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Level: 1st year

Module: History of Law

Lecture 2: The Mesopotamian legal system

Introduction

Mesopotamia, “the Land between Rivers,” was one of the greatest and the oldest ancient civilizations of the world. This civilization flourished around 3000 B.C. on the piece of fertile land, now known as Iraq, between the rivers Euphrates and Tigris. Before 1792 B.C., the city-states of ancient Mesopotamia were not united and constantly clashed in turmoil and warfare. In 1792 B.C., King Hammurabi conquered and merged the neighbouring city states of ancient Mesopotamia, creating a Babylonian empire and becoming the sixth king of its capitol city, Babylon. During his reign, Hammurabi established law and order and funded irrigation, defence, and religious projects. He personally took care of and governed the administration.

The land between the rivers was filled with wildlife and edible vegetation. People who wandered into the area discovered they could plant crops and store food to add to the natural food supply. With the discovery of agriculture, people began to settle down, and build homes and then villages and then towns and then cities.

1. Mesopotamia achievements

This region is located in present-day Iraq and is situated between the Tigris and **Euphrates** rivers. The fertile land between these two rivers was crucial for the development of early civilizations in the ancient Near East, including the Sumerians, Babylonians, and Assyrians. The name accurately reflects the geographical location of Mesopotamia, emphasizing its unique position between these two important rivers.

1.1. Babylon

King Hammurabi declared Babylon to be the capital of Babylonia. He built his new capital in honour of the great god **Marduk**. **Ancient Babylon was quite a place!** It was a massive walled city, with a network of canals and vivid green crops. There was much to buy, like fresh fruits and vegetables, baked breads and cheese, warm coats, gold jewellery. Inside the walls, life teemed. Everyone lived

inside the walled city. Farmers did not live on their farms but here in the city. Merchants, craftsmen, food vendors all made their homes here. Each family had their own home. The streets were narrow, flanked on each side by the three story houses of the inhabitants. In the centre of the city was the great Ziggurat, the religious temple. Visitors could see the top of the 300 foot high ziggurat long before they reached the huge city gates. There was a beautiful palace for the king and the royals. And every family, be they rich or poor, had their own home inside the walled city.

1.2. The Hanging Gardens

One of the **Seven Wonders of the Ancient World**, the Hanging Gardens, may have really have existed. The Hanging Gardens were perhaps the first roof garden. Although the garden had walls, the top of this massive area was left open. The tops of trees could be glimpsed from a great distance. This gave the appearance of a garden hanging in thin air, which is how the garden received its name. The gardens were terraced, and rose about 75 feet high. There were flowers and fruit trees and cascading waterfalls. The gardens were part of the palace, built a gift of love from a king for his queen.

2. Mesopotamian law

This civilization flourished between the 4th and 1st millennia BC. Mesopotamia made numerous contributions to human civilization and legal system.

2.1. Babylonian Laws

The government and laws of Babylon were like the government and laws of Sumer. There was a king and other nobles who ruled with the help of an assembly of the people. The laws of Babylon were taken from the laws of Sumer. Everyone was expected to know and obey the laws. To ensure that the laws were followed by everyone, one of the kings of Babylon, King Hammurabi, had the laws written down on stone tablets so that, whether they were rich or poor, everyone would be treated equally under the law. Most of these laws were taken from Sumerian law.

2.2. The Assembly in ancient Babylon

In both ancient Sumer and ancient Babylon, kings were not gods. Kings were mortals, just like the common man. In this, at least, all men were equal in these ancient civilizations. The kings were just as eager and just as responsible for keeping the gods happy as were the common people. So, it made sense to these early people that a Council of Elders, an assembly of wise men (called the Assembly), should be elected so that the people would have someone to check

with, to make sure that what they were planning to do would not anger the gods. The king sought approval for his actions from this assembly, just like everyone else.

