

The Bible, Hammurabi's Code and Law in the Ancient Near East

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Subject Area: World History

Time Required: 1 class session

General Topics: legal history, Ancient Near East, Mesopotamia, biblical law, Moses

Average Grade Level from Readable.io: 10.3

SUMMARY

How do the laws of ancient Israel compare to those of ancient Mesopotamia? In this lesson we explore this question by comparing material from a part of the biblical book of Exodus known as the Covenant Code and laws found in the much older Code of Hammurabi, which is recorded in an inscription from Babylonia. The lesson focuses specifically on the legal notion of *talion* — punishment should be measure-for-measure the same as the crime. Or, as Exodus 21:24 puts it, an eye for an eye, and a tooth for a tooth. As it turns out, parts of the Code of Hammurabi reflect a very similar principle. Students compare laws from the two sources that are literally about eyes and teeth as well as other types of bodily injury. What exactly constitutes equal punishment for different types of injury? Is financial compensation acceptable in lieu of actual, literally equal punishment? Should the penalty for causing injury or death vary depending on the class or status of the victim? As these texts illustrate, laws reflect the broader culture of the society that produced them — especially the values and assumptions of the elites who set those laws.

ALIGNMENT WITH GEORGIA STANDARDS OF EXCELLENCE

World History:

SSWH1: Analyze the origins, structures and interactions of societies in the ancient world from 3500 B.C.E./B.C. to 500 B.C.E./B.C.

[Note: This lesson also explores concepts of monotheism developed by the Hebrews] (SSWH1c) and aspects of Mesopotamian culture (SSWH1a).]

Social Studies Information Processing Skills:

1. Compare similarities and differences
5. Identify main idea, detail, sequence of events, and cause and effect in a social studies context
6. Identify and use primary and secondary sources
10. Analyze artifacts
11. Draw conclusions and make generalizations

Reading Standards for Literacy in History/Social Studies:

L11-12RHSS2: Determine the central ideas or information of a primary or secondary source; provide an accurate summary that makes clear the relationships among the key details and ideas.
L11-12RHSS6: Evaluate authors' differing points of view on the same historical event or issue by assessing the authors' claims, reasoning and evidence.

LEARNING OBJECTIVES

After studying and discussing these ancient primary sources, students will be able to:

- compare and contrast historically related codes of law;
- describe the general values and assumptions behind specific laws;
- describe how these legal texts reflect ancient cultural contexts that are different from the modern American context; and
- discuss whether and how legal principles from a particular time and place could be applied in other times and places.

PRIMARY SOURCES QUOTES

The gods Anu and Enlil, for the enhancement of the well-being of the people, names me by my name: Hammurabi, the pious prince, who venerates the gods, to make justice prevail in the land, to abolish the wicked and the evil, to prevent the strong from oppressing the weak, to rise like the sun-god Shamash over all humankind, to illuminate the land. — Code of Hammurabi, Prologue (Translation by Martha T. Roth in *Law Collections from Mesopotamia and Asia Minor*, 2nd ed., SBL Writings from the Ancient World 6 [Atlanta: Scholars Press, 1997], pp, 176–77).

See, I [Moses] have imparted to you [the ancient Hebrews] laws and rules, as the LORD my God has commanded me, for you to abide by ... Observe them faithfully, for that will be proof of your wisdom and discernment to other peoples, who on hearing of all these laws will say, “Surely, that great nation is a wise and discerning people.” — Bible, Deuteronomy 4:5–6 (New Revised Standard Version).

Eye for eye, tooth for tooth, hand for hand, foot for foot, burn for burn, wound for wound, stripe for stripe. — Bible, Exodus 21:24–25 (New Revised Standard Version).

ARTWORK

Stele depicting Hammurabi receiving laws (housed at the Louvre Museum):

https://commons.wikimedia.org/wiki/File:P1050771_Louvre_code_Hammurabi_bas_relief_rwk.JPG

Moses Receiving the Tablets of the Law (Marc Chagall, 1966):

https://www.wikiart.org/en/marc-chagall/moses-receiving-the-tablets-of-law-1966?utm_source=returned&utm_medium=referral&utm_campaign=referral

INTRODUCTION

The ample legal materials in the Bible have served as an important source in the development of Western law. One example of those materials is Exodus 20:19-23:33, a passage scholars have dubbed the "Covenant Code" because Exodus portrays its laws as an aspect of ancient Israel's covenant relationship with God.

