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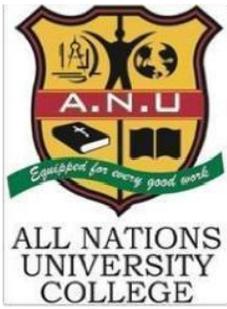
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Exploring the Relationship between the Mosaic Code and the Hammurabi Code

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Abstract

Over the years there has been a growing interest in the connections between the Old Testament and other Ancient Near East literature. The Hammurabi Code, a Babylonian legal document which predates the Mosaic Code by about 300 years, is one of the ancient documents that have featured prominently in such comparative studies. The remarkable similarities between the Hammurabi Code and the Mosaic Code raises questions about the originality of the Mosaic Code. Scholars often ask whether Moses copied and/or revised the Hammurabi Code and gave it to Israel as a divinely inspired Law or whether Moses actually received his Law as an original document from God. If Moses plagiarized the Hammurabi Code, then the inspiration of the Mosaic Code and (by extension) the inspiration of the entire Hebrew Scriptures is in doubt. The relevance of this textual and source issue for Old Testament scholarship has prompted the present study which aims at investigating the relationship between the Mosaic Code and the Hammurabi Code through a comparative study. After a critical assessment of the key similarities and differences between these two ancient documents, the paper suggests keys factors that might have accounted for the similarities and the proceeds to contend for the originality and authenticity of the Mosaic Code.

Keywords: *Ancient Near East, Hammurabi Code, Mosaic Law, Old Testament, Plagiarism*

Introduction

Law codes are important traditional conventions meant to ensure social order. Traditional laws contain regulations and procedures establish the rules for proper conduct and also serve as the means by which laws are enforced. According to Kenton L. Sparks, the production of legal documents (including “loans, leases, contracts, pledges, marriage agreements, adoption, real-estate transactions, lawsuits, royal edicts, and law codes”) was common among Ancient Near East societies.¹ There are thousands of clay tablets containing both private and state legal documents in ancient Mesopotamia that have survived till now, some dating as early as the twenty-seventh century BCE.² In addition, there are many ancient documents on court proceedings and religious activities that have been preserved to date. Some biblical materials, especially Old Testament texts, allude to some of these ancient documents. In other words, some biblical texts show intertextual connections with extra-biblical texts. Examples of Ancient Near East laws which may have links with biblical laws include Sumerian laws (such as laws of Ur-Nammu and laws of Lipit-Istar) and,

¹ Kenton L. Sparks, *Ancient Texts for the Study of the Hebrew Bible: A Guide to the Background Literature* (Hendrickson Publishers, Inc.: Peabody, 2005), 417.

² Kathryn E. Slanski, “The Law of Hammurabi and Its Audience,” *Yale Journal of Law & the Humanities* vol. 24 (1) (2012): 96-110, 98.

Akkadian law and Misaru edicts (such as the laws of *Ešnunna*, the Hammurabi Code, the Old Babylonian Misaru Edicts, the middle Assyrian laws, the middle Assyrian Harem edicts and others).³

Two main forms of ancient law codes can be identified, namely, Casuistic and Apoditic laws. Both kinds of laws are present in the Old Testament. Casuistic laws, also called Case/Procedural/Conditional laws, comprise laws that consist of a potential case followed by a prescribed verdict.⁴ Walter C. Kaiser Jr. opines that these laws “took up various circumstances and built precedents for specific cases that demand practical wisdom in applying the absolute principles from the moral or absolute law.”⁵ Such laws are conditional laws, applying only when certain conditions are fulfilled. Therefore, casuistic laws do not apply to all people. Structurally, casuistic laws have a conditional clause which is introduced by a temporal clause providing the case-context for the condition. Casuistic laws have a protasis that establishes the case to be treated and apodosis that pronounces the penalty. Thus, the common structure of any casuistic law is “If a person does so-and-so...then” or simply, “If . . . then” (see *Ex. 22:16–17*).

