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Ancient Art and Architecture Collection

## HAMMURABI: THE KING OF JUSTICE

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?	Born
c. 1792 B.C.	Began reign
c. 1790 B.C.	Promulgated law code, though this was likely an earlier version
c. 1785 B.C.	First significant military campaign, against Erech
c. 1763 B.C.	Defeated Assyrians and Elamites, established Babylonian hegemony in Mesopotamia
c. 1750 B.C.	Died

Civilization began in Mesopotamia, in the fertile flood plain of the Tigris-Euphrates rivers, with the Sumerians, who were then conquered by the Akkadians and they by the Amorites. It was the Amorites who established their capital city at the site of Babylon, and it was from Babylon that King Hammurabi ruled. With the reign of Hammurabi (c. 1792–1750 B.C.), the Babylonian state reached its pinnacle of imperial power and Babylonian civilization its classical period.

The enormous distance in time that separates us from the ancient Near East has obliterated the human features of individual people as it has reduced their magnificent cities to anonymous tells of rubble (ancient mounds composed of remains of successive settlements) scattered across the plain of Iraq. We have an occasional striking portrait statue of some great king—Gudea of Lagash or Sargon of Akkad—and many fragments of royal inscriptions. But even for such kingly figures, we have little in the way of historical information that can help us reconstruct a picture of the kings themselves or of their times. An exception is the case with Hammurabi of Babylon, the greatest of Amorite kings. A considerable number of letters and political and business documents from his reign have come to light in the last century and a half, and they provide a wealth of detail about the life and history, customs, and commercial and diplomatic practices of

## 2 Makers of World History

Hammurabi's court and a picture of the king himself at work. To a remarkable extent the work of the king was guided by a concept of law derived from yet another historical source of extraordinary value, the so-called Code of Hammurabi. The code is inscribed on a stone column in 3,600 lines of cuneiform writing. It now resides in a museum in Paris.

## The Code of Hammurabi

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The Code of Hammurabi, the longest and most complete document of its kind found among the remains of ancient Near Eastern civilization, contains, even more clearly than the letters of Hammurabi, a self-revealing account of the king and his accomplishments. In its prologue and epilogue, he claims the favor of a host of gods, not only Marduk, the tutelary god of Babylon, but the gods of the various other cities that have come under his sway, even the old nature gods of heaven and earth. Hammurabi claims that he has brought all the surrounding lands under the domination of Babylon, that he has destroyed the wicked and the evil and caused justice to prevail, that he has brought political order, peace, and prosperity to the people of his empire. But most of all, he claims, "I, Hammurabi, am the king of justice."

And to an astonishing extent, this claim is borne out by the detailed provisions of the code itself. While the king refers to the favor of the gods and prevails upon them from time to time, the code gives the overall impression of secular practicality. It reveals not only the king's justice but also the pulsing life of a busy, hard-working, prosperous, and orderly people. Many of the provisions of the code will strike us as startlingly modern—the detailed rules of evidence and testimony; the equity proceedings and contracts; the highly developed commercial law and regulated interest rates; laws governing the trades and professions; and some recognition of the rights of women, particularly their rights in marriage and divorce.

Yet the people who lived under these laws, like the king who codified them, exist within their own historic time and place. And the code reveals this as well. Babylonian society, like all ancient societies, was rigidly stratified, and even the provisions of the law were applied differently to people of one class or another. Babylonians believed in sorcery and witchcraft and in the trial by ordeal, and their law embraced the principle of retaliation and punishment in kind. Nevertheless, "the idea that justice was something to which man had a right began slowly to take form, and in the second millennium . . . justice as right rather than justice as favor seems to have become the general conception."<sup>1</sup>

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<sup>1</sup>Henri Frankfort et al., *The Intellectual Adventure of Ancient Man, An Essay on Speculative Thought in the Ancient Near East* (Chicago and London: University of Chicago Press, 1946), p. 208.

That general conception is enshrined in the Code of Hammurabi, excerpts from which follow.

*The Prologue*

WHEN LOFTY ANUM, king of the Anunnaki, (and) Enlil, lord of heaven and earth, the determiner of the destinies of the land, determined for Marduk, . . .<sup>2</sup> the Enlil functions over all mankind, . . . called Babylon by its exalted name, made it supreme in the world, established for him in its midst an enduring kingship, whose foundations are as firm as heaven and earth— at that time Anum and Enlil named me to promote the welfare of the people, me, Hammurabi, the devout, god-fearing prince, to cause justice to prevail in the land, to destroy the wicked and the evil, that the strong might not oppress the weak, to rise like the sun over the black-headed (people),<sup>3</sup> and to light up the land.

Hammurabi, the shepherd, called by Enlil, am I; the one who makes affluence and plenty abound; who provides in abundance all sorts of things . . . the ancient seed of royalty, the powerful king, the sun of Babylon, who causes light to go forth over the lands of Sumer and Akkad; the king who has made the four quarters of the world subservient; . . . When Marduk commissioned me to guide the people aright, to direct the land, I established law and justice in the language of the land,

<sup>2</sup>These are all Babylonian gods. Anum was the sky god and chief among the gods. The Anunnaki were his attending lesser deities. Enlil was the god of the storm and rivaled Anum in importance. Notice that in the terms expressed here, they have given over their functions to Marduk, the chief god of Babylon and the protector god of Hammurabi the king.—Ed.