Laws included in the Bible are part of larger legal traditions of the Ancient Near East, traditions that included the Code of Hammurabi, king of Babylon c. 1755 BCE. Many scholars believe that Exodus's Covenant Code reflects the influence of the much older Code of Hammurabi.

In this lesson, students learn about the relationship between biblical laws as exemplified in the Covenant Code and the Code of Hammurabi, focusing on the concept of talion, or “measure-for-

measure” punishment. We will ask: To what extent do these laws reflect the societies from which they emerged, and to what extent do they reflect values that could be applied in any time and place?

This lesson requires that students have a basic understanding of the following:

- The concepts of law, crime and punishment.
- The concepts of historical context and literary influence.
- How to compare and contrast texts.

GUIDING QUESTIONS

- What are the major similarities and differences between this biblical passage and the Code of Hammurabi?
- What general values and assumptions lie behind the specific laws?
- To what extent could the specific laws, or the principles behind them, be applicable in other times and places?

BACKGROUND

This lesson views both the Covenant Code and the Code of Hammurabi as influential historical sources that reflect the development of legal thinking in the Ancient Near East. The teacher should make clear that the study of those texts for their historical import is not intended to encourage or discourage acceptance of their historical and religious claims. One can critically analyze the Covenant Code regardless of whether or not one accepts Exodus’ portrayal of it as the product of divine revelation; either way, it reflects one stream of legal thought of the ancient world. The same holds true for the Code of Hammurabi. Similarly, for the purpose of this lesson, one need not enter into — much less settle — debates over the accuracy of the Exodus story or the existence of Moses.

The Bible describes the Covenant Code and other laws in Exodus as given by God to Moses, who led the ancient Hebrews from slavery in Egypt to Canaan (modern day Israel and Palestine). Many Jews and Christians have traditionally believed that Moses wrote this passage, along with the rest of Exodus. Modern biblical scholars vary in their opinions about the authorship and dating of the passage. In some circles, scholars continue to affirm Moses’ authorship. However, other scholars believe that the biblical laws were assembled from several older legal codes before being combined with other sources between the 10th and eighth century B.C.E to form Exodus. For these scholars, the tradition of authorship by Moses is a later development. This lesson reflects this latter perspective.

The Code of Hammurabi was written in the 18th century B.C.E. The prologue to the Code states that these laws were given to Hammurabi, king of Babylon, by the Babylonian gods. The Code was inscribed on a stela, a large upright slab of stone, which was discovered by a French expedition in 1901 and translated a year later. Scholars soon discovered many connections between it and biblical laws. Later discoveries of other law codes demonstrated that the Code of Hammurabi and the Bible were part of a larger legal tradition of the Ancient Near East.

Scholars disagree on the precise relationship between the Code of Hammurabi and the biblical Covenant Code. Some believe that the author of the Covenant Code read the Code of Hammurabi and deliberately modified its laws. Others believe that the author of the Covenant Code was familiar with the Code of Hammurabi and influenced by it, but did not work directly from the written text. Still, others believe that the texts are indirectly related: Both belong to a larger tradition of legal codes with similar laws, but the author of the Covenant Code did not draw on Hammurabi specifically.

Note: Some Jewish and Christian students with more traditional beliefs may not accept that the Code of Hammurabi could have influenced the Bible. While this lesson will focus on similarities between the texts and presume a historical relationship between them, it is not crucial that students accept the dominant scholarly view of their relative chronology or the direction of influence.

PREPARATION INSTRUCTIONS

Students should read the Covenant Code and the designated selection from the Code of Hammurabi prior to class to get a sense of their content and general similarities. (The texts are provided below under the heading “Primary Sources.”)

