



Analyzing the Code of Hammurabi: Exploring Ancient Legal Principles and Their Relevance in Modern Law

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Abstract. This study examines the Code of Hammurabi, an ancient legal code that dates to early human history, to investigate its old legal ideas and evaluate their ongoing significance in contemporary legal systems. This study seeks to clarify the fundamental concepts that underlie Hammurabi's rules and their lasting influence on modern legal thinking by conducting a thorough investigation of the Code's provisions and historical background. This research aims to provide significant insights into the development of legal norms and their application in addressing current legal difficulties by analyzing important elements such as justice, equity, and societal order as outlined in the Code. This study examines the degree to which Hammurabi's legal ideas align with contemporary legal frameworks. It provides insightful analysis on the lasting significance and flexibility of ancient legal precedents in creating modern legal jurisprudence. This research enhances our comprehension of the historical origins of law and its enduring importance in contemporary legal discussions.

Keywords: *Code of Hammurabi, Contemporary law, Historical law*

Introduction

Around 1790 BCE, Babylon was the world's key cultural and commercial center.¹ King Hammurabi came to power as the sixth Babylonian King within the region and reigned from 1792 to 1750 BCE. Based on the belief that he would help construct a structured society that may bring safety to lots of people, King Hammurabi initiated the method of compiling the Hammurabi code through his platform.²

The Code of Hammurabi was developed during the reign of Hammurabi of the First Dynasty of Babylon. It was a collection of Babylonian laws that addressed various aspects of society, including economic provisions, family law, criminal law, and civil law. The code was inscribed on a diorite stela and set up in Babylon's temple of Marduk, the national god of Babylonia.³

Before the Code of Hammurabi, legal decisions were made on a case-by-case basis, and there was no standardized set of laws. Hammurabi created the code to protect his citizens and establish a more organized legal system.⁴ The code covered a wide range of issues, such as property rights, business transactions, and social relationships. It was written in the Akkadian language and applied to a broader realm than any single country, aiming to integrate Semitic and Sumerian traditions and peoples.⁵

The Code is the longest surviving text from the Old Babylonian period.⁶ It is engraved in stone - a pillar of black diorite 8 feet high - and was located at the heart of the temple in the city of Sippar. The stone, which is now located in the

¹ G. B. and M. E. J. Richardson, 'Hammurabi's Laws: Text, Translation and Glossary', *Journal of the American Oriental Society* 122, no. 1 (January 2002): 178, <https://doi.org/10.2307/3087720>.

² Jørgen Laessoe, 'On the Fragments of the Hammurabi Code', *Journal of Cuneiform Studies* 4, no. 3 (June 1950): 173–87, <https://doi.org/10.2307/1359190>.

³ B. and Richardson, 'Hammurabi's Laws: Text, Translation and Glossary'.

⁴ George S. Duncan, 'The Code of Moses and the Code of Hammurabi', *The Biblical World* 23, no. 3 (March 1904): 188–93, <https://doi.org/10.1086/473361>.

⁵ Pamela Barmash, *The Laws of Hammurabi* (Oxford University Press, 2021), <https://doi.org/10.1093/oso/9780197525401.001.0001>.

⁶ A. H. Godbey, 'The Chirography of the Hammurabi Code', *The American Journal of Semitic Languages and Literatures* 20, no. 2 (January 1904): 137–48, <https://doi.org/10.1086/369506>.

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Louvre in Paris, was discovered by a French archaeological mission in 1901.⁷ The material and form of the stone suggests that it was intended as a permanent fixture with the intention of being seen publicly.⁸

The Code formed part of contemporary Mesopotamian law collections and is one of the earliest known examples of a real 'code' of law.⁹ It was a 'remarkable piece of legislation' which laid the foundation for all subsequent legal codes across the ancient Near East.¹⁰ The aim of the Code, according to the prologue, was to 'bring about the rule of righteousness in the land, to destroy the wicked and the evildoers; so that the strong should not harm the weak'.¹¹ The prologue is attributed to Hammurabi himself, and the 'epilogue' to the god Marduk. All windows were common in the region. It is believed that the subjects covered by the Code of Hammurabi sought to regulate public and private life and encouraged order and equity.

The discovery of the original text has allowed for a greater understanding of how the ancient Babylonian society functioned and gives modern historians an insight into the values and needs of people living nearly four thousand years ago. There is, however, evidence to show that the Code was not just for the benefit of the citizens of Babylonia - an indication that the King was trying to enhance his power and prestige both within and beyond his own land. This is a common theme when considering society and legislation; throughout history, rulers have sought ways to control subjects and demonstrate their own authority. Such a critical examination of the Code considering the origins and intentions of the King can provide a fuller understanding of its use and applicability in ancient society.

⁷ Francis Rue Steele, 'The Code of Lipit-Ishtar', *American Journal of Archaeology* 52, no. 3 (1 July 1948): 425–50, <https://doi.org/10.2307/500438>.

⁸ David G. Lyon, 'The Structure of the Hammurabi Code', *Journal of the American Oriental Society* 25 (1904): 248, <https://doi.org/10.2307/592564>.

⁹ V. E. G. Kenna, 'Ancient Crete and the Use of the Cylinder Seal', *American Journal of Archaeology* 72, no. 4 (1 October 1968): 321–36, <https://doi.org/10.2307/503826>.

¹⁰ Katrien De Graef and Anne Goddeeris, 'Law and (Dis)Order in the Ancient Near East', 2021, <https://api.semanticscholar.org/CorpusID:236698513>.

¹¹ Robert Francis Harper and A. H. Godbey, 'Text of the Code of Hammurabi, King of Babylon (About 2250 B. C.)', *The American Journal of Semitic Languages and Literatures* 20, no. 1 (October 1903): 1–84, <https://doi.org/10.1086/369501>.

By and large, the introduction to the code decorated an excellent picture of King Hammurabi and portrayed him as a loving and merciful ruler.¹² It might be an attempt by the clergy to appease the people of Babylon who were unhappy with the harsh laws by showing that Hammurabi was chosen by the gods to be king. At the same time, the final and most important audience can be the scribes who have been employed as judges since it was the scribes who were going to benefit financially from the copying of the laws for individuals.

