



Code of Hammurabi

by Tim Kelley

Through the ages there have been many attempts to discount the authenticity of the Bible and the existence of YHVH, the God of Israel. These attempts include the presumed lack of evidence of a historical Kingdom of Israel, questions about a historical Flood, and of course – evolution.

Another attempt that has been made throughout the ages is that Moses, and the code of law that he wrote – the Torah, simply could not have existed since ancient cultures did not have written codes of law. Thus, the naysayers concluded that the Bible was simply a novel. But this conclusion was destroyed with the 1901 archeological discovery of the Code of Hammurabi.

Hammurabi was an ancient Mesopotamian king. He ruled Babylon during one of its most successful ages – from roughly 1792 BCE to 1750 BCE – roughly the same time that Abraham was called out of Ur of the Chaldees. Archeologists have found this period of Babylon's history to be rich in culture with vibrant trade throughout the area. The people were educated, as evidenced by the fact that most homes contained clay tablets with writing on them. They were also quite advanced mathematically. During his reign, Hammurabi controlled practically everything between the Persian Gulf and the Mediterranean Sea – an area somewhat similar to what YHVH later promised to Abraham.

As king, Hammurabi came up with a code of law that contained 282 individual laws pertaining to many aspects of life including civil and criminal litigation, marriage, family, wages, and property. Hammurabi claimed that his code was given to him by the Babylonian god of justice, Shamash, yet surprisingly, it contained no laws pertaining to worship or allegiance to any Babylonian gods.

The Code was found written on a 7' tall granite stone in the shape of an index finger. It was discovered in Iran where it had been taken as plunder during a later conquest.

Why is this code of law important to us? There are a number of reasons – 1) it proves that there was indeed codes of law in existence during the time of Moses and the Torah. 2) it provides keys to understanding why YHVH gave certain laws to Moses, and 3) it may give insight into what the Jewish people call Oral Torah.

We'll talk about all three of these today to see if they actually do have any bearing on our understanding of God's law.

Shortly after the discovery of Hammurabi's code in 1901, many theories were introduced as to whether the Torah was a take-off of the code. After all, there were many similar laws in each. Take for instance, the case of False Witnesses. Hammurabi's code says:

Code #1 - If a man bring an accusation against a man, and charge him with a (capital) crime, but cannot prove it, he, the accuser, shall be put to death.

Code #3 - If a man, in a case (pending judgment), bear false (threatening) witness, or do not establish the testimony that he has given, if that case be a case involving life, that man shall be put to death.

In the Torah, Moses says:

^{NKJ} **Exodus 20:16** " You shall not bear false witness against your neighbor.

^{NKJ} **Deuteronomy 19:16-19** "If a false witness rises against any man to testify against him of wrongdoing, ¹⁷ "then both men in the controversy shall stand before the LORD, before the priests and the judges who serve in those days. ¹⁸ "And the judges shall make careful inquiry, and indeed, if the witness is a false witness, who has testified falsely against his brother, ¹⁹ "then you shall do to him as he thought to have done to his brother; so you shall put away the evil from among you.

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Another similarity is that of kidnapping. Hammurabi says:

Code #14 - If a man steal a man's son, who is a minor, he shall be put to death.

Moses says basically the same thing:

^{NKJ} **Exodus 21:16** " He who kidnaps a man and sells him, or if he is found in his hand, shall surely be put to death.

One more example is that of a person who sells himself or one of his family members into slavery in order to pay debts.

Code #117 - If a man be in debt and sell his wife, son or daughter, or bind them over to service, for three years they shall work in the house of their purchaser or master; in the fourth year they shall be given their freedom.

Hammurabi requires that a man serve his creditor for four years, but Moses is a little stricter:

^{NKJ} **Deuteronomy 15:12** 12 " If your brother, a Hebrew man, or a Hebrew woman, is sold to you and serves you six years, then in the seventh year you shall let him go free from you.

There are a number of other similar cases, but the one that stands out the most is that of "life for life, limb for limb". In Hammurabi's Code, this is stated in a series of laws:

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

Code # 197 - If one break a man's bone, they shall break his bone.

Code # 200 - If a man knock out a tooth of a man of his own rank, they shall knock out his tooth.

The Torah states it this way:

^{NKJ} **Exodus 21:22-25** " If men fight, and hurt a woman with child, so that she gives birth prematurely, yet no harm follows, he shall surely be punished accordingly as the woman's husband imposes on him; and he shall pay as the judges determine. ²³"But if any harm follows, then you shall give life for life, ²⁴"eye for eye, tooth for tooth, hand for hand, foot for foot, ²⁵"burn for burn, wound for wound, stripe for stripe.