Apoditic laws or absolute laws, on the other hand, are “promulgated in unconditional, categorical directives such as commands and prohibitions.”⁶ That is to say, apoditic laws are characterized by absolute or general commands or prohibitions, as in the Decalogue. They are not common in the ancient law codes and hence are unique to Israel. Apoditic laws give laws in unconditional covenant demands and prohibitions. They issue absolute orders which allow no exceptions. They may appear in the positive form as “You shall...” or in the negative form as “You shall not ...” (see *Ex. 20:3*). Unlike casuistic laws, absolute laws are unconditional and prohibitive in nature.

Over the years there has been a growing interest in finding what connections exist between Ancient Israel laws as stipulated in the Old Testament and laws that existed in other Ancient Near East cultures. Israel lived in the neighborhood and had interactions with their neighbors which had an impact on the culture of Israel. Consequently, the Old Testament text which was Israel’s main religious text did not exist as the only texts available in the Ancient Near East. There were a number of Ancient Near East texts which predate the Old Testament text and at the same time share significant similarities with part of the old Testament text. Of particular interest to the present study is the Hammurabi Code, a set of laws decreed by the Babylonian King Hammurabi for his society. Scholars have observed remarkable similarities between the Hammurabi Code and the Mosaic Code in terms of form and content. Since the Hammurabi Code predates the Mosaic Code, one may argue that Moses copied his Code from the Hammurabi Code. If this assertion is true then the whole episode at Mount Sinai is false and the inspiration of Old Testament is false. Another

³ Sparks, *Ancient Texts for the Study of the Hebrew Bible*, 419-425.

⁴ Ronald L. Eisenberg, *Dictionary of Jewish Terms: A Guide to the Language of Judaism* (Rockville: Taylor Trade Publications, 2008), s.v. “Casuistic.”

⁵ Walter C. Kaiser Jr., *History of Israel: From Bronze Age Through the Jewish Wars* (Nashville, Tennessee: B&H Publishing Group, 1998), 122.

⁶ William W. Klein, Craig L. Blomberg and Robert L. Hubbard Jr., *Introduction to Biblical Interpretation* (Dallas: Thomas Nelson Publishing, 2004), 276.

view is to consider the Mosaic Code as something that Moses received from God in the form that it has been recorded in the Hebrew Scriptures. The confusion over the relationship between these two Codes have prompted this research which purposes to bring out some of the similarities and differences between the Hammurabi Code and the Mosaic Code, and to account for these similarities and differences.

Methodology for the Study

No scholar is exempted from the methodological problem associated with studying the connections between Ancient Near East texts and the Old Testament. The genesis of modern comparative study between biblical and ancient near east literature and culture can be traced to Friedrich Delitzsch's 1902 series of lectures—titled “Babel und Bibel”—which he presented under the auspices of the German Oriental Society. Delitzsch argued that the biblical writers depended on and even borrowed from Mesopotamian literature. These presentations motivated the formation of a “Pan-Babylonianism” which contended that all world myths and the Christian Bible are just versions of Babylonian mythology.⁷ Later, this approach became unpopular as it became clear that the motivation behind this approach was to reduce the values of the Old Testament so as to contrast them with those of the New Testament.⁸

Since then, various scholars continued the search for an appropriate methodology for studying the connections between the Bible and other Ancient Near East cultures until a more acceptable methodological was developed by W. W. Hallo, who promoted a balanced method called the “contextual approach,” which seeks to identify and examine both observable similarities (comparative) and differences (contrastive) between the Bible and Ancient Near East literature.⁹ Hallo did not aim at finding “the key to every biblical phenomenon in some ancient Near Eastern precedent, but rather to silhouette the biblical text against its wider literary and cultural environment.”¹⁰ His studies show similarities between the Ancient Near East and the Old Testament on historical, cultural, social, and religious backgrounds as well as differences in conceptual, functional, and theological backgrounds. Roberto Ouro citing J. M. Sasson suggests the following goals for studies on biblical connections with other cultures: (1) “What are the differences in contexts? Are the texts in question of the same literary genre? Is etymological kinship always useful in helping to make comparisons?”¹¹

The biblicalization of Ancient Near East texts prior to comparing them to the Old Testament and mythological interpretation of the Old Testament are two practices that must be avoided from

⁷ M. W. Chavalas, “Assyriology and Biblical Studies: A Century of Tension,” in *Mesopotamia and the Bible*, edited by M. W. Chavalas and K. L. Younger Jr. (Grand Rapids, MI: Baker, 2002), 21-67, esp. 34.