The immense impact that the Code has had on numerous different cultures ensures a protracted lifetime to its influence. It's worthwhile and significant to review the King Hammurabi and the historic background of the Code in order that a radical analysis of the potential intentions and impacts of the Code could be made. King Hammurabi, who reigned within the early Babylonian interval from 1792 to 1750 BCE, is the key figure of the introduction.¹³

His intention for compiling the Code was to create a good, authorized framework for the Babylonian society and its current and future residents so that the society is constructive and prosperity.¹⁴ Although it's cheap to argue that King Hammurabi did handle to achieve bringing a few structured societies that assured safety to the folks, especially to the merchant class, it ought to be noted that the Code was removed from reaching the imaginative and prescient which King Hammurabi claimed he had.

Some 900 years after Hammurabi's death, the Babylonian king had not been forgotten. His legal code was inscribed on a stele in 1901.¹⁵ During the year 1901, however, there was a tragic fire at the location of the temple of Marduk. While the Etemenanki was being rebuilt, the architect's employees found the stele of Hammurabi and declared the invention. From then till 1902 the stele and the inscription have been fully lifted. It was then transported by a delegation of American and Turkish consultants to the Louvre in Paris, the place it was returned to France.¹⁶

¹² Theophile J. Meek, 'A New Interpretation of Code of Hammurabi §§ 117-19', *Journal of Near Eastern Studies* 7, no. 3 (July 1948): 180–83, <https://doi.org/10.1086/370876>.

¹³ Laessøe, 'On the Fragments of the Hammurabi Code'.

¹⁴ Meek, 'A New Interpretation of Code of Hammurabi §§ 117-19'.

¹⁵ Steele, 'The Code of Lipit-Ishtar'.

¹⁶ Christoph Schmidhuber, 'The Language of Filiation in the Code of Hammurabi', *Journal of Near Eastern Studies* 79, no. 2 (1 October 2020): 197–208, <https://doi.org/10.1086/710310>.

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On December 21, 1907, a reproduction of the stele of the Code of Hammurabi was offered to the temple by the French government to mark its rebuilding. However, in 1915 "the stele was put in its proper place by the Order of the German Military Government by the Governor of Baghdad" and this amended stele inscription is still in Iraq to today.¹⁷

Modern day criminal laws are developed to safeguard the rights of individuals, to ensure that the guilty are held accountable and the innocent are protected.¹⁸ These laws are generally developed considering the cultural, political, and societal influences of the time. Throughout the various historical stages of law, religious laws have been a significant influence in the development of the criminal laws and provided some form of legal foundation to build upon. This is especially true of the Ancient Middle Eastern Cultures, specifically the code of Hammurabi.

Through a detailed examination of the historical context, structure, and content of the code, this study seeks to uncover the foundational legal principles it embodies and their relevance in the context of contemporary legal frameworks. By comparing Hammurabi's laws with modern legal theories and practices, this research aims to shed light on the underlying principles that have transcended time and continue to shape legal thought and practice today.

In exploring the connections between the ancient legal principles of the Code of Hammurabi and modern legal systems, this research aims to contribute to a more nuanced understanding of the evolution of legal systems and the potential of ancient legal principles to advance modern jurisprudence. This study also underscores the importance of interdisciplinary approaches to legal studies and the value of historical perspectives in shaping the future of legal systems.

This research will provide a detailed analysis of the Code of Hammurabi, its historical context, and its implications for modern law. By examining the code's principles and their relevance in contemporary legal frameworks, this study will offer a fresh perspective on the enduring legacy of ancient legal principles and their potential to shape the future of legal systems.

¹⁷ John Witte, 'Introduction to "Christianity and Law: An Introduction"', 2008, <https://api.semanticscholar.org/CorpusID:159843876>.

¹⁸ Pedro Savaget Nascimento, 'Philosophy and Law in Ancient Rome', *Netherlands Journal of Legal Philosophy* 48, no. 1 (July 2019): 29–47, <https://doi.org/10.5553/NJLP/221307132017046010001>.

Research Method

In this research, the historical context method is employed to analyze the Code of Hammurabi and explore its relevance in modern law. This method involves examining the cultural, social, and political context of the Code of Hammurabi, which was established by the Babylonian King Hammurabi around 1750 BCE and contained 282 laws.

The historical context method is particularly useful in understanding the Code of Hammurabi, as it provides insights into the economic principles and legal practices of ancient Mesopotamia. By examining the Code in its historical context, this research highlights the enduring legacy of Hammurabi's laws and their implications for contemporary legal frameworks.

This research draws on a range of sources, including academic articles, historical records, and archaeological findings, to provide a comprehensive analysis of the Code of Hammurabi. The use of the historical context method enables a nuanced understanding of the Code's principles and their relevance in modern law, shedding light on the evolution of legal systems and the potential of ancient legal principles to advance modern jurisprudence.

This study employs the historical context approach to examine the content of The Code and derive the underlying economic principles. This research examines the historical backdrop of the Code and uncovers the fundamental legal concepts it represents. It also explores how these principles are still relevant in modern legal contexts. The research findings enhance our understanding of how legal systems have evolved and highlight the potential of ancient legal concepts to promote modern jurisprudence.

Discussion and Analysis

The Code of Hammurabi, known for its unique structure and organizational effectiveness, consisted of three distinct sections, each playing a crucial role in shaping the legal system of ancient Mesopotamia.¹⁹ To understand its significance, the code can be divided into the following three sections - the laws dictated by the gods, the implementation guidelines, and the specific legal provisions and their accompanying consequences.

¹⁹ J Dyneley Prince, 'The Code of Hammurabi', ed. Robert Francis Harper et al., *The American Journal of Theology* 8, no. 3 (1904): 601–9, <http://www.jstor.org/stable/3153895>.

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The initial segment encompassed the first 44 articles, which were divine laws explicitly established by the gods themselves. These sacred regulations served as the foundation of Hammurabi's duties as a king, mandating his adherence to the heavenly decrees. Imbued with divine authority, these laws were revered as absolute and irrevocable, leaving no room for interpretation.²⁰

In the subsequent 44 articles, one could witness the seamless continuation of the laws presented in the previous section. These articles focused on the practical implementation of the divine laws, elucidating the intricate procedures and mechanisms employed within the legal system. They provided guidance on how the laws should be enforced and the institutions responsible for maintaining order and justice.

The final and most extensive part of the code comprised 282 articles meticulously outlining specific laws and their corresponding consequences. These comprehensive provisions encompassed various aspects of Babylonian life, including matters related to commerce, property ownership, personal relationships, and criminal offenses.²¹ By enumerating the exact punishments or compensations that ought to be meted out, the code aimed at ensuring uniformity and fairness in legal proceedings.

