

**From the Epic Gilgamesh and Agga**  
**Translated from the Sumerian by Samuel Kramer**

The envoys of Agga, the son of Enmebaragesi  
Proceeded from Kish to Gilgamesh in Erech,  
The lord Gilgamesh before the elders of his city  
Put the matter, seeks out their word:

“To complete the wells, to complete all the wells of the land,  
To complete the wells, the small bowls of the land,  
To dig the wells, to complete the fastening ropes—  
Let us not submit to the house of Kish, let us smite it with weapons.”

The convened assembly of the elders of his city  
Answer Gilgamesh:  
“To complete the wells, to complete all the wells of the land,  
To complete the wells, the small bowls of the land,  
To dig the wells, to complete the fastening ropes—  
Let us submit to the house of Kish, let us not smite it with weapons.”

Gilgamesh, the lord of Kullab,  
Who performs heroic deeds for Inanna  
Took not the word of the elders of his city to heart.

A second time Gilgamesh, the lord of Kullab,  
Before the “men” of his city, put the matter, seeks out their word:  
“To complete the wells, to complete all the wells of the land,  
To complete the wells, the small bowls of the land,  
To dig the wells, to complete the fastening ropes,  
Do not submit to the house of Kish, let us smite it with weapons.

The convened assembly of the “men” of his city answer Gilgamesh:  
“Of those who stand, those who sit,  
Of those who have been raised with the sons of kings,  
Of those who press the donkey’s thigh,  
Who has their spirit!

## Gilgamesh and Hammurabi

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Do not submit to the house of Kish, let us smite it with weapons,  
Erech, the handiwork of the Gods,  
Eanna, the house ascending from heaven—  
It is the great gods who have fashioned its parts—  
Its great walls touching the clouds,  
Its lofty dwelling place established by An,  
You have cared for—you, king and hero.  
Conqueror, prince beloved of An,  
How should you fear his coming!  
That army is small, its rear totters,  
Its men hold not high their eyes.”

Then, Gilgamesh, the lord of Kullab,  
At the words of the “men” of his city his heart rejoiced, his spirit brightened,  
He says to his servant Enkidu:  
“Now, then, let the (peaceful) tool be put aside for the violence of battle,  
Let the battle weapons return to your side,  
Let them bring about fear and terror,  
He, when he comes—my great fear will fall upon him,  
His judgment will be confounded, his counsel will be dissipated.”

### **The Legend of Sargon from ANET p. 119**

Sargon, the mighty king, king of Agade, am I.  
My mother was a high priestess, my father I knew not.  
The brothers of my father loved the hills...  
My mother, the high priestess, conceived me, in secret she bore me.  
She set me in a basket of rushes, with bitumen she sealed my lid.  
She cast me into the river which rose not over me.  
The river bore me up and carried me to Akki, the drawer of water.  
Akki, the drawer of water lifted me out as he dipped his ewer.  
Akki, the drawer of water, took me as his son and reared me.  
Akki, the drawer of water, appointed me as his gardener.  
While I was gardener, Ishtar granted me her love,  
And for six and fifty years I exercised kingship,  
The black-headed people I ruled, I governed...

## 7 Hammurabi's Code

From Richard Hooper, *Representative Chapters in Ancient History*

Shutruk-nahhunte, whom no one remembers, is primarily responsible for the great fame of King Hammurabi of Babylon.

Shutruk invaded Babylon from his home base in Elam some 500 years after Hammurabi's death, and as a trophy of his victory he brought back to his capital of Susa a 7 foot diorite stele. This stele was dug up in 1902 by a French archeological expedition, and the mad riot of cuneiform characters carved all over it proved to be the famous law code we're discussing here. Thanks to it a reasonably vital reconstruction of the Babylonians is possible.<sup>1</sup>

It's a curious, uncodified law code, for although some laws are arranged in groups of three or four, the general impression is that of a haphazard collection of precedents. That shouldn't cause any difficulty, however, once we recognize the fact that laws are generally passive: lawmakers seldom sit down and try to dream up legislation to cover every calamity they can imagine. What usually happens is that a judge sits patiently in his court until (and it never takes very long) two citizens run in arguing about who should pay for the cornfield the neighbor's cow just trampled. The judge then rules on the case and it becomes a precedent for all similar cases—a law. As we'll see, some of the situations described in Hammurabi's law code are so outlandish that they must have been composed in this way; no king could have sat in his palace and dreamed them up.

