

FROM Laws from Ancient Mesopotamia

Dating to the reign of Hammurabi of Babylon (the conventional dates for whose reign are 1795–1750 B.C.E.), the Laws of Hammurabi are not the earliest Mesopotamian compilation of legal rulings known to us. They are, however, the longest and most diverse collection, and undoubtedly constitute the single most informative document yet discovered regarding concepts of justice and social regulation in Mesopotamian society. Hammurabi's laws also provide extremely important evidence about the status and rights of women of various social classes in Babylonian society in the early second millennium B.C.E. The treatment of women according to those laws can be usefully compared to the treatment accorded them in a later body of legal rulings, the Middle Assyrian Laws, which date to a period roughly five hundred years after Hammurabi's reign.

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FROM The Laws of Hammurabi

FROM PROLOGUE

When the august god Anu, king of the Anunnaku deities, and the god Enlil, lord of heaven and earth, who determines the destinies of the land, allotted supreme power over all peoples to the god Marduk, the firstborn son of the god Ea, exalted him among the Igigu deities, named the city of Babylon with its august name and made it supreme within the regions of the world, and established for him within it eternal kingship whose foundations are as fixed as heaven and earth,

at that time, the gods Anu and Enlil, for the enhancement of the well-being of the people, named me by my name: Hammurabi, the pious prince, who venerates the gods, to make justice prevail in the land, to abolish the wicked and the evil, to prevent the strong from oppressing the weak, to rise like the sun-god Shamash over all humankind, to illuminate the land.

I am Hammurabi, the shepherd, selected by the god Enlil, he who heaps high abundance and plenty, who perfects every possible thing for the city Nippur, the city known as band-of-heaven-and-earth, the pious provider of the Ekur temple;

the capable king, the restorer of the city Eridu, the purifier of the rites of the Eabzu temple;

the onslaught of the four regions of the world, who magnifies the reputation of the city Babylon, who gladdens the heart of his divine lord Marduk, whose days are devoted to the Esagil temple;

* * *

When the god Marduk commanded me to provide just ways for the people of the land in order to attain appropriate behavior, I established truth and justice as the declaration of the land, I enhanced the well-being of the people.

At that time:

FROM LAWS

1 If a man accuses another man and charges him with homicide but cannot bring proof against him, his accuser shall be killed.

2 If a man charges another man with practicing witchcraft but cannot bring proof against him, he who is charged with witchcraft shall go to the divine River Ordeal, he shall indeed submit to the divine River Ordeal; if the divine River Ordeal should overwhelm him, his accuser shall take full legal possession of his estate; if the divine River Ordeal should clear that man and should he survive, he who made the charge of witchcraft against him shall be killed; he who submitted to the divine River Ordeal shall take full legal possession of his accuser's estate.

3 If a man comes forward to give false testimony in a case but cannot bring evidence for his accusation, if that case involves a capital offense, that man shall be killed.

* * *

6 If a man steals valuables belonging to the god or to the palace, that man shall be killed, and also he who received the stolen goods from him shall be killed.

7 If a man should purchase silver, gold, a slave, a slave woman, an ox, a sheep, a donkey, or anything else whatsoever, from a son of a man or from a slave of a man without witnesses or a contract—or if he accepts the goods for safekeeping—that man is a thief, he shall be killed.

8 If a man steals an ox, a sheep, a donkey, a pig, or a boat—if it belongs either to the god or to the palace, he shall give thirtyfold; if it belongs to a commoner, he shall replace it tenfold; if the thief does not have anything to give, he shall be killed.

* * *

15 If a man should enable a palace slave, a palace slave woman, a commoner's slave, or a commo-

ner's slave woman to leave through the main city-gate, he shall be killed.

16 If a man should harbor a fugitive slave or slave woman of either the palace or of a commoner in his house and not bring him out at the herald's public proclamation, that householder shall be killed.

17 If a man seizes a fugitive slave or slave woman in the open country and leads him back to his owner, the slave owner shall give him 2 shekels of silver.

