



# SOCIAL ORDER IN MESOPOTAMIA

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*Law has existed as long  
as organized human society.*

RAYMOND WESTBROOK

## Resumo

O objectivo deste texto é precisar o que se entende por ordem social mesopotâmica em função da análise dos padrões de poder. Explicitando os conceitos ideológicos e políticos fornecidos pela lei e a prática da justiça, e também o papel do rei e do desejo divino na formulação e execução da lei. Fazendo um percurso pelo contexto histórico e político e utilizando Hammurabi como um caso exemplar que nos fornece ainda uma ideia sobre o próprio carácter da realeza.

**Palavras-Chave:** Lei; Justiça; Mesopotâmia; Hammurabi; Ordem Social.

One of the possible approaches to social order is based on the Power-Oriented patterns and, in particular, that centred on the *Wise-King* and *Lawgiver*<sup>(1)</sup>. The Law, or better said the practice of Justice, gives us data about social life and of political and ideological concepts<sup>(2)</sup>. The path of juridical practice, where the uses and costumes constituted the basis of the Law created by divine desire, is long.

### **The political and historical context**

In the first Sumerian cities of the pré-Sargonic epoch appear the juridical norms that regulated urban life. These cities were already endowed with an adequate socio-political structure where the primitive warrior chief had been replaced by a religious, political and legislative chief<sup>(3)</sup>.

Such norms were initially associated to the divine world, evident in the etymology of the juridical terminology and in the references to several divinities taken as retainers of the Law such as Shamash. Not only the law but also the legislative power held by the kings was of divine origin<sup>(4)</sup>.

The kings, as founder and guarantor of the Law, forecasted the revelations of the divinity, legislated and judged with the intent to enforce justice among his subjects. The legislator monarchs appeared at the beginning of the third dynasty of Ur, in the neo-Sumerian epoch, coinciding with the founder of the dynasty, Ur-Nammu, a character that presented himself as the one who had established the kingdom of Law on earth according to the just laws of the god Babbar. It was, no doubt, his son and successor Shulgi who, at the time, succeeded in giving stability to the neo-Sumerian Empire, and who could articulate, for the first time, a compilation of laws that constitutes, probably, the oldest legislative monument.

Little by little, after the society was adequately structured, the juridical norms ended up by fixing themselves in writing through a long evolutive process of oral fixation in which the custom, that is, the continued mode of manifestation of social will and the law – the juridical thinking expressed through adequate organs gradually replaced the divine principles, to the point when the kings themselves, in a dynamic of slow laicization, promulgated the laws, of authors believed to be characters such as Shulgi, Lipit-Ishtar or Hammurabi<sup>(5)</sup>.

Prior to those, Uruinimga and Gudea attributed to themselves the faculty of watching and preserving laws and decrees dictated by the gods, considering themselves solely as the scrupulous executors of the orders received. No doubt, the monarchs never abandoned the figure of the god holder of Justice who, according to the epochs, was named Utu, Babbar or Shamash. The divinity had no doubts about sending help to the peoples as a gratifying element through the kings who presented themselves in the quality of interpreters and executors of the revealed orders.

The intentions of the first Mesopotamic kings, self-denominated as pastors of their subjects, were basically two, the installation of equity in their respective realms and the protection of the weak from injustices and abuses from the powerful. With them, the law, explicit in the written juridical corpus, would become a synonym of justice and equity. These first laws had, furthermore, the characteristics of permanence and immutability.

Uruinimgina enumerates the abuses committed when the ancient prescriptions were violated. To avoid it, the king established compulsory fixed norms. Similar reasons were evoked by Shulgi, Lipit-Ishtar or Hammurabi when their respective «codes» were promulgated. And, considering that the laws were of divine origin, the sovereigns had no hesitations in establishing a whole series of not only human but also divine maledictions against those who dared to modify or eliminate the promulgated laws. But, conversely, in the Mesopotamic legislative texts, the general concepts were never an object of definition not even of an abstract designation, they preferred the detail, the concrete cases, contradictions included, thus giving origin to the onset of the juridical technique<sup>(6)</sup>.

For the regulation of the community's daily life, and the observation of its principles and norms, the Mesopotamic kings endowed the cities and kingdoms of an ensemble of brief formulas where, together with the coercive contents, appeared others impersonal and instrumental features, allowing, finally, to regulate – starting from oral and consuetudinary tradition – a set of hypothesis or provisions of rectitude, that formed what we conventionally designate as «codes»<sup>(7)</sup>.

