

Mesopotamian Concepts of Justice

Name: _____

A significant source of information about the life of the ancient peoples of Mesopotamia is a code of laws issued about 1750 B.C. by the Babylonian king Hammurabi (1792–1750 B.C.). Discovered by archaeologists in 1901, the code was inscribed on a stone that shows the king accepting the laws from the sun god, Shamash, who was also the Babylonian god of justice.

These laws offer striking insights into the moral values, class structure, gender relationships, and roles of kingship and religion in Babylonian society. The 282 laws cover a range of public and private matters: marriage and family relations, negligence, fraud, commercial contracts, duties of public officials, property and inheritance, crimes and punishments, and techniques of legal procedure. The prologue to the code reveals the Mesopotamian concept of the priest-king—a ruler chosen by a god to administer his will on earth. In it, Hammurabi asserted that he had a divine duty to uphold justice in the land, to punish the wicked, and to further the welfare of the people.

Mesopotamian
Laws
* First written legal
code...

CODE OF HAMMURABI

Two distinct approaches to choice of punishment for crime are found in Hammurabi's code with its numerous laws. In some instances, the guilty party is required to pay a monetary compensation to the victim, a tradition traceable to the earliest known Sumerian laws. Another approach, also found in the later Hebrew codes of law, is the principle of exact retaliation: "an eye for an eye, a tooth for a tooth."

Another feature of Hammurabi's code is that the penalties vary according to the social status of the victim. Three classes are represented: free men and women (called *patricians* in the reading here); commoners (or *plebeians*), not wholly free, but dependents of the state or perhaps serfs on landed estates; and slaves. The patricians are protected by the law of retaliation. People of the lower classes receive only monetary compensation if they are victims of a crime.

196. If a man has knocked out the eye of a patrician, his eye shall be knocked out.

197. If he has broken the limb of a patrician, his limb shall be broken.

198. If he has knocked out the eye of a plebeian or has broken the limb of a plebeian, he shall pay one mina¹ of silver.

199. If he has knocked out the eye of a patrician's servant, or broken the limb of a patrician's servant, he shall pay half his value.

200. If a patrician has knocked out the tooth of a man that is his equal, his tooth shall be knocked out.

201. If he has knocked out the tooth of a plebeian, he shall pay one-third of a mina of silver. . . .

209. If a man has struck a free woman with child, and has caused her to miscarry, he shall pay ten shekels² for her miscarriage.

210. If that woman die, his daughter shall be killed.

211. If it be the daughter of a plebeian, that has miscarried through his blows, he shall pay five shekels of silver.

212. If that woman die, he shall pay half a mina of silver.

213. If he has struck a man's maid and caused her to miscarry, he shall pay two shekels of silver.

214. If that woman die, he shall pay one-third of a mina of silver.

Many laws relating to business transactions show the importance of trade in Mesopotamian society and the willingness of the government to intervene in order to regulate the practices of the marketplace.

218. If a surgeon has operated with the bronze lancet on a patrician for a serious injury, and has caused his death, or has removed a cataract for a patrician, with the bronze lancet, and has made him lose his eye, his hands shall be cut off.

219. If the surgeon has treated a serious injury of a plebeian's slave, with the bronze lancet, and has caused his death, he shall render slave for slave.

220. If he has removed a cataract with the bronze lancet, and made the slave lose his eye, he shall pay half his value.

221. If a surgeon has cured the limb of a patrician, and has caused a diseased bowel the

¹The mina was a weight of silver used to express monetary value. (Throughout the text, the editors' notes carry numbers, whereas notes from the original sources are indicated by asterisks, daggers, etcetera. An exception is made for editorial notes pertaining to Scriptures, which have symbols rather than numbers.)

²The shekel, also a weight of monetary value, was worth

patient shall pay five shekels of silver to the surgeon.

222. If he be a plebeian, he shall pay three shekels of silver.

223. If he be a man's slave, the owner of the slave shall give two shekels of silver to the doctor. . . .

228. If a builder has built a house for a man, and finished it, he shall pay him a fee of two shekels of silver, for each SAR³ built on.

229. If a builder has built a house for a man, and has not made his work sound, and the house he built has fallen, and caused the death of its owner, that builder shall be put to death.

230. If it is the owner's son that is killed, the builder's son shall be put to death.

231. If it is the slave of the owner that is killed, the builder shall give slave for slave to the owner of the house.

232. If he has caused the loss of goods, he shall render back whatever he has destroyed. Moreover, because he did not make sound the house he built, and it fell, at his own cost he shall rebuild the house that fell. . . .