18 If that slave should refuse to identify his owner, he shall lead him off to the palace, his circumstances shall be investigated, and they shall return him to his owner.

19 If he should detain that slave in his own house and afterward the slave is discovered in his possession, that man shall be killed.

20 If the slave should escape the custody of the one who seized him, that man shall swear an oath by the god to the owner of the slave, and he shall be released.

21 If a man breaks into a house, they shall kill him and hang him in front of that very breach.

22 If a man commits a robbery and is then seized, that man shall be killed.

* * *

53 If a man neglects to reinforce the embankment of the irrigation canal of his field and does not reinforce its embankment, and then a breach opens in its embankment and allows the water to carry away the common irrigated area, the man in whose embankment the breach opened shall replace the grain whose loss he caused.

54 If he cannot replace the grain they shall sell him and his property, and the residents of the

common irrigated area whose grain crops the water carried away shall divide (the proceeds).

55 If a man opens his branch of the canal for irrigation and negligently allows the water to carry away his neighbor's field, he shall measure and deliver grain in accordance with his neighbor's yield.

* * *

102 If a merchant should give silver to a trading agent for an investment venture, and he incurs a loss on his journeys, he shall return silver to the merchant in the amount of the capital sum.

103 If enemy forces should make him abandon whatever goods he is transporting while on his business trip, the trading agent shall swear an oath by the god and shall be released.

104 If a merchant gives a trading agent grain, wool, oil, or any other commodity for local transactions, the trading agent shall return to the merchant the silver for each transaction; the trading agent shall collect a sealed receipt for each payment in silver that he gives to the merchant.

105 If the trading agent should be negligent and not take a sealed receipt for each payment in silver that he gives to the merchant, any silver that is not documented in a sealed receipt will not be included in the final accounting.

* * *

108 If a woman innkeeper should refuse to accept grain for the price of beer but accepts only silver measured by the large weight, thereby reducing the value of beer in relation to the value of grain, they shall charge and convict that woman innkeeper and they shall cast her into the water.

109 If there should be a woman innkeeper in whose house criminals congregate, and she does not seize those criminals and lead them off to the palace authorities, that woman innkeeper shall be killed.

* * *

117 If an obligation is outstanding against a man and he sells or gives into debt service his wife, his son, or his daughter, they shall perform service in the house of their buyer or of the one who holds them in debt service for three years; their release shall be secured in the fourth year.

118 If he should give a male or female slave into debt service, the merchant may extend the term beyond the three years, he may sell him; there are no grounds for a claim.

119 If an obligation is outstanding against a man and he therefore sells his slave woman who has borne him children, the owner of the slave woman shall weigh and deliver the silver which the merchant weighed and delivered as the loan and he shall thereby redeem his slave woman.

* * *

128 If a man marries a wife but does not draw up a formal contract for her, she is not a wife.

129 If a man's wife should be seized lying with another male, they shall bind them and throw them into the water; if the wife's master allows his wife to live, then the king shall allow his subject (i.e., the other male) to live.

130 If a man pins down another man's virgin wife who is still residing in her father's house, and they seize him lying with her, that man shall be killed; that woman shall be released.

131 If her husband accuses his own wife of adultery, although she has not been seized lying with another male, she shall swear to her innocence by an oath by the god, and return to her house.

132 If a man's wife should have a finger pointed against her in accusation involving another male, although she has not been seized lying with an-

other male, she shall submit to the divine River Ordeal¹ for her husband.

* * *

134 If a man should be captured and there are not sufficient provisions in his house, his wife may enter another's house; that woman will not be subject to any penalty.

135 If a man should be captured and there are not sufficient provisions in his house, before his return his wife enters another's house and bears children, and afterwards her husband returns and gets back to his city, that woman shall return to her first husband; the children shall inherit from their father.

136 If a man deserts his city and flees, and after his departure his wife enters another's house—if that man then should return and seize his wife, because he repudiated his city and fled, the wife of the deserter will not return to her husband.