2.3. Hammurabi's Code

One of the ancient Babylonian kings was named Hammurabi. King Hammurabi was a very clever man.

King Hammurabi built the city of Babylon in Marduk's honour. Marduk was the most important god in Babylonian. People were afraid to attack Babylon. They did not wish to risk Marduk's anger!

King Hammurabi was tired of people changing the laws whenever they wanted an advantage. So Hammurabi did something no one before him had ever done. He had all the laws written down on stone and clay tablets. He did this so that everyone could know what the law was and no one, not poor man or noble, would be able to say that that wasn't the law. We call this Hammurabi's Code.

Here are some of the laws of ancient Babylon that King Hammurabi wrote down. All the people had to follow these laws or face the punishment if found guilty of breaking the law:

- If anyone brings an accusation of any crime before the elders, and does not prove what he has charged, he shall, if it was a capital offense charged, be put to death.
- If anyone steals the property of a temple or of the court, he shall be put to death, and also the one who receives the stolen thing from him shall be put to death.
- If any one takes a male or female slave of the court, or a male or female slave of a freed man, outside the city gates, he shall be put to death.
- If anyone breaks a hole into a house (breaks in to steal), he shall be put to death before that hole and be buried.
- If anyone is committing a robbery and is caught, then he shall be put to death.
- If fire break out in a house, and someone who comes to put it out cast his eye upon the property of the owner of the house, and take the property of the master of the house, he shall be thrown into that self-same fire.
- If anyone owe a debt for a loan, and a storm prostrates the grain, or the harvest fails, or the grain does not grow for lack of water; in that year he

need not give his creditor any grain, he washes his debt-tablet in water and pays no rent for this year.

- If anyone open his ditches to water his crop, but is careless and the water flood the field of his neighbour, then he shall pay his neighbour corn for his loss.
- If anyone hands over his garden to a gardener to work, the gardener shall pay to its owner two-thirds of the produce of the garden, for so long as he has it in possession, and the other third shall he keep.
- If a man wishes to separate from a woman who has borne him children, then he shall give that wife her dowry, and a part of the field, garden, and property, so that she can rear her children. When she has brought up her children, a portion of all that is given to the children, equal as that of one son, shall be given to her. She may then marry the man of her heart.
- If a man wishes to separate from his wife who has borne him no children, he shall give her the amount of her purchase money and the dowry which she brought from her father's house, and let her go.
- If a son strikes his father, his hands shall be hewn off.
- If a man puts out the eye of another man, his eye shall be put out. (An eye for an eye)
- If he breaks another man's bone, his bone shall be broken.
- If a man knocks out the teeth of his equal, his teeth shall be knocked out (A tooth for a tooth)
- If a man strikes a freeborn woman so that she loses her unborn child, he shall pay ten shekels for her loss. If the woman dies, his daughter shall be put to death.
- If a builder builds a house for someone, and does not construct it properly, and the house, which he built, falls in and kills its owner, then that builder shall be put to death. If it kills the son of the owner the son of that builder shall be put to death.

3. The impact of Hammurabi's Code on Modern Legal Systems

It's been nearly 3,800 years since Hammurabi extended his rule across ancient Mesopotamia. But the Babylonian king, whose likeness is among the pantheon of ancient lawgivers carved into the south wall of the U.S. Supreme Court chamber, has an influence that's still felt today.

That's because of the Code of Hammurabi, a collection of 282 laws and regulations written in cuneiform script on the surface of a seven-foot, four-inch stone monument, which was discovered by French researcher Jacques de Morgan in 1901 and today is part of the collection at the Louvre in Paris.

Historians describe the Hammurabi code as a surviving symbol of an ancient Mesopotamian system for solving disputes, punishing crimes and regulating business practices, which was an early influence upon the development over many centuries of the systems of laws and courts that govern the U.S. and other modern societies.

The code “represents a well-preserved and detailed ancient inscription about law and order during the First Dynasty of Babylon.

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