Even though about 150 of his letters have been preserved, Hammurabi himself is a cipher, a stiff figure standing before the god Shamash at the head of his column, "me Hammurabi, the devout, god-fearing prince."<sup>2</sup>

Such a self-portrait is of course misleading, and in presenting this summary of mid-Eastern history as a succession of towering dynasties I may be not only continuing the oversimplified picture presented by the Sumerian King List but even honoring the pride and vainglory of these long dead monarchs themselves. A more realistic view is presented in a famous letter posted by Itur-Asdu, and ambassador to the court of King Zimrilim of Mari:

There is no king who is all powerful by himself: ten or fifteen kings follow in the train of Hammurabi of Babylon, as many follow Rim-Sin of Larsa, as many follow Ibal-pinel of Eshnunna, as many follow Amut-pi-el of Qatna, and twenty kings follow in the train of Yarim-Lim of Yambad.<sup>3</sup>

Hammurabi ruled for about 40 years starting in 1800 BC as the 6th king of the Amorites, a Semitic people from the western desert who had conquered Akkad and finally set up the city of Babylon as their capital. Hammurabi built an empire that stretched from Assyria to Northern Syria. Like the Sumerians of Ur's Third Dynasty, however, the kings of the Old Babylonians only maintained

1 James B. Pritchard, *Archeology and the Old Testament* (Princeton: Princeton University Press, 1958) pp. 206-210; *ANET* pp. 163-164.

2 *ANET* p. 164; *CAH* II.1 p. 184.

3 Hallo and Simpson p. 95; Kuhrt p. 99; *CAH* II.1.181-182.

their rule for about 150 years, after which they were in their turn overrun by the Indo-European Kassites, whose unimaginative rule will avert our attention from Mesopotamia for the next three chapters.<sup>4</sup> It might help to grasp the complexity of contemporary Mid-Eastern politics to realize that the same ethnic, religious, and political struggles been going on in the area for 5,000 years.

The society which emerges from Hammurabi's code is clearly patriarchal—that is, father-dominated. Children were in the same relationship to their fathers as slaves to their masters, for if a slave had the effrontery to tell his owner “You are not my master,” the slave's ear was cut off (282);<sup>5</sup> if a son dared to strike his father, his hand was cut off (195). Nonetheless, one of the most endearing aspects of the code is its developed sense of justice. Rights always bring corresponding responsibilities. If sons were placed under the strict control of their fathers, fathers were also required to show some restraint and could not, for instance (168-169) disinherit an irritating son on a whim:

If a seignior,<sup>6</sup> having made up his mind to disinherit his son, has said to the judges, “I wish to disinherit my son,” the judges shall investigate his record, and if the son did not incur wrong grave enough to be disinherited, the father may not disinherit his son.

If he has incurred wrong against his father grave enough to be disinherited, they shall let him off the first time; if he has incurred grave wrong a second time, the father may disinherit his son.

As in 18th century England, there was an established procedure for a father to follow in order to recognize his bastards. If he publicly said “My children” over them, even if they were the children of a slave, they could share in his inheritance, though of course his first-born legitimate son would receive the most (170-171). Adoption was also apparently common (see 185-193), and adopted children could neither be reclaimed by their biological parents nor disinherited by their adoptive parents if the father subsequently begot his own children. Again on the other side of the coin, however, (193): “If the adopted son of a chamberlain or the adopted son of a votary found out his parentage and came to hate his foster father and his foster mother and so has gone off to his paternal home, they shall pluck out his eye.”

Marriages were naturally arranged by the fathers of the couple (see 160-161). If you wanted to marry a woman you brought her father a betrothal gift and paid him a marriage price. The bride then brought with her a dowry.

This dowry was the major weapon women could use to protect themselves against the extensive privileges of the male head of the household, for a woman could not be divorced unless the full marriage price and dowry were returned (138-140)—to her father, of course. Likewise, if a woman died, the dowry passed to her children rather than to her husband (162), and if she died without children the husband could only regain his marriage price; the dowry returned to the wife's father (163).<sup>7</sup> As

4 Charles Alexander Robinson, Jr., *Ancient History* (London: Macmillan, 1967) pp. 46-47; Hallo and Simpson pp. 101-106.

5 Numbers in parentheses refer to numbered laws in Theophile J. Meek's translation of “The Code of Hammurabi” in James B. Pritchard (ed.), *Ancient Near Eastern Texts Relating to the Old Testament* (Princeton: Princeton University Press, 1969) pp. 163-180.

6 This is Meek's translation of *avilum*, one of the three social classes in Babylonian society. The third, *wardum* (slave), is clear enough, but the distinction between *avilum* and *muskenum* (“subject”) isn't. It seems to be based on wealth and social standing, as in the phrase *la avilum*, “no gentleman.” Meek prefers the ambiguity of the Italian and Spanish term, and since I'll be quoting extensively from his translation I'll respect his preference. *ANET* p. 166 note 39. See also the remarks of C.J. Gadd in *CAH* II.1 pp. 196-197 and of Kuhrt p. 114.