* * *

138 If a man intends to divorce his first-ranking wife who did not bear him children, he shall give her silver as much as was her bridewealth and restore to her the dowry that she brought from her father's house, and he shall divorce her.

139 If there is no bridewealth, he shall give her 60 shekels of silver as a divorce settlement.

140 If he is a commoner, he shall give her 20 shekels of silver.

141 If the wife of a man who is residing in the man's house should decide to leave, and she appropriates goods, squanders her household pos-

¹The woman would take an oath swearing to her innocence before the river god. She then would be required to plunge into the river. If she survived, she was deemed innocent; if she drowned, it was deemed the punishment of the river god, in whose name she had falsely sworn.

sessions, or disparages her husband, they shall charge and convict her; and if her husband should declare his intention to divorce her, then he shall divorce her; neither her travel expenses, nor her divorce settlement, nor anything else shall be given to her. If her husband should not declare his intention to divorce her, then her husband may marry another woman and that first woman shall reside in her husband's house as a slave woman.

142 If a woman repudiates her husband, and declares, "You will not have marital relations with me"—her circumstances shall be investigated by the authorities of her city quarter, and if she is circumspect and without fault, but her husband is wayward and disparages her greatly, that woman will not be subject to any penalty; she shall take her dowry and she shall depart for her father's house.

143 If she is not circumspect but is wayward, squanders her household possessions, and disparages her husband, they shall cast that woman into the water.

* * *

150 If a man awards to his wife a field, orchard, house, or movable property, and makes out a sealed document for her, after her husband's death her children will not bring a claim against her; the mother shall give her estate to whichever of her children she loves, but she will not give it to an outsider.

151 If a woman who is residing in a man's house should have her husband agree by binding contract that no creditor of her husband shall seize her for his debts—if that man has a debt incurred before marrying that woman, his creditors will not seize his wife; and if that woman has a debt incurred before entering the man's house, her creditors will not seize her husband.

* * *

153 If a man's wife has her husband killed on account of (her relationship with) another male, they shall impale that woman.

154 If a man should carnally know his daughter, they shall banish that man from the city.

155 If a man selects a bride for his son and his son carnally knows her, after which he himself then lies with her and they seize him in the act, they shall bind that man and cast him into the water.

156 If a man selects a bride for his son and his son does not yet carnally know her, and he himself then lies with her, he shall weigh and deliver to her 30 shekels of silver; moreover, he shall restore to her whatever she brought from her father's house, and a husband of her choice shall marry her.

157 If a man, after his father's death, should lie with his mother, they shall burn them both.

158 If a man, after his father's death, should be discovered in the lap of the father's principal wife who had borne children, that man shall be disinherited from the paternal estate.

* * *

162 If a man marries a wife, she bears him children, and that woman then goes to her fate, her father shall have no claim to her dowry; her dowry belongs only to her children.

163 If a man marries a wife but she does not provide him with children, and that woman goes to her fate—if his father-in-law then returns to him the bridewealth that that man brought to his father-in-law's house, her husband shall have no claim to that woman's dowry; her dowry belongs only to her father's house.

* * *

169 If he should be guilty of a grave offense deserving the penalty of disinheritance by his father, they shall pardon him for his first one; if he should

commit a grave offense a second time, the father may disinherit his son.

* * *

188 If a craftsman takes a young child to rear and then teaches him his craft, he will not be reclaimed.

189 If he should not teach him his craft, that rearing shall return to his father's house.

190 If a man should not reckon the young child whom he took and raised in adoption as equal with his children, that rearing shall return to his father's house.

191 If a man establishes his household by reckoning as equal with any future children the young child whom he took and raised in adoption, but afterwards he has children of his own and then decides to disinherit the rearing, that young child will not depart empty-handed; the father who raised him shall give him a one-third share of his property as his inheritance and he shall depart; he will not give him any property from field, orchard, or house.

* * *

195 If a child should strike his father, they shall cut off his hand.

196 If an *awilu*² should blind the eye of another *awilu*, they shall blind his eye.

197 If he should break the bone of another *awilu*, they shall break his bone.

198 If he should blind the eye of a commoner or break the bone of a commoner, he shall weigh and deliver 60 shekels of silver.

