Hammurabi’s Code

Creating a Code of Law
What did laws look like 4,000 years ago?

Aboriginal Justice
Did Canada’s First Nations have a sounder sense of justice?
For as long as there have been societies, there have been laws. In Ancient Mesopotamia, written codes of law existed by at least the 24th century BCE. In China, formal laws are believed to date back to the Three Sovereigns period before 2070 BCE. And in North America, Indigenous societies developed their own systems of laws long before Europeans arrived.

However, for many archeologists one system of law is considered “the most important and the most celebrated of all ancient [law] codes”: The Code of Hammurabi. When the nearly 4000-year-old stone that contained these laws was unearthed by French archaeologists in 1901, it became the oldest nearly-complete ancient code of laws that the modern world has seen. This status has made Hammurabi’s Code key for understanding the history and development of western systems of justice.

This issue of The PLEA explores Hammurabi’s Code, what it tells us about ancient laws, and how we can use this knowledge to better expand our concept of justice today. Ideal for most any reader, this issue is specifically designed to fulfill several Rule of Law Indicators in the Social Studies 9 curriculum and several objectives of Law 30’s Foundations of the Canadian Legal System.

Hammurabi and the Creation of a Code of Law

For there to be justice, society needs to know what the laws are. King Hammurabi of Babylon is believed to be the first ruler who put laws on public display for all to see.

In the fertile plain between Iraq’s Tigris and Euphrates Rivers once existed Babylon. Founded some time before 2300 BCE, Babylon grew to be the largest city in the world under King Hammurabi’s rule from 1792-1750 BCE. Hammurabi (1810-1750 BCE) inherited power from his father, becoming Babylon’s sixth and most-famous ruler.

Despite having lived nearly 4,000 years ago, a surprising amount is known about Hammurabi and his rule. This is due to such archeological discoveries as the Mari Archives, a store of thousands of tablets in eastern Syria on the edge of what became the Babylonian empire.

The Babylon that Hammurabi inherited was a city that prioritized fortification over expansion. Hammurabi changed this. While he still continued to fortify Babylon, in his first ten years of power Hammurabi oversaw the construction of canals, irrigation systems, and places of worship. As well, he spread Babylon’s wealth amongst its citizens. With success in Babylon, Hammurabi then used both diplomacy and war to expand the boundaries of his empire. By Hammurabi’s thirtieth year in power, much of Mesopotamia was under his control. This greater empire is sometimes called Babylonia. Hammurabi’s final years were marked by considerable efforts in rebuilding the areas and peoples shattered by the preceding wars and conquests.

Even though Hammurabi was an accomplished ruler, like all humans he was not perfect. Correspondence and interviews unearthed in the Mari Archives showed that Hammurabi’s personality was sometimes less expansive than his empire. He had turning moods and could harbour suspicions of his allies, just as they sometimes harboured suspicions of him.

Nevertheless historians universally agree that Hammurabi should be best-remembered as a champion of justice. The most important testament to this is Hammurabi’s Code: late in his rule Hammurabi assembled the laws of Babylonia into one legal code, had it carved into stone, and put it on display for all to see.
The Writing of Hammurabi’s Code

Hammurabi’s Code is carved into a cylindrical slab of black basalt, often called a stele. Measuring 2.25 metres high and 65 centimetres wide, the laws on the stele are believed to be the ones that governed ancient Babylonia. It was unearthed by French archaeologists over the winter of 1901/1902. Because the Code makes reference to cities that were not part of Babylonia until Hammurabi’s thirty-first year in power and because the Code references Hammurabi’s advanced age, the Code was written late into his rule.

The stele can be divided into four major sections:

- The top of the stele has a relief sculpture that depicts Hammurabi’s divine reception of the Code (or possibly the authority to create it) from the sun god Shamash.
- The written part of the Code begins with a prologue that describes how Hammurabi was chosen by the gods to bring justice to Babylon. It also discusses how he spread riches across Babylonia. Importantly, the prologue spells out the purpose of the Code: “that the strong might not oppress the weak.”
- Following the prologue are approximately 275 laws, written across the front and the back of the stele.
- The Code ends with an epilogue that summarizes the purpose of the laws and reiterates Hammurabi’s greatness.

The sculpture and writing suggests that Hammurabi received laws (or received the right to create laws) from Shamash, the sun god. However, reality was not quite that simple. Hammurabi was involved in legal proceedings across his domain, conducting extensive correspondence with judges and acting as Babylonia’s highest judge. Many of the decisions that were made by Hammurabi and his judges formed the primary source of his Code.