<sup>3</sup>An old Sumerian expression to describe themselves, taken over by the Babylonians: it simply means the subjects of the state.—Ed.

thereby promoting the welfare of the people.  
At that time (I decreed):

*The Laws*

1: If a seignior accused a(nother) seignior and brought a charge of murder against him, but has not proved it, his accuser shall be put to death.<sup>4</sup>

2: If a seignior brought a charge of sorcery against a(nother) seignior, but has not proved it, the one against whom the charge of sorcery was brought, upon going to the river, shall throw himself into the river, and if the river has then overpowered him, his accuser shall take over his estate; if the river has shown that seignior to be innocent and he has accordingly come forth safe, the one who brought the charge of sorcery against him shall be put to death, while the one who threw himself into the river shall take over the estate of his accuser.

3: If a seignior came forward with false testimony in a case, and has not proved the word which he spoke, if that case was a case involving life, that seignior shall be put to death.

4: If he came forward with (false) testimony concerning grain or money,<sup>5</sup> he shall bear the penalty of that case. . . .

9: When a seignior, (some of) whose property was lost, has found his lost property in the possession of a(nother) seignior, if the seignior in whose possession the lost (property) was found has declared, "A seller sold (it) to me; I made the purchase in the presence of witnesses," and the owner of the lost (property) in turn has declared, "I will produce witnesses attesting to my lost (property)"; the purchaser having then produced the seller who made the sale to him and the witnesses in whose presence he made the purchase, and the owner of the lost (property) having also produced the witnesses attesting to his lost (property), the judges shall consider their evidence, and the witnesses in whose presence the purchase was made, along with the witnesses attesting to the lost (property), shall declare what they know in the presence of god, and since the seller was the thief, he shall be put to death, while the owner of the lost (property) shall take his lost (property), with the purchaser obtaining from the estate of the seller the money that he paid out.

10: If the (professed) purchaser has not produced the seller who

<sup>4</sup>*Seignior* is a term chosen by the translator to designate a male of the upper Babylonian social class.—Ed.

<sup>5</sup>While the term *money* is used here, it has reference more particularly to weights of silver, occasionally gold. The concept of money as such had not yet developed.—Ed.

made the sale to him and the witnesses in whose presence he made the purchase, but the owner of the lost property has produced witnesses attesting to his lost property, since the (professed) purchaser was the thief, he shall be put to death, while the owner of the lost property shall take his lost property.

11: If the (professed) owner of the lost property has not produced witnesses attesting to his lost property, since he was a cheat and started a false report, he shall be put to death.

12: If the seller has gone to (his) fate, the purchaser shall take from the estate of the seller fivefold the claim for that case.

13: If the witnesses of that signior were not at hand, the judges shall set a time-limit of six months for him, and if he did not produce his witnesses within six months, since that signior was a cheat, he shall bear the penalty of that case. . . .

88: If a merchant [lent] grain at interest, he shall receive sixty *qu* of grain per *kur* as interest. If he lent money at interest, he shall receive one-sixth (shekel) six *še* (i.e., one-fifth shekel) per shekel of silver as interest.<sup>6</sup>

89: If a signior, who [incurred] a debt, does not have the money to pay (it) back, but has the grain, [the merchant] shall take grain for his money [with its interest] in accordance with the ratio fixed by the king.

90: If the merchant increased the interest beyond [sixty *qu*] per *kur* [of grain] (or) one-sixth (shekel) six *še* [per shekel of money] and has collected (it), he shall forfeit whatever he lent.

91: If a merchant [lent] grain at interest and has collected money [for the full interest] on the grain, the grain along with the money may not [*be charged to the account*].

92: (not preserved)

93: [If the merchant] . . . or he has not had the full amount of grain [which he received] deducted and did not write a new contract, or he has added the interest to the principal, that merchant shall pay back double the full amount of grain that he received.

94: If a merchant lent grain or money at interest and when he lent (it) at interest he paid out the money by the small weight and the grain by the small measure, but when he got (it) back he got the money by the [large] weight (and) the grain by the large measure, [that merchant shall forfeit] whatever he lent.

99: If a merchant lent money at interest to a trader for the purpose of trading [and making purchases] and sent him out on the road, the trader shall . . . on the road [the money which was entrusted] to him.

100: If he has realized a profit where he went, he shall write down the interest on the full amount of money that he borrowed and they shall count up the days against him and he shall repay his merchant.

101: If he has not realized a profit where he went, the trader shall repay to the merchant double the money that he borrowed.

102: If a merchant has lent money to a trader as a favor and he has experienced a loss where he went, he shall pay back the principal of the money to the merchant.