²The most basic meaning of *awilu* is "man." In this context it seems to represent a free man, probably an owner of private land and with a status higher than that of a "commoner".

199 If he should blind the eye of an *awilu*'s slave or break the bone of an *awilu*'s slave, he shall weigh and deliver one-half of his value in silver.

200 If an *awilu* should knock out the tooth of another *awilu* of his own rank, they shall knock out his tooth.

201 If he should knock out the tooth of a commoner, he shall weigh and deliver 20 shekels of silver.

202 If an *awilu* should strike the cheek of an *awilu* who is of status higher than his own, he shall be flogged in the public assembly with 60 stripes of an ox whip.

203 If a member of the *awilu*-class should strike the cheek of another member of the *awilu*-class who is his equal, he shall weigh and deliver 60 shekels of silver.

204 If a commoner should strike the cheek of another commoner, he shall weigh and deliver 10 shekels of silver.

* * *

209 If an *awilu* strikes a woman of the *awilu*-class and thereby causes her to miscarry her fetus, he shall weigh and deliver 10 shekels of silver for her fetus.

210 If that woman should die, they shall kill his daughter.

211 If he should cause a woman of the commoner-class to miscarry her fetus by the beating, he shall weigh and deliver 5 shekels of silver.

212 If that woman should die, he shall weigh and deliver 30 shekels of silver.

* * *

218 If a physician performs major surgery with a bronze lancet upon an *awilu* and thus causes the *awilu*'s death, or opens an *awilu*'s temple with a

bronze lancet and thus blinds the *awilu*'s eye, they shall cut off his hand.

219 If a physician performs major surgery with a bronze lancet upon a slave of a commoner and thus causes the slave's death, he shall replace the slave with a slave of comparable value.

220 If he opens his (the commoner's slave's) temple with a bronze lancet and thus blinds his eye, he shall weigh and deliver silver equal to half his value.

* * *

226 If a barber shaves off the slave-hairlock of a slave not belonging to him without the consent of the slave's owner, they shall cut off that barber's hand.

227 If a man misinforms a barber so that he then shaves off the slave-hairlock of a slave not belonging to him, they shall kill that man and hang him in his own doorway; the barber shall swear, "I did not knowingly shave it off," and he shall be released.

FROM EPILOGUE

These are the just decisions which Hammurabi, the able king, has established and thereby has directed the land along the course of truth and the correct way of life.

I am Hammurabi, noble king. I have not been careless or negligent toward humankind, granted to my care by the god Enlil, and with whose shepherding the god Marduk charged me. I have sought for them peaceful places, I removed serious difficulties, I spread light over them. With the mighty weapon which the gods Zababa and Ishtar bestowed upon me, with the wisdom which the god Ea allotted to me, with the ability which the god Marduk gave me, I annihilated enemies everywhere, I put an end to wars, I enhanced the well-being of the land, I made the people of all settlements lie in safe pastures, I did not tolerate

anyone intimidating them. The great gods having chosen me, I am indeed the shepherd who brings peace, whose scepter is just. My benevolent shade is spread over my city, I held the people of the lands of Sumer and Akkad safely on my lap. They prospered under my protective spirit, I maintained them in peace, with my skillful wisdom I sheltered them.

In order that the mighty not wrong the weak, to provide just ways for the waif and the widow, I have inscribed my precious pronouncements upon my stela and set it up before the statue of me, the king of justice, in the city of Babylon, the city which the gods Anu and Enlil have elevated, within the Esagil, the temple whose foundations are fixed as are heaven and earth, in order to render the judgments of the land, to give the verdicts of the land, and to provide just ways for the wronged.

* * *

FROM MIDDLE ASSYRIAN LAWS

* * *

4 If either a slave or a slave woman should receive something from a man's wife, they shall cut off the slave's or slave woman's nose and ears; they shall restore the stolen goods; the man shall cut off his own wife's ears. But if he releases his wife and does not cut off her ears, they shall not cut off the nose and ears of the slave or slave woman, and they shall not restore the stolen goods.