Even so, these judgments were not made merely on Hammurabi’s whim. Decisions were often informed by earlier law codes, including the Code of Ur-Nammu (c. 2100 BCE) and the Code of Lipit-Ishtar of Isin (c. 1860 BCE). Thus, Hammurabi’s Code was not so much a divine hand-me-down as it was a product of a developing system of justice. Its laws were often built upon legal systems and traditions untold generations earlier.

“The strong might not oppress the weak”

Regardless of where the laws for Hammurabi’s Code came from, the Code tells us that Hammurabi believed that the gods placed him in power to create a justice system that would prevent the strong from oppressing the weak. And the stele was not the only attestation of this. When buildings were constructed in Babylonia, it was common for Hammurabi to commission inscriptions on these buildings that explained how the gods chose him leader and how he believed in justice. Further evidence of Hammurabi’s dedication to justice comes from the names of the years of his rule. At the time, years were not recorded by numbers but instead by major events. The years of Hammurabi’s Rule are peppered with names such as “established justice in his land” (first year) and “statue of Hammurabi, King of Justice” (twenty-second year).

Although Hammurabi was dedicated to establishing a system of justice and putting laws on public display, the exact purpose of the stele and its Code is still debated. Some historians believe it was meant to be consulted as the supreme law of Babylonia. Others believe it was meant to be a high-water mark by which future kings could judge their commitment to justice. And even others have speculated that it was meant to simply delight the gods.
**THINK**

1. The Code’s epilogue says that anybody involved in a dispute can use the Code to “let him see the law which applies to him, and let his heart be set at ease.” How was Hammurabi’s Code an important step towards building the Rule of Law in society?

2. Hammurabi’s Code was written and made public so that “the strong might not oppress the weak.” This tradition carries on today: all laws in Canada are available for the public to read. Even so, understanding what those laws actually mean can be difficult.
   a) Why must laws be public for all to know?
   b) Is it important that organizations exist to explain laws to people in plain language?

3. Even if a person can know what the law says and means, when somebody is in conflict with the law, the legal processes are expensive. Wealthy people often have more access to help than poor people.
   a) Is this fair?
   b) What does society do to ensure there is better access to justice for everyone?
   c) How could society do a better job of ensuring access to justice for everyone?
The Discovery of Hammurabi’s Code

History—despite being complete—is never static. The stele that contains Hammurabi’s Code was discovered in 1901. However, the Code was known about before the stele was discovered and our understandings of its laws continue to change with time.

Thousands of clay tablets documenting legal transactions have survived from ancient Mesopotamia. Some of them date as far back as 27th century BCE. The first evidence of Hammurabi’s Code was found in 1854. Clay tablets unearthed at the mound of Tell Sifr in the south-east of modern Iraq contained business contracts that could be linked to a codified system of law.

As Assyriologists (archaeologists who study ancient Mesopotamia) continued to explore the Middle East in the 1800s, they continued to dig up contract tablets and other legal writings. These discoveries led German Assyriologist Dr. Bruno Meissner to speculate about their common content. He believed that a unified law code existed during the First Babylonian dynasty, 1830-1531 BCE. As more pieces of the archaeological puzzle were dug up, more concise speculation could be made.

In 1899, German Assyriologist Dr. Friedrich Delitzsch claimed that “it may further be conjectured that no other than Hammurabi himself... gave the command to unify the laws and ordinances then current into one Code of Law.” Delitzsch dubbed this unified system of law “Hammurabi’s Code.” Though a unified legal code had not yet been discovered, by the close of the 19th century it was presumed to exist and it had a name.

Meanwhile, the French government commissioned mining engineer, geologist, and archaeologist M.J. de Morgan to excavate the site of Susa, the Ancient City of the Persian Kings in the south-west of modern-day Iran. In December 1901, his team unearthed the first of three large fragments of black basalt. Joined together they made up a 2.25-metre pillar: the hypothesized Code of Hammurabi had been discovered. Found some 375 kilometres from the Babylonian city of Sippar, the place believed to be the stele’s original home, it is thought that it was taken to Susa by the Elamites around 1100 BCE as a trophy of conquest.

The Elamites and the Missing Laws

Even though the stele of Hammurabi’s Code had been unearthed, several dozen of Hammurabi’s laws were still unknown. This was because Shutruk-Nakunte, King of Elam, created a particularly confounding problem 3,100 years ago. When he took the stele as a trophy of war, he had some of its text scraped off so that his name could be carved into it.