103: If, when he went on the road, an enemy has made him give up whatever he was carrying, the trader shall (so) affirm by god and then he shall go free.

104: If a merchant lent grain, wool, oil, or any goods at all to a trader to retail, the trader shall write down the value and pay (it) back to the merchant, with the trader obtaining a sealed receipt for the money which he pays to the merchant. . . .

108: If a woman wine seller, instead of receiving grain for the price of a drink, has received money by the large weight and so has made the value of the drink less than the value of the grain, they shall prove it against that wine seller and throw her into the water.

109: If outlaws have congregated in the establishment of a woman wine seller and she has not arrested those outlaws and did not take them to the palace, that wine seller shall be put to death. . . .

128: If a signior acquired a wife, but did not draw up the contracts for her, that woman is no wife.

129: If the wife of a signior has been caught while lying with another man, they shall bind them and throw them into the water. If the husband of the woman wishes to spare his wife, then the king in turn may spare his subject.

130: If a signior bound the (betrothed) wife of a(nother) signior, who had had no intercourse with a male and was still living in her father's house, and he has lain in her bosom and they have caught him, that signior shall be put to death, while that woman shall go free.

131: If a signior's wife was accused by her husband, but she was not caught while lying with another man, she shall make affirmation by god and return to her house.

132: If the finger was pointed at the wife of a signior because of another man, but she has not been caught while lying with the other man, she shall throw herself into the river for the sake of her husband.

133: If a signior was taken captive, but there was sufficient to live on in his house, his wife [shall not leave her house, but she shall take care of her person by not] entering [the house of another].

133a: If that woman did not take care of her person, but has entered the house of another, they shall prove it against that woman and throw her into the water.

<sup>6</sup>These are standard weights of measures and of silver.—Ed.

134: If the seignior was taken captive and there was not sufficient to live on in his house, his wife may enter the house of another, with that woman incurring no blame at all.

135: If, when a seignior was taken captive and there was not sufficient to live on in his house, his wife has then entered the house of another before his (return) and has borne children, (and) later her husband has returned and has reached his city, that woman shall return to her first husband, while the children shall go with their father.

136: If, when a seignior deserted his city and then ran away, his wife has entered the house of another after his (departure), if that seignior has returned and wishes to take back his wife, the wife of the fugitive shall not return to her husband because he scorned his city and ran away. . . .

138: If a seignior wishes to divorce his wife who did not bear him children, he shall give her money to the full amount of her marriage-price and he shall also make good to her the dowry which she brought from her father's house and then he may divorce her. . . .

142: If a woman so hated her husband that she has declared, "You may not have me," her record shall be investigated at her city council, and if she was careful and was not at fault, even though her husband has been going out and disparaging her greatly, that woman, without incurring any blame at all, may take her dowry and go off to her father's house. . . .

168: If a seignior, having made up his mind to disinherit his son, has said to the judges, "I wish to disinherit my son," the judges shall investigate his record, and if the son did not incur wrong grave (enough) to be disinherited, the father may not disinherit his son.

169: If he has incurred wrong against his father grave (enough) to be disinherited, they shall let him off the first time; if he has incurred grave wrong a second time, the father may disinherit his son. . . .

196: If a seignior has destroyed the eye of a member of the aristocracy, they shall destroy his eye.

197: If he has broken a(nother) seignior's bone, they shall break his bone.

198: If he has destroyed the eye of a commoner or broken the bone of a commoner, he shall pay one mina of silver.

199: If he has destroyed the eye of a seignior's slave or broken the bone of a seignior's slave, he shall pay one-half his value.

200: If a seignior has knocked out a tooth of a seignior of his own rank, they shall knock out his tooth.

201: If he has knocked out a commoner's tooth, he shall pay one-third mina of silver.

202: If a seignior has struck the cheek of a seignior who is supe-

rior to him, he shall be beaten sixty (times) with an oxtail whip in the assembly.

203: If a member of the aristocracy has struck the cheek of a(nother) member of the aristocracy who is of the same rank as himself, he shall pay one mina of silver.

204: If a commoner has struck the cheek of a(nother) commoner, he shall pay ten shekels of silver.

205: If a seignior's slave has struck the cheek of a member of the aristocracy, they shall cut off his ear. . . .

218: If a physician performed a major operation on a seignior with a bronze lancet and has caused the seignior's death, or he opened up the eye-socket of a seignior and has destroyed the seignior's eye, they shall cut off his hand.

219: If a physician performed a major operation on a commoner's slave with a bronze lancet and has caused (his) death, he shall make good slave for slave.

220: If he opened up his eye-socket with a bronze lancet and has destroyed his eye, he shall pay one-half his value in silver.

221: If a physician has set a seignior's broken bone, or has healed a sprained tendon, the patient shall give five shekels of silver to the physician. . . .

228: If a builder constructed a house for a seignior and finished (it) for him, he shall give him two shekels of silver per *sar*<sup>7</sup> of house as his remuneration.

229: If a builder constructed a house for a seignior, but did not make his work strong, with the result that the house which he built collapsed and so has caused the death of the owner of the house, that builder shall be put to death.