271. If a man has hired oxen, a wagon, and its driver, he shall pay one hundred and sixty KA⁴ of corn daily. . . .

275. If a man has hired a boat, its hire is three ŠE⁵ of silver daily.

The outcome of some procedures depended upon the will of the gods: for example, an accused woman could place her fate in the hands of a god by plunging into a river, canal, or reservoir; if she did not drown, she was declared innocent. In other cases, legal culpability could be removed by invoking a god to bear witness to the truth of one's testimony. The law was particularly harsh on perjurers and those who made grave charges that they could not prove in court.

³SAR was a measure of land.

⁴KA stood for a bulk measure.

⁵ŠE was another monetary weight of silver.

1. If a man has accused another of laying a *nêrtu* (death spell?) upon him, but has not proved it, he shall be put to death.

2. If a man has accused another of laying a *kišpu* (spell) upon him, but has not proved it, the accused shall go to the sacred river, he shall plunge into the sacred river, and if the sacred river shall conquer him, he that accused him shall take possession of his house. If the sacred river shall show his innocence and he is saved, his accuser shall be put to death. He that plunged into the sacred river shall appropriate the house of him that accused him.

3. If a man has borne false witness in a trial, or has not established the statement that he has made, if that case be a capital trial, that man shall be put to death.

4. If he has borne false witness in a civil law case, he shall pay the damages in that suit. . . .

9. If a man has lost property and some of it be detected in the possession of another, and the holder has said, "A man sold it to me, I bought it in the presence of witnesses"; and if the claimant has said, "I can bring witnesses who know it to be property lost by me"; then the alleged buyer on his part shall produce the man who sold it to him and the witnesses before whom he bought it; the claimant shall on his part produce the witnesses who know it to be his lost property. The judge shall examine their pleas. The witnesses to the sale and the witnesses who identify the lost property shall state on oath what they know. Such a seller is the thief and shall be put to death. The owner of the lost property shall recover his lost property. The buyer shall recoup himself from the seller's estate.

The laws concerned with family relationships placed great power in the hands of husbands and fathers, yet the code tried to protect women and children from neglect and mistreatment. Divorce initiated by either husband or wife was permitted under specific circumstances.

141. If a man's wife, living in her husband's house, has persisted in going out, has acted the fool, has wasted her house, has belittled her husband, he shall prosecute her. If her husband has said, "I divorce her," she shall go her way; he shall give her nothing as her price of divorce. If her husband has said, "I will not divorce her," he may take another woman to wife; the wife shall live as a slave in her husband's house.

142. If a woman has hated her husband and has said, "You shall not possess me," her past shall be inquired into, as to what she lacks. If she has been discreet, and has no vice, and her husband has gone out, and has greatly belittled her, that woman has no blame, she shall take her marriage-portion and go off to her father's house.

143. If she has not been discreet, has gone out, ruined her house, belittled her husband, she shall be drowned. . . .

148. If a man has married a wife and a disease has seized her, if he is determined to marry a second wife, he shall marry her. He shall not divorce the wife whom the disease has seized. In the home they made together she shall dwell, and he shall maintain her as long as she lives. . . .

168. If a man has determined to disinherit his son and has declared before the judge, "I cut off my son," the judge shall inquire into the son's past, and, if the son has not committed a grave misdemeanor such as should cut him off from sonship, the father shall (not) disinherit his son.

169. If he has committed a grave crime against his father, which cuts him off from son-

ship, for the first offence he shall pardon him. If he has committed a grave crime a second time, the father shall cut off his son from sonship. . . .

195. If a son has struck his father, his hands shall be cut off.

One of the most unusual features of the law dealt with the failure of the government officials of a city or a district to prevent banditry. The code held the governor responsible for the breach of the peace and required him to compensate the bandit's victim. Government officials found guilty of extortion, bribery, or use of public employees for private purposes were severely punished.

23. If the highwayman has not been caught, the man that has been robbed shall state on oath what he has lost and the city or district governor in whose territory or district the robbery took place shall restore to him what he has lost.

24. If a life (has been lost), the city or district governor shall pay one mina of silver to the deceased's relatives. . . .

34. If either a governor, or a prefect, has appropriated the property of a levymaster,⁶ has hired him out, has robbed him by high-handedness at a trial, has taken the salary which the king gave to him, that governor, or prefect, shall be put to death. . . .

⁶A levymaster was a military official.

REVIEW QUESTIONS

Questions #1-5

1. What does Hammurabi's code reveal about the social structure of Babylonian society?
2. Explain the role of religion in the administration of law in Babylonia.
3. How did Hammurabi seek to regulate business practices among the Babylonian people?
4. What do the laws indicate about the status of women in Babylonian society?
5. How did Hammurabi try to control corrupt practices among the government officials of Babylonia?

