
The Fascinating Code of Hammurabi: Wow! I Didn't Know That!

Author(s): Joseph T. Kelly

Source: *The History Teacher*, Aug., 1995, Vol. 28, No. 4 (Aug., 1995), pp. 555-562

Published by: Society for History Education

Stable URL: <https://www.jstor.org/stable/494642>

JSTOR is a not-for-profit service that helps scholars, researchers, and students discover, use, and build upon a wide range of content in a trusted digital archive. We use information technology and tools to increase productivity and facilitate new forms of scholarship. For more information about JSTOR, please contact support@jstor.org.

Your use of the JSTOR archive indicates your acceptance of the Terms & Conditions of Use, available at <https://about.jstor.org/terms>



is collaborating with JSTOR to digitize, preserve and extend access to *The History Teacher*

JSTOR

The Fascinating Code of Hammurabi: Wow! I Didn't Know That!

Joseph T. Kelly
University of Idaho

WHAT ARE THE CONCERNS OF MODERN SOCIETIES? As reflected in their laws, these concerns include theft, assault and bodily injury, perjury, looting, medical malpractice, divorce, children's rights, liability for building contractors, regulation of weights and measures, regulation of professional fees, negligence, and receiving stolen goods. The Code Of Hammurabi, established about 3700 years ago, dealt with all these problems and many others. When students are systematically confronted with such strong evidence of long-term continuity within the human story, many will be impressed enough to experience the "Wow-I-didn't-know-that" reaction.

We history teachers pursue a never-ending quest to motivate our students. A major but elusive goal for these efforts is to show that the study of history is worthwhile as well as interesting. Spears, sailing ships, and "funny" clothing are not intuitively impressive to students when juxtaposed with computers and lasers. Even such everyday objects as television and cars make it difficult for students to believe textbook and teaching assertions that Greeks, Romans, or Elizabethans made important contributions to civilization. As students compare the material world of earlier societies with contemporary technology, normal adolescent egocentrism is intensified and a collective mood of "me-ism, here-ism, and now-ism" can develop in the

classroom. Of course, most students will eventually grow out of at least some of these attitudes, but teachers want very much to hasten the process. Consequently, teachers need to employ examples of ancient achievements to increase interest in history.

The Code of Hammurabi is one of the most impressive and fascinating chapters in the human story, and loaded with potential for both student and teacher interest. Engraved about 1750 BC on a stele (shaft or slab) of black diorite about seven feet high, it was discovered by French excavators in 1901 in Susa, Iran, where it had been taken by a later conqueror from its original location in Babylonia. The discovery caused an immediate sensation. Even though earlier examples of laws are now known, the Code of Hammurabi remains by far the best preserved and most extensive of such documents.

Initially thought to be a code of basic laws, its original purpose and use have received various interpretations by modern scholars. Because of omissions, (looting a burning house was included, but not arson; assault and false accusation of murder were covered by codes, but not murder itself) and evidence that judges, in practice, often deviated from the code, some scholars have suggested that it was a model code, not binding on judges. Others have seen the code primarily as a royal propaganda effort. This view is supported by the large sculpture carved at the top of the stele, which portrayed Hammurabi receiving his staff of authority from the sun god (patron of justice) and by the fact that twenty percent of the text was devoted to a prologue and an epilogue which celebrated the king's piety, righteousness, justice, and concern for his people's welfare. Along with any other motives no doubt the king did want to consolidate support for his rule over recently-conquered subjects.

Whatever its original function, however, the code offers us a marvelous window on the past. So clear a picture of the aspirations, problems, and solutions of an ancient people compels awe at the sameness of human nature and social problems over long centuries. Clothing and equipment may change; the search for a decent life and a just society are remarkably similar throughout the ages. Once understood these fascinating continuities will interest many students.

Teaching Suggestions

Even with no more than this brief introduction experienced teachers will see instructional possibilities for the code. Nevertheless, a few general remarks on classroom applications may be useful. My own preference is to introduce the topic, then provide each student with a printed copy of code selections (probably fewer than the fifty-three

included here) and an assigned discovery task, such as identifying and listing the crimes/social concerns along with their penalties/solutions. This can be done individually, then small groups can each develop a consensus list combining several individual lists. Making these group lists fosters cooperative learning and provides a good basis for class discussion. Alternatively, students can be given a list of crimes/social concerns (as in the first paragraph of this article) and asked to match them with the appropriate codes.