⁸ H. B. Huffmon, “Babel und Bibel: The Encounter between Babylon and the Bible,” in *Backgrounds for the Bible*, ed. M. P. O'Connor and D. N. Freedman (Winona Lake: Eisenbrauns, 1983), 125-136.

⁹ W. W. Hallo, “Biblical History in Its Near Eastern Setting: The Contextual Approach,” in *Scripture in Context: Essays on the Comparative Method*, ed. C. D. Evans, W. W. Hallo, and J. B. White, Theological Monograph Series 34 (Pittsburgh: Pickwick, 1980), 1-26.

¹⁰ Chavalas, “Assyriology and Biblical Studies,” 43.

¹¹ Roberto Ouro, “Similarities and Differences Between the Old Testament and The Ancient Near Eastern Texts,” *Andrews University Seminary Studies*, Vol. 49, No. 1 (2011):5-32, 11.

the onset.¹² Helpful in this regard is the suggestion that “it is imperative that the literature of each culture be appreciated on its own merits” before comparing it with the biblical texts.¹³ Kitchen makes the same point by contending that when examining the “relationship,” “connection,” “association,” “correspondence,” “parallelism,” and “similarity” between biblical and other texts “it is necessary to deal individually and on its own merits with each possible or alleged case of relationship or borrowing by making a detailed comparison of the full available data from both the Old Testament and the Ancient Orient and by noting the results.”¹⁴

John H. Walton has outlined ten important principles which serve as a useful tool for comparative studies.

1. Both similarities and differences must be considered.
2. Similarities may suggest a common cultural heritage or cognitive environment rather than borrowing.
3. It is not uncommon to find similarities at the surface but differences at the conceptual level and vice versa.
4. All elements must be understood in their own context as accurately as possible before cross-cultural comparisons are made (i.e., careful background study must precede comparative study).
5. Proximity in time, geography, and spheres of cultural contact all increase the possibility of interaction leading to influence.
6. A case for literary borrowing requires identification of likely channels of transmission.
7. The significance of differences between two pieces of literature is minimized if the works are not the same genre.
8. Similar functions may be performed by different genres in different cultures.
9. When literary or cultural elements are borrowed, they may in turn be transformed into something quite different by those who borrowed them.
10. A single culture will rarely be monolithic, either in a contemporary cross-section or in consideration of a passage of time.¹⁵

The present study adopts relevant aspects of Walton’s methodology and principles for comparative studies in dealing with the link between the Hammurabi Code and the Mosaic Code. The areas in which comparison can be made are many and varied. Linguistic elements such as grammar, semantics, and syntax can all be studied. Religious and social institutions like sacrifice, priesthood, temples, prophecy, kingship, and family structures can be studied as well. The study will place relevant portions of the Hammurabi Code side-by-side with the Mosaic Code to enable the reader to appreciate the results of the study.

¹² Ouro, “Similarities and Differences Between the Old Testament and The Ancient Near Eastern Texts,” 12.

¹³ Sasson cited in Ouro, “Similarities and Differences Between the Old Testament and The Ancient Near Eastern Texts,” 12.

¹⁴ K. A. Kitchen, *Ancient Orient and Old Testament* (Downers Grove: InterVarsity Press, 1966), 87-88.

¹⁵ John H. Walton, *Ancient Near Eastern Thought and the Old Testament: Introducing the Conceptual World of the Hebrew Bible* (Grand Rapids, MI: Baker Academic, 2006), 27.

