

HUMANITIES INSTITUTE
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Hammurabi Law Code (1772 B.C.)

Babylonia Non-fiction

Hammurabi's laws As a divinely descended ruler Hammurabi (1792-1750 B.C.) believed his law code to have been handed down to him by a succession of divine order-givers. His laws, inscribed in cuneiform letters on human sized basalt stelae, were found in Persia and consisted of 282 proscriptions—regulations and legislations--which if thought out to their implications could form the basis of a Constitution, but which as presented to their reader were take it or leave it statements about offences 'in connection with property, marriage, divorce, adoption, purchase and sale, loans, dismissal, calumny, corrupt jurisdiction, theft, receiving stolen goods, robbery and kidnapping, plundering, burglary, murder, prices and wages, and much more, each with its respective punishment.' The tenor of the laws is harsh and firm: punishments by death are frequent, and cautionary examples like injudicious rulings from the bench, or false accusations of witchcraft, are punished as severely as murder itself—in each of these cases by death.

196. If a man destroy the eye of another man, they shall destroy his eye.

127. If a man point the finger at a priestess or the wife of another and cannot justify it, they shall drag that man before the judges and they shall brand his forehead.

6. If a man steal the property of a god (Temple) or palace, that man shall be put to death; and he who receives from his hand the stolen (property) shall also be put to death.

Kinds of law Hammurabi's laws are in the if/then or casuistic mode, except for the beginning and concluding laws, which are apodeictic, and simply state that 'you must do this or you must not do that.' None of these laws include their own legal foundations; so that, although Hammurabi's laws show potential as the basis of a Babylonian Constitution, they skip the nicety of explaining on what foundations they rest. In that, these laws resemble not only a number of Mesopotamian law-codes more or less contemporary with that of Hammurabi, but resemble in great detail the admonitions of the Mosaic Law Code (*Exodus* 21-23), which is incorporated in Judaeo-Christian theology.

Selfhood and the law What kind of view of selfhood is implicit in the Law Code of Hammurabi? We have spoken of the language as proscriptive. The individual is the target of each law, exemptions and favors are null and void. The self of the individual, who is covered by Hammurabi's Law Code, is subordinate to the laws themselves, is an actor living out the principles encoded in the Laws—and not much else. (Once again, we are not sure what the *authority* of the Laws is: is it a *Diktat* of the ruler, or a distillate of practice, come to the formulation point by the maturing of a society?) Does the individual have a formative role in the making of these laws?

Reading

<http://www.commonlaw.com/Hammurabi.html>

The above website provides an easy access to Hammurabi's text.

Gordon, Cyrus, *Hammurabi's Code: Quaint or Forward Looking?*

Maine, Henry Sumner, *Ancient Law; its connection to the History of Early Society.*

Meek, Theophile, 'The Code of Hammurabi,' pp. 155-178 in Pritchard/Fleming, *The Ancient Near East..*

Discussion Questions

1 The Mosaic Code, which pervades the Christian and Judaic traditions, is in some respects closely kin to Hammurabi's code, which is itself widely interrelated to other Near Eastern Law Codes: the Code of {Ur-Nammu} (ca. 2050 BC); the Laws of Eshnunna {ca. 1930 BC}; and the codex of Lipit-Ishtar of Isin {ca. 1870 BC}. Are we inheritors of the Code of Hammurabi? Explain.

2 We have discussed the kind of descriptive and apodeictic languages that Hammurabi uses. Does the author of this law code find his/its way toward a view of the self? Is the quest of this language to find and thus establish the right-thinking self, who is the implicit understander of the propositions being enunciated here? Is there an implied self, of the reader of this law code?

3 Erudite studies have proposed a close historical connection between Hammurabi's law code and the Mosaic law. Does this seem to you a plausible connection? Do the Christian Ten Commandments have their roots in a broad tradition of Ancient Near Eastern law codes?