The Bible Odyssey website includes two essays that provide useful background on the Bible and the Code of Hammurabi:

"How the Bible Was Formed:" <http://www.bibleodyssey.org/tools/bible-basics/how-was-the-bible-formed.aspx>

"Code of Hammurabi:" <http://www.bibleodyssey.org/places/related-articles/code-of-hammurabi.aspx>

"The Exodus Tradition in the Bible:" <https://www.bibleodyssey.org/passages/related-articles/exodus-tradition-in-the-bible>

These essays can be assigned to students or read by the instructor in preparation for introducing the material.

This brief interview with biblical scholar Cheryl B. Anderson may be helpful for class preparation or discussion: <http://www.bibleodyssey.org/tools/video-gallery/1/law-and-the-bible-anderson.aspx>.

Before completing the activities, students should receive a general introduction to the Bible and the Code of Hammurabi as historically related sources of law from the Ancient Near East. The in-class introduction should also include a discussion of the principle of talion, or “measure-for-measure” punishment. This discussion can focus on the most famous parallel between the Code of Hammurabi and the Bible:

“If a man should blind the eye of another man, they shall blind his eye.” — Code of Hammurabi 196.
“Eye for eye” — Bible, Exodus 21:24 (also Leviticus 24:20 and Deuteronomy 19:21).

Ask students to describe the general principle behind these laws. Students should understand that these laws reflect the idea of “measure-for-measure” punishment, in which an injury is punished by inflicting an equivalent injury.

The laws to be analyzed in the following activities are all variations on this general principle, but they do not all operate in as straightforward a way as “an eye for an eye.” Students will be asked why *the authors of the law* might have believed that these punishments amounted to “equivalent injuries,” even if the students themselves do not agree with this.

LESSON ACTIVITIES

Teachers may choose one of the following two activities; both may be completed individually but are best done in small groups. It is recommended that the written activities be followed by class

discussion. Some instructors may choose to substitute class discussion for some of the written exercises.

(1) Comparison Activity

Using Worksheet #1, students should read the passages from the Bible and the Code of Hammurabi provided and answer the following questions:

1. What similarities do you notice between these two passages?
2. What differences do you notice?
3. In these texts, what seems to be the reasoning behind the different penalties for injuring different types of people? What sorts of assumptions about different groups do these penalties reflect? In your opinion, do the punishments fit the crimes?

To help students get on the right track, the instructor may choose to hold a general discussion of Comparison #1 before students proceed to Comparisons #2 and #3.

The following notes are meant to help instructors guide students through the specific comparisons. They are not meant to offer the only “right answers” to the questions. Students may make a variety of valid observations not mentioned here.

Comparison #1:

For question 1, students are likely to notice that both laws include the principle of replacing a lost eye with a lost eye and a lost tooth with a lost tooth. For question 2, they may also notice a variety of minor differences between the texts, including differences in wording or the fact that the Code of Hammurabi mentions a broken bone while the Bible mentions hands, feet, wounds and stripes. Try to keep students focused on more substantive similarities and differences. For example, both texts have penalties for slaves that differ from the basic penalty of injuring an equivalent body part. The Code of Hammurabi, however, deals with a case of injuring *another* person’s slave, in which case the slave owner is compensated with money, whereas the Bible deals with a case of injuring one’s *own* slave, in which case the slave is compensated with freedom.

Question 3 asks students to hypothesize about the reasoning behind the different penalties for injuring different types of people. Students may notice that the Code of Hammurabi differentiates between injured parties on the basis of status. If a person inflicts an injury on someone of equal status, an injury of the same body part is considered equivalent, but if that same person inflicts an injury on someone of lower status, a monetary payment is considered an “equivalent injury.” One of the principles behind this set of laws is that the eye of a lower-status person does not have the same value as the eye of a higher-status person.

In Exodus, freeing a slave is considered appropriate compensation for injuring that slave’s eye. Students may have different ideas about why this is the case.

Comparison #2:

Both of these laws deal with hitting a parent, but the Code of Hammurabi punishes this by cutting off the child's hands, whereas the Bible punishes this by death. Students may notice that in neither case is the punishment striking the child, which would "fit the crime" if the parties were of equal status. Both law codes seem to see parents as having higher status than their children.