The Origin, Context and Content of the Hammurabi Code

The Hammurabi Code is one of the most important archaeological discovery in the history of biblical scholarship. Hammurabi was a Babylonian king who lived during the time of Abraham. Most Assyriologists have identified him with “Amraphel” who was one of the kings Abraham fought with in Genesis 14.¹⁶ The validity of this identification can however not be ascertained by the current researcher. King Hammurabi was the sixth king of ‘the first Dynasty of Babylon’¹⁷ who ruled from around 1792 to around 1750 BCE.¹⁸

Hammurabi’s reign was characterized by military success and political expansion. According to Kathryn E. Slanski, Hammurabi’s reign marked “the end of a centuries-long pattern of rival city-states, and the beginning of a kingdom in southern Mesopotamia that will be known as Babylonia, after its capital city of Babylon, which would last down to the conquest of Cyrus in 539 BCE and the end of indigenous Mesopotamian rule.”¹⁹ There are indications that Hammurabi was much interested in the legal system of his kingdom. Thus, Slanski writes “He conducted extensive correspondence with officials and judges throughout his kingdom, keeping informed and offering opinions on a wide range of judicial proceedings, at times ratifying and at times questioning decisions by ‘lower’ judges.”²⁰

He enacted many laws which were engraved on stones stele and clay tablets and erected in major cities in his kingdom²¹ in about 1754 BCE. These inscriptions were used as basis for learning in Hammurabi’s kingdom.²² In 1902, a French archeologist, M. J. de Morgan led an expedition which yielded the discovery of one of these stone tablets at the ancient site of Susa in Khuzestan.²³ This tablet, which is now preserved in the Louvre Museum in Paris (France), measures 8 feet tall, 2 feet wide and 1.5 feet thick.²⁴ On it are about 4000 lines cuneiform texts of Semitic Babylonian (Akkadian) language, comparable in subject matter to the size of the average Bible.²⁵ The Hammurabi Code is not only the first ancient code to be discovered but also the largest and most extensive ancient code that has survived till date.

Covering a whole lot of issues ranging from contract matters, household issues and criminal cases, the Hammurabi Code was put into groups to help the citizens to easily read what was required of them. All these laws are organized in three parts.²⁶ The first part forms the prologue focuses on Hammurabi’s military successes, his building projects and his ascension to the throne,

¹⁶ Emmanuel Asante, *Topics in Old Testament Studies* (Accra: SonLife Printing Press, 2005), 71.

¹⁷ Chilperic Edwards, *The Hammurabi Code and the Sinaitic Legislation*, (London: Kennikat Press 1971) 16

¹⁸ Slanski, “The Law of Hammurabi and Its Audience,” 103. Lawrence Boadt, Richard J. Clifford, Daniel J. Harrington, *Reading the Old Testament: An Introduction* (New York: Paulist Press, 2012), np.

<https://books.google.com.gh/books?id=wSpHAAAAQBAJ&pg=PT156&lpg=PT156&dq>

¹⁹ Slanski, “The Law of Hammurabi and Its Audience,” 103.

²⁰ Slanski, “The Law of Hammurabi and Its Audience,” 103.

²¹ Asante, *Topics in Old Testament Studies*, 71

²² Slanski, “The Law of Hammurabi and Its Audience,” 103-104.

²³ Asante, *Topics in Old Testament Studies*, 71.

²⁴ Asante, *Topics in Old Testament Studies*, 71.

²⁵ Asante, *Topics in Old Testament Studies*, 71.

²⁶ See Slanski, “The Law of Hammurabi and Its Audience,” 104-105.

having been chosen by the gods to bring justice to the people²⁷ and it is written in a high poetic register of the Babylonian language. Other ancient codes that have prologues like the Hammurabi Code (and in some cases in epilogue) are Ur-Namma, Lipit-Ishtar, and *Ešnunna*.²⁸ The conclusion of the prologue (which serves as a preface for the individual laws) reads: “When [his god] sent [Hammurabi] to rule over men, to give the protection of right to the land, [he] did right . . . and brought about the well-being of the oppressed.”²⁹

The middle section, following the prologue, has about two hundred and eighty-two laws all of which are written according to the same formula: If a man does x, then y shall be done to him. The Hammurabi Code is therefore casuistic in nature. The Code is primarily a case-by-case formula of customary law covering: administration of justice; offenses against property; land tenure system; trade and commerce; family and social structures; penalties for assault; professional services; oxen; agricultural activities; professional fees and responsibilities; slavery.³⁰

Then comes the epilogue which (like the prologue) celebrates Hammurabi. However, unlike the prologue, the epilogue has two messages for different audiences. First of all, Hammurabi addresses the oppressed and assures them that he will ensure they live comfortably.³¹ Second, King Hammurabi advises future kings to emulate his wisdom and pay him homage in order to enjoy the grace of the gods.³² Hammurabi further states that future kings who deviate from his words or change his monument will incur the wrath of the gods.