This distinctive structure and sequential arrangement of the Code of Hammurabi enabled an efficient legal framework for the time. While the laws themselves were precise and unambiguous, leaving little room for subjective interpretation, the inclusion of prologues offered valuable insights for judges tasked with interpreting and applying them. Although the code lacked explicit advice on implementation methods, any ruler who dutifully followed the laws outlined in the latter part of the code was effectively upholding the divine mandates set forth in the initial section. Thus, this structure fostered a harmonious relationship between earthly rule and heavenly decree, ensuring the just and proper governance of the ancient Babylonian society.

²⁰ David P. Wright, 'The Laws of Hammurabi and the Covenant Code: A Response to Bruce Wells', *Maarav* 13, no. 2 (1 December 2006): 211–60, <https://doi.org/10.1086/MAR200613205>.

²¹ Robert Francis Harper, 'Notes on the Code of Hammurabi', *The American Journal of Semitic Languages and Literatures* 22, no. 1 (October 1905): 1–28, <https://doi.org/10.1086/369552>.

The prologue of the Hammurabi Code outlines its intentions and purpose.²² It begins with a description of the gods who instructed King Hammurabi to bring about justice to the land of Mesopotamia. The prologue describes the gods, their attributes, the land between the two rivers and the people they watch over. Then, it goes on to the reasons why the gods decided that Hammurabi should be gifted with the law, listing the objectives and aims of the code, and how it is the embodiment of the law.²³

The idea that Hammurabi is a savior figure and the patron of Marduk are also celebrated in the last few statements of the prologue. The prologue is very useful to historians and students of ancient Mesopotamia in understanding the social and juridical context in which the code was written, and the religious significance of a secular code of law to the people of the time.²⁴ We can see that in the document itself, the laws, the punishments, the regulations. There is a great deal of the code that is concerned with the who can do what to who - but not all of it is conducive to maximizing pleasure. There are whole articles, areas of law which outline how and in what circumstances you can bring a claim against a physician, a medic. We see from this that not only was there a structured legal process by which one could make a claim, but there was also an attempt to regulate a good, what we would call, type of medical care.

There were sanctions for physicians who stepped out of those rules. These early attempts to regulate medical treatment and introduce experts' evidence into court exist in present day law; for example, the legal requirement for all medical professionals to have an insurance policy covering any potential negligence claim is very similar to the responsibility set out in Hammurabi's code.²⁵ This close interconnectedness of medical ethics and law in the ancient world is reflected in the modern era, showing how the original aims and purposes of a code of law can have a lasting impact on the society that uses it.

²² ISAAC BOAHENG, 'Exploring the Relationship between the Mosaic Code and the Hammurabi Code', *All Nations University Journal of Applied Thought*, 30 November 2020, 77–89, <https://doi.org/10.47987/CEFD7600>.

²³ B. and Richardson, 'Hammurabi's Laws: Text, Translation and Glossary'.

²⁴ B O, 'A', *Journal of Mother-Tongue Biblical Hermeneutics and Theology*, 31 August 2022, 30–44, <https://doi.org/10.38159/10.38159/motbit.2022422>.

²⁵ S. Langdon, 'The Sumerian Law Code Compared with the Code of Hammurabi', *Journal of the Royal Asiatic Society* 52, no. 4 (15 October 1920): 489–515, <https://doi.org/10.1017/S0035869X00148543>.

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The prologue portrays Hammurabi as a pious ruler who is appointed by divine forces to establish the code. Hammurabi expresses his intention to ensure the visibility of justice in the kingdom, eradicate the wicked individuals, and prevent the strong from oppressing the helpless.²⁶ In contrast, the epilogue adopts a self-congratulatory tone, as Hammurabi asserts that the rules represent his remarkable accomplishment and urges individuals to derive a moral lesson from them.²⁷ Nevertheless, he also asserts that "*if a future ruler of the land does not observe the words of this law... may the great god that I believe in destroy his seat. May I destroy his sovereignty... and may a foreign enemy come and overthrow his land.*".²⁸ Both moral and political pressure is exerted on future Babylonian rulers to uphold the law due to its perceived sacred nature as a divine directive from God. This is particularly significant in a society where religion and governance are deeply intertwined. Furthermore, while Hammurabi associates the welfare and unity of society with the governance of the "Great GOD," it also suggests that individuals should revolt if the code is not being adhered to, as God will guarantee justice on their behalf.

Table 1. Structure of the Code of Hammurabi

Structure	Explanation
Prologue and Epilogue	The prologue of the code, albeit concise, includes a sequence of comments and provides an overview of Hammurabi's role as the lawgiver. It is crucial to consider that the prologue and epilogue of the code were most likely not written by Hammurabi himself, but by a scribe or another someone belonging to the educated

²⁶ John Pearn, 'Hammurabi's Code: A Primary Datum in the Conjoined Professions of Medicine and Law', *Medico-Legal Journal* 84, no. 3 (9 September 2016): 125–31, <https://doi.org/10.1177/0025817216646038>.

²⁷ George E Vincent, 'The Laws of Hammurabi', *American Journal of Sociology* 9, no. 6 (1904): 737–54, <http://www.jstor.org/stable/2762088>.

²⁸ R H Pfeiffer, 'An Analysis of the Hammurabi Code', *The American Journal of Semitic Languages and Literatures* 36, no. 4 (1920): 310–15, <http://www.jstor.org/stable/528333>.