Teachers must deal with initial reactions, which typically focus on the punishments and on the treatment of women, both of which may seem harsh to students. Of course they are harsh if compared to our own standards, but we must avoid that comparison, which is unfair. After all, our standards are the product of a long evolutionary process which began with the Code of Hammurabi. We must help our students to realize that people in each stage of historical development operate with a given set of values and should, in general, be judged accordingly. For example, slavery, social class inequality, and capital punishment were accepted in all ancient societies. The teacher should emphasize this point in the lesson introduction and develop it further in the class discussion. Such understanding counters the tendency to judge only by one's own values and is an important contribution to growing beyond adolescent egocentrism.

Students should understand that modern views on women's rights have only developed recently and that women have been quite subservient to men throughout history and indeed remain so today in many non-western societies. From this perspective the code reveals a level of concern for women somewhat higher than what had been the ancient norm (see codes 129, 131, 142, 148, 149). In fact the code reveals a general concern for the welfare of more vulnerable members of society. For example, debt hostages' indentures were limited (117); children's property rights were protected (177); and fathers could not arbitrarily disinherit a son (168,169). The government's responsibility to compensate victims of robbery (23) was a very enlightened policy for any society then, and would be now. Some states have only recently begun to consider this ancient concept of social justice. The code also provided for abatement of debt for a tenant farmer if storm or drought had struck (48). There was careful attention to distinguishing between negligence and natural disaster if livestock were lost while under the care of a herdsman (266, 267). Defrauding the public through dishonest weights and measures was also regarded seriously (108).

During the class discussion it will become apparent that some terms have puzzled many students. For example, in 129 the last sentence

stipulates that, if the husband “would save his wife” (have her spared) then “the king can save his servant.” Since all citizens were regarded as servants of the king, this last clause means the male also could be spared (to continue serving the king by working productively, paying taxes, etc.). In 132 “plunge into the sacred river” refers to a test of innocence or guilt, a common form of judgment in many ancient societies. Students will also conclude that some of the codes pose problems which would be difficult to solve. For example, in 42 a tenant farmer would still be responsible for the rent, even if he “caused no corn to grow.” In some situations (disease or defective seed) blame might not be clear and the tenant would vigorously protest. Determining blame for human or animal death or injury arising from surgery (218, 225) or death of oxen rented for agricultural use (245) would also be sharply disputed. These difficulties should be discussed and parallels drawn with modern lawsuits. Our own legal system still struggles with these issues.

The thoughtful reader of these codes will see that they reflect a broad search for a just and decent life and that the topics represent the universality of human problems. These problems, and the attempts to deal with them, have remained remarkably constant for 3700 years. It is by discussing these continuities that students will discover the close ties that bind all people together. They learn that the Babylonians are no strangers; they and we are close relatives within the human family. They may also discover that the study of history is indeed worthwhile.

Selections from the Code of Hammurabi¹

(Original code numbers retained for convenient reference)

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.

6. If a man has stolen goods from a temple, or house, he shall be put to death; and he that has received the stolen property from him shall be put to death.

8. If a patrician has stolen ox, sheep, ass, pig, or ship, whether from a temple, or a house, he shall pay thirtyfold. If he be a plebeian, he shall return tenfold. If the thief cannot pay, he shall be put to death

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.

10. If the alleged buyer on his part has not produced the seller or the witnesses before whom the sale took place, but the owner of the lost property on his part has produced the witnesses who identify it as his, then the [pretended] buyer is the thief; he shall be put to death. The owner of the lost property shall take his lost property.

11. If, on the other hand, the claimant of the lost property has not brought the witnesses that know his lost property, he has been guilty of slander, he has stirred up strife, he shall be put to death.

13. If a man has not his witnesses at hand, the judge shall set him a fixed time not exceeding six months, and if within six months he has not produced his witnesses, the man has lied; he shall bear the penalty of the suit.

14. If a man has stolen a child, he shall be put to death.

21. If a man has broken into a house he shall be killed before the breach and buried there

22. If a man has committed highway robbery and has been caught, that man shall be put to death.

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.

25. If a fire has broken out in a man's house and one who has come to put it out has coveted the property of the householder and appropriated any of it, that man shall be cast into the self-same fire.

42. If a man has hired a field to cultivate and has caused no corn to grow on the field, he shall be held responsible for not doing the work on the field and shall pay an average rent.