There is some kind of decisive aural break between the prologue and the laws, and later between the laws and the epilogue. Martha T. Roth notes that “There is no special ruling, no double line, no blank space, no change of script, no italics or boldface-no visual signal, in other words, to alert the illiterate observer of the monument that we are about to move from the literary to the legal, from the introduction to the laws. The transition is seamless, reinforcing the unified message of the composition.”³³

The Origin, Context and Content of the Mosaic Code

The Mosaic Code was recorded by Moses in about 1440 BCE, about 300 years after Hammurabi. The Mosaic Code or Mosaic Law is used in the context of this paper to refer to a set of laws that God gave to ancient Israel through Moses after their exodus from Egypt. God had promised Abraham that the land of the Canaanites would be his (Abraham’s) inheritance but before that, Abraham’s descendants would be slaves in a foreign land for about four centuries. After spending

²⁷ Lars Nelson, “When the Mesopotamian Honeymoon Ends: The Code of Hammurabi’s Assumptions About the Roles of Spouses and Problem-Solving Approach to Regulating Marriage,” *The John Marshall Law Review* Vol. 46(4) (2013): 1055-1088, 1065-1066.

²⁸ Kenneth C. Anyanwu, *The Covenant of Deuteronomy and the Study of the Ancient Israelite Jurisprudence* (Master of Arts in Jewish Christian Studies: Seton Hall University, 2017), 15.

²⁹ Nelson, “When the Mesopotamian Honeymoon Ends,” 1066.

³⁰ Sparks, *Ancient Texts for the Study of the Hebrew Bible*, 422.

³¹ Nelson, “When the Mesopotamian Honeymoon Ends,” 1068.

³² Nelson, “When the Mesopotamian Honeymoon Ends,” 1068.

³³ Martha T. Roth, *Mesopotamian Legal Traditions and the Laws of Hammurabi*, *Chicago-Kent Law Review* vol. 71 (3) (1995): 13-39 at 16

about 430 years in Egypt, the time was due for God to take the Israelites to the Promised Land. He began by calling Moses to be the leader (Ex. 3). It was not easy for God's will to be carried out because of Pharaoh's hardened heart. However, after a tenth plague on the land of Egypt, Pharaoh could no longer continue to keep Israel in Egypt. Therefore, Moses led Israel out of Egypt to go through the desert and to finally settle in the Promised Land. On their way that they camped at the foot of Mt. Sinai where God inaugurated Israel as a nation and established his covenant with them and gave them a legal system by which the nation Israel was to live.

As part of God's Covenant with Israel God gave them a set of laws, referred to as the Mosaic Code or Code, which reflects God's holiness and his purpose for humanity, hence to violate the law is tantamount to rebelling against God himself.³⁴ These laws may be regarded as "a transcript of the will of God" rather than a "mere record of ordinances and decrees."³⁵ Traditionally, the Mosaic Code is considered a having a tripartite division, including, moral, civil (or judicial), and ceremonial components.³⁶ John Calvin, for example, writes, "We must attend to the well-known division which distributes the whole law of God, as promulgated by Moses, into the moral, the ceremonial, and the judicial law."³⁷ The moral laws contain universal and timeless truths in accordance with God's intention for human ethical behavior, civil laws deal with Israel's legal system whilst ceremonial laws are those related to sacrifices, festivals, and priestly duties.