	<p>scribe class. The allusions to Hammurabi in the third person in the text show that it is likely for a monarch to refrain from boasting about his own achievements. Instead, he would prefer to have them presented in a more impartial manner by someone else. Moreover, it is challenging to envision a scenario in which a king, who had made the decision to revise the foundation of the legal system, could set aside his authority and proceed with the task. This is because a legal document like the code was believed to be a direct bestowal from the gods, and anyone who violated it would incur divine retribution. While contemporary scholars may view the prologue to the code as a piece of propaganda, due to its depiction of the god Marduk appointing Hammurabi to establish legislative order and the king's successful rule over his subjects after the implementation of the legislation, all social classes in Babylonian society would have regarded these words with utmost seriousness. Furthermore, the gods are held in great reverence, as seen by the mention of "gods" in the initial lines and the indication that it was the desire of the gods.</p>
<p>Laws and Punishments</p>	<p>The code utilises a diverse range of inventive and methodical laws, with the Hammurabi Code adopting a distinctively exclusive approach</p>

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	<p>compared to other primary sources from this era. These sources predominantly consist of letters and archives that primarily focus on political histories and conquests by individuals. Additionally, they include self-aggrandizing accounts found on the walls of kings' palaces. However, the code itself is quite distant from those resources, as its main objective is to democratize and make accessible the justice system that existed in Babylonia. It aims to ensure that all individuals living under Hammurabi's rule would perceive the justice they were administering or being subjected to as legitimate and fair. One of the most intriguing aspects of the laws in Hammurabi's code regarding women is that he did not view them as mere possessions of men, which was different from neighboring ancient Near Eastern cultures like the Hittites. In addition, a novel aspect involves laws that hold builders and property owners responsible for falls and similar incidents, both in terms of maintaining the properties and compensating for damages. This approach is innovative and groundbreaking in the field of jurisprudence.</p>
<p>Social Classes and Gender Roles</p>	<p>Throughout the course of history, diverse nations and civilizations have embraced a multitude of sociocultural frameworks for their populations to</p>

	<p>adhere to. Archaeologists, anthropologists, and historians have mostly focused on studying societal structures and the responsibilities played by certain members of a community. Despite the emergence of more progressive and egalitarian cultures, numerous ancient civilizations were characterized by strong patriarchal structures, male dominance, and social hierarchies based on class. The Code of Hammurabi reveals that the people of ancient Mesopotamia highly esteemed the gender-based social hierarchy. According to Law number 36, it is explicitly stated that if a guy digs a hole, only that man is allowed to get water from it. This legislation acknowledges the entitlement of males to possess their own land and explicitly declares that water supply tools, which are crucial resources for both plants and human existence, are the exclusive property of males. It emphasizes the notion that males are the focal point of society and should have more advantages and authority. According to Law number 145, if a man marries a woman and she provides him with a maidservant who bears him children, he is not allowed to take another wife. It signifies that in cases where the husband is responsible for a problem, he is prohibited from practicing polygamy and taking another wife. The</p>
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	<p>legislation assumes that there is a potential for women to be at fault. Nevertheless, the legislation prohibited the husband from marrying another woman, indicating a shift in societal norms towards safeguarding women's interests. As per statutes #145 and #146, the severity of penalty for a crime varies depending on the circumstances. However, the crucial factor is that the punishment differs only when a woman who is born free loses her child. Law number 209 stipulates that if a lady of noble birth miscarries due to a physical assault, the perpetrator is obligated to provide compensation. In contrast, Law number 210 states that if a woman of noble birth intentionally attacks another woman, resulting in the loss of her unborn child, a medical examination of her reproductive organs will be conducted. This statement clearly indicates the significant focus on the advantages that women receive, and the more severe penalties imposed for offences committed against them.</p>
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Source: Author analysis, from collected data

Analysis of Legal Principles

This phrase, along with the strong sense of retribution, is not always the justice that people want, but it is certainly the justice expected. The Code of Hammurabi, it is oftentimes said, that the oppressed may survive the

oppressing of the oppressor.²⁹ This entire section of laws dealing with justice and fairness is quite intriguing and is dispersed with laws dealing with decisions made in assembly to various cases of supporting the innocence and guilt of a person being accused of something. The decisions made by the assembly hold an uncanny similarity to the way the modern grand jury functions. A grand jury's purpose is to assess the validity of the accused charges. If the accusation is deemed valid, then a trial can be held to determine guilt or innocence. This is analogous to the laws involved in Hammurabi's Code of decisions made by judges involving rulings that produce a type of decision.

Laws are an important part of society, as they provide a way to maintain order and resolve conflicts.³⁰ These laws were of great influence on the set of laws set by the Hebrews, which would later influence the laws of many other cultures. "An eye for an eye, a tooth for a tooth" is a well-known saying that, in a simplified manner, is the basic principle of most ancient legal codes.³¹ In just six paragraphs, the entirety of Hammurabi's Code can be introduced and concluded. Each of the following paragraphs will expand on an assortment of specific laws followed by a modern comparison and legal analysis of the laws.

Principles of Justice and Fairness

The code of Hammurabi is sometimes mentioned as an early example of the presumption of innocence. However, the assessment made previously about the state of dy (law, justice) at this time seems to indicate that the earlier a society is, the less likelihood there is of a truly independent, impartial, and competent judiciary. The Jewish Virtual Library quotes a debate about justice between the king and the philosopher Siduri; the king fails to answer the questions propounded to him. It is inconceivable that the Code of Hammurabi could have one day been read out by a Babylonian equivalent of Lord Denning.

²⁹ Daniel Jones, 'Magna Carta: The Making and Legacy of the Great Charter', 2014, <https://api.semanticscholar.org/CorpusID:127163952>.

³⁰ Felix Cohen, 'The Ethical Basis of Legal Criticism', *The Yale Law Journal* 41, no. 2 (December 1931): 201, <https://doi.org/10.2307/791552>.

³¹ Philippa Byrne, 'Medieval Violence, the Making of Law and the Historical Present', *Journal of the British Academy* 8s3 (2020): 133–54, <https://doi.org/10.5871/jba/008s3.133>.

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Hammurabi claims that he inscribed the laws on the great stela.³² Many of the arbitrations existent at the time which were discovered in surrounding areas were inscribed on clay tablets. This was also a practice carried out when recording laws; the advantage of the stela would have been its permanence and overwhelming impressiveness. The bas-relief on the upper part that frequently shows the King receiving the laws from the sun-God and or Shamash, the god of justice, regrettably has no counterpart in more modern legal systems. Often, the leadership of a legal system regularly came to believe in their divine right to interpret law as they saw fit, i.e. Henry VIII. Whether or not this gave the Mesopotamian kings greater conviction of the justice of their laws is questionable. This marked influx of deus ex machina law led to a shift away from customary law that was only to become more profound in Europe with the codification of laws in the Napoleonic era.³³ This was probably not progressive in its day. Custom was a source of law that by its very nature was inalienable and providing Socrates' theory of law being a social contract is correct, our earliest ancestors had never held a public vote ratifying that they wanted to be ruled by Hammurabi and his god.