Later in the Torah, this concept is extended to one who does physical bodily harm to his neighbor:

^{NKJ} **Leviticus 24:19-22** 'If a man causes disfigurement of his neighbor, as he has done, so shall it be done to him -- ²⁰'fracture for fracture, eye for eye, tooth for tooth; as he has caused disfigurement of a man, so shall it be done to him. ²¹'And whoever kills an animal shall restore it; but whoever kills a man shall be put to death. ²²'You shall have the same law for the stranger and for one from your own country; for I am the LORD your God.' "

But when you compare these two Codes of law, you begin to see the differences – especially in this matter. Hammurabi's code was based on a cast system. People were divided into groups – men, freemen, and slaves. Men were the leaders. It could be assumed that this included the governmental leaders, the business owners, and the wealthy. On the other hand, Freemen were the middle class, those who worked for others, the farmers, etc. Then the lowest on the totem pole would be Slaves – probably captives of war and people who had sold themselves into slavery. Hammurabi's Code dealt out punishment differently based on status. Take again the case of "eye for eye".

Code #198 - If one destroy the eye of a freeman or break the bone of a freeman, he shall pay one mana of silver.

Code # 199 - If one destroy the eye of a man's slave or break a bone of a man's slave he shall pay one-half his price.

Notice that if the one harmed is not a "man", the value of his eye is diminished. Thus full punishment was based on you harming a person of your own social and economic status. This is in stark contrast to what YHVH instructed Moses to write. Again looking at the Leviticus passage concerning bodily harm:

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NKJ Leviticus 24:19-21 'If a man causes disfigurement of his neighbor, as he has done, so shall it be done to him -- ²⁰ 'fracture for fracture, eye for eye, tooth for tooth; as he has caused disfigurement of a man, so shall it be done to him. ²¹ 'And whoever kills an animal shall restore it; but whoever kills a man shall be put to death.

But where Hammurabi makes a distinction between the classes, YHVH says:

NKJ Leviticus 24:22 'You shall have the same law for the stranger and for one from your own country; for I *am* the LORD your God.' "

In order to provide for equal justice between the classes, YHVH removed the literal "eye for eye" practice found in Hammurabi's code, and replaced it with remuneration of similar value. God makes this very clear in His early instructions given on Mount Sinai.

NKJ Exodus 21:22-25 " If men fight, and hurt a woman with child, so that she gives birth prematurely, yet no harm follows, he shall surely be punished accordingly as the woman's husband imposes on him; and he shall pay as the judges determine. ²³ "But if any harm follows, then you shall give life for life, ²⁴ "eye for eye, tooth for tooth, hand for hand, foot for foot, ²⁵ "burn for burn, wound for wound, stripe for stripe.

The rabbis understand this to mean that instead of putting out the eye of the offender, which in no way helps the offended, a sum of money or something of equal value would have to be given in order to offset the person's decreased ability to make a living. The same would hold true to an arm, a foot, or any other defect brought upon that person.

This was a question that arose in the first century because of the difference in the way the Pharisees and the Sadducees interpreted the Torah. The Sadducees believed in a literal interpretation – that you pluck out the other guys eye – while the Pharisees believed in remuneration. Yeshua agreed with the Pharisees.

NKJ Matthew 5:38-40 " You have heard that it was said, 'An eye for an eye and a tooth for a tooth.' ³⁹ "But I tell you not to resist an evil person (Gr. *poneros* – Strong's 4190 – hardship). But whoever slaps you on your right cheek, turn the other to him also. ⁴⁰ "If anyone wants to sue you and take away your tunic, let him have your cloak also.

Yeshua was basically agreeing with the Pharisees. If you bring harm to another person, you should make it right – and more so. The words *evil person* in this passage actually come from a word that means *hardship*. Adding the word *person* hides the true meaning which is simply that if you harm someone and the remuneration determined by the judges is going to cause you hardship, you go ahead and pay it, even to the point of paying more.

There are numerous other areas where this cast system comes into play in Hammurabi's Code. There are some who say that this code is the basis for the Torah. I would disagree for a number of reasons, but the cast system that's found throughout Hammurabi's system is one of the main reasons.