At the heart of the Mosaic Code are the Decalogue (or the Ten Commandments). The word Decalogue could be traced to Exodus 34:28: "... he wrote on the tablets the words of the covenant, the ten commandments" and Deuteronomy 4:13 "He declared to you his covenant, which he charged you to observe, that is, the ten commandments" (NRSV). These Ten commandments were distinguished from the rest of God's law. Generally speaking, Old Testament laws are meant not only to show humanity's awful sinfulness which alienates humans from God and hence necessitates the role of a mediator who can bring humans to God but also to show humanity how to live, in accordance to God's perfect will and purpose.³⁸ The Decalogue is apodictic law, consisting of absolute (and unconditional) commandments: "you shall not murder, steal," and others. It is followed by the so-called Book of the Covenant (Exod. 21–23). The comparative study that follows focuses more (though not exclusively) on the Book of the Covenant.

Similarities and Differences between the Hammurabi Code and the Mosaic Code

A careful study shows remarkable similarities between the Hammurabi Code and the Mosaic Code. For instance, the tripartite structure of the Hammurabi Code is found in book of Deuteronomy. Deuteronomy begins with a long prologue (1–11) in which Moses recounts how God has dealt with the Israelites in the past especially in Israel's deliverance from their Egyptian bondage. He

³⁴ Dan Lioy, *The Decalogue in the Sermon on the Mount*, (New York: Peter Lang Publishing, 2004), 16.

³⁵ Lioy, *The Decalogue in the Sermon on the Mount*, 16.

³⁶ Calvin as quoted by Jonathan F. Bayes, *The threefold division of the law* (Newcastle: The Christian Institute, 2012), 3. (pdf).

³⁷ Calvin as quoted by Bayes, *The threefold division of the law*, 3.

³⁸ Walter C. Kaiser Jr., "Exodus" in *Expositor's Bible Commentary* edited by Frank E. Gaebelein (Grand Rapids, MI: Zondervan Publishing House, 1990), 420.

then exhorts the Israelites to respond with obedience. After this comes the lengthy section of laws (12–26). Deuteronomy 27–34 then comes as the epilogue to remind the people of the consequences of obeying and disobeying the laws.

More so, the principle of retaliation is found in both Codes. For example, Exodus 21:23-25 and Deuteronomy 19:21 state concisely the same principle of retaliation upon which are found in number of Hammurabi's laws: “Life for life, eye for eye, tooth for tooth, hand for hand, foot for foot, burning for burning, wound for wound, stripe for stripe” (see Statute 196 of Hammurabi Code). The Hammurabi Code states, “If a noble has destroyed the eye of another noble, they shall destroy his eye. If he has broken another noble's bone, they shall destroy his bone” (Statutes 196-197). This is similar to Exodus 21:23-24 which states “If any harm follows, then you shall give life for life, eye for eye, tooth for tooth, hand for hand, foot for foot.” (RSV) Hammurabi Code 195 states, "If a son has struck his father, they shall cut off his hand" and Exodus 21:15 says "“Whoever strikes his father or his mother shall be put to death.” (RSV) These laws are similar though Israel’s law is more demanding than the Hammurabi Code.

Again, statute 206 of the Hammurabi code asserts “If during a quarrel one-man strike another and wound him, then he shall swear, ‘I did not injure him wittingly,’ and pay the physicians.” This is similar to Exodus 21:18-19 which states “If people quarrel and one person hits another with a stone or with their fist and the victim does not die but is confined to bed, the one who struck the blow will not be held liable if the other can get up and walk around outside with a staff; however, the guilty party must pay the injured person for any loss of time and see that the victim is completely healed.”

Finally, there is a striking similarity between these two Codes concerning a goring animal in both the Mosaic Code and the Hammurabi Code. A detailed analysis of the issue is beyond the scope of this paper. What follows in the table below however serves as evidence of such evidence.³⁹

Table 1: The Mosaic Code and Hammurabi Code

Exodus 21:28–32	Laws of Hammurabi 250–252
²⁸ If an ox gores a man or woman and he dies, the ox shall be stoned, its flesh shall not be eaten; the owner of the ox is not liable.	²⁵⁰ If an ox gores a man while passing through the street and kills (him), that case has no claim.

³⁹ David P. Wright, *Inventing God’s Law: How the Covenant Code of the Bible Used and Revised the Laws of Hammurabi* (Oxford: Oxford University Press, Inc., 2009), 7-8.