230: If it has caused the death of a son of the owner of the house, they shall put the son of that builder to death.

231: If it has caused the death of a slave of the owner of the house, he shall give slave for slave to the owner of the house.

232: If it has destroyed goods, he shall make good whatever it destroyed; also, because he did not make the house strong which he built and it collapsed, he shall reconstruct the house which collapsed at his own expense.

233: If a builder constructed a house for a seignior and has not done his work properly so that a wall has become unsafe, that builder shall strengthen that wall at his own expense.

234: If a boatman calked a boat of sixty *kur* for a seignior, he shall give him two shekels of silver as his remuneration.

<sup>7</sup>A unit of square measurement.—Ed.

235: If a boatman calked a boat for a seignior and did not do his work well with the result that that boat has sprung a leak in that very year, since it has developed a defect, the boatman shall dismantle that boat and strengthen (it) at his own expense and give the strengthened boat back to the owner of the boat.

236: If a seignior let his boat for hire to a boatman and the boatman was so careless that he has sunk or wrecked the boat, the boatman shall make good the boat to the owner of the boat.

237: When a seignior hired a boatman and a boat and loaded it with grain, wool, oil, dates, or any kind of freight, if that boatman was so careless that he has sunk the boat and lost what was in it as well, the boatman shall make good the boat which he sank and whatever he lost that was in it.

238: If a boatman sank the boat of a seignior and has then refloated it, he shall give one-half its value in silver. . . .

244: If a seignior hired an ox or an ass and a lion has killed it in the open, (the loss) shall be its owner's.

245: If a seignior hired an ox and has caused its death through carelessness or through beating, he shall make good ox for ox to the owner of the ox.

246: If a seignior hired an ox and has broken its foot or has cut its neck tendon, he shall make good ox for ox to the owner of the ox.

247: If a seignior hired an ox and has destroyed its eye, he shall give one-half its value in silver to the owner of the ox.

248: If a seignior hired an ox and has broken its horn, cut off its tail, or injured the flesh of its back, he shall give one-quarter its value in silver.

249: If a seignior hired an ox and god struck it and it has died, the seignior who hired the ox shall (so) affirm by god and then he shall go free. . . .

274: If a seignior wishes to hire an artisan, he shall pay per day as the wage of a . . . five [*še*] of silver; as the wage of a *brickmaker* five *še* of silver; [as the wage of] a *linen-weaver* . . . [*še*] of silver; [as the wage] of a *seal-cutter* . . . [*še*] of silver; [as the wage of] a *jeweller* . . . [*še*] of silver; [as the wage of] a *smith* . . . [*še*] of silver; [as the wage of] a carpenter four *še* of silver; as the wage of a leatherworker . . . *še* of silver; as the wage of a basketmaker . . . *še* of silver; [as the wage of] a builder . . . *še* of silver.

### *The Epilogue*

The laws of justice, which Hammurabi, the efficient king, set up, and by which he caused the land to take the right way and have good government.

I, Hammurabi, the perfect king,  
was not careless (or) neglectful of the black-headed (people),  
whom Enlil had presented to me,  
(and) whose shepherding Marduk had committed to me;  
I sought out peaceful regions for them;  
I overcame grievous difficulties;  
I caused light to rise on them.  
With the mighty weapon which Zababa and Inanna entrusted to  
me,  
with the insight that Enki<sup>8</sup> allotted to me,  
with the ability that Marduk gave me,  
I rooted out the enemy above and below;  
I made an end of war;  
I promoted the welfare of the land;  
I made the peoples rest in friendly habitations;  
I did not let them have anyone to terrorize them.  
The great gods called me,  
so I became the beneficent shepherd whose scepter is righteous;  
my benign shadow is spread over my city.  
In my bosom I carried the peoples of the land of Sumer and  
Akkad;  
they prospered under my protection;  
I always governed them in peace;  
I sheltered them in my wisdom.  
In order that the strong might not oppress the weak,  
that justice might be dealt the orphan (and) the widow,  
in Babylon, the city whose head Anum and Enlil raised aloft,  
in Esagila,<sup>9</sup> the temple whose foundations stand firm like heaven  
and earth,  
I wrote my precious words on my stela,<sup>10</sup>  
and in the presence of the statue of me, the king of justice,  
I set (it) up in order to administer the law of the land,  
to prescribe the ordinances of the land,  
to give justice to the oppressed.

I am the king who is preeminent among kings;  
my words are choice; my ability has no equal.  
By the order of Shamash, the great judge of heaven and earth,  
may my justice prevail in the land;

<sup>8</sup>Three more Babylonian gods.—Ed.

<sup>9</sup>Another term for the temple of Marduk in Babylon.—Ed.

<sup>10</sup>A stone slab or pillar inscribed for commemorative purposes.—Ed.

by the word of Marduk, my lord,  
my statutes have no one to rescind them; . . .