7 Much of Babylon's culture as we know it was taken from the Sumerians. For instance, in Lipit-Ishtar's law code, which is about 150 years older than Hammurabi's, we find: “If the second wife whom he had married bore him children, the dowry which she brought from her father's house belongs to her children, but the children of his first wife and the

in the law that would later develop for ancient Rome, a woman, even though she could exercise considerable leverage, was always legally under the authority either of her father or her husband.

Women had no clear right of inheritance. Only priestesses, “sacred prostitutes,” or, more specifically, “a hierodule of Marduk” (178-182) could inherit property and pass it on to whomever she wished.<sup>8</sup> Otherwise the property was divided among the brothers. If she became a widow, a woman could decide which of her sons would inherit, but she couldn’t will the property to anyone else (150).

It’s interesting to note that the wives of soldiers missing in action were put aside as a special case (133): “If a seignior was taken captive, but there was sufficient to live on in his house, his wife shall not leave her house, but she shall take care of her person by not entering the house of another.” A wife so set up was, of course, killed if she didn’t wait and was caught fooling around (130), but if her MIA husband had left her impoverished, she was permitted to remarry (135).

Women did have some rights, and in certain respects they were better off than their descendants living today in such conservative, Semitic countries as Iraq or Saudi Arabia, or under the present reactionary regime of Indo-European Iran. For instance, the ancient Babylonian woman could divorce her own husband (142):

If a woman so hated her husband that she has declared, “You may not have me,” her record shall be investigated at her city council, and if she was careful and was not at fault, even though her husband has been going out and disparaging her greatly, that woman, without incurring any blame at all, may take her dowry and go off to her father’s house.

Of course (143),

If she was not careful, but was a gadabout, thus neglecting her house and humiliating her husband, they shall throw that woman into the water.

Not even on paper (I should say on clay) did a husband have complete control over his wife. If he caught her and a lover in bed together he could have them both drowned in the river (129), but without clear evidence he could find himself humiliated in open court: A woman with a good reputation had only to swear that her husband was lying, and he had to take her back (131). If a gentleman falsely accused a nun or another man’s wife, he was dragged into open court and had half his hair cut off for the amusement of the public (152)! Rape could get a man the death penalty, while the woman went free (130). A law, surprisingly humane for the time, also provided that if a wife lapsed into insanity from a fever, her husband, even though permitted to remarry, had to support her for the rest of her days (148).

But lest we get carried away with the presentation of women’s rights in Babylon, it should be made clear that liberated women were not tolerated. Times were tough, and the reputation tarnished, for the golden hearted bar maid who ran the local saloon:

109: If outlaws have congregated in the establishment of a woman wine seller and she has not arrested those outlaws and did not take them to the palace, that wine seller shall be put to death.<sup>9</sup>

110: If a hierodule, a nun, who was not living in a convent, has opened the door of a wineshop or has entered a wineshop for a drink, they shall burn that woman.

Babylonian society was equally hostile to the career woman (141):

If a seignior’s wife, who was living in the house of that seignior, has made up her mind to leave in order that she may engage in business, thus neglecting her house and humiliating her husband, they shall prove it against her;

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children of his second wife shall divide equally the property of their father.” *ANET* 160.

8 Kuhrt sketches the life of these ancient nuns on pages 114-115.

9 One is reminded of the tragic fate of Mary E. Surratt, who kept the boarding house where John Wilkes Booth and his fellow conspirators met. See Carl Sandburg, *Abraham Lincoln: The War Years Volume Four* (New York: Harcourt Brace, 1939) p. 322.

and if her husband has then decided on her divorce, he may divorce her, with nothing to be given her as her divorce settlement upon her departure. If her husband has not decided upon her divorce, her husband may marry another woman, with the former woman living in the house of her husband like a maidservant.

After women and children, slaves completed the father's household. Slaves were either captured in battle, purchased on the open market—in which case they were guaranteed for a month (278)—or contracted as payment for a debt, for a man could sell himself, his wife, his son, or his daughter into slavery for three years (117). It was death to help a slave escape, and there was an automatic reward of 2 shekels of silver for his recapture (15-17). Some slaves, like those depicted in ancient Greek and Roman comedy, must have been given an allowance and a rather free hand, for the daughter of a free man could marry a slave and set up house with him (175-176). If the slave died, the woman kept her dowry, but she and the slave's master split whatever property was acquired during the marriage.