At the time, to designate the juridical structure of ancient Mesopotamia, the hypothetical formulation of the legislative compilations expressed the law in terms of cause and effect and presented what should be done as an objective consequence of the act or behaviour in question. This formulation, clear and concise, adaptable according

to the circumstances, endorsed an important number of punctual clarifications and adaptations, hypothetical formulations, simple information and corroboration of something evident.

The set of formulations with binding character obeyed not only to tradition in relation to justice but also to psychological and historical criteria fostering, through their promulgation and fixation in writing, the diffusion of the licit and the illicit, on the basis of the elementary systematisation of matters centred, almost always, on issues of immediate rural and urban contours referring to the historical context of Sumerians and Semites, and with the inconvenient of the huge gaps of the juridical type presented as evident even on the Hammurabian laws seen as the most evolved Mesopotamic juridical monument.

It is undeniable that the Sumerian, Acadians and Babylonian jurists were in possession of a true scientific method both to legislate and to act in the different processes consistent to the need of their highly developed economic and social life<sup>8</sup>.

### **Hammurabi, wise king and justice provider**

The most perfect models of Mesopotamic Law are the laws of the Amorite king Hammurabi. It consists of a compilation of very effective decisions of the sovereign, *simdât sharrim*. The Mesopotamic judicial system was complex, based on sentences of justice<sup>(9)</sup>, each paragraph of the «code» summarises a verdict<sup>(10)</sup>.

The decisions of the king are known through texts addressing practical matters, for instance, the contracts of recruitment of day labourers for some important seasonal tasks. We are left with certain «decrees» that may be considered as royal decisions. Sanctioned by royal authority, the *dînâtu* (verdicts) could be issued as forms of *simdâtu* (decisions).

Hammurabi himself declared that he wished to give a name to the elements of his assemblage and preferred *dînât mêsharim* (equitative verdicts).

Thus, at the top of the stele, the king Hammurabi of Babylon receives from the god Marduk the insignias of royal power. Under these are engraved vertically a first series of 23 columns of writing and in the reverse another 28 columns. This text has a single style since the prologue and the epilogue are a sort of narrative of deeds written in the noble style, becoming of ancient Mesopotamia, in the heroic and

lyric literature, and which serve as introduction and conclusion to the core of the work.

In the prologue the king declares that he was proposed by the gods for the military and political glory of his country, which he proclaims to have achieved through a series of conquests, exhaustively recited, and consecrated through the same gods to the government and prosperity of his people: he presents the «legislative» part that follows with an ensemble of measures taken by himself, experienced and fair monarch, to uphold the divine will<sup>(11)</sup>.

In the epilogue, he pursues the same idea, underlining the sapience and the equity of the decisions reported in detail in the body of the work, which he offers as a perpetual model for the sovereigns to come. Prologue and epilogue are essential for the whole text; they display profound wisdom<sup>(12)</sup>.

The sovereign positions himself not as a legislator but as a judge. A fair and protective king to his people<sup>(13)</sup>. The good shepherd who conducts the people in the right path<sup>(14)</sup>. A monarch full of experience who tries to pass his wisdom on to his successors<sup>(15)</sup>. By compiling and publishing the «treaty», Hammurabi, saw farther than the pure and simple utility, he thought of his glory.

A distinctive mark of the scientific treaties is that the data gathered, in often prodigious numbers, were not accumulated haphazardly, as the details of an account of daily life and of street festivity. They are ordered and articulated according to a defined logic of a true system.

All these «scientific» works appear to have been composed with the same purpose, essentially practical and dynamic. The objective was that, through the factual data, the principles and laws governing justice could be studied and established. The treaties were teaching handbooks where the commenting master should, obviously, remark orally what was not depicted in the catalogues of examples, that is: the true laws of the «science» in question. The cuneiform treaties are like paradigms or indexes, through the repetition and variation of particular cases; models to be considered in an analytical spirit, if we compare the substance of the discipline concerned. They created the habit of scientific judgement, acquiring the sense of just ponderation and, at the same time, the capacity to extend the very same judgements and ponderations to all material objects of the science in question, at the measure of their eventual presentation, readjusting the original perspective of the work of science.

By presenting this work as the most solid monument of his glory and of his merit for posterity, he wanted to highlight that there was not, at the light of his vision, more precious, and maybe rarest, quality for a sovereign worth of that name, than the sense of justice and the effective will to reign.

Here is the reason why, if the «code» is a work of science consecrated to justice, it is also the expression of a political ideal where that justice should occupy the first place<sup>(16)</sup>. In the «code» the king, in its prologue and in its epilogue, wanted to teach the practice of justice. Here is where a characteristic of the Mesopotamic «science» appears.