Let any oppressed man who has a cause  
come into the presence of the statue of me, the king of justice,  
and then read carefully my inscribed stela,  
and give heed to my precious words,  
and may my stela make the case clear to him;  
may he understand his cause;  
may he set his mind at ease!  
“Hammurabi, the lord,  
who is like a real father to the people,  
bestirred himself for the word of Marduk, his lord,  
and secured the triumph of Marduk above and below,  
thus making glad the heart of Marduk, his lord,  
and he also ensured prosperity for the people forever,  
and led the land aright”—  
let him proclaim this,  
and let him pray with his whole heart for me  
in the presence of Marduk, my lord. . . .

In the days to come, for all time,  
let the king who appears in the land observe  
the words of justice which I wrote on my stela;  
let him not alter the law of the land which I enacted,  
the ordinances of the land which I prescribed;  
let him not rescind my statutes!  
If that man has intelligence  
and is able to guide his land aright,  
let him heed the words which I wrote on my stela,  
and may this stela show him the road (and) the way,  
the law of the land which I enacted,  
the ordinances of the land which I prescribed;  
and let him guide aright his black-headed (people)!  
Let him enact the law for them;  
let him prescribe the ordinances for them!  
Let him root out the wicked and the evil from his land;  
let him promote the welfare of his people!

I, Hammurabi, am the king of justice,  
to whom Shamash committed law.  
My words are choice; my deeds have no equal;  
it is only to the fool that they are empty;

to the wise they stand forth as an object of wonder.  
If that man heeded my words which I wrote on my stela,  
and did not rescind my law,  
has not distorted my words,  
did not alter my statutes,  
may Shamash make that man reign  
as long as I, the king of justice;  
may he shepherd his people in justice!

If that man did not heed my words which I wrote on my stela,  
and disregarded my curses,  
and did not fear the curses of the gods,  
but has abolished the law which I enacted,  
has distorted my words,  
has altered my statutes,  
effaced my name inscribed (thereon),  
and has written his own name,  
(or) he has commissioned another (to do so) because of these  
curses—  
as for that man, whether king or lord,  
or governor or person of any rank,  
may mighty Anum, the father of the gods, who proclaimed my  
reign,  
deprive him of the glory of sovereignty,  
may he break his scepter, may he curse his fate!  
May Enlil, the lord, the determiner of destinies,  
whose orders cannot be altered,  
who made my kingdom great,  
incite revolts against him in his abode which cannot be  
suppressed,  
misfortune leading to his ruin!  
May he determine as the fate for him a reign of woe,  
days few in number, years of famine,  
darkness without light, sudden death!  
May he order by his forceful word the destruction of his city,  
the dispersion of his people, the transfer of his kingdom,  
the disappearance of his name and memory from the land!

# The Age of Hammurabi

JAMES H. BREASTED

It was only in the 1840s that Near Eastern archaeology began, following by a generation or so the birth of Egyptology. The French scholar Paul Emile Botta began to excavate the ruins of Nineveh in 1841. The English archaeologist Austen Henry Layard began his excavations at Nimrud in 1845. And the German Robert Koldewey began work at Babylon only in 1898. The cuneiform writing system and the several ancient languages that used it began to be reliably deciphered in the late 1850s. Each new discovery was greeted enthusiastically by a growing community of scholars in the new science of archaeology as well as by biblical scholars, ancient historians, the press, and the public. Among the finds of early Near Eastern archaeology were many contracts and other obviously legal documents, even fragments of what were clearly law codes. Then in the winter of 1901–1902, the French archaeologist Jacques de Morgan, excavating at Susa in Iran, unearthed a black basalt stela nearly eight feet tall containing the Code of Hammurabi, carved in more than thirty-six hundred lines of cuneiform script around the column below a relief carving of the king receiving the laws from Shamash, the sun god and god of justice. It had been carried off by some later conqueror of Hammurabi's Babylon, probably the Elamite king Shutruk-Nahhunte, about 1200 B.C. and reerected in the Elamite capital of Susa. The Elamite king had apparently not been bothered by the solemn curses on the stela against those who would efface "my name inscribed [thereon] and has written his own name." Hammurabi's name was indeed effaced, but the name of the effacer was never substituted: there is only a blank space.

The stela was taken to the Louvre in Paris, where it remains. It was exhaustively studied by Assyriologists, translated, edited, and publicized. One of the publicists was the American Egyptologist James H. Breasted. Breasted was a popularizer not only of Egyptian but of Near Eastern scholarship as well. He was interested in constructing a convincing picture of all preclassic antiquity. His *The Conquest of Civilization*, from which the following selection is taken, reflects his enthusiasm for the Ancient Near East, and the selection is a statement of the scholarly consensus about Hammurabi, his age, and his code in the mid-1920s.

As the "Kings of Sumer and Akkad" slowly weakened, a new tribe of Semites began descending the Euphrates, just as the men of Akkad had done under Sargon. These newcomers were the Semitic Amorites of Syria by the Mediterranean. About a generation after 2200 B.C. this new tribe of western Semites seized the little town of Babylon, which was at that time still an obscure village on the Euphrates. The Amorite kings of Babylon at once began to fight their way toward the leadership of Sumer and Akkad.