* * *

7 If a woman should lay a hand upon a man and they prove the charges against her, she shall pay 1,800 shekels of lead; they shall strike her 20 blows with rods.

8 If a woman should crush a man's testicle during a quarrel, they shall cut off one of her fingers. And even if the physician should bandage it, but the second testicle then becomes infected along with it and becomes . . . , or she should crush the sec-

ond testicle during the quarrel—they shall gouge out both her* * *

9 If a man lays a hand upon a woman, attacking her like a rutting bull, and they prove the charges against him and find him guilty, they shall cut off one of his fingers. If he should kiss her, they shall draw his lower lip across the blade of an ax and cut it off.

* * *

12 If a wife of a man should walk along the main thoroughfare and should a man seize her and say to her, "I want to have sex with you!"—she shall not consent but she shall protect herself; should he seize her by force and fornicate with her—whether they discover him upon the woman or witnesses later prove the charges against him that he fornicated with the woman—they shall kill the man; there is no punishment for the woman.

13 If the wife of a man should go out of her own house, and go to another man where he resides, and should he fornicate with her knowing that she is the wife of a man, they shall kill the man and the wife.

14 If a man should fornicate with another man's wife either in an inn or in the main thoroughfare, knowing that she is the wife of a man, they shall treat the fornicator as the man declares he wishes his wife to be treated. If he should fornicate with her without knowing that she is the wife of a man, the fornicator is clear; the man shall prove the charges against his wife and he shall treat her as he wishes.

15 If a man should seize another man upon his wife and they prove the charges against him and find him guilty, they shall kill both of them; there is no liability for him. If he should seize him and bring him either before the king or the judges, and they prove the charges against him and find him guilty—if the woman's husband kills his wife, then he shall also kill the man; if he cuts off his wife's nose, he shall turn the man into a eunuch

and they shall lacerate his entire face; but if he wishes to release his wife, he shall release the man.

16 If a man should fornicate with the wife of a man . . . by her invitation, there is no punishment for the man; the husband shall impose whatever punishment he chooses upon his wife. If he should fornicate with her by force and they prove the charges against him and find him guilty, his punishment shall be identical to that of the wife of the man.

* * *

23 If a man's wife should take another man's wife into her house and give her to a man for purposes of fornication, and the man knows that she is the wife of a man, they shall treat him as one who has fornicated with the wife of another man; and they treat the female procurer just as the woman's husband treats his fornicating wife. And if the woman's husband intends to do nothing to his fornicating wife, they shall do nothing to the fornicator or to the female procurer; they shall release them. But if the man's wife does not know what was intended, and the woman who takes her into her house brings the man in to her by deceit, and he then fornicates with her—if, as soon as she leaves the house, she should declare that she has been the victim of fornication, they shall release the woman, she is clear; they shall kill the fornicator and the female procurer. But if the woman should not so declare, the man shall impose whatever punishment on his wife he wishes; they shall kill the fornicator and the female procurer.

24 If a man's wife should withdraw herself from her husband and enter into the house of another Assyrian, either in that city or in any of the nearby towns, to a house which he assigns to her, residing with the mistress of the household staying overnight three or four nights, and the householder is not aware that it is the wife of a man who is residing in his house, and later that woman is seized, the householder whose wife withdrew herself from him shall mutilate his wife and not take her back. As for the man's wife with whom his wife resided,

they shall cut off her ears; if he pleases, her husband shall give 12,600 shekels of lead as her value, and, if he pleases, he shall take back his wife. However, if the householder knows that it is a man's wife who is residing in his house with his wife, he shall give "triple." And if he should deny that he knew of her status, he shall declare, "I did not know," they shall undergo the divine River Ordeal. And if the man in whose house the wife of a man resided should refuse to undergo the divine River Ordeal, he shall give "triple"; if it is the man whose wife withdrew herself from him who should refuse to undergo the divine River Ordeal, he in whose house she resided is clear; he shall bear the expenses of the divine River Ordeal. However, if the man whose wife withdrew herself from him does not mutilate his wife, he shall take back his wife; no sanctions are imposed.