Role of Religion and Gods in the Code

The Hammurabi code is established to be a direct representation of what the deities Harumma and Bel have spoken. It's a symbol for clarity of law, transparency, as it includes all matters in everyday life and omits nothing.³⁴ All classes of people can see and understand the prevalent judgments, and it brings justice to the rich and poor, weak, and strong. This is also known as the same treatment principle. This, in turn, reflects the goals to which the deities sought. The goal for them was to establish justice in the land, to destroy wickedness and evil, to prevent oppression of the weak by the powerful, to be strict with

³² Mir Zohair Husain and Stephen E. Costanza, 'Code of <sc>H</Sc> Ammurabi', in *The Encyclopedia of Corrections* (Wiley, 2017), 1–4, <https://doi.org/10.1002/9781118845387.wbeoc034>.

³³ Mirta Srdarev, 'Kanonska Slika Staroindijskoga Drutva u Manuovu Zakoniku', 2013, <https://api.semanticscholar.org/CorpusID:135135352>.

³⁴ K V Nagarajan, 'The Code of Hammurabi: An Economic Interpretation', 2011, <https://api.semanticscholar.org/CorpusID:35595593>.

the truth, and to enhance the law of the land. These goals lead the deities to call for a law that possesses the characteristics attributed to justice and fairness. The Code of Hammurabi gives us a unique insight into the ancient Babylonian's way of life. The code is the first known record of a ruler proclaiming to be dictated by the gods' will. It creates a "class" or an understanding for a superior and inferior. "If the commoner shrugs off his follower and has not taken him by the hand, if the follower sues him at a later date, this incident must be related before the god of the follower, and he must confront the witness." This quote imitates the giving of social class from a peasant or a commoner and his follower to a godly figure who shows justice and fairness from the mirror principle. The more sinister twist is closer to the end of the code, stating "If a man puts out the eye of another man, his eye shall be put out." This signifies a try of retributive justice from Hammurabi, seen as almost an eye for an eye, and the twist is that it is not the social class of the person, which is prevalent throughout the code.

Punishments and Deterrence

The code as a reflection of justice and fairness also includes the implications of punishments which can vary from one harm to another, as the consequential notion of strict liability was present in the code it certainly might be too abstract of an idea. This nonetheless can be identified in several provisions in the code. Taking an example of Hammurabi Code, Andrew Lemke has identified a stating, "If a builder has built a house for a man, and has not made his work sound, and the house he built has collapsed and caused the death of the owner of the house, that builder shall be put to death." This statement certainly indicates a form of strict liability as there is a known maxim of liability of anything, the rule "the thing speaks for itself".³⁵ Tasking this idea of strict liability a step further, Barakata Karaman has referenced the provision 41 of Hammurabi Code, "If a man has put out the eye of a citizen, his eye shall be put out." This states the harshest form of liability for an act, almost to the point

³⁵ Andrei Aryamov and Vladimir Kulakov, 'Legal Acts of the Galicia-Volhynia Principality of the 12th—13th Centuries as Historical Heritage of Domestic Medieval Law', *OOO "Zhurnal Voprosy Istorii"* 2022, no. 3–2 (1 March 2022): 77–83, <https://doi.org/10.31166/VoprosyIstorii202203Statyi34>.

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of strict liability.³⁶ This does reflect a system of justice and fairness as punitive measures and sentencing show consistency with the nature of the crimes committed. Measures to ensure that judgments are meted out fairly are also seen in the code. A provision such as 195 states that "ensnarement of another person through the court must be punished by the same sentence which his victim would have borne." A more intricate system of deterrence is seen in the use of "ordeal" which can tie in with punishment, an act to verify one's guilt.

Protection of Property and Contracts

The Code of Hammurabi devotes far more space to this subject than any of the others. The property provisions touch on almost all the other topics, particularly the rights of women and the poor.³⁷ Throughout the Code, it is apparent that it was shaped from a Babylonian upper class, propertied perspective. Class bias is present in the fifty laws which follow paragraph 256 dealing with sales and purchases, through to a clear final statement of class bias in Ezekiel's variation on the Code in 20:25-26. Measures of tort law are an area where the Code's interest is in protection of the propertied rather than being uniformly protective of all citizens. High value has always been placed on the stealing of property, particularly government property, by rulers concerned to secure their own wealth and power. Later Greek law evidence accidental death or injury as being actionable because of loss of property, and neighbor disputes in relation to property are a cause of municipal litigation to the present day.³⁸ But compared with earlier Sumerian or contemporary Assyrian law, the Code is distinctive in its severity about theft and burglary. If a charge was brought against a man for a theft, he and with two to three witnesses as opposed to the accuser underwent ordeal through water.

³⁶ Stephen E Sachs, 'From St. Ives to Cyberspace: The Modern Distortion of the Medieval "Law Merchant"', 2005, <https://api.semanticscholar.org/CorpusID:110856582>.

³⁷ Nagarajan, 'The Code of Hammurabi: An Economic Interpretation'.

³⁸ Lisa Kallet-Marx et al., 'Institutions, Ideology, and Political Consciousness in Ancient Greece: Some Recent Books on Athenian Democracy', *Journal of the History of Ideas* 55, no. 2 (April 1994): 307, <https://doi.org/10.2307/2709902>.

Treatment of Women and Slaves

Now, this suggests that the code was to protect the well-being of all citizens, including women and slaves, but does not ensure any real results for those two groups.³⁹ The mere fact that the case was not specifically created to keep their well-being in mind suggests that at best, the case could end up helping them, but none of the rights of the upper classes were rescinded to aid these classes. Measures could have been taken to ensure that certain rights of the upper classes would not infringe on the rights of women and slaves. For example, in cases 146 and 190, it is said that if a man has purchased a slave or slave girl and a third person has maligned the slave and said, "That slave girl is a prostitute, let her mistress strike her," or "That slave is bad, let his master cut off his ear," provided in each instance that the third person cannot prove the allegations, the master of each slave is then to take a pure silver punch worth the value of the slave to expiate the statement. This would be a good protection for the slave and his/her reputation and well-being, but it does not consider the feelings of the master or well-being of the third person who may have simply said something careless.