The Monarch glorified himself for having answered, better than anyone else, to that supernatural will and mission. For that reason he erected a statue where he presented himself as an equitative king, title that he attributed to himself at least in two parts of the epilogue. What matters is the definition of his political ideal, as presented to us in his «code». In sum, the Hammurabi «code» is, essentially, a self-glorification of the king. But it is, at the same time, a political charter founded on the conscience of the essential royal duty, equity.

It is a political testament that condemns all the detailed, and ordained, vision of the «equitative» exercise of justice; and for that reason it is a true treaty of jurisprudence. If Mesopotamia divulged and copied it, it is because there we find the memory of a great monarch who expressed and wanted to apply, a noble and beneficial ideal of the «royal office», through the valorisation of the country's sovereign's highest of virtues: equity. For that reason we find there the «science» of the art of judging, the application of equity.

## Conclusion

In Mesopotamia we find ourselves in front of the glorification of the king and of his supernatural mission. The political ideal expressed through not only the strict exercise of justice but also through the practice of equity. With the so called *Hammurabi's code* we are looking at a political charter, based upon the conscience of the essential royal duty of equity; of an ordinance of the exercise of justice and of a true treaty of jurisprudence. These compilations of laws appeared in the context of the expansion of the kingdoms in the periods of the Sumerian and Semite dynasties and of the need to ensure a political and administrative order common to the peoples in the condition of subdits

of the king. The importance that issues such as property and inheritance rights acquire in those laws are demonstrative, furthermore, that to them were also ascribed the function of guarantors of social peace<sup>(17)</sup>.

## Documentary Source

### The Code of Hammurabi: The Prologue

Translator: Teophile J. Meek

James B. Pritchard (Edited by), *Ancient Near Eastern Texts. Relating to the Old Testament*, (Fifth Edition), Princeton -New Jersey, Princeton University Press, pp.163-165,1992.

«( i ) When lofty Anum, king of the Anunnaki, (and) Enlil, lord of heaven and earth, the determiner of the destinies of the land, determined for Marduk, the first-born of Enki, the Enlil functions over all mankind, made him great among the Igigi, called Babylon by its exalted name, made it supreme in the world, established for him in its midst an enduring kingship, whose foundations are as firm as heaven and earth – at that time Anum and Enlil named me to promote the welfare of the people, me, Hammurabi, the devout, god-fearing prince, to cause justice to prevail in the land, to destroy the wicked and the evil, that the strong might not oppress the weak, to rise like the sun over the black-headed (people), and to light up the land. Hammurabi, the shepherd, called by Enlil, am I; the one who makes affluence and plenty abound; Who provides in abundance all sorts of things for Nippur-Duranki; the devout patron of Ekur; the efficient king, who restored Eridu to its place; (...)

( v ) (...) the ancient seed of royalty, the powerful king, the sun of Babylon, who causes light to go forth over the lands of Sumer and Akkad; the king who has made the four quarters of the world subservient; the favorite of Inanna am I. When Marduk commissioned me to guide the people aright, to direct the land, I established law and justice in the language of the land, thereby promoting the welfare of the people. At that time (I decreed): (...)



## The Code of Hammurabi: The Epilogue

Translator: Teophile J. Meek

James B. Pritchard (Edited by), *Ancient Near Eastern Texts. Relating to the Old Testament*, (Fifth Edition), Princeton -New Jersey, Princeton University Press, 1992, pp.177-180.

«(reverse xxiv) The laws of justice, which Hammurabi, the efficient king, set up, and by which he caused the land to take the right way and have good government. I Hammurabi, the perfect king, was not careless (or) neglectful of the black-headed (people), whom Enlil had presented to me, (and) whose shepherding Marduk had committed to me; I sought out peaceful regions for them; I overcame grievous difficulties; I caused light to rise them. With the mighty weapon which Zababa and Inanna entrusted to me, with the insight that Enki allotted to me, with ability that Marduk gave me, I rooted out the enemy above and below; I made an end of war; I promoted the welfare of the land; I made the peoples rest in friendly habitations; I did not let them have anyone to terrorize them. The great gods called me, so I became the beneficent shepherd whose scepter is righteous; my benign shadow is spread over my city. In my bosom I carried the peoples of the land of Sumer and Akkad; they prospered under my protection; I always governed them in peace; I sheltered them in my wisdom. In order that the strong might not oppress the weak, that justice might be dealt the orphan (and) the widow, in Babylon, the city whose head Anum and Enlil raised aloft, in Esagila, the temple whose foundations stand firm like heaven and earth, I wrote my precious words on my stela, and in the presence of the statue of me, the king of justice, I set (it) up in order to administer the law of the land, to prescribe the ordinances of the land, to give justice to the oppressed. I am the king who is preeminent among kings; my words are choice; my ability has no equal. By the order of Shamas, the great judge of heaven and earth; by the word of Marduk, my lord, may my statues have no one to rescind them; (...).»

