality of the age, Hammurabi, established his control over the region from about 1800 to 1750 B.C.E. and ruled from the city of Babylon. His great contribution to Western civilization was a series of laws that sought to establish justice within his empire. This concept of equity, which remedied a large number of abuses, influenced law codes yet to come, most notably those of Greece and Rome. In the following passages, note the continual emphasis on fairness in the regulation of property, trade, debt, family relations, and personal injury.

Source: "The Code of Hammurabi" is from Robert F. Harper, trans., *The Code of Hammurabi* (Chicago: University of Chicago Press, 1904).

When the lofty Anu, king of the Anunnaki gods, and Enlil, lord of heaven and earth, he who determines the destiny of the land . . . pronounced the lofty name of Babylon; when they made it famous among the quarters of the world and in its midst established an everlasting kingdom whose foundations were firm as heaven and earth; [they] . . . named me, Hammurabi, the exalted prince, the worshiper of the gods, to cause justice to prevail in the land, to destroy the wicked and the evil, to prevent the strong from oppressing the weak, to go forth like the sun over the black-headed people, to enlighten the land to further the welfare of the people. Hammurabi, the shepherd named by Enlil, am I, who brought about plenty and abundance; . . . the powerful king, the sun of Babylon, who caused light to go forth over the lands of Sumer and Akkad; the king who caused the four quarters of the world to render obedience; the favorite of Ishtar, am I.

When Marduk sent me to rule the people and to bring help to the country, I established law and justice in the language of the land and promoted the welfare of the people. At that time [I decreed]:

1. If a man bring accusation against another man, charging him with murder, but cannot prove it, the accuser shall be put to death.
3. If a man bear false witness in a case, or does not establish the testimony that he has given, if that case be a case involving life, that man shall be put to death.
4. If he bear [false] witness concerning grain or money, he shall himself bear the penalty imposed in that case.
5. If a judge pronounce a judgment, render a decision, deliver a verdict duly signed and sealed, and afterward alter his judgment, they shall call that judge to account for the alteration of the judgment which he has pronounced, and he shall pay twelve-fold the penalty in that judgment; and, in the assembly, they shall expel him from his seat of judgment, and with the judges in a case he shall not take his seat.
22. If a man practice robbery and is captured, that man shall be put to death.
23. If the robber is not captured, the man who has been robbed shall, in the presence of god, make an itemized statement of his loss, and the city and the governor in whose province and jurisdiction the robbery was committed shall compensate him for whatever was lost.
24. If it be a life [that is lost], the city and governor shall pay one mina [about one pound] of silver to his heirs.
53. If a man neglects to maintain his dike and does not strengthen it, and a break is made in his dike and the water carries away the farmland, the man in whose dike the break has been made shall replace the grain which has been damaged.
54. If he is not able to replace the grain, they shall sell him and his goods, and the farmers whose grain the water has carried away shall divide [the results of the sale].
55. If a man opens his canal for irrigation and neglects it and the water carries away an adjacent field, he shall pay out grain on the basis of the adjacent field.
109. If bad characters gather in the house of a wine seller and he does not arrest those bad characters and bring them to the palace, that wine seller shall be put to death.
110. If a priestess who is not living in a convent opens a wine shop or enters a wine shop for a drink, they shall burn that woman.
117. If a man be in debt and sell his wife, son, or daughter, or bind them over to service, for three years they shall work in the house of their purchaser or master; in the fourth year they shall be given their freedom.
128. If a man takes a wife and does not arrange a contract for her, that woman is not a wife.

Part 1: The Fertile Crescent

129. If the wife of a man is caught lying with another man, they shall bind them and throw them into the water.
138. If a man wishes to put away his wife who has not borne him children, he shall give her money to the amount of her marriage price and he shall make good to her the dowry which she brought from her father's house and then he may put her away.
142. If a woman hates her husband and says, "You may not have me," the city council shall inquire into her case; and if she has been careful and without reproach and her husband has been going about and greatly belittling her, that woman has no blame. She may take her dowry and go to her father's house.
143. If she has not been careful but has gadded about, neglecting her house, and belittling her husband, they shall throw that woman into the water.
168. If a man set his face to disinherit his son and say to the judges, "I will disinherit my son," the judges shall inquire into his record, and if the son has not committed a crime sufficiently grave to cut him off from sonship, the father may not cut off his son from sonship.
195. If a son strike his father, they shall cut off his hand.
196. If a man destroy the eye of another man, they shall destroy his eye.
197. If he break another man's bone, they shall break his bone.
199. If he destroy the eye of a man's slave or break a bone of a man's slave, he shall pay one-half his price.

Questions:

1. In the code of Hammurabi, why does Hammurabi feel justified in setting forth this law code?
2. What are some of the penalties?
3. Do they seem too harsh to be fair?