"Anu and Bel called by name me, Hammurabi, the exalted prince, who feared God, to bring about the rule in the land. I am the king who set the well-being of the people, to make the land a good place (lit. straight) within my case. The case is good or bad, let the afflicted man come in his trouble to me. I will take hold of the good of the oppressed. I took hold of the case of the afflicted man, whether it is good or bad. I am the shepherd who seeks to bring about the well-being of his people."⁴⁰

Though the Hammurabi law code does much to protect and ensure a stable life and future for his citizens, that does not mean that it is universally the best for everyone under all circumstances. In the case of women and slaves, the rights and general well-being of these two groups is significantly lowered in terms of being protected and ensured a good life by this law code. Often this is seen as the beginning of laws that unfairly target one specific group for the benefit of the whole, but that is a topic for a different time.

³⁹ *The Laws of the Salian Franks* (University of Pennsylvania Press, 1991), <https://doi.org/10.9783/9780812200508>.

⁴⁰ Danijela Kovačević, 'A Historical-Legal Review of Hammurabi's Code', *Pravo - Teorija i Praksa* 39, no. 1 (2022): 71–82, <https://doi.org/10.5937/ptp2201071K>.

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Relevance to the Modern Law System

The Hammurabi Code exerted a significant influence on the concept of justice, with certain principles and laws from it being incorporated into modern legal systems. In early society, the justice system comprised two distinct courts: one dedicated to the nobility and another for the ordinary populace. If an individual of low socioeconomic status accuses an affluent individual of committing a crime, the prosperous defendant has the option to choose for the jurisdiction of the aristocratic court. Nevertheless, according to the regulations of programming, it explicitly specifies that both individuals, regardless of their social status, must appear before the same court. By implementing this regulation, the Code of Hammurabi has effectively reformed the early legal system to provide fairness for all individuals, while also reducing widespread social bias.

Furthermore, the concept of "presumption of innocence" can be traced back to the legal principles established by Hammurabi. In the historical context of the ancient Near East,⁴¹ the law codes that came before, such as the Sumerian and the Akkadian, have been preserved as inscriptions created by monarchs during their reigns, but unfortunately, these inscriptions have suffered significant damage.

The Code of Hammurabi has been remarkably well maintained due to the strategic placement of memorial copies in temples across the land, reducing the likelihood of its loss over time.⁴² These temples frequently endured beyond the rule of a single person, so guaranteeing the preservation of the laws and the society established on these laws. The Code of Hammurabi is today widely regarded as a valuable source for understanding Babylonian civilization due to its effective historical preservation. It provides a detailed insight into various aspects of Babylonian society, including merchants, land transactions, adultery, family troubles, and more. The laws created by the people, for the people, play a crucial role in the advancement of civilization. The principles established by the Code of Hammurabi, including the protection of defendants' rights and the

⁴¹ Amélie Kuhrt, *The Ancient Near East c. 3000-330 Bc* (Routledge, 2020), <https://doi.org/10.4324/9780203436257>.

⁴² Karl Loewenstein, 'The Administration of Justice', in *The Governance of ROME* (Dordrecht: Springer Netherlands, 1973), 293–300, https://doi.org/10.1007/978-94-010-2400-6_14.

government's responsibilities, as well as the implementation of corruption-free legal systems, can still be used to assess the effectiveness of modern legal systems in society.

After many copies of the Hammurabi Code had been distributed over a wide territory, legal systems in ancient Mesopotamia began to show significant influence of the governing laws as set out by the Code. It is important to note that Mesopotamia consisted of several separate political entities and cities were usually governed by temple political structures, known as theocracy.⁴³ Such was the nature of political organization in ancient Mesopotamia that each separate state or city had its own temple dedicated to a different god and each city was considered an independent entity. The political power of each city was under the authority of the local god and the ruler was considered in effect a steward by ancient norms. The role of judging and maintaining the social order was within the duty of the temple leaders.

While the Code was applied by all the legal and social systems in ancient Mesopotamia - and therefore, individuals who sought to disrupt the lives of others that were either in keeping with the pursuit of the common good as set out by the laws or disrespectful of the social order as the laws understood it - the actual application of the laws and the precise form which the punishment took varied from place to place. The power of the Code as a set of laws in the ancient Mesopotamian society was really laid in the interpretation of the leaders who used the laws as the guiding principle for their judgment. And there was a lack of a formal body sanctioned by the Code that could be established to make an appeal or no particular system that could persecute someone with a complaint that their rights as set out by the Code had been violated. As a result, the influence of the Hammurabi Code had really been derived from the idea that a uniform set of laws was required for the operation of an ordered society and its implementation had to be specifically instructed by the leadership. But the presence of the code in ancient Mesopotamian society did not alter the underlying dynamic of each separate state's social and legal systems: the influence that the Code began to show in the legal and social systems really

⁴³ Hu Hu, 'Codes as Constitution: The Development of the Biblical Law-Codes from Monarchy to Theocracy', 2009, <https://api.semanticscholar.org/CorpusID:159144972>.

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signified the attempt of centralizing and standardizing the political order under a united government.

The laws, principles, and guidelines, all set up to be followed in a society, that are derived from or inspired by Hammurabi's Code can still be seen in modern legal codes.⁴⁴ This includes several laws passed by the United States Congress. For example, the idea of financial responsibility - that a person or company is obliged to pay for the harm it causes in society - may be seen as a reflection of Hammurabi's 235th law, "*If a surgeon has treated a man for a wound with a lancet of bronze and has caused the man to die, or has opened up the eye-socket of a man and has cured the bone, he shall have his hands cut off.*"⁴⁵ Also, in an eye for an eye, a tooth for a tooth, injured parties and responding through violence can be justified - and still used as a defense for assault in some places. This was inevitable; the need for peace and order would have often outweighed the penalties for an assault or similar crime. But the amount of influence that Hammurabi has had on modern legal codes should not be exaggerated. Even in its own time, his influence was far from absolute. True, the idea of a common set of fundamental laws that all people must obey suggests that rulers or officials could not apply the law as they saw fit - a clear curb on authoritarianism. But in practice, this is what often happened. And once Hammurabi's Empire fell, his code fell into disuse and eventually was lost. Over time, its greatest effect on later legal codes was not that they used his specific laws, but that his ideas about laws were used to create new ones. This is a legacy that can still be seen today. By examining its structure, language, and style, the influence of the Hammurabi code on other legal codes, including that of the United States, can be clearly seen.