48. If a man has incurred a debt and a storm has flooded his field or carried away the crop, or the corn has not grown because of drought, in that year he shall not pay his creditor. Further, he shall post-date his bond and shall not pay interest for that year.

53,54. If a man has neglected to strengthen his dike and has not kept his dike strong, and a breach has broken out in his dike, and the waters have flooded the meadow, the man in whose dike the breach has broken

out shall restore the corn he has caused to be lost. [54]. If he be not able to restore the corn, he and his goods shall be sold, and the owners of the meadow whose corn the water has carried away shall share the money.

55. If a man has opened his runnel for watering and has left it open, and the water has flooded his neighbor's field, he shall pay him an average crop.

108. If the mistress of a beer-shop has not received corn as the price of beer or has demanded silver on an excessive scale, and has made the measure of beer less than the measure of corn, that beer-seller shall be prosecuted and drowned.

109. If the mistress of a beer-shop has assembled seditious slanderers in her house and those seditious persons have not been captured and have not been haled to the palace, that beer-seller shall be put to death.

117. If a man owes a debt, and he has given his wife, his son, or his daughter [as hostage] for the money, or has handed someone over to work it off, the hostage shall do the work of the creditor's house; but in the fourth year he shall set them free.

129. If a man's wife be caught lying with another, they shall be strangled and cast into the water. If the wife's husband would save his wife, the king can save his servant.

131. If a man's wife has been accused by her husband, and has not been caught lying with another, she shall swear her innocence, and return to her house.

132. If a man's wife has the finger pointed at her on account of another, but has not been caught lying with him, for her husband's sake she shall plunge into the sacred river.

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 (first) 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 (dowry) 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.

149. If that woman was not pleased to stay in her husband's house, he shall pay over to her the marriage-portion which she brought from her father's house, and she shall go away.

153. If a man's wife, for the sake of another, has caused her husband to be killed, that woman shall be impaled.

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

177. If a widow, whose children are young, has determined to marry again, she shall not marry without consent of the judge. When she is allowed to remarry, the judge shall inquire as to what remains of the property of her former husband, and shall entrust the property of her former husband to that woman and her second husband. He shall give them an inventory. They shall watch over the property, and bring up the children. Not a utensil shall they sell. A buyer of any utensil belonging to the widow's children shall lose his money and shall return the article to its owners.

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

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

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

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.

215. If a surgeon has operated with the bronze lancet on a patrician for a serious injury, and has cured him, or has removed with a bronze lancet a cataract for a patrician, and has cured his eye, he shall take ten shekels of silver.

216. If it be a plebeian, he shall take five shekels of silver.

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.

224. If a veterinary surgeon has treated an ox, or an ass, for a severe injury, and cured it, the owner of the ox, or the ass, shall pay the surgeon one-sixth of a shekel of silver, as his fee.

225. If he has treated an ox, or an ass, for a severe injury, and caused it to die, he shall pay one-quarter of its value to the owner of the ox, or the ass.

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.

232. If he (a builder) 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.

235. If a boatman has built a boat for a man, and has not made his work sound, and in that same year that boat is sent on a voyage and suffers damage, the boatman shall rebuild that boat, and, at his own expense, shall make it strong, or shall give a strong boat to the owner.

244. If a man has hired an ox, or an ass, and a lion has killed it in the open field, the loss falls on its owner.

245. If a man has hired an ox and has caused its death, by carelessness, or blows, he shall restore ox for ox, to the owner of the ox.

250. If a bull has gone wild and gored a man, and caused his death, there can be no suit against the owner.

251. If a man's ox be a gorer, and has revealed its evil propensity as a gorer, and he has not blunted its horn, or shut up the ox, and then that ox has gored a free man, and caused his death, the owner shall pay half a mina of silver.

261. If a man has hired a herdsman, to pasture oxen, or sheep, he shall pay him eight GUR of corn yearly.

266. If lightning has struck a fold, or a lion has made a slaughter, the herdsman shall purge himself by oath, and the owner of the fold shall bear the loss of the fold.

267. If the herdsman has been careless, and a loss has occurred in the fold, the herdsman shall make good the loss in the fold; he shall repay the oxen, or sheep, to their owner.

Note

1. C.H.W. Johns, *Babylonian and Assyrian Laws, Contracts and Letters*. Charles Scribner's Sons, New York, 1904. Copyright expired.