Comparison #3:

Both of these laws deal with an injury to a pregnant woman that results in a miscarriage or the death of the woman. Both laws call for monetary compensation for the miscarriage. Both call for the death penalty if the woman dies ("life for life" in the biblical text). However, while the Bible calls for the death penalty for the person who injures the woman, the Code of Hammurabi calls for the death of that person's daughter. This is a different form of the law of talion, namely, *vicarious punishment*, in which a person may be punished by harming a person deemed to "belong" to him (in this case, his daughter). In the Code of Hammurabi, the death of a female is considered equivalent to the death of another female, but not necessarily to the death of a male.

In addition, the Code of Hammurabi differentiates between victims on the basis of status. A miscarriage of a lower-class woman has a lower monetary penalty than a miscarriage of a higher-class woman, and the death of a lower-class woman has a monetary penalty rather than the death penalty.

(1) Contextualization Activity

This activity asks students to consider the historical context of the laws and their applicability to other times and places. On Worksheet #2, students are asked the following questions:

1. What can we learn from these laws about the societies in which they were produced?
2. Do you notice any overall differences between the laws we studied from the Code of Hammurabi and those from Exodus's Covenant Code? What do these differences suggest?
3. What aspects of these laws, if any, seem applicable in your own society?
4. What aspects of these laws, if any, do not seem applicable in your own society?
5. Are there any ways that these laws could be modified to make them applicable in your society? If not, why not?

By now, students will recognize that both the Covenant Code and the Code of Hammurabi are products of societies that had an institution of slavery. They may also have noticed that the Code of Hammurabi seems to account for more differences in status than the Bible (mentioning both higher-status free people and lower-status free people, in addition to slaves). This may be because the society from which it came was more hierarchical, or because the author of the biblical law code considered status less important in determining appropriate punishments. Finally, careful readers of Comparison

#3 may observe that in the Code of Hammurabi, a man's daughter is considered either his property or an extension of himself, and females seem to have different value from males.

Students may have differing views on whether the basic principle of equal injury for equal injury is a good or just law that should be applied in contemporary society. Some may think that the principle of an equivalent penalty should be upheld, even if it is not done by inflicting an actual injury. While these ancient law codes had specific ideas about equivalent penalties based on status and other factors, contemporary applications of this principle might include different types of punishments that are applied equally.

Other students may not think that the law of talion should be applied in contemporary society at all. These students should explain their reasoning.

EXTENDING THE LESSON

The Law of Talion in Jewish and Christian Tradition

While the biblical laws studied here are part of the sacred scriptures of both Jews and Christians, Jewish and Christian tradition developed these laws in different ways.

“Eye for Eye” in the New Testament:

The following passage comes from the Gospel of Matthew in the New Testament, composed in the first century CE (The New Testament is part of the Christian Bible but not the Jewish Bible.) This passage is part of the “Sermon on the Mount,” a speech attributed to Jesus.

38 You have heard that it was said, “An eye for an eye and a tooth for a tooth.”
39 But I say to you, Do not resist an evildoer. But if anyone strikes you on the right cheek, turn the other also;
40 and if anyone wants to sue you and take your coat, give your cloak as well;
41 and if anyone forces you to go one mile, go also the second mile.
42 Give to everyone who begs from you, and do not refuse anyone who wants to borrow from you. — Matthew 5:38–42

Earlier in the Sermon on the Mount, Jesus says, “Do not think that I have come to abolish the law or the prophets. I have come not to abolish but to fulfill” (Matthew 5:17). Nonetheless, many readers have understood this passage as undermining or overturning the “eye for eye” law in the book of Exodus. Students may be asked whether this passage seems to extend, interpret or overturn the law, and how it might be seen as “fulfilling” the law. (For more detail on this passage, see “The Sermon on the Mount” at <http://www.bibleodyssey.org/en/passages/main-articles/sermon-on-the-mount.aspx>.)

Some have noted that this teaching does not seem to be a comment on “eye for eye” as a criminal penalty (the sense that seems to be intended in Exodus), but instead as a principle that people may have been applying to justify personal revenge. Rather than “punishing” an assailant in kind, followers of Jesus are commanded to “turn the other cheek” and accept further injury.

“Eye for Eye” in the Babylonian Talmud:

The Babylonian Talmud is a code of Jewish law completed around 500 C.E., and although the authors of the Talmud (“the rabbis”) accepted biblical law as authoritative, they felt free to interpret it in nonobvious ways. This passage deals with the principle of “eye for eye.”