As a whole, Babylonian society can be described as feudal. The term is from the European middle ages—knights in shining armor and such—and describes a society in which private property is not recognized. It's the king who owns all the land, and he lets it out to certain of his subjects in return for favors. As in most feudal societies, the Babylonian favors were originally military. Indeed, military service was taken so seriously that draft dodging was punishable by death; if a recruit hired a substitute, besides taking his place in battle the substitute was also given his estate (26). Once properly assumed, however, the fief remained in its owner's possession for life. A soldier wasn't allowed to sell it (36), but if he were captured in battle it passed to his son (28). If the son were still a minor, the soldier's wife was given  $\frac{1}{3}$  of the fief to raise him (29), although in general women weren't allowed to inherit fiefs from the government or hold feudal obligations (38). The reciprocal obligations of state and vassal are well illustrated in the following law about POW's:

32: If a merchant has ransomed either a private soldier or a commissary, who was carried off in a campaign of the king, and has enabled him to reach his city, if there is sufficient to ransom him in his house, he himself shall ransom himself; if there is not sufficient to ransom him in his house, he shall be ransomed from the estate of his city god; if there is not sufficient to ransom him in the estate of his city god, the state shall ransom him, since his own field, orchard and house may not be ceded for his ransom.

Since all of the land couldn't be worked by the vassals in charge of it, many of the laws deal with the problems of landlord and tenant. Everything was recorded with the government, which explains why so many of the cuneiform tablets recovered have been private contracts.<sup>10</sup> Leases were respected, for a landlord could lose all the rent paid to him if he tried forcibly to break one (78). The tenant had to respect his terms too: if he got lazy and didn't develop the field, he had to pay his landlord as much grain as comparable fields in the neighborhood had produced (42-44), and if he neglected his dikes and so damaged his neighbors' crops, he was liable. Flood loss in a field had to be absorbed by the tenant (45), but a flood or draught canceled his rent and the interest owed to a creditor for that year (48).

Documentation was also required for all business transactions, for without sealed contracts or bills of sale debts were not considered paid (104-107), and the careless merchant could be accused of theft (7) or of receiving stolen goods (9-11). Simple partnerships were apparently common (98) as was borrowing for investment, although if the merchant failed to make a profit on his seed money he was required to repay his creditor double (100-103).<sup>11</sup> The interest rate was 20% (88), and a loan shark could forfeit the principal he'd lent by charging more. If the creditor didn't pay, he might have

<sup>10</sup> Pritchard, *Archaeology and the Old Testament* pp. 212-213.

<sup>11</sup> See also *CAH* II.1 pp. 194-195.

to hand over his son, or at any rate a slave, as security for the loan (114-116).

Fees are frequently set by the code and cover a large range of activities, such as rent-an-ox (242), medical expenses (215-217—on a sliding scale of 10:5:2 for seignior, commoner, and slave<sup>12</sup>), veterinary expenses (224) construction (228), cattle herding (258), and so forth. Fixing wages and prices seems to have been typical not only of Hammurabi's time, but of the Sumerians' as well, and was probably the first step in setting up a regulated law code.<sup>13</sup>

The judges who wrote all of these laws—for Hammurabi himself is never cited in the text—developed an enviable sense of justice. In its simplest form this is what the Romans later called the *lex talionis* (“the law of tit for tat”), the biblical “eye for an eye” (Exodus 21:23-25), although, just as with doctors' fees, nobles, freemen, and slaves were assessed differently in Babylonia (196-199):

If a seignior has destroyed the eye of a member of the aristocracy, they shall destroy his eye.

If he has broken another seignior's bone, they shall break his bone.

If he has destroyed the eye of a commoner or broken the bone of a commoner, he shall pay one mina of silver.

If he has destroyed the eye of a seignior's slave or broken the bone of a seignior's slave, he shall pay one half his value.

For comparison's sake I can point out that a veterinarian who damaged an ox paid  $\frac{1}{4}$  its value (225).

The justices applied the *lex talionis* very logically and often with a grim sense of humor. Thus thieves who tried to tunnel through a wall were buried in it during repairs (21). Thieves who tried to loot during a house fire were burned to death in the fire (25). Doctors who botched an operation had their hands cut off (218). Builders whose structures collapsed, killing the son of the owner, had their own sons killed (229-230). And tenants who were lent a team of oxen to plow a field but were too lazy to do the work were dragged through the field by the oxen (256).

The courts were hard on themselves too. Judges were expelled from the bench for altering a judgment on a sealed document (5), and the city and its governor were responsible for stolen goods not recovered within their jurisdictions (23). With that much at stake from the state, false witness was naturally punished severely: a false claim against the city council would cost the perjurer a fine double the amount of his claim, while perjury in a murder accusation brought death.

But it wasn't all life and death. Babylonian judges were also forced to sit through the tedium of traffic court (240):

If a rowboat rammed a sailboat and has sunk it, the owner of the boat whose boat was sunk shall in the presence of god set forth the particulars regarding whatever was lost in his boat and the one in charge of the rowboat which sank the sailboat shall make good to him his boat and his lost property.

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<sup>12</sup> Pritchard, *Archaeology and the Old Testament*, p. 215.

<sup>13</sup> *CAH* II.1 pp. 190-191.