

Hammurabi's code: justice for survival



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“ Justice is the maintenance or administration of what is just, especially by the impartial adjustment of conflicting claims or the assignment of merited rewards or punishments” (Merriam). Any civilization or community needs a judicial system that keeps it from becoming a bestial or barbaric state. “

Might makes right” is the old barbaric concept that the stronger people will dominate the weaker. This can not be the only governing concept in a civil community. If a civilization wishes to be successful, there must be a judicial system that upholds equality and promotes the good of all, not one specific individual or group.

Hammurabi was a great Babylonian king who ruled from about 1792-1750 BC. Hammurabi believed that he was chosen by the gods to deliver the law to his people. In fact, Mesopotamian cities were modeled to be earthly copies of the divine, each to its own god. In the preface to the law code, he states, “ Anu and Bel called by name me, Hammurabi, the exalted prince, who feared God, to bring about the rule of righteousness in the land” (King). He built a grand province that spread from the Persian Gulf, through the great river valleys of the Tigris and Euphrates, to the Mediterranean Sea.

This large empire was in dire need of a judicial system that would keep its population in line. There was no unifying factor, religion, or cause that served to keep his empire together. Hammurabi was not the first king to make laws, but his extensive record remains in tact and preserved as one of the best historical records of the Babylonian Era. Hammurabi's answer to the internal conflict and turmoil in his kingdom was a primitive but effective set of 282 laws.

He needed an efficient way to create a peaceful and ordered society. He created a military state that was completely governed by his harsh set of laws. The Code of Hammurabi was a crude but effective judicial system that relied on fear to maintain structure among the general population. The appalling punishments and unsympathetic consequences of breaking the code were very successful methods to keep the public under control. Most people think of the common “ an eye for an eye, a tooth for a tooth” phrase when they think of the kind of justice associated with Hammurabi's Code. However, relatively small crimes could receive extremely unforgiving punishments.

For example, death or cutting off limbs were common sentences for many lesser offenses; “ if a son of a paramour or a prostitute say to his adoptive father or mother: “ You are not my father, or my mother,” his tongue shall be cut off. ” In spite of its brutal character, the Code of Hammurabi was very effective. Citizens were too afraid of the consequences to break the law. Fear however, is a powerful method to manage people. It is effective, so long as enough people do not think they are being mistreated and rise up in revolution. Although Hammurabi's system kept good order on basis of fear, it was not always fair or just.

By using a completely fair justice system and analyzing each individual case, the justice system could help the innocent and punish the guilty. Instead, Hammurabi chose to adopt a system that would cause the citizens to be afraid. The extremely harsh punishments were obviously used very practically as a method for deterrence against crimes. Surely not every crime

was accounted for, in fact, probably most were not. This empire was a diverse and growing imperialistic force.

Severe punishments were perfect for keeping the general population in line without having to have a huge police force. The code often punished the innocent for unfair reasons. Amputating a hand often, one of the most common punishments, usually led to death, for there was limited medical treatment to stop the bleeding and infection. The court attempted to keep people from bearing false witness, by giving severe penalties.

“ If a man cannot prove that the man he is accusing of murder is guilty, he shall be put to death. While this might deter citizens from making false accusations, it might cause an innocent man to be put to death because he could not find evidence. If someone were to bear false witness concerning grain or money, he shall be put to death. A little extreme, considering it could be concerning pocket change. ” (King) Verdicts such as these would cause the people to be afraid to stand up for their rights in court.

Also severe penalties were often imposed in cases of general human error and impractical situations. “ If a physician were to cause a man's death while operating, he would lose his hand. ” Physicians who might be trying to do good, are punished for making mistakes, or failing to be successful. Once they lose their hand, they cannot operate again.

“ If criminals gather in a bar, and the owner does not arrest them, he is put to death. ” The owner of the bar might have not been able to arrest a band of criminals because he was probably going to be attacked. However, he paid for it with his life. It was these types of laws that created a feeling of

injustice among the people and help the inherent flaws of the Code. Now, the code attempts to create equality and protect all citizens.

However, not all people are protected the same under the code. If a crime was committed against a slave, instead of a free person, the punishment usually consisted of a monetary sum instead of death or physical harm.

Slaves were not citizens and did not receive the same treatment in society. This is not something that modern society would agree with, but it is a step in the right direction, that there were punishments for offenses against slaves. A personal criticism of the code is the fact that, instead of seeking truth and real justice in a situation, the code attempts to make two wrongs into a right.

Seeking to turn two wrongs into a right will never work. The idea of adding two negatives together to reach a positive is flawed from mathematics to real life scenarios. This system of justice did not accomplish what it should be doing. It should forcing criminals to rethink their actions and become better in some sort of prison system that would allow the community to become better individuals. Also time should be invested towards the Greek concept, of teaching virtues to the masses to control them.

