

# The Code Of Hammurabi - Perhaps The First Law Code

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## Abstract

**Hammurabi** (c. 1810 BC – c. 1750 BC) was the sixth king of the First Babylonian Dynasty, reigning from 1792 BC to 1750 BC. He was preceded by his father, Sin-Muballit, who abdicated due to failing health. The **Code of Hammurabi** is a well-preserved Babylonian code of law of ancient Mesopotamia. The Law code consists of 282 laws, with scaled punishments, adjusting "an eye for an eye, a tooth for a tooth" (*lex talionis*) as graded depending on social status, of slave versus free, man or woman.

Key Words: Code Of Hammurabi, Babylonia, Samas, lex talions, law of retaliation

The Babylonian empire in the West Asia, has produces a systematic law code under the aegis of Hammurabi. It is a remarkable contribution to the world culture. They attempt to collect, arrange and record all existing laws so that there would be one common code for all citizen of the empire. It was the beginning of the codification of laws. The laws of the Babylonia ( Present Iraq) has had immense impact on all the nearby countries of Europe – probable more effect than that of a nation not of an Aryan stock.<sup>1</sup> the code of Hammurabi took pride of place, whether, estimated by its completeness or the extent of its influence in space or time.<sup>2</sup> Scholars have the same opinion about the influence of the code. The code of law, is perhaps the oldest code of law, is fore-runner of many other codes. According to Maitland **“If we would search out the origin of Roman law, we must study Babylonian.”**

C.P. Sherman also opined the same **“the earliest development of law took place in Babylonia, from Babylonia it went to Egypt, from Egypt to Greece and Greece to Rome”**. Law and justice were the key concepts in the Babylonian way of life. Hammurabi was one of the most illustrious figures of ancient history, a king of Babylonia, the greatest ruler in the first Babylonian dynasty. The history of Babylonia is considered to begin with Hammurabi. He united Mesopotamia and established a centralized and efficient government. He is still remembered mainly for his code of laws. The code of Hammurabi is one of the most significant legal documents ever recovered.

The code of Hammurabi was engraved beautifully on diorite cone shaped stele now in Lovere Museum. The inscription of Hammurabi was discovered in broken condition by J.De. Morgon in 1902, among the ruins of Susa, the capital of Elam. The text was published by Scheil. The letters were engraved upon a diorite cylinder that had been carried from Babylonia to Elam as trophy of war.

The stale is covered with an inscription, in 44 columns, containing 3, 614 short lines. It has on the top an engraving of Samas, the sun god (the god of justice). The god, seated on his throne, is receiving the homage of Hammurabi, who stands before him in an attitude of prayer. Beneath Stele, is engraved the text of the inscription, which runs from top to bottom in a number bands divided horizontally.

The text of the inscription falls into three parts.

- (a) Prologue – (Introductory Verses)
- (b) Corpus of the laws (It gives the text of 282 clauses)
- (c) The epilogue

In the inscription, the laws themselves are sandwiched between prologue and epilogue. The prologue begins with a calm that the gods called Hammurabi to make justice visible in the land, to destroy the wicked person and the evil doer, that the strong might not injure the weak, and contains a series of titles in which Hammurabi boasts of his piety towards the gods. He calls himself ‘the shepherd of the people’<sup>3</sup>

The epilogue similarly is a poetical encomium of Hammurabi, it speaks of the purpose of laws which is to set rights of orphan, widow, destitute and wronged person; and goes on to recommend succeeding rules to pay, need to Hammurabi’s words on pain incurring the curses of the gods upon who Hammurabi calls, at the end laws by stating that these are the just laws – which Hammurabi has established.

The laws were not invited by him, but were drawn from earlier codes, which had been in existence for many centuries and had been observed in well governed city states. The ancient origin combined with Babylonian circumstances to give the code a composite and heterogeneous character.

The code contain some 282 clauses, were arranged in a logical manner and systematically under different headings. The code contained laws dealing with civil and criminal matters. The arrangement of the laws shows a deliberate attempt at a systematic treatment of the material laws – concerned with similar aspects brought before.