You might think that where he put out his eye, the offender's eye should be put out, or where he cut off his arm, the offender's arm should be cut off, or again where he broke his leg, the offender's leg should be broken. [Not so; for] it is laid down, *Anyone who smites a human being...* (Leviticus 24:17) *Anyone who smites an animal...* (Leviticus 24:18, 21). Just as in the case of smiting a beast compensation is to be paid, so also in the case of smiting a person compensation is to be paid. — Babylonian Talmud, *Baba Qamma* 83b (adapted from translation of E. W. Kirzner, https://halakhah.com/babakamma/babakamma_83.html - chapter viii)

This interpretation makes use of another iteration of the “eye for eye” law, found in the biblical book of Leviticus:

- 17 Anyone who kills (literally: smites) a human being shall be put to death.
18 Anyone who kills (literally: smites) an animal shall make restitution for it, life for life.
19 Anyone who maims another shall suffer the same injury in return:
20 fracture for fracture, eye for eye, tooth for tooth; the injury inflicted is the injury to be suffered. — Bible, Leviticus 24:17–20

The Talmud deduces that just as the phrase “life for life” refers to monetary compensation in the case of an animal, the phrases “eye for eye,” etc., must also refer to monetary compensation in the case of a person. (The statement in verse 17 that one who “smites” a human being is put to death is interpreted in the Talmudic passage as referring to injury rather than murder, and the phrase “put to death” is interpreted as referring to monetary compensation.)

Observe how by interpreting one biblical law on the basis of another, the Talmud comes up with a nonliteral interpretation of the “eye for eye” law.

Ask students what may have motivated the authors of the Talmud to interpret the law this way. Students will likely note that the principle of monetary compensation is also found in the Code of Hammurabi, although there it applies only to people of lower status.

PRIMARY SOURCES HANDOUT

Code of Hammurabi:

195. If a child should strike his father, they shall cut off his hand.

196. If an *awīlu*¹ should blind the eye of another *awīlu*, they shall blind his eye.

197. If he should break the bone of another *awīlu*, they shall break his bones.

198. If he should blind the eye of a commoner or break the bone of a commoner, he shall weigh and deliver sixty shekels.²

199. If he should blind the eye of an *awīlu*'s slave or break the bone of an *awīlu*'s slave, he shall weigh and deliver one-half of his value (in silver).

200. If an *awīlu* should knock out the tooth of another *awīlu* of his own rank, they shall knock out his tooth.

201. If he knock out the tooth of a commoner, he shall weigh and deliver twenty shekels of silver.

202. If an *awīlu* should strike the cheek of an *awīlu* who is of status higher than his own, he shall be flogged in the public assembly with sixty stripes of an ox whip.

203. If a member of the *awīlu*-class should strike the cheek of another member of the *awīlu*-class who is his equal, he shall weigh and deliver sixty shekels of silver.

204. If a commoner should strike the cheek of another commoner, he shall weigh and deliver ten shekels of silver.

205. If an *awīlu*'s slave should strike the cheek of a member of the *awīlu*-class, they shall cut off his ear.

206. If an *awīlu* should strike another *awīlu* during a brawl and inflict upon him a wound, that *awīlu* shall swear, "I did not strike intentionally," and he shall satisfy the physician (i.e., pay his fees).

207. If he should die from his beating, he shall also swear ("I did not strike him intentionally"); if he (the victim) is a member of the *awīlu*-class, he shall weigh and deliver thirty shekels of silver.

208. If he (the victim) is a member of the commoner-class, he shall weigh and deliver twenty shekels of silver.

209. If an *awīlu* strikes a woman of the *awīlu*-class and thereby causes her to miscarry her fetus, he shall weigh and deliver ten shekels of silver for her fetus.

210. If that woman should die, they shall kill his daughter.

¹ This term can refer to a male or female of high status.

² A shekel is a unit of currency.

211. If he should cause a woman of the commoner-class to miscarry her fetus by the beating, he shall weigh and deliver five shekels of silver.