A Pessimistic View of Life

Name: _____

Uncertainty and danger filled life in Mesopotamia. Sometimes, the unpredictable waters of the rivers broke through dikes, flooding fields, ruining crops, and damaging cities. At other times, an insufficient overflow deprived the land of water, causing crops to fail. Great windstorms left the countryside covered with a layer of sand, and heavy thunderstorms turned fields into a sea of mud that made travel impossible. Unlike Egypt, which was protected by vast deserts, Mesopotamia had no natural barriers to invasion. Feeling themselves surrounded by unfathomable and often hostile forces, Mesopotamians lived in an atmosphere of anxiety, which permeated their civilization.

Contributing to this sense of insecurity was the belief that the gods behaved capriciously, malevolently, and vindictively. What do the gods demand of me? Is it ever possible to please them? To these questions Mesopotamians had no reassuring answers, for the gods' behavior was a mystery to mere human beings.

MESOPOTAMIAN WISDOM LITERATURE

The following selection reveals the pessimism that pervaded Mesopotamian life. The sufferer tries to do everything that he believes the gods want of him but cannot escape misfortune.

I survived to the next year; the appointed time passed.	My ill luck increases and I cannot find what is right.
I turn around, but it is bad, very bad;	I called to my god, but he did not show his face,

Questions:

- ① Name 3 reasons why people living in Mesopotamia would feel pessimistic about life?
- ② Do you think people in Mesopotamia were fearful of their Gods? Explain.

OVER
→

I prayed to my goddess, but she did not raise
 her head.
 Even the diviner with his divination could not
 make a prediction,
 And the interpreter of dreams with his liba-
 tion could not elucidate my case.
 I sought the favor of the . . . spirit, but he
 would not enlighten me;
 The exorcist with his ritual could not appease
 the divine wrath against me.
 What strange conditions everywhere!
 When I look behind (me), there is persecution,
 trouble.
 Like one who has not made libations to his god,
 Nor invoked his goddess when he ate,
 Does not make prostrations nor recognize (the
 necessity of) bowing down,
 In whose mouth supplication and prayer are
 lacking,
 Who has even neglected holy days, and ig-
 nored festivals,
 Who was negligent and did not observe the
 gods' rites,
 Did not teach his people reverence and wor-
 ship,
 But has eaten his food without invoking his
 god,
 And abandoned his goddess by not bringing a
 flour offering,
 Like one who has gone crazy and forgotten his
 lord,
 Has frivolously sworn a solemn oath by his
 god, (like such a one) do I appear.
 For myself, I gave attention to supplication
 and prayer:
 My prayer was discretion, sacrifice my rule.
 The day for worshipping the god was a joy to
 my heart;
 The day of the goddess's procession was profit
 and gain to me.
 The king's blessing—that was my joy,
 And the accompanying music became a de-
 light for me.
 I had my land keep the god's rites,
 And brought my people to value the goddess's
 name.
 I made the praise for the king like a god's,
 And taught the people respect for the palace.

I wish I knew that these things would be
 pleasing to one's god!
 What is good for oneself may be offense to
 one's god,
 What in one's own heart seems despicable may
 be proper to one's god.
 Who can know the will of the gods in heaven?
 Who can understand the plans of the under-
 world gods?
 Where have humans learned the way of a
 god?
 He who was alive yesterday is dead today.
 One moment he is worried, the next he is
 boisterous.
 One moment he is singing a joyful song,
 A moment later he wails like a professional
 mourner.
 Their condition changes (as quickly as) open-
 ing and shutting (the eyes).
 When starving they become like corpses,
 When full they oppose their god.
 In good times they speak of scaling heaven,
 When they are troubled they talk of going
 down to hell.
 I am *perplexed* at these things; I have not been
 able to understand their significance.
 As for me, exhausted, a windstorm is driving
 me on!
 Debilitating Disease is let loose upon me:
 An Evil Wind has blown (from the) horizon,
 Headache has sprung up from the surface of
 the underworld. . . .
 (They all joined in) and came on me together.
 (They *struck*) my head, they enveloped my
 skull;
 (My) face is gloomy, my eyes flow.
 They have wrenched my neck muscles and
 made (my) neck limp.
 They struck (my chest,) beat my breast.
 They affected my flesh and made me shake,
 (In) my epigastrium [abdomen] they kindled a
 fire.
 They churned up my bowels, . . . (they) . . .
 my . . .
 Causing the discharge of phlegm, they tired
 out my (lungs).
 They tired out my limbs and made my *fat*
 quake.