<p>²⁹ If an ox is a habitual gorer, from previous experience, and its owner has been warned, but he did not restrain it, and it kills a man or woman, the ox shall be stoned and its owner shall be put to death.</p> <p>³⁰ If ransom is laid upon him, he shall pay the redemption price for his life, according to whatever is laid upon him.</p> <p>³¹ Or (if) it gores a son or daughter, it shall be done for him according to this law.</p>	<p>²⁵¹ If a man's ox is a habitual gorer, and his district has informed him that it is a habitual gorer, but he did not file its horns and did not control his ox, and that ox gores a man (lit. son of a man) and kills (him), he shall pay one-half mina (= thirty shekels) of silver.</p>
<p>³² If the ox gores a male slave or a female slave, he shall pay thirty shekels of silver to his (the slave's) master and the ox shall be stoned.</p>	<p>²⁵² If it is the slave of a free person, he shall pay one-third mina (= twenty shekels) of silver.</p>

The key differences between Mosaic Code and the Hammurabi Code are equally significant. The source of each Code shows a significant distinction between them. The Hammurabi Code is said to have been received by Hammurabi from the sun god Shamash but the Mosaic Code originated from Yahweh. Therefore, both Codes came from a deity. However, the Mosaic Code came from the one and only true God, Yahweh whilst the Hammurabi Code came from a false god, Shamash. The monotheistic dimension of the Mosaic Code (see Deut. 6:4-6) is absent in the Hammurabi Code and any other Ancient Near Eastern literature and society. The Hammurabi Code, unlike the Mosaic Code, has no provision for forgiveness.

The Mosaic and Hammurabi Codes differ based on their contents and purpose. The Mosaic Code is more of religious injunctions and ritual regulations whereas the Hammurabi Code deals basically with criminal and civil issues. The idea that sin has a destructive effect because it is in direct opposition to God's will and purpose has no place in the Hammurabi Code. The Mosaic Code also contains humanity's responsibility to God, and this is absent in the Hammurabi Code. As such the Mosaic Code deals with one's vertical relationship with God (in addition to human-human relationship) whilst the Hammurabi Code does not touch on divine-human relationship. The Hammurabi Code was given to help the people to get along with one another but the Mosaic Code was given to help Israel to maintain an excellent relationship with Yahweh. The Mosaic Code, unlike the Hammurabi Code, is also concerned about the cause of crime rather than simply its effect.⁴⁰

⁴⁰ K. B. Napier, *The Decalogue God or Hammurabi?* (Swansea: Petra Press, 2019), 141.

It is important to note that in spite of striking similarities between the Hammurabi Code and the Mosaic Code in relation to the ox that gores there are also differences. The Hammurabi Code differs from the Mosaic Code in placing greater emphasis on monetary compensation. Moses requires that an ox that kills a person be stoned and its flesh not eaten. This is absent in Hammurabi. Furthermore, though the Mosaic Code upheld capital punishment for murder (Ex. 21:12) which God commanded of Noah (cf. Gen. 9:6), it did not permit capital punishment in the case of manslaughter (Ex. 21:13) which the Code of Hammurabi allowed (see Hammurabi Code 229).

In terms of context, it can be said that the Mosaic Code was meant for Israel which was mainly agricultural society with low level of social and commercial development whilst the Hammurabi Code operated in Babylon, a highly commercialized urban society. The two Codes differ in their morality. For example, the Mosaic Code gives greater value to human life than the Hammurabi Code. In other words, the Mosaic Code presents a higher view of human life than the Hammurabi Code. For instance, in the Hammurabi Code, the consequence for theft is to repay ten to thirty times the stolen item, and failure to do so leads to the execution of the thief (see for example, Statute 6). That is never the case in Moses. Again, the Hammurabi Code lists about ten different bodily mutilations for various offences (see for instance, Statute 34, 202 and 205) whilst the Mosaic Code has only one (Deut. 25:11-12). Obviously, the principle of love for God and for neighbor which is present in the Mosaic Code, is absent in the Hammurabi Code. The notion of mercy is virtually absent in the Hammurabi, but significantly present in the Mosaic Code. There are moral principles behind the Mosaic Code which are rooted in the righteousness of God, the Creator, who demand uprightness from humanity.