After a century of such warfare there came to the throne as the sixth in the Amorite line of kings at Babylon one Hammurabi, 2067–2025 B.C.<sup>11</sup> In the now feeble old Sumerian cities of the South, Hammurabi found the warlike Elamites, who had come in from Elam in the eastern mountains. They fought him for over thirty years before he succeeded in driving them out and capturing the Sumerian towns. Victorious at last, Hammurabi then made his city of Babylon for the first time supreme throughout the land. It was therefore not until the 21st century B.C. that Babylon finally gained such a position of power and influence that we may call the land "Babylonia."

Hammurabi survived his triumph twelve years, and in those years of peace, as he had done in war, he proved himself the ablest of his line. He was the second great Semitic ruler, as Sargon had been the first. Only a few generations earlier his ancestors, like those of Sargon, had been drifting about the desert, without any organization. He still betrayed in his shaven upper lip, a desert custom, the evidence of his desert ancestry. But he now put forth his powerful hand upon the teeming life of the Babylonian towns, and with a touch he brought in order and system such as Babylonia had never seen before. Two chief sources of information have survived over four thousand years to reveal to us the deeds and the character of this great king: these are a group of his letters, and the splendid monument bearing his laws.

Hammurabi's letters afford us for the first time in history a glimpse into the busy life of a powerful oriental ruler in Asia. They disclose him to us sitting in the executive office of his palace at Babylon with his secretary at his side. In short, clear sentences the king begins dictating his brief letters, conveying his commands to the local governors of the old Sumerian cities which he now rules. The secretary draws a reed stylus from a leathern holder at his girdle, and quickly

<sup>11</sup>These dates are now considered much too early. But there are still difficulties with Near Eastern chronology, and three sets of dates are possible. A high chronology produces the dates 1848–1806, a middle chronology gives 1792–1750, and a low chronology gives 1728–1686. They are based on comparisons with contemporary events among other neighboring peoples, such as the Assyrians, and upon astronomical data. Most scholars prefer the middle chronology.—Ed.



covers the small clay tablet with its lines of wedge groups. The writer then sprinkles over the soft wet tablet a handful of dry powdered clay. This is to prevent the clay envelope, which he now deftly wraps about the letter, from adhering to the written surface. On this soft clay envelope he writes the address and sends the letter out to be put into the furnace and baked.

Messengers constantly hand him similarly closed letters. This secretary of Hammurabi is a trusted confidential clerk. He therefore breaks to pieces the hard clay envelopes in the king's presence and reads aloud to him letters from his officials all over the kingdom. The king quickly dictates his replies. The flood has obstructed the Euphrates between Ur and Larsa, and of course a long string of boats have been tied up and are waiting. The king's reply orders the governor of Larsa to clear the channel at the earliest moment and make it navigable again.

The king is much interested in his vast flocks of sheep, as if the nomad instinct had not altogether vanished from the blood of his line. He orders the officials to appear in Babylon to celebrate the spring sheep-shearing as if it were a great feast. . . . Delinquent tax gatherers are firmly reminded of their obligations and called upon to settle without delay. Prompt punishment of an official guilty of bribery is authorized, and we can see the king's face darken as he dictates the order for the arrest of three officials of the palace gate who have fallen under his displeasure. More than once the governor of Larsa is sharply reminded of the king's orders and bidden to see that they are carried out at once.

Many a petitioner who has not been able to secure justice before the board of judges in his home city is led in before the king, confident of just treatment; and he is not disappointed. The chief of the temple bakers finds that royal orders to look after a religious feast at Ur will call him away from the capital city just at the time when he has an important lawsuit coming on. He easily obtains an order from the king postponing the lawsuit. The king's interest in the religious feast is here as much concerned as his sense of justice, for many of the letters which he dictates have to do with temple property and temple administration, in which he constantly shows his interest.

With his eye upon every corner of the land, alert, vigorous, and full of decision, the great king finally saw how necessary it was to bring into uniformity all the various and sometimes conflicting laws and business customs of the land. He therefore collected all the older written laws and usages of business and social life, and arranged them systematically. He improved them or added new laws where his own judgment deemed wise, and he then combined them into a great code or body of laws. It was written, not in Sumerian, as

some of the old laws were, but in the Semitic speech of the Akkadians and Amorites. He then had it engraved upon a splendid shaft of stone. At the top was a sculptured scene in which the king was shown receiving the law from the Sun-god. The new code was then set up in the temple of the great god Marduk in Babylon. This shaft has survived to our day, the oldest preserved code of ancient law. Fragments of other copies on clay tablets, the copies used by the local courts, have also been found.

Hammurabi's code insists on justice to the widow, the orphan, and the poor; but it also allows many of the old and naïve ideas of justice to stand. Especially prominent is the principle that the punishment for an injury should require the infliction of the same injury on the culprit—the principle of "an eye for an eye, a tooth for a tooth." Injustice often resulted. For example, when a house fell and killed the son of the householder, the guilty builder must also suffer the loss of *his* son, and the innocent son was therefore condemned to die. Marriage was already a relation requiring legal agreements between the man and his wife, and these are carefully regulated in Hammurabi's code. Indeed the position of women in this early Babylonian world, as in Egypt, was a high one. Women engaged in business on their own account, and even became professional scribes. . . .