(...) (reverse xxv) I, Hammurabi, am the king of justice, to whom Shamash committed law. My words are choice; my deeds have no equal; it is only to the fool that they are empty; (...)

### Notes

<sup>(1)</sup> V. HARLE, *Ideas of Social Order in the Ancient World*, Greenwood Press, Westport-London, 1998.

<sup>(2)</sup> E. BOUZON, *Ensaio Babilônicos: Sociedade, Economia e Cultura na Babilônia Pré-Cristã*, Porto Alegre, EDIPUCRS, 1998, 91-123.

- (3) M. MOLINA, *La Ley más antigua. Textos legales sumerios*, Madrid, Editorial Trotta, 2000, 17-24.
- (4) We made use of Marta Roth's translation. M. T. ROTH, *Law Collections from Mesopotamia and Asia Minor*, Atlanta-Georgia, Scholars Press, 1995.
- (5) J. SAN MARTIN, *Códigos legales de tradición babilónica*, Madrid, Editorial Trotta, 1999, 19-34.
- (6) M. Van De MIEROOP, *King Hammurabi of Babylon*, Malden-Oxford-Carlton, Blackwell Publishing, 2005, 102.
- (7) J. BOTTÉRO, *Mésopotamie. L'écriture, la raison et les dieux*, Paris, Éditions Gallimard, 1987, 196.
- (8) R. WESTBROOK, (ed.), *A History of Ancient Near Eastern Law*, (2 vols.), Leiden-Boston. Brill, 2003, 1-90.
- (9) F. JOANNÈS, (dir.), *Rendre la Justice em Mesópotamie*, Saint-Denis, Presses Universitaires de Vincennes, 2000.
- (10) H. KLENGEL, *Il Re Perfetto. Hammurabi e Babilonia*, Roma, Editori Laterza, 1993, 181-261.
- (11) A. FINET, *Le Code de Hammurapi*, Paris, Les Éditions Du Cerf, 1983, 31-44.
- (12) *Ibid.*, pp. 135-147.
- (13) M. De MIEROOP, *King Hammurabi of Babylon*, 101.
- (14) D. CHARPIN, *Hammu-rabi de Babylone*, Paris, Presses Universitaires de France, 2003, 201.
- (15) J. BOTTÉRO, *Mésopotamie. L'écriture, la raison et les dieux*, 203.
- (16) *Ibid.*, 206.
- (17) Paper presented to the *European Social Science History Conference*, University of Lisbon, 26 February-1 March 2008.

## Bibliography

- BOTTÉRO, Jean, *Mésopotamie. L'écriture, la raison et les dieux*, Paris Éditions Gallimard, 1987.
- BOUZON, Emanuel, *Ensaio Babilônicos: Sociedade, Economia e Cultura na Babilônia Pré-Cristã*, Porto Alegre, EDIPUCRS, 1998,
- CHARPIN, Dominique, *Hammu-rabi de Babylone*, Paris, Presses Universitaires de France, 2003.
- DE MIEROOP, Marc Van, *King Hammurabi of Babylon*, Malden-Oxford-Carlton, Blackwell Publishing, 2005.
- FINET, André, *Le Code de Hammurapi*, Paris, Les Éditions Du Cerf, 1983,
- HARLE, Vilho, *Ideas of Social Order in the Ancient World*, Greenwood Press, Westport-London, 1998.

- JOANNÈS, Francis (dir.), *Rendre la Justice em Mesópotamie*, Saint-Denis, Presses Universitaires de Vincennes, 2000.
- KLENGEL, Horst, *Il Re Perfetto. Hammurabi e Babilonia*, Roma, Editori Laterza, 1993.
- MOLINA, Manuel de, *La Ley más antigua. Textos legales sumerios*, Madrid, Editorial Trotta, 2000.
- PRITCHARD, J. B., *Ancient Near Eastern Texts. Relating to the Old Testament (ANET)*, Princeton-New Jersey, Princeton University Press, 1992<sup>5</sup>.
- ROTH, Martha T., *Law Collections from Mesopotamia and Asia Minor*, Atlanta-Georgia, Scholars Press, 1995.
- SAN MARTIN, Joaquín, *Códigos legales de tradición babilónica*, Madrid, Editorial Trotta, 1999.
- WESTBROOK, Raymond (ed.), *A History of Ancient Near Eastern Law*, Leiden-Boston, E. J. Brill, 2003.