

# A Brief Comparison of the Code of Hammurabi and the Declaration of Independence

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Two very important legal documents showcase the vast changes in religion, ideology and social relations which have transpired during the course of over three-and-a-half millennia of human history. Yet they have one principle axiom in common: both claim their revelations are based on divine origin.

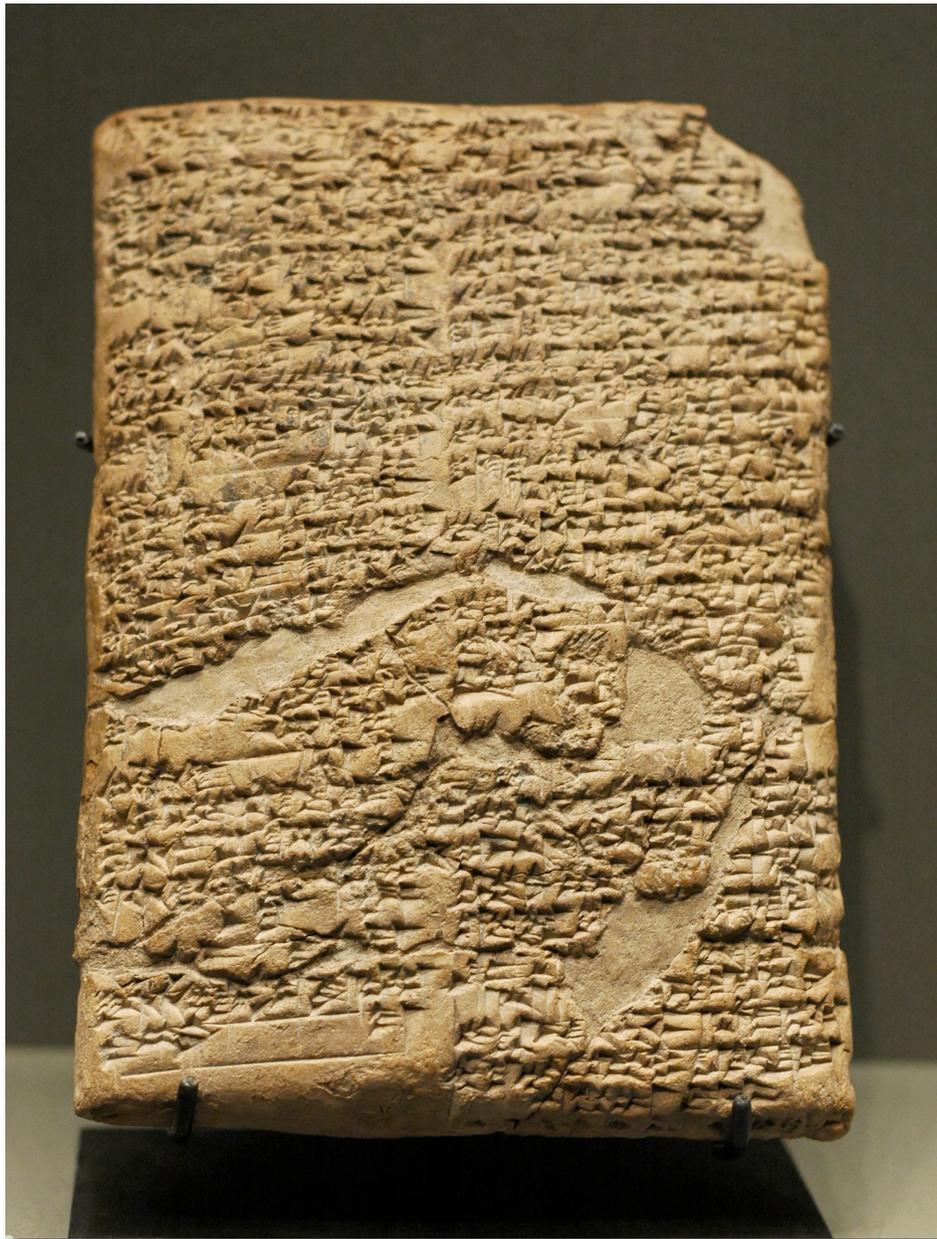


Figure 1: One tablet from the Code of Hammurabi (c. 1754 BC)—The Louvre, Paris.

The Code of Hammurabi (c. 1754 BC), enacted by the sixth Babylonian king, is a collection of 282 laws which were accepted as fair and just by ancient Mesopotamian society. The Code was canonized and copied by scribes for centuries, and lawyers and judges based their court arguments on these laws. The text begins by stating that the code was divinely inspired: the Gods Anu, Enlil and Marduk appointed Hammurabi “to make justice prevail in the land, to abolish the wicked and the evil, to prevent the strong from oppressing the weak.”<sup>1</sup> The code claims that Babylonian social order was rooted in universal and eternal principles of justice, as asserted by the gods.