While the Elamite engraving never happened, the damage lived on. On the front side of the stele is the relief sculpture, the prologue, and 64 laws. Below this is a blank space where Shutruk-Nakunte had the stele scraped. The back side of the stele was unharmed except for the ravages of age, containing another 182 laws and the epilogue.

Vincent Scheil, an Assyriologist appointed by de Morgan to take part in the French excavation of Susa, estimated in 1902 that 34 laws had been lost across five columns of text. Seven years later, German Assyriologist Arthur Ungnad showed at least two more full columns of laws were likely missing.

**Filling in the Blanks**

Even though the stele containing Hammurabi’s Code is missing several columns and other laws are only partially known because of the damages of age, it is not impossible to fill in the blanks. In addition to the clay tablets referencing the Code that had been found prior to the stele’s discovery, outright duplications of the Code have also been dug up. Perhaps most importantly, remnants of at least two more steles containing Hammurabi’s Code have also been discovered: it is believed that these steles were placed on public display at Babylonian temples during Hammurabi’s reign. Together, these remnants have helped fill in the blanks. Unfortunately, they are not perfectly preserved and span an age range of 1,000 years, complicating efforts to precisely fill in the missing laws. However, to-date about 30 of the missing laws have been partially or completely restored.

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**THINK**

1. The Elamites took the stele containing Hammurabi’s Code from Sippar as a trophy of conquest. When de Morgan’s team unearthed it 3,000 years later, they removed it from Iran and put it on display in Paris. This raises questions about who is the stele’s rightful owner.
   a) Discuss the ethics of the Elamites taking the stele from Sippar to Susa.
   b) Discuss the ethics of the French taking the stele from Susa to Paris.

2. Many copies of the Code have been found. They range in age by 1,000 years.
   a) What does this say about the long-term impact of the Code?
   b) When physical artifacts age, they deteriorate. How does this impact the ability of Assyriologists to fill in the missing laws?
   c) When texts are copied, their content can change. How does this impact the ability of Assyriologists to fill in the missing laws?

3. Mel Brooks’ movie *History of the World, Part I* cleverly illustrated a problem facing archaeologists and historians alike. In the segment on the Old Testament, Moses came down from Mount Sinai carrying three stone tablets containing the Law from God. He announced:
   “The Lord Jehovah has given unto you these fifteen…” [Moses drops a tablet and it shatters.] “Oy! Ten! Ten Commandments for all to obey!”
   a) Can we ever be sure that what we understand to be history is entirely accurate, even if there is a written record?
   b) What does this tell us about the importance of oral histories?

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**NUMBERING HAMMURABI’S LAWS**

Although Hammurabi did not number his laws, translators of the Code believed it was important to number each law for reference purposes. The first translation of Hammurabi’s Code, created by Vincent Scheil in 1902, used the following system:

- The laws on the front were numbered 1 through 65 (13 was skipped due to its unlucky connotations); and
- the laws on the back were numbered 100-282.

Scheil believed that 34 laws were scraped off by Shutruk-Nakunte, King of Elam. Later archaeological work revealed that 34 was probably a low estimate.

When the Code was unearthed, only three of the missing laws were known. Today, close to 30 of the laws are now known. Yet, nobody really knows how many laws are missing. Thus, numbering the Code’s laws has been a source of debate. In the early days, the three missing laws were numbered a, b, and c. Some translators continue to use the a-b-c system. Others have used different methods, such as starting a new numbering system for the back side. Even others have attempted to create a unique system for the missing laws that can accommodate the insertion of any new discoveries.

Regardless of how the laws are numbered, exact numeration past 64 will be an impossible task unless the entire Code is discovered.
Today, approximately 275 laws from Hammurabi’s Code are known. Each law was written in two parts: A specific situation or case was outlined, then a corresponding decision was given. Below is a sample of the laws of Hammurabi’s Code. What do these laws say about the worldview of Babylonian society? How do they relate to our worldviews today?

The Code’s Prologue

The Code had a lengthy prologue. Part of it read that Hammurabi was summoned by the gods:

... to make justice to appear in the land, to destroy the evil and the wicked that the strong might not oppress the weak.

Prologues have been part of laws since at least the Code of Ur-Nammu (2100 BCE). Today, we call them preambles. Plato said that the purpose of preambles was to “persuade citizens to obey important laws by speaking to their hearts and minds through both reason and poetry.”

Would people be more accepting of laws they disagreed with if they better-understood the reasons why we have the law?