So if the Code is not the basis for the Torah, what does it do for us? I believe it helps us to understand why YHVH gave certain laws that seem to have little significance. Nations and cultures develop and often bring with them laws that were in existence long before they themselves became a nation. The United States is a good example. Our Constitution is a conglomeration of British Common Law, the Magna Carta, and Biblical Law. Our founding fathers were influenced by all those who came before them, but their job was to correct the problems found in these previous codes (the Torah being excluded, of course) and come up with a code they thought would preserve a free society.

When the Israelites came out of Egypt they were steeped in Egyptian law, which one could presume was based in some degree on the Code of Hammurabi since it was the prevalent law of the day. Knowing that the Israelites culture coming out of Egypt was based on their understanding of Hummurabi's code, YHVH had to begin to correct their understanding and make a clear distinction between that code of law and His code – the Torah. Thus we have laws like this –

NKJ Deuteronomy 21:15-17 " If a man has two wives, one loved and the other unloved, and they have borne him children, both the loved and the unloved, and if the firstborn son is of her who is

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unloved, ¹⁶ "then it shall be, on the day he bequeaths his possessions to his sons, that he must not bestow firstborn status on the son of the loved wife in preference to the son of the unloved, the true firstborn. ¹⁷ "But he shall acknowledge the son of the unloved wife as the firstborn by giving him a double portion of all that he has, for he is the beginning of his strength; the right of the firstborn is his.

YHVH showed that the firstborn carry a special status in regards to responsibility in the family, and He did not want that circumvented by favoritism. He also was very specific in how inheritances were to be distributed by having the inheritance divided equally except that the firstborn got a double portion. In contrast, Hammurabi's code allowed for favoritism –

Code # 165 - If a man present field, garden or house to his favorite son and write for him a sealed deed; after the father dies, when the brothers divide, he shall take the present which the father gave him, and over and above they shall divide the goods of the father's house equally.

In Hammurabi's code, a man could bequeath nearly all his possessions to a favorite son, then when he dies, the remaining children would divide what's left – if any. Obviously, YHVH's method is far superior to Hammurabi's. This is but one example, but there are others in the code where similar laws are found in the Torah, but YHVH corrects them by eliminating the cast system and making them apply equally to everyone.

Hammurabi's Code can also help us to understand a little bit about Jewish Oral Law. The rabbis are not too fond of Hammurabi. They often identify him in the Bible as Amraphel (Gen. 14:1) who they believe could have been Nimrod or a descendent thereof. They often make the claim that in Hebrew the name "Hammurabi" would be translated "Great Ham" – Ham of course being the grandfather of Nimrod.

But Hammurabi's Code, along with the discovery of other ancient near-eastern codes of law, have shown us that the people in these eras were more advanced than what we've previously believed, and as such may have already developed certain practices concerning sacrifice, observance of certain cultural festivals, and many other practices pertaining to everyday life. Because these practices were probably well established, YHVH did not have to define them in detail because the people were already familiar with them. Rather, all He had to do was to correct their errant practice to bring it into conformity with His ways.

For instance, little is said about how to offer sacrifices. The rabbis say that since God did not spell these things out in the written Torah, they were given in an oral law delivered to Moses and passed down orally from generation to generation. But we know that ancient cultures practiced animal sacrifice, and that when Abraham was told to sacrifice, he didn't ask God how to do it, he just did it. But God was obviously not pleased with how sacrifice was offered in the ancient cultures, so He corrected it in the Torah. For instance, He wanted an altar built of un-hewn stones as opposed to – what we could assume was the practice of the day – hewn stones.

^{NKJ} **Exodus 20:25** 'And if you make Me an altar of stone, you shall not build it of hewn stone; for if you use your tool on it, you have profaned it.

YHVH was also concerned about the fertility rites that were associated with sacrifices in these cultures, so He made it clear that His priests were fully clothed.

^{NKJ} **Exodus 28:42** "And you shall make for them linen trousers to cover their nakedness; they shall reach from the waist to the thighs.

^{NKJ} **Exodus 20:26** 'Nor shall you go up by steps to My altar, that your nakedness may not be exposed on it.'

So YHVH corrects the incorrect practices of found in the culture, but leaves other things unsaid. I would suspect that there were already laws in these ancient cultures that pertained to many of the practices found in the oral laws.

So in conclusion we find that:

1. Hammurabi's code was not the basis for the Torah

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2. We can find answers to many questions in the Torah by examining these ancient codes of law
3. Some of the laws found in the Torah were probably given to correct the incorrect practices of the day.

As we begin this year's Torah cycle, I hope this helps us understand more clearly what YHVH was doing with our forefathers, the Children of Israel.

Shalom Alecheim