Of primary importance in ancient civilizations was the God-given division of society into three basic categories: (1) superior men (property owners and nobility, i.e., the wealthy), (2) commoners (free men who worked for others), and (3) slaves. The law regarded the three classes of men quite differently. For instance, the first-known instance of the law “an eye for an eye” appears in Hammurabi’s code (Number 196): “If a superior man should blind the eye of another superior man, they shall blind his eye.”<sup>2</sup> However, if a superior man blinded a commoner, he didn’t have to offer his own eye as recompense; he merely had to pay a fine of 60 shekels of silver. If, on the other hand, a superior man blinded the eye of a slave, he did not have to recompense the slave at all, but only the slave’s owner, who received “one-half of the slave’s value” in silver.

In addition, women and children were not considered as legal persons, but as property of their husbands and fathers. For instance, if a superior man killed the daughter of another superior man, the killer was not punished. Instead the daughter of the killer was executed as just retribution. “An eye for an eye,” was translated as “one daughter for another.” This ruling was not an aberration; the people of the time considered this particular law to be fair, for everyone it seems (including women), through a life-long process of indoctrination, understood that women were property, not persons, under the law, as decreed by the gods. To us, in another age and time, we regard this law as extremely unjust, but to the Babylonians, and for many civilizations for another thousand years or more, it was perfectly acceptable, just as child sacrifice in ancient Carthage and child sexual molestation in ancient Rome were socially acceptable and legally permissible.

However, as three millennia passed, the cherished pillars of ancient civilizations were eventually discarded as the formerly-all-powerful “divine” kings were emasculated by the emerging class of wealthy merchants and bankers, gaining momentum especially in Western Europe in the 17<sup>th</sup> century. The age of Human Rights had begun, due in no small part to the advent and rise of Capitalism.

About 3,530 years after the Code of Hammurabi was set in stone, and 6,000 miles from the city of ancient Babylon, the Second Continental Congress met in Philadelphia, Pennsylvania (the “City of Brotherly Love”) on July 4, 1776, and announced that the thirteen American colonies, then at war with the Kingdom of Great Britain, regarded themselves as thirteen newly-independent sovereign states, and no longer under British rule. The proclamation of the Second Continental Congress, known as the Declaration of Independence, was canonized—like the Code

of Hammurabi—as eternal truth. Over two centuries later, children still study this document in school, and lawyers and judges base their court arguments on the Declaration and its corollaries, such as the United States Constitution and its Amendments.



Figure 2: The opening of the original printing of the Declaration, printed on July 4, 1776 under Jefferson’s supervision. The engrossed copy, which we are more familiar with, was made later. The opening lines of the two versions differ.<sup>3</sup>

The Declaration of Independence, like the Code of Hammurabi, also proclaimed universal and eternal principles of justice, which, the authors claimed, were inspired by a divine power. However, the authors of the United States Declaration differed greatly from Hammurabi in their interpretation of what was the decree allegedly declared from the “divine” power.

For instance, the Declaration of Independence asserts, “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.” This is very different from the “divinely-inspired” classification of men and women into six castes as described in the Code of Hammurabi, which was allegedly “divinely-inspired” by the Gods Anu, Enlil and Marduk.

How can we explain this contradiction?<sup>4</sup> I suspect most people today might say that that Hammurabi and his subjects believed in imaginary, false, heathen gods, but the American Founding Fathers believed in the one true God of Christianity. However, I think this explanation is inaccurate and simply shows that people today are just as ignorant, in some ways, as the people of ancient Mesopotamia. Let’s examine what we know: Hammurabi, like most humans living in ancient agricultural civilizations, believed that people were unequal; there was an eternally-ordained

hierarchical society of nobles, commoners and slaves. Yet the members of the Second Continental Congress believed that all men were eternally “created equal.” Today we believe that division of society by the Gods into superior people, common people, and slaves is a myth concocted by the ancients. But is not the belief that all humans are created equal a myth also? Where is the evidence that all humans are created equal? Everywhere we look, we see that humans are not created equal; <sup>5</sup> some have been born with health and wealth and beauty and intelligence and long life, while others have been born with next-to-nothing and must constantly struggle to survive for the short duration of their miserable lives.

Even under United States law, in practice men are not equal. The wealthy (remember O. J. Simpson?) have the money to hire the best and most expensive lawyers, while the poor must suffer with an overworked and much-less-competent public defender. Is it any wonder that wealthy people are conspicuously absent in American prisons?