Did Moses Plagiarize the Hammurabi Code?

The remarkable similarities and differences between the Hammurabi Code and the Mosaic Code evident from this study raises the question: Was the Hebrew legal system plagiarized from the Babylonian law? To plagiarize means to steal someone's intellectual property and present it as yours. Plagiarism refers to the "wrongful attempt to pass off another person's literary or musical work as one's own; the act of copying without permission or acknowledgment."⁴¹ It has to do with using someone's ideas, information, or expression without crediting the original author. For the present author, even though the Hammurabi Code predates the Mosaic Codes by about three centuries, the Mosaic Code is neither borrowed from nor (directly) dependent upon the Babylonian legal system. In other words, Moses did not plagiarize the Hammurabi Code to write his Law. The Mosaic Code is divinely inspired document for God's nation, Israel. The similarities do not however necessarily signal borrowing; it may suggest a common cultural heritage that existed in Israel and its neighborhood. The similarities underline the fact that issues such as murder, theft, adultery and others, which the two legal systems deal with, are common to human societies.

Thus, K. B. Napier rightly asserts that: "... such resemblances do not demonstrate that Moses plagiarized Hammurabi's Code. What the similarities do show is that murder, theft,

⁴¹ Garmonsway cited in Kevin G. Smith, *Academic Writing and Theological Research: A Guide for Students* (Johannesburg: South African Theological Seminary Press, 2009), 72.

adultery, and kidnapping are problems in every society and must be addressed. Even today, countries throughout the world have similar laws.”⁴² Napier’s point is that when societies which are related racially and culturally deal with similar existential issues, there is bound to be similarities, especially in terms of penalties imposed for infringement of common statutes. The similarities between the laws of many modern countries do not indicate copying from one another. Therefore, the parallels between the law codes in Ancient Israel and in Babylon in no way prove plagiarism.⁴³

Both the Hammurabi Code and the Mosaic Code are complex legal systems that operated in two different societies in the Ancient Near East. The remarkable differences between them show clearly that each system came from a different source. That is not to say that Moses might not have known the Hammurabi Code before giving his Code. Rather, the author suggests that aspects of the Mosaic Code that are found in the Hammurabi Code should not be treated as a borrowed material. The fact that Hammurabi’s god was a false one as compared to Moses’ true God leads to the fact that he (God) could not have copied from his own creature (Hammurabi’s god).⁴⁴

Conclusion

The study has shown remarkable similarities between the Hammurabi Code and Mosaic Code. However, the significant differences between them show that the Mosaic Code was not adapted from the Hammurabi Code. The people of Israel did not live in isolation; they lived in the neighborhood of other people. Similarly, the Old Testament text which was Israel’s main religious text did not exist as the only texts available in the Ancient Near East. There were a number of Ancient Near East texts which predate the Old Testament text. One can therefore admit that Moses knew the Hammurabi Code. Yet, Moses’ knowledge of the Hammurabi Code does not mean his Code was copied from the Hammurabi Code. After receiving a divinely inspired Law from God, Moses, who knew the Hammurabi Code, might have intentionally shaped his document to resemble the Hammurabi Code, which was by then well known throughout Ancient Near East. By so doing Moses not only checked the veneration of the Hammurabi Code but also facilitated memorization of his Code. Ancient Israel used an oral culture to transmit information from generation to generation and so such a technique was necessary to help Israel remember what God gave them through Moses. The Hammurabi Code, like other ancient documents that are connected with biblical literature, must therefore be regarded as materials that emerged from societies similar to Israel. The existence of such materials should in no way be used to undermine the authenticity, inspiration and originality of the biblical text.

⁴² Napier, *The Decalogue God or Hammurabi?*, 141.

⁴³ K Napier, *The Decalogue God or Hammurabi?*, 141.

⁴⁴ Napier, *The Decalogue God or Hammurabi?*, 138.

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