Thus regulated, the busy Babylonian communities prospered as never before.

## A Modern Hammurabi

SABATINO MOSCATI

The processes of scholarship continue, in Near Eastern studies as in every other discipline. New materials come to light, older documents are reinterpreted, former conclusions are revised. The following selection, taken from Sabatino Moscati's *The Face of the Ancient Orient, A Panorama of Near Eastern Civilizations in Pre-Classical Times*, represents the view of Hammurabi and his code in this generation as the selection from Breasted represents the view of a past generation. Assyriologist and one-time director of the Center of Semitic Studies, the University of Rome, Moscati provides the best modern introduction to the ancient Near East, reflecting his substantial scholarship, up-to-date research, and judicious conclusions.

The student should take note of a few important points of difference with Breasted. For example, other earlier law codes have now been discovered, such as the Lipit-Ishtar Code, predating Hammurabi by more than a century and a half, or the Laws of Eshnunna, predating him by some two and a half centuries. These findings tend to diminish the originality of Hammurabi's code if not its importance and to link the Babylonians more closely to the earlier Sumerians in legal matters as in so many other areas of culture. The ordeal by water, for instance, is a Sumerian survival. But there are Babylonian innovations. Hammurabi's code reflects a more complex society and such practices as the marriage contract and legalized polygamy, unknown to the Sumerians. And on the darker side, the principle of retaliation or punishment in kind is a new Semitic principle of the penal law, not an "old and naive idea," as Breasted thought.

As we now know, this code is not the only, nor the oldest one in Mesopotamia, and we can no longer count on its originality; but it still remains the most complete and organic synthesis of law that we possess, and therefore it most fully documents its epoch and environment.

In its literary form, the Code follows the scheme of Sumerian times: prologue, laws, epilogue. The laws still have that analytic, piecemeal quality characteristic of the Sumerians; we find enunciated not general principles, but individual cases with their appropriate solutions. But considerable differences are to be noted in the content of the laws. Those relating to persons reveal a society divided into three classes, which approximate to the conceptions embodied in the modern terms: patricians, plebeians, and slaves.<sup>12</sup> Patricians and slaves correspond to the two classes already found among the Sumerians, but the concept of plebeians is new, in that the distinctive feature of their state is no longer dependence upon the palace, as in the case of the "partly free" Sumerians, but a different legal status:

If a patrician put out another's eye, his eye shall be put out. If he break another's bone, his bone shall be broken. If he put out the eye or break the bone of a plebeian, he shall pay a mina of silver.

The law relating to the family treats the father as its head. Marriage is preceded by a betrothal gift from the bridegroom to the

<sup>12</sup>These are the same terms that are rendered in the text of the code by the terms *seigniors*, *commoners*, and *slaves*. There are also minor differences in the rendering of the quoted passages below.—Ed.

bride, the so-called "acquisition price," something of which there is no evidence in Sumerian law. A further innovation, or, at least, something that cannot be traced back to Sumerian times, is the written contract:

If a patrician has taken a wife, but has not made a contract with her, that woman is not his wife.

Polygamy is permitted, whereas Sumerian marriage was monogamic. Divorce is granted for an adequate reason. For example:

If a patrician has been taken prisoner and there is not sufficient in his house to live on, his wife may enter the house of another; that woman shall incur no blame at all.

The law of inheritance is based on legitimate succession. The inheritance is divided between the male heirs, and daughters have no rights except when there are no sons; but they do have the right to share in usufruct, and to a dowry. Wills are not made, but their place is often taken by contracts of adoption.

Property rights are highly developed and organized, as one would expect in an evolved sedentary society. There are deeds of sale and purchase, hire and lease, commercial partnerships, loans on interest, and so on.

The penal law is dominated, so far as patricians are concerned, by the law of retaliation. We have already noted the application of this law: an eye for an eye, a tooth for a tooth; and we have observed that the most recent discoveries lead us to regard this law as of Semitic introduction; at any rate, it is unknown to the more ancient Sumerian legal provisions, which explicitly stipulate the payment of damages. An interesting feature of the Hammurabi Code is the punishment inflicted on medical practitioners for any ill consequences arising from their operations:

If a surgeon has operated on a patrician with a bronze knife, and has killed him . . . his hands shall be cut off.

The penalty prescribed for negligence in an architect is more in line with our own legal conception:

If a builder has constructed a house for anyone and has not made his work solid, so that a wall has fallen down, that builder shall repair the wall at his own cost.