Another way that the Hammurabi Code influenced how society would be shaped was through setting up a criminal justice system that would be vital in every society in the world. The criminal justice system would not be to some extent if the laws or the code from which it was based on was biased or favored a certain group of people. Under the "Drawing the Writing Style" law, it states that once a witness testifies for another, the two accusers would fight each

⁴⁴ F. J. Ascaso, A. D. Singh, and H. S. Dua, 'Decoding Eyes in the Code of Hammurabi', *British Journal of Ophthalmology* 95, no. 6 (1 June 2011): 760-760, <https://doi.org/10.1136/bjophthalmol-2011-300368>.

⁴⁵ W. G. Kett, 'The Code of Hammurabi', *Clinical and Experimental Optometry* 24, no. 2 (1 February 1941): 51-52, <https://doi.org/10.1111/j.1444-0938.1941.tb03375.x>.

other and whoever's case lost, the witness would have to have his or her hand cut off. Therefore, witnesses who know something about a case were very reluctant to testify.⁴⁶

This code meant that it created a precaution to make sure that lying in court and submitting frivolous claims would be a deterrent. No one wanted to testify for someone for no reason whatsoever and end up losing the case. Because of the Hammurabi Code and the stipulation that favors no one, all people were treated equally, and nobody was given an unfair advantage, no matter how high you were in the social class. This criminal justice system had greatly impacted our modern-day society in terms of laying our foundation in the development of court and legal systems. And because laws are written down, it means that society is bound together with some unitary structure in which all are expected to obey and live according to. This led to the development of the importance of written laws and the concept of "Equality before the law, that is, of equal laws" which can be seen in the United States Constitution today.⁴⁷ Therefore, the Hammurabi Code was a huge turning point in shaping the moral standards and the laws that govern mankind for decades and perhaps many more centuries to come.

Critic and limitations

The Hammurabi Code undoubtedly had its imperfections, as critics have pointed out various shortcomings in the text. This section will analyze the faults and limits of the code, focusing on its relevance and significance. The code will first be analyzed to identify any prejudice and inequality.⁴⁸ Furthermore, the text will now emphasize the absence of flexibility and adaptation. Lastly, the problems pertaining to the implementation and efficiency of the code will be examined. By assessing the influence of the criticisms and constraints, one can gain a clearer understanding of the enduring significance of the text in the legal

⁴⁶ Ceren Özek and M. Memet Özek, "Code of Law" of Hammurabi, *Child's Nervous System* 24, no. 5 (26 May 2008): 537–38, <https://doi.org/10.1007/s00381-007-0510-7>.

⁴⁷ Csaba Varga, 'Legal Traditions?', *Acta Juridica Hungarica* 46, no. 3–4 (December 2005): 177–98, <https://doi.org/10.1556/AJur.46.2005.3-4.2>.

⁴⁸ Lei Yong, 'The Self-Governance of Mediaeval Cities in Western Europe: A Sociological Analysis on the Tradition of Government in Accordance with a System of Law in Western Society', 2006, <https://api.semanticscholar.org/CorpusID:148208921>.

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history of ancient Mesopotamia. The Hammurabi Code not only discusses its shortcomings, but also offers a distinct and useful understanding of the civilization that produced it.⁴⁹ Recently, scholars like G. Lyon have made significant efforts to scrutinize the intrinsic prejudice and inequity present in the code.⁵⁰ The concept that 'an eye for an eye' aimed to ensure fairness in punishment is challenged. For instance, it underscores the discrepancy in the severity of punishment between a man who struck a person of higher social status and one of lower social status. This information supports the criticisms that the code is excessively severe, especially when considering present-day perspectives.⁵¹ In summary, despite the initial intention of the code being a divine creation aimed at creating a fair society by addressing wealth inequality, the actual outcome seems to reinforce the existing social gap that was present when the code was formulated. Lyon promptly rejects the notion that the text is 'unjust' based on the harshness of certain penalties, arguing that it would be 'wholly improper' to evaluate the code using contemporary criteria. Thus, these objections may be considered somewhat baseless. Below are some critics pertaining to the Code of Hammurabi.

Table II. Critic for Code of Hammurabi

Critic	Explanation
Lack of Flexibility	There are few scholars apprehensive about the economic, social, and cultural history of Mesopotamia. The lack of flexibility in the Hammurabi Code is another drawback of this legal system. The code operates under the assumption that a great divine has given the laws to Hammurabi to rule

⁴⁹ M. Stuart Madden, 'Paths of Western Law after Justinian', *SSRN Electronic Journal*, 2013, <https://doi.org/10.2139/ssrn.2313801>.

⁵⁰ Lyon, 'The Structure of the Hammurabi Code'.

⁵¹ G. E. R. Lloyd, '(M. C.) Stokes One and Many in Presocratic Philosophy. Washington D.C.: Center for Hellenic Studies; London: Oxford University Press. 1972. Pp. ix + 355. £5.75.', *The Journal of Hellenic Studies* 93 (18 November 1973): 244–48, <https://doi.org/10.2307/631487>.

Babylon. The code lacks procedures to address case-by-case societal issues. For example, there is no alternative or plea allowed when people are accused of crimes. There is only one worn-out solution for all kinds of legal problems. The text mentions observations or hypotheses made by fellow scholars. In my research, I have read an article written by de Tracy, a French scholar of the eighteenth century. De Tracy condemns the code as the most full and best example of the excessive and cruel severity of ancient laws. He has observed that the nature of capital punishment stipulated by the code makes it routine and diminishes the respect for law, authority, and people's lives. Also, de Tracy adds that the code is not for every society but for despotism. He points out that the code was used to strengthen the despotic authority of Hammurabi over the space of Babylon, which the total rigidity of the code aims to regulate day-to-day life and bring civil order. Not only is de Tracy concerned about the lives of Babylonians, but he also questions the relationship between men and the supreme power. He suggests that the code reflects the image of an arrogant, severe, and tempted king who cares for his own lust but has no sympathy for his people. For a long time in