The excerpts of entire code are as under:

- (a) The first five clauses deal with certain offences concerned with the preservation of justice.
- (b) From 6 to 25 clauses deals with charges of theft and receiving of certain kinds of property.
- (c) From 26 to 65 relates to land from 66 to 99 clauses is not found but erased.
- (d) Clauses 100 to 107 govern the relations between a mercantile agents with whom he has invested money in a commercial venture.
- (e) Clause 108 to 111 deal with wine merchants.
- (f) Clause 112 to 119 is a group of provisions relating to execution for debt.
- (g) Clauses from 120 to 126 deals with the contract of deposit are the subject matter.
- (h) Clauses 127 to 194 are a long group devoted to family law.
- (i) The group from clause 196 to 214 which deals assaults and bodily injuries.
- (j) Clause 215 to 227 concerning fees and penalties connected with the doctors and effacing the slave mark.
- (k) Clauses 228 to 233 are divers provisions relating to builders fees and there negligence.
- (l) Clause 234 to 240 deals with some matters regard to ship-man.
- (m) Clauses 241 to 268 relate to oxen, that is to say the hire of oxen, goaring oxen, ox-drivers.
- (n) Clauses 261 to 267 relating to fees and wrong doing of herdsmen and shepherds.
- (o) Clauses 268 to 227 contain rates of hire for animal, wages for hire of laborers, agricultural equipments and boards.

(p) Clauses 278 to 282 dealing with slaves and their trade.

The code deals with civil, criminal and mercantile matters. The Civil Laws are on with personal rights, property, contracts, real estates, trade, prices of commodities, family, wages for laborers etc. The code recognized many ways of disposing of property sale, lease, barter, gift, deposit, loan all of which were matters of contract if the goods were stolen and rightful owner reclaimed them, he had to prove his purchase by producing the seller and deed of sale or witness to it. The code fixes the prices for building, hire of boat and of crew. Marriage retained the form of purchase, but was essentially a contract to be husband and wife together. The grooms' father providing the bride price. They could remarry with judicial consent. All legitimate children shared equally in the fathers estate at his death. According to governing inheritance rules, only male children were eligible. The commercial law which arouses in Babylon and defused by the Phoenicians through the western world, appears in a great number of particulars in the commercial law of Greece. <sup>4</sup> The Babylonian laws also reflect a more extensive development of business than that which existed in the proceeding culture.

In criminal law ruling principle was lex talions or revenge. Essential features of Babylonian criminal was law of retaliation. An eye for an eye, a tooth for a tooth and a limb. Adultery was punished with death of both parties by drowning, but if the husband was willing to pardon his wife, the king might intervene to pardon the paramour. The inflicts severe punishments. To quote an example,

If a man strike his father, they shall cut off his hand.

If a man destroys the eye of an aristocrat, they shall destroy his eye.

If a house collapsed and owner's son was killed. The stipulation was that the building contractor's son be put to death.

If a man open a tavern, or enter a tavern to drink, then shall thus women be burned to death.

If a man's wife be surprised (inter course) with another man, both shall be tied and thrown in to the water, but the husband may pardon his wife.

If anyone steal the minor son of another, he shall be put to death.

The code provided penalties for failure to cultivate field and for neglect of dikes and canals.

However, royal pardons were granted to mitigate, the severity of the penal code and possible miscarriages of justices as in the case cited above.

The punishments prescribed by the code are severe indeed. All the heavier crimes are made punishable with death. The doctor who causes death or loss of an eye to a privileged class whom he treats, his hands to be cut off. The penalty for an altered judgment was twelve times the fine assessed in the original verdict, plus expulsion of the judge. The commonest of all penalties was a fine. This is awarded by the code for corporal injuries to a slave, for damages done to property, for breach of contract. The false witness are also considered as criminals. The code recognized the importance of intention on the other hand carelessness and neglect were severely punished, as in the case of the unskillful physician, if it led to lose life or limb.

The code of Hammurabi regulates in clear and definite strokes the organization of society. The chief aim of justice is apparently the nation of equality. Hammurabi guaranteed economic protection to the individual. The code regulated relations between employer and employee. Monogamy was the only legal form of marriage. Her dowry was always hers, to dispose of as she pleased. If a husband divorced a barren wife, he had to return her dowry. He tried a sure justice to the orphan, widows and destitute. Cruel as it appears to civilized minds, the code of Hammurabi in many of its laws, is surprisingly close to our modern ideas of justice.

The humanitarian aspects of the code can be easily visible. The rules, though harsh, demonstrated a keen sense of justice on his part.

His code greatly influenced later civilizations. The laws of Babylonia didn't come to an end with the fall of Babylonian empire. Innumerable tablets of later date, then the conquest of Babylonian by Persians, have been preserved. They adopted to a large extent the Babylonian laws. It is certain that they adopted it in those particularly in which the genius of the Babylonians had achieved the greatest results. The complex Babylonian civilization, which produced a commercial law in advance of an other ancient system, - certainly was more advanced than the law of Egypt.

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#### Foot Notes

1. Guy Carleton Lee – Historical Jurisprudence – 1900, p. 12
2. Diamond A.S. – Primitive Law – 1900, p. 22
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