Perhaps Hammurabi's divided empire was not the correct place to use virtue and education to further justice. Regardless, Hammurabi simply scared them out of crime, sometimes harming innocents in the process. A prison system must be put into place that causes criminals to rethink their values, and a court system that protects the innocent and punishes the guilty. Only then will we have the perfect justice system that Hammurabi claimed to have. By

modern standards, Hammurabi's Code is intrinsically flawed in the subject of justice.

It is a primitive yet complex list of offenses and extremely harsh punishments. It was effective because most people were too afraid to break the law and it kept order in the society. Nevertheless, the Code fails to look toward the future betterment of society and complete equality of all citizens. The code speaks volumes about what was important in the Babylonian culture. Hammurabi's Code concerns itself primarily with very practical and specific issues. It was clear the Babylonians respected the value of private property.

The first group of laws deals largely with issues regarding private property, theft, and burglary. It ranges from normal property theft to theft of slaves, to free people, to instances involving natural disasters. Most commonly, death was a routine punishment for such crimes. "If any one steal the property of a temple or of the court, he shall be put to death, and also the one who receives the stolen thing from him shall be put to death" and "If any one break a hole into a house (break in to steal), he shall be put to death before that hole and be buried.

"More explicitly, "If any one is committing a robbery and is caught, then he shall be put to death." The next section of laws deals primarily with basic relationships in a city. There are laws governing many practical problems regarding neighbors, farmers, inventors, merchants, and lenders. If any one be too lazy to keep his dam in proper condition, and does not so keep it; if then the dam break and all the fields be flooded, then shall he in whose dam

the break occurred be sold for money, and the money shall replace the corn which he has caused to be ruined". These types of laws create order within the community, preventing internal conflicts. Next the Babylonians had an apparent respect for authority and social class.

For example, " If a son strikes his father his hand will be cut off. " Social class was very important in determining one's level of " humanness" and protection under the code. They were also concerned with the importance of life and the family. Nearly half of the code deals with issues relating to the family. The family was and still is today, the base community that is at the foundation of the larger empire.

Without a firm foundation the empire will be weak, and the Babylonians undoubtedly knew this. " The Code of Hammurabi reveals a patriarchal society where there is great concern for maintaining the integrity of the family lines, to give proper patriarchal rites. There is severe punishment levied for a woman who has committed adultery. In most cases, judges levied the punishment, but often the accused was thrown into the river. If they survived, they were considered innocent. If not, their fate was decided.

These selections from the code reveal the harsh punishment concerning marriage" (Gilbert). Also, they must have understood the importance of life, even that of the unborn. For example, " if a man strikes a free-born woman so that she loses her unborn child, he shall pay ten shekels for her loss. " Women do have protection under the law and in Babylonian society. They might not have the same social status as men but women especially those of

childbearing age are seen as extremely important for the continuation of the society.

These laws were not a result of a very morally concerned people, rather a more primitive society looking to continue and survive. There was also a great sense of community in their culture. This is seen by many instances where the community determines the law or cares for their fellow citizens. For instance, “ If persons are stolen, then shall the community and .

.. ay one mina of silver to their relatives. If the robber is not caught, then shall he who was robbed claim under oath the amount of his loss; then shall the community, and .

.. on whose ground and territory and in whose domain it was compensate him for the goods stolen. Another law where the community has power is if an “ illegitimate son” wants to inherit from his father the community will determine his social status and if he truly was his father's son.

Justice for the Babylonians was not what would be considered, fair or equal by modern standards. This was a much more basic people, whose idea of justice was creating order and certainty for survival. Harsh punishments were enforced to keep good order and they worked very effectively. Many laws protected property, authority, life, and even women, for the purpose of having continual peace and prosperity. These people, primitive or not, were going to survive. This was without a doubt, their number one goal and Hammurabi knew how to ensure this.

His great code of laws helped build an empire that could withstand many internal and external obstacles. These people came along way from hunter gatherers, to even small city farmers; they formed a diverse and complex empire that laid the foundations for many civilizations to come. The code has been recognized as one of the most ancient collection of laws that we know of.

For decisions, concerning the ancient Babylonian civilization, for the history of slavery, for the position of women and many other questions; the Code offers the most important material. “ The fact that law and religion are nearly always distinctly separated is worthy of special attention.

Hammurabi's Code and the Law of Moses, especially in the Book of the Covenant, there are indeed extraordinary parallels. We might mention here the following examples. “ If thou buy a Hebrew servant, six years he shall serve: and in the seventh he shall go out free for nothing”(Nosotro).

Similarly, Code of Hammurabi says, “ If a man become involved in debt, and give his wife, his son or his daughter for silver or for labor, they shall serve three years in the house of their purchaser or bondmaster: in the fourth year they shall regain their freedom.

These similarities can also be found in other more modern sets of laws.

Whether these similarities are direct relation or speculation it is evident that Hammurabi's Code and Babylonian justice though primitive may have served as the foundations of our judicial system today. Hammurabi's Code still influences the laws that we have today. However, justice for the early Mesopotamian's was chiefly concerned with survival by protecting property, class, the family, and keeping social order. Hammurabi knew his empire

would survive if these basic needs were enforced with his code of law.

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