

AMERICAN PUBLIC UNIVERSITY

**PRIMARY SOURCE ANALYSIS:
“HAMMURABI’S LAWS FOR PHYSICIANS”**

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HIST121 – Western Civilization before the Thirty Years War
12 July 2012

Without laws, civilization would be impossible, for they allow for the “more complex level of human activity and interaction” required for societies to grow (Hunt, et. al., 4). In the distant past, such laws were most likely preserved solely in the memories of the leaders of the community. However, as the art of writing became more common, societies began to compile their rules into codes of laws. Such codes not only gave a degree of permanence to the legal framework of a civilization, but also helped to ensure that the members of that civilization understood the rules by which they were to live. In Western civilization, the first comprehensive set of written laws was instituted in the Mesopotamian city of Babylon in the eighteenth century BCE. The Code of Hammurabi reveals both the Mesopotamians’ love of social structure and their concern for justice.

Hammurabi was king of the city-state of Babylon from 1792 to 1750 BCE. As the divinely-ordained leader of his community, he was expected personally resolve disputes between his subjects. His code of laws is, in essence, a record of his decisions on cases brought before him (Hunt, et. al., 14). According to the inscriptions at the beginning and the end of the code, Hammurabi saw writing the laws down and publicizing them as a fundamental part of his duty to Shamash, the Babylonian god of justice: “So that the powerful may not oppress the powerless, to provide justice for the orphan and the widow...let the victim of injustice see the law which applies to him, let his heart be put at ease” (Hunt, et. al., 14). Most of the 282 laws in the code involve the rights of property owners, but as the laws regarding physicians clearly indicate, there are also regulations regarding commerce and malpractice.

The most obvious aspect of Babylonian society shown by the Code of Hammurabi is that there was a strict social hierarchy. There were three distinct social classes: free persons, commoners, and slaves (Hunt, et. al., 14). The Code as a whole uses social class as a guideline

for the severity of punishments imposed on those convicted of crimes. For instance, punishments for assault among those of equal social rank followed the principle of “an eye for an eye.” However, if a freeman assaulted a commoner, he would only be expected to pay a fine (Hunt, et. al., 14). The concern over societal organization also reflects the Mesopotamians’ view that “the divinely created hierarchy of the universe determined the conditions of their lives” (Hunt, et. al., 12). In creating a law code based on social classes, Hammurabi sought to make his society mirror the cosmos itself.

The punishments described in the Code indicate that Babylonian society had no notion of equality under the law; indeed, members of the higher classes received greater protection to reflect their value to and importance in the community. For instance, Law #218 establishes the penalties for a physician who botches an operation:

If a physician performed a major operation on a freeman with a bronze scalpel and has caused the freeman’s death, or he opened up the eye-socket of a freeman and has destroyed the freeman’s eye, they shall cut off his hand (Hunt, et. al., 15).

Following the “eye for an eye” principle that pervades the Code, such a punishment would not only permanently maim the doctor, but it would also end his career in a particularly brutal fashion. On the other hand, should the physician make the same mistake with a slave, the punishment would be greatly lessened, for he would only be required to “make good slave for slave” if the slave died or “pay half his value in silver” if the physician destroyed the slave’s eye (Hunt, et. al., 15).

The Code further shows the preeminence of social class in ancient Babylon by establishing fees for physicians. Law #215 states:

If a physician performed a major operation on a freeman with a bronze scalpel and has saved the freeman’s life, or he opened up the eye-socket of a freeman with a bronze scalpel and has saved the freeman’s eye, he shall receive ten shekels [a unit of measurement] of silver (Hunt, et. al., 15).

Similar successful operations on commoners and slaves, however, would only be worth five or two shekels respectively (Hunt, et. al., 15). Laws such as this would certainly reinforce the perceived levels of importance of the various classes. However, they also serve a second, more noble purpose in that they prevent physicians from charging exorbitant fees to patients who could not possibly pay them. By stopping such exploitation of the poor, Hammurabi revealed “a new emphasis to relieving the burdens of the poor as a necessary part of royal justice (Hunt, et. al., 14).

The Code of Hammurabi did more than give the people of ancient Babylon a structure for their lives; it confirmed their place in the universe while protecting the less fortunate from the depredations of the wealthy. Its words reflect a society that accepted (and even expected) that higher social status naturally conferred legal benefits. At the same time, the Code also echoes a concern for the welfare of those of the lower echelons of society by guaranteeing them a measure of justice as well. By studying the Code alongside other sources, historians have learned much about ancient Mesopotamian society that might have otherwise been lost.

Bibliography

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