Punishment for Crimes

The Code’s punishments are outrageously harsh:

Law 22. If a man has committed robbery and is caught, that man shall be put to death.
Law 195. If a son strikes his daughter, his hands shall be hewn off.

One problem with absolute punishments is that every case is unique. For example, stealing a mint from your grandmother’s candy dish is not the same as stealing her retirement savings. Because each case is unique, most laws today spell out a range of punishments that judges can choose from.

Why is it important that judges have flexibility to determine appropriate punishments?

Equality under the Law

Not all people were treated equally under Hammurabi’s laws. For example, while “an eye for an eye” applied if a free man was the victim of an assault, slaves were dealt with differently:

Law 199. If he puts out the eye of a (free) man’s slave, or breaks the bone of a (free) man’s slave, he shall pay half his price.

In short, slaves were dealt with as property and not as equal human beings. Today the Charter of Rights and Freedoms guarantees that “Every individual is equal before and under the law.” Among other things, this means that there is one set of criminal laws for all Canadian society.

Why must the law protect everyone equally?

Eye for an Eye, Tooth for a Tooth

The age-old adage of retaliation “an eye for an eye” finds roots in two of Hammurabi’s laws dealing with assault:

Law 196. If a man has put out the eye of a free man, they shall put out his eye.
Law 200. If a man knocks out the tooth of a free man equal in rank to himself, they shall knock out his tooth.

While retribution has a role in achieving justice, some people believe that “an eye for an eye” can set off a dangerous cycle. For example, in his book Stride Toward Freedom American Civil Rights activist Dr. Martin Luther King Jr. said:

Violence as a way of achieving racial justice is both impractical and immoral. It is impractical because it is a descending spiral ending in destruction for all. The old law of an eye for an eye leaves everybody blind. It is immoral because it seeks to humiliate the opponent rather than win his understanding; it seeks to annihilate rather than to convert.

Is an eye for an eye a reasonable way to restore order after a wrong has been committed?

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THE MANY TRANSLATIONS OF HAMMURABI’S CODE

Many translations of Hammurabi’s Code have appeared in many languages. Every translation has important differences. A look at translations of the Code’s first two laws reveals this:

- The first law deals with “nertu.” Nertu has been translated as capital crime (a crime where the possibilities of punishment include death); homicide (the killing of a person); and manslaughter (taking a life without the intent to kill). Each of these are different terms under the law.

- The second law deals with “kispu.” Kispu has been translated as sorcery by some and witchcraft by others. These are different concepts: witchcraft is a power traditionally believed to be possessed within a person, while sorcery is a learned practice.

Translation can even have racial implications. Early versions translated “salmat qaqqadim” as black-headed people. Recent translators have acknowledged that this is literally correct, but they believe “salmat qaqqadim” was meant as a figurative expression for all of humankind. More controversially, L.W. King’s 1915 translation claimed that Hammurabi was the “White” king. Other English versions did not make such a translation. This has led some people to discount King’s version altogether.

Words matter. When studying Hammurabi’s Code, it is important to consider what translation is being used. This edition of The PLEA uses Driver and Miles’ 1955 version, the most-cited translation of the Code.
Hammurabi’s Code: Was it Truly Justice?

Punishment exists when laws are broken. But what kind of punishment is most appropriate to bring about justice?

The historical importance of Hammurabi’s Code cannot be understated. However, what should not be lost in this consideration of individual laws, relief sculptures, and varying translations is that the stele in the Louvre that contains Hammurabi’s Code is to the world today the most comprehensive attestation we have of Hammurabi’s dedication to justice. And perhaps more importantly, it is also the most comprehensive attestation of Hammurabi’s conception of justice.

What we determine as a society to be “justice” is a fluid and debated concept. Justice envelops varying ideas of how society can treat all people fairly.

One component of a justice system is how we punish wrong-doers. Hammurabi’s Code—much like the laws handed down from God to Moses—largely focussed on punishment. There were two types of punishment in Hammurabi’s Code:

- **Retribution.** If a wrong is committed, there should be some form of proportional (“eye for an eye”) punishment upon the perpetrator.
- **Restitution.** The offender must repay the victim for goods stolen, damaged, or lost, or otherwise make amends for the wrong committed.

However, there is a third concept of consequences: restoration. It was predominant in the development of Aboriginal Law.