Judicial proceedings take place before judges, to whom the litigants apply when they cannot reach a private solution of their dispute. Thus the law is subjective, not objective: if there is no private plaintiff there is no trial. During the hearing, both documentary and oral

evidence are admissible. In the absence of evidence, recourse is made to trial by ordeal, the river test, already known to the Sumerians: the accused plunges into the water; if he survives, he is acquitted; if he succumbs, he is adjudged guilty:

If a patrician accuses another of sorcery, but has no proofs, the accused man shall go to the river and plunge into it. If the river bears him away, the accuser shall take possession of his house. If the river shows him to be innocent and he comes forth safe, the accuser shall be slain, and the other shall take his house.

The Hammurabi Code is only a stage in the juridical tradition of Mesopotamia, but it is a particularly significant one. In the Babylonia of the great kings, under the aegis of a prosperous and powerful state, literature, art, and economic and social organization flourish as never before; and, as never before, the Sumerian heritage and the Semitic contribution achieve a harmonious synthesis. For this reason, the times of Hammurabi constitute the acme of Babylonian and Assyrian civilization; and the great king, warrior and diplomat, builder of temples and digger of canals, personifies this civilization better than any other.

### Review and Study Questions

1. What sort of society do you see reflected in the Code of Hammurabi?
2. What does the code reveal about interpersonal relations among the Amorites?
3. What is the status of women in this society?
4. Does the code tell us anything about the character and personality of Hammurabi himself? Discuss.

### Suggestions for Further Reading

There are two definitive English translations of the Code of Hammurabi and other Near Eastern codes, the one excerpted for this chapter from *Ancient Near Eastern Texts Relating to the Old Testament*, tr. Theophile J. Meek, ed. James B. Pritchard, 3rd ed. with supplement (Princeton: Princeton University Press, 1969), and *The Babylonian Laws*, ed. with translation and commentary by G. R. Driver and John C. Miles, 2 vols. (Oxford: Clarendon Press, 1952), the first volume the legal commentary, the second the texts. An interesting collection

of ancient Near Eastern letters is *Letters from Mesopotamia: Official, Business, and Private Letters on Clay Tablets from Two Millennia*, tr. with an introduction by A. Leo Oppenheim (Chicago and London: University of Chicago Press, 1967). The continuity of Sumerian influence is illustrated in Samuel Noar Kramer, *History Begins at Sumer* (New York: Doubleday, 1959).

Most of the serious works on the ancient Near East are written by or reflect the emphasis of either archaeologists or linguistic scholars, called Assyriologists. Among the former are recommended two comprehensive surveys: Jack Finegan, *Archaeological History of the Ancient Near East* (Boulder, Colorado, and Folkstone, England: Westview Press and Dawson, 1979), and Seton Lloyd, *The Archaeology of Mesopotamia, From the Old Stone Age to the Persian Conquest* (London: Thames and Hudson, 1978). Also recommended are M. E. L. Mallowan, *Early Mesopotamia and Iran* (New York: McGraw-Hill, 1965), in which the distinguished field archaeologist deals largely with the earlier, especially Sumerian subculture of Mesopotamia, and a brilliant and readable synoptic work by Jacquetta Hawkes, *The First Great Civilizations, Life in Mesopotamia, the Indus Valley, and Egypt* (New York: Knopf, 1973). Probably the best general work on Mesopotamia is by the great Assyriologist A. Leo Oppenheim, *Ancient Mesopotamia, Portrait of a Dead Civilization*, rev. ed. completed by Erica Reiner (Chicago and London: University of Chicago Press, 1977). Also recommended is H. W. F. Saggs, *The Greatness That Was Babylon: A Survey of the Ancient Civilization of the Tigris-Euphrates Valley* (New York and Washington: Praeger, 1969). Saggs' *Civilization before Greece and Rome* (New Haven: Yale University Press, 1989) is a masterful work of synthesis and updating.

Thorkild Jacobsen, *The Treasures of Darkness: A History of Mesopotamian Religion* (New Haven: Yale University Press, 1976) is a thorough and sensitive treatment of its subject by a renowned ancient Near Eastern scholar. Robert McCormick Adams, *Heartland of Cities, Surveys of Ancient Settlement and Land Use on the Central Floodplain of the Euphrates* (Chicago and London: University of Chicago Press, 1981) is a learned treatment of the pattern of irrigation that underlies the land use of Hammurabi's Amorite Empire and other earlier and later states of Mesopotamia. In Joan Oates, *Babylon* (London: Thames and Hudson, 1979) the author emphasizes the culture of Hammurabi's city and empire.

Finally, there are two more general interpretive works: James Wellard, *Babylon* (New York: Saturday Review Press, 1972), also published in England under the title *By the Waters of Babylon* (London: Hutchinson, 1972), a readable and exciting survey by an able popularizer; and Henri Frankfort et al., *The Intellectual Adventure of Ancient*

*Man, An Essay on Speculative Thought in the Ancient Near East* (Chicago and London: University of Chicago Press, 1946), a profound and stimulating work of interpretation. See also the chapter by C. J. Gadd, Chapter V, "Hammurabi and the End of his Dynasty" in *The Cambridge Ancient History*, 3rd ed., Vol II, Part I (Cambridge: Cambridge University Press, 1973).