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	<p>history, laws were given under the claims of religious authority. As de Tracy points out, "men were told that it is the work of God." His argument is still valid nowadays, showing that the lack of flexibility problem in the code engenders severe and unequal penalties and denounces people's feelings. Regardless of how powerful the king was, men are still under the shackle of annulment of mercy and compassion. This argument is crucial because it implies and introduces the critical evaluation of the code through the viewpoint of libertarianism, rather than traditional critical theory. He prompts readers to consider the code as nothing but a sheer instrument of power and despotism.</p>
<p>Enforcement and Effectiveness</p>	<p>Hammurabi's code outlined the way of life, and the code was established to aid people in remaining in order. The code was meant to regulate and enforce the laws of the society like arrest, criminal law, and court organization. The laws and their punishments are set, which benefits the powerful. The rich and the poor were not treated equally as there were different sets of laws for each social class. Since the poor had very little power, the most common legal system was that the wealthy would bribe the judge to win a case. The poor, however, did not have the money to</p>

do so and often lost. Judgment was focused on what the accused said or how he answered a question, instead of supporting his case with facts and evidence. Also, sometimes the punishments created a larger problem than it was supposed to fix. One of the ways Hammurabi's codes was effective was that it enforced a fundamental ethic in his society that everyone was equal in the eyes of the law. However, with limited technology, poor communication, and many ways of interpreting the "eye for an eye" system meant the code was difficult to enforce. The idea of using physical punishment as a disciplinary tactic spread quickly through Europe. However, some people started to see the benefit of allowing judges to decide suitable punishment. The code was difficult to be enforced because of too many laws and the first portion of every class was spent learning all the information. Hammurabi's code was one of the first attempts in on written law. The whole structure of this set of laws was effective. The structure enforced provided a kind of stability and the ability for the society to move on. While there were many flaws, the enforcement and the penal system under Hammurabi's code was one of the most significant parts of it. In conclusion, Hammurabi's code was

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	<p>effective in ancient Mesopotamia's society because it successfully began the idea of faith in a centralized government, whereas before no such idea existed. Also, the code was the first one to put the fundamental ethic that everyone is treated the same under the law into practice. But the enforcement and the penal system by and large were the most crucial factor in Hammurabi's code, for they supplied its stability and longevity throughout the ancient Mesopotamian empire.</p>
<p style="text-align: center;">Bias and Inequality</p>	<p>The content of the laws in the Hammurabi Code was displayed almost completely in terms of penalties for crimes committed. It also details the method and the way the trial process should take place when a citizen was accused of a certain crime. That's why the code was referred to as "a well-preserved Babylonian code of law of ancient Mesopotamia." However, while the existence of such an organized and well-preserved set of laws had been aiding historians to appreciate the development of ancient society better, the truth is, the existence of the code itself had intensified discrimination and inequality among ancient Mesopotamian society as well. As I mentioned earlier, it was a Mesopotamian code of law, and it was</p>

	<p>used by the best-governed and ancient Mesopotamia. However, when we're talking about "the best-governed," one might interpret it in various ways. This could refer to the rich and powerful people in society as they're the governors to the others, or it could refer to those literally in charge of the whole society. As a result, most of the laws in the Hammurabi Code were in favor of the upper and higher class in society. For instance, men are treated as individuals and have more rights compared to women. It's clearly stated in the 142nd law of the code that "if a man takes a wife and this woman gives her husband a maid and she bears him children." However, if the woman was the first wife and she can't accept the existence of the second wife, she will have inexpressible rights to slander the second wife as much as she wants. The reason being is that "the woman shall be cast into the water." Well, if the husband would like to save his second wife, he'll have to save the first wife first. And if the first wife drowns, at this stage, the second wife shall be set free from the punishment.</p>
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Source: author analysis, from collected data

Throughout its development, Hammurabi's Code has been criticized and judged amongst the history of its time. The criticism that is the most interesting is its meaning in our society today. The law codes of rule of retaliation and the many other Mesopotamian laws provide a framework for comparison of the

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present "culture of injustice."⁵² Retaliation assumes that it is natural to seek revenge and that it is alright to cause damage to your perpetrator in return instead of seeking a solution in which no one is hurt. It's here that we may find a mirror in our own society with the high incidence of violent crimes committed on impulse. The United States' increasing reliance on incarceration as a form of punishment, including for non-violent crimes, is not only like the Babylonians and their idea that the one who "let the evil deed escape" from him should be punished in a like manner.⁵³

This form of punishment has not resolved the U.S.'s crime problem and the risk positive it has created a large caste of people with the stigma of a criminal conviction, which makes it difficult for them to find work, greatly paralleling the disenfranchised man of Hammurabi's code who sold himself, his wife, his child, or his freedom according to the severity of his crime and the man who could not pay his debts and was eventually put to death because he could not serve as a "good" surety.⁵⁴

Conclusion

The Code of Hammurabi, a seminal legal document from ancient Mesopotamia, offers valuable insights into the foundational legal principles of a civilization that thrived over 3,000 years ago. Despite its age, the code's relevance to contemporary legal systems is profound, with principles such as justice, fairness, and accountability continuing to shape modern legal thought and practice.

By examining the historical context of the Code of Hammurabi, this research has highlighted the enduring legacy of Hammurabi's laws and their implications for contemporary legal frameworks. The Code's principles, such as the "eye for an eye" concept, have resonated throughout legal history and continue to shape legal thinking today.

⁵² Ira M. Price, 'The Relation of Certain Gods to Equity and Justice in Early Babylonia', *Journal of the American Oriental Society* 52, no. 2 (June 1932): 174, <https://doi.org/10.2307/593172>.

⁵³ John Davies, 'The Gortyn Laws', in *The Cambridge Companion to Ancient Greek Law* (Cambridge University Press, 2005), 305–27, <https://doi.org/10.1017/CCOL0521818400.017>.

⁵⁴ R. M. Cook, 'Carl W. Blegen, Hazel Palmer, Rodney S. Young: Corinth. Volume Xiii: The North Cemetery. Pp. Xv + 344; 130 Plates, 3 Plans, 25 Figs. Princeton, N.J.: American School of Classical Studies at Athens, 1964. Cloth, \$35.', *The Classical Review* 15, no. 03 (27 December 1965): 367–68, <https://doi.org/10.1017/S0009840X00261891>.

Despite debates over the Code's purpose, underlying principles, and language, it remains a significant historical document that has left a lasting impact on the development of legal systems worldwide. By exploring the ancient legal principles embodied in Hammurabi's laws and their relevance in modern law, this research contributes to a deeper understanding of the enduring legacy of one of the earliest known legal codes in human history.

In conclusion, the Code of Hammurabi stands as a testament to the evolution of legal thought and practice, offering valuable lessons on justice, governance, and societal organization. The code's principles, while rooted in ancient Mesopotamia, continue to shape modern legal systems, and underscore the importance of justice, fairness, and accountability in legal frameworks.

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