212. If that woman should die, he shall weigh and deliver thirty shekels of silver.

213. If he strikes an *awīlu*'s slave woman and thereby causes her to miscarry her fetus, he shall weigh and deliver two shekels of silver.

214. If that slave woman should die, he shall weigh and deliver twenty shekels of silver.

Translation by Martha T. Roth in *Law Collections from Mesopotamia and Asia Minor*, 2nd ed., SBL Writings from the Ancient World 6 (Atlanta: Scholars Press, 1997), pp, 120–22.

Exodus chapter 21 (part of the Covenant Code):

15 Whoever strikes father or mother shall be put to death.

16 Whoever kidnaps a person, whether that person has been sold or is still held in possession, shall be put to death.

17 Whoever curses father or mother shall be put to death.

18 When individuals quarrel and one strikes the other with a stone or fist so that the injured party, though not dead, is confined to bed,

19 but recovers and walks around outside with the help of a staff, then the assailant shall be free of liability, except to pay for the loss of time, and to arrange for full recovery.

20 When a slaveowner strikes a male or female slave with a rod and the slave dies immediately, the owner shall be punished.

21 But if the slave survives a day or two, there is no punishment; for the slave is the owner's property.

22 When people who are fighting injure a pregnant woman so that there is a miscarriage, and yet no further harm follows, the one responsible shall be fined what the woman's husband demands, paying as much as the judges determine.

23 If any harm follows, then you shall give life for life,

24 eye for eye, tooth for tooth, hand for hand, foot for foot,

25 burn for burn, wound for wound, stripe for stripe.

26 When a slaveowner strikes the eye of a male or female slave, destroying it, the owner shall let the slave go, a free person, to compensate for the eye.

27 If the owner knocks out a tooth of a male or female slave, the slave shall be let go, a free person, to compensate for the tooth.

Translation from the New Revised Standard Version, available at <http://www.bibleodyssey.org/bibles.aspx>

COMPARISON ACTIVITY

Comparison #1:

If a man put out the eye of another man, his eye shall be put out.

If he break another man's bone, his bone shall be broken.

If he put out the eye of a freed man, or break the bone of a freed man, he shall pay one gold mina.³

If he put out the eye of a man's slave, or break the bone of a man's slave, he shall pay one-half of its value.

If a man knock out the teeth of his equal, his teeth shall be knocked out.

If he knock out the teeth of a freed man, he shall pay one-third of a gold mina.

— Code of Hammurabi, 196–205

Eye for eye, tooth for tooth, hand for hand, foot for foot,
burn for burn, wound for wound, stripe for stripe.

When a slaveowner strikes the eye of a male or female slave, destroying it, the owner shall let the slave go, a free person, to compensate for the eye.

If the owner knocks out a tooth of a male or female slave, the slave shall be let go, a free person, to compensate for the tooth. — Bible, Exodus 21:24–27 (New Revised Standard Version)

Comparison #2:

If a son strike his father, his hands shall be hewn off. — Code of Hammurabi, 195

Whoever strikes father or mother shall be put to death. — Bible, Exodus 21:15

Comparison #3:

If a man strike a free-born [higher-class] woman so that she lose her unborn child, he shall pay ten shekels for her loss.

If the woman die, his daughter shall be put to death.

If a woman of the free [lower] class lose her child by a blow, he shall pay five shekels in money.

If this woman die, he shall pay half a mina. — Code of Hammurabi, 209–212

When people who are fighting injure a pregnant woman so that there is a miscarriage, and yet no further harm follows, the one responsible shall be fined what the woman's husband demands, paying as much as the judges determine.

If any harm follows, then you shall give life for life. — Bible, Exodus 21:22–23

Translations of Code of Hammurabi from Translation from the Avalon Project:

<http://avalon.law.yale.edu/ancient/hamframe.asp>

³ A unit of currency worth 60 shekels.

Worksheet #2

1. What can we learn from these laws about the societies in which they were produced?
2. Do you notice any overall differences between the laws we studied from the Code of Hammurabi and those from Exodus's Covenant Code? What do these differences suggest?
3. What aspects of these laws, if any, seem applicable in your own society?
4. What aspects of these laws, if any, do not seem applicable in your own society?
5. Are there any ways that these laws could be modified to make them applicable in your society? If no, why not?