**Restoration and Aboriginal Law**

To understand the Aboriginal concept of consequences, it is first important to understand the Aboriginal worldview. The Aboriginal worldview can be linked to a hierarchy based on dependencies. Mother Earth is first since everything and everyone depends on the earth for survival. The plant order is next since the animal world needs plants to survive. After that comes the animal order. Humans, dependent upon all these levels, are the least powerful and least important power in creation. Harmonious interconnections are required between these orders for long-term survival.

Traditional Aboriginal laws reflect these ideas. Because each citizen can contribute to the effective and sustainable welfare of the entire community, traditional Aboriginal conflict resolution has been guided by spiritual means nurtured by customs and habits. Sweats, isolation, and the teachings and influences of Elders, parents, and grandparents are examples of this. Important to Aboriginal systems of laws are notions of honesty and harmony brought...
These three factors contribute to the restoration of smoothly operating families and communities.

Restorative justice envelops these ideas. Restorative justice recognizes that everything is connected, and a crime disturbs the harmony of these connections. When a crime takes place, its remedy should be determined by the needs of victims, the community, and the offender. This restoration is meant to heal victims and communities, while encouraging offenders to confront the consequences of their action. Such an approach is believed to lead to restoration for all.

**No Single Answer**

Retribution, restitution, and restoration are three schools of thought about how consequences should be delivered when laws are broken in Canadian society. As can be seen, none of these ideas are mutually exclusive. And because all crimes involve unique circumstances, it is difficult at the outset to prescribe what consequence is most appropriate for each crime.

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**HAMMURABI’S CODE AND MOSAIC LAW**

Several hundred years after Hammurabi, Moses came down from Mount Sinai with the Mosaic Laws. Mosaic Laws include the Ten Commandments and other laws set out in the Old Testament. Although Mosaic Laws view crimes as acts against God, they have many similarities to Hammurabi’s Code. In fact, ever since the Code was dug up, people have debated whether Mosaic Laws were partially based on Hammurabi’s Code.

One side believes that their commonalities are not conclusive evidence that Hammurabi’s Code was the source of Mosaic Laws. They point out that similar situations will often emerge in all societies. These situations ultimately require the development of similar laws. They also note that there is a relatively large stretch of time and geography between the two codes of law.

The other side of the argument is less accepted. They believe that Mosaic Laws were at least in part a re-invention of Hammurabi’s Code. They point out that there are many similar laws, with some being almost identical. They also have noted similarities in the broader themes and general structures of both codes.

Regardless of one’s belief about the source of Mosaic Laws, it is clear that we can understand much about the evolution of justice by looking at codes from past ages such as Hammurabi’s Code and the Mosaic Laws.

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**THINK**

1. When a judge determines the consequences for a crime, they take into account the concepts of deterrence and denunciation.
   a) Denunciation is a way to denounce somebody’s actions through their punishment. How does denunciation relate to retribution, restitution, and restoration?
   b) Deterrence is meant to prevent people from committing crimes in the first place. How does deterrence relate to retribution, restitution, and restoration?

2. Societal conceptions of justice change over time. This means that laws must be revised to reflect these changes. However, Hammurabi insisted that his laws should never change:

   *To the end of time, yea for evermore, may the king who shall be raised up in the land observe the just words which I have inscribed into my monument: may he not alter the judgment of the land which I have judged and the decisions of the land which I have decided.*

   Does a society have justice if there is no democratic way to change laws?

3. What we determine as a society to be “justice” is a fluid and debated concept. Justice envelops varying ideas of how society can treat all people fairly. What ways does Canadian society work towards justice?

4. What is your concept of justice?
Sources and Resources

There are many resources available to learn more about Hammurabi’s Code. Below are just a few of the resources used to create this issue of The PLEA.

Translations of Hammurabi’s Code

Several translations of Hammurabi’s Code were examined for the writing of this resource. Most include thoughtful commentary on Hammurabi and his code of laws:


Hammurabi’s Code at the Louvre

The Louvre Curatorial Department has an online exhibit of the stele containing Hammurabi’s Code. Find it at www.louvre.fr/en/oeuvre-notices/law-code-hammurabi-king-babylon

Hammurabi’s Code and Mosaic Law

Though the accepted wisdom generally has been that Mosaic Law was developed independently of Hammurabi’s Code, David Wright’s recent book *Inventing God’s Law: How the Covenant Code of the Bible used and Revised the Laws of Hammurabi* has re-opened this debate. Find it at your library.

Hammurabi’s Reign

Jack Sasson’s chapter “King Hammurabi of Babylon” in the Hendrickson Publishers anthology *Civilizations of the Ancient Near East* provides an easy-to-understand introduction to the life of Hammurabi. Find it at your library.