* * *

37 If a man intends to divorce his wife, if it is his wish, he shall give her something; if that is not his wish, he shall not give her anything, and she shall leave emptyhanded.

* * *

40 Wives of a man, or widows, or any Assyrian women who go out into the main thoroughfare shall not have their heads bare. Daughters of a man with either a cloth or garments shall veil their heads. When they go about in the main thoroughfare during the daytime, they shall be veiled. A concubine who goes about in the main thoroughfare with her mistress is to be veiled. A married *qadiltu*-woman is to be veiled when she goes about in the main thoroughfare, but an unmarried one is to leave her head bare in the main thoroughfare, she shall not be veiled. A prostitute shall not be veiled, her head shall be bare. Whoever sees a veiled prostitute shall seize her, secure witnesses, and bring her to the palace entrance. They shall not take away her jewelry, but he who has seized her takes her clothing; they shall strike her 50 blows with rods; they shall pour hot pitch over her head. And if a man should see a veiled prostitute and release her, and does not bring her to

the palace entrance, they shall strike that man 50 blows with rods; the one who informs against him shall take his clothing; they shall pierce his ears, thread them on a cord, tie it at his back; he shall perform the king's service for one full month. Slave women shall not be veiled, and he who should see a veiled slave woman shall seize her and bring her to the palace entrance; they shall cut off her ears; he who seizes her shall take her clothing. If a man should see a veiled slave woman but release her and not seize her, and does not bring her to the palace entrance, and they then prove the charges against him and find him guilty, they shall strike him 50 blows with rods; they shall pierce his ears, thread them on a cord, tie it at his back; the one who informs against him shall take his garments; he shall perform the king's service for one full month.

* * *

53 If a woman aborts her fetus by her own action and they then prove the charges against her and find her guilty, they shall impale her, they shall not bury her. If she dies as a result of aborting her fetus, they shall impale her, they shall not bury her. If any persons should hide that woman because she aborted her fetus* * *

55 If a man forcibly seizes and rapes a maiden who is residing in her father's house, who is not betrothed, whose womb is not opened, who is not married, and against whose father's house there is no outstanding claim—whether within the city or in the countryside, or at night whether in the main thoroughfare, or in a granary, or during the city festival—the father of the maiden shall take the wife of the fornicator of the maiden and hand her over to be raped; he shall not return her to her husband, but he shall take (and keep) her; the father shall give his daughter who is the victim of fornication into the protection of the household of her fornicator. If he, the fornicator, has no wife, the fornicator shall give “triple” the silver as the value of the maiden to her father; her fornicator

shall marry her; he shall not reject her. If the father does not desire it so, he shall receive “triple” silver for the maiden, and he shall give his daughter in marriage to whomever he chooses.

56 If a maiden should willingly give herself to a man, the man shall so swear; they shall have no claim to his wife; the fornicator shall pay “triple” the silver as the value of the maiden; the father shall treat his daughter in whatever manner he chooses.

* * *

59 In addition to the punishments for a man's wife that are written on the tablet, a man may whip his wife, pluck out her hair, mutilate her ears, or strike her, with impunity.

REVIEW QUESTIONS

1. Of the hundreds of records of litigation that exist from the era of Hammurabi and his successors, not one specifically states that a dispute was resolved in accordance with Hammurabi's laws; some, in fact, record rulings that directly contradict those laws, all of which has caused some scholars to question why Hammurabi had these laws compiled in the first place. Why do you think Hammurabi had his laws compiled? (Do the prologue and epilogue to the laws provide any clues?)
2. What principles of justice and compensation are evident in these laws, and what kinds of recourse did society have against wrongdoers?
3. What evidence of social classes in Babylonian society do they provide?
4. How did women's rights compare to those of men?
5. What do these laws tell us about Mesopotamian views about responsibility for sexual activity?
6. What do they tell us about power and authority within Mesopotamian families?