Where did our founding fathers get the idea that all men are created equal? <sup>6</sup> The idea that all men (and later women) were created equal comes from Christianity, which claims that all human beings have a divinely-created soul and all souls are equal before God. But what does this mean to one billion Hindus who believe that animals and plants also have souls? And what does this mean to atheists (a rapidly-increasing group which surveys suggest includes about 13% of the world’s population) who do not believe that humans—or animals—have souls? Science has not discovered any evidence that suggests that humans have souls. Belief that all men are created equal is a myth, just as the belief that men are divided into superior men, common men, and slaves, is also a myth.

The point I wish to make, is that human society cannot exist without large numbers of people believing in shared myths; myths of religion, or nationalism, or human rights. These common beliefs allow us to cooperate together so that society functions in a relatively peaceful and stable system. <sup>7</sup> It doesn’t matter what we believe in; just as long as we all believe in the same thing.

However, it is important, I feel, that we understand that our own beliefs are not necessarily “superior to” or “more advanced” than the beliefs of others in the past. We really are no different than the people in ancient Babylon, or in the late eighteenth-century United States. During each epoch of history, most people believe that what they believe in is truly based on a universal and eternal supernatural law. Unfortunately, we err anytime that we think our norms (which we are mostly indoctrinated from birth to believe by our society) are ordained by supernatural beings and will be true for all time and place. Factually, our beliefs, and Gods, and laws, change with the passage of time.

For example, in the future, perhaps people may believe that killing animals and eating them is evil. <sup>8</sup> In such a society, killing a cow or pig might be punishable with a lifetime prison sentence. <sup>9</sup> A civilization of animal lovers would undoubtedly look upon our present age as populated by savage barbarians, just as we today look

back on previous societies which practiced cannibalism, and consider them savage barbarians.

The Code of Hammurabi and the Declaration of Independence do not propound eternal truths emanating from the divine; they are man-made documents which simply reflect the tenor of their times and the whimsically-changing attitudes of human society. Perhaps in the future, humankind will acknowledge their own invention of “absolute truths” instead of hinting at or claiming a “divine” origin for the same. This will certainly help human society when these once-treasured documents need to be revised or tossed out the window to update with changing times and social mores in the future.

Henry Doktorski (July 4, 2016)

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This essay is based on *Sapiens: A Brief History of Humankind* by Yuval Noah Harari— (Harper Collins: 2015)

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### **Photo credits:**

Figure 1:

[https://en.wikipedia.org/wiki/Code\\_of\\_Hammurabi#/media/File:Prologue\\_Hammurabi\\_Code\\_Louvre\\_A010237.jpg](https://en.wikipedia.org/wiki/Code_of_Hammurabi#/media/File:Prologue_Hammurabi_Code_Louvre_A010237.jpg) (accessed July 4, 2016)

Figure 2:

<https://en.wikipedia.org/wiki/File:US-original-Declaration-1776.jpg> (accessed July 4, 2016)

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### **End Notes**

<sup>1</sup> Roth, *Law Collections from Mesopotamia*, 76.

<sup>2</sup> *Ibid*, 122.

<sup>3</sup> *Wikipedia*, “United States Declaration of Independence,” [https://en.wikipedia.org/wiki/United\\_States\\_Declaration\\_of\\_Independence](https://en.wikipedia.org/wiki/United_States_Declaration_of_Independence) (accessed July 4, 2016).

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<sup>4</sup> Logically, we can deduce that either (1) Hammurabi was right and the Founding Fathers were wrong, (2) the Founding Fathers were right and Hammurabi was wrong, or (3) both Hammurabi and the Founding Fathers were wrong.

<sup>5</sup> Actually, humans are not created; they are conceived by the random combination of a sperm and egg by two parents and nine months later they are born.

<sup>6</sup> It is important to note that during the early days of the United States of America, only landowners (wealthy men) were permitted to vote in elections. Women could not vote, property-less men (commoners) could not vote, and slaves could not vote. 18<sup>th</sup>-century America was not really that much different than ancient Babylon. In fact, it can be argued that our Founding Fathers did not consider that the word “men” might refer to all human beings.

<sup>7</sup> See my previous essay, “*Our Hunter-Gatherer Ancestors: In Balance With the Earth?*” [http://henrydoktorski.com/Our\\_Hunter\\_Gatherer\\_Ancestors.pdf](http://henrydoktorski.com/Our_Hunter_Gatherer_Ancestors.pdf).

<sup>8</sup> Considering the rapid increase of veganism and vegetarianism, this scenario might be conceivably plausible in a few generations in some parts of the world.

<sup>9</sup> According to some ancient Hindu religious texts, crimes of animal killing (especially cow killing) were punished severely in past ages.