National and Kapodistrian University of Athens

Department of History and Archaeology.

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Crime and Punishment: A Comparative analysis of the Mesopotamian Legal system of the 3rd and 2nd Mill BCE.

Alexe Doizé

208552404664

Konstantinos Kopanias.

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Illustration produced by Andy Grandillon.

Cette thèse est dédiée à ma défunte grand-mère, Françoise Edouard, dont le sens aiguë de la justice et de l'équité a grandement influencé mon désir d'explorer les questions et corpus, présentés dans les prochaines pages.

Abstract

This thesis aims to comprehend how crimes and criminals were perceived in Mesopotamia during the third to first millennia BCE. By examining the concept and definition of justice and fairness, this study analyzes and compares tangible evidence from the judiciary systems, including law codes, trial records, and narratives built around the great kings who emphasized justice within their territories. This research traverses the evolution of justice, penalties, and perceptions of criminality from the Sumerian laws to the Old Testament, and through the Babylonian, Assyrian, and Hittite empires. Using an interdisciplinary approach, this thesis seeks to understand societal perceptions of crime and, more importantly, how criminals themselves were viewed.

Introduction

Legal documents provide crucial insights into the understanding of civilizations, cultures, everyday life, conflicts, foreign relationships, and social structures. Marginalized individuals, such as criminals, occupy a unique position within a society. This thesis aims to understand and conceptualize criminal laws in the societies of the Near East, exploring how justice and fairness were defined, and, more importantly, how crimes and criminals were perceived by these societies. Before delving into this analysis, it is essential to highlight the need for a new approach in the study of ancient Near Eastern legal documents.

The study of ancient legal documents has mainly focused on the translation and analysis. The publication of texts such as the Code of Hammurabi[1] and the Laws of Eshnunna in the early 20th century concentrated on these aspects. Much of the prior research, including significant works that inform this thesis, offered in-depth analysis of terminology and interpretation of specific words. However, these studies often lacked a broader analysis of how the laws reflected the societies that created them. Martha T. Roth's has been essential for the present thesis.[2] Despite the complexity of these languages necessitating reliance on Roth's translations, this consistent use, combined with insights from other scholars, ensures the accuracy and soundness of the analysis. This thesis seeks to explore the essence of Mesopotamian law, aiming to draw conclusions about the concepts of justice and fairness and the societal categorization of criminals. This research attempts to theorize aspects of Mesopotamian life beyond mere textual analysis, employing comparative methodology and careful modern parallels. One book that approach this angle and which uses a comparison method similarly to this thesis is *A Comparison of Ancient Near Eastern Law Collections Prior to the First Millennium BC*

[1] Finet (1973, 443-4) offers and introduction to the subject and relevant bibliography about of the excavation of the Hammurabi stele, as well as the work of André Finet, who produced a new translation in the regard of new finds in Mari in the 60's and 70's.
[2] Roth (1997, 4) demonstrates the remaining debate among scholars about the perception of this corpus and how it should be treated.

By Samuel Jackson. Unfortunately this book was not available while writing this thesis, it is an important literature for the field and should not be omitted.

The definition of the terms is the key to fully grasp what will be discussed further. In the Cambridge dictionary online a law is defined as: “a rule, usually made by a government, that is used to order the way in which a society behaves.” Or, “a system of rules of a particular country, group or area of activity.”[3] The first part of this definition seems rather modern. That is why the definition of Jacob Lauinger can be preferable here: “a device for regulating conduct within a given society or social group.” This definition notably leaves room for social rules, or “customary laws”, important in this thesis as will be demonstrated further.[4] To prevent any misinterpretation while reading this thesis, it is important to distinguish between *justice* and *fairness*. Although these terms may appear similar, they hold distinct meanings within this study. For the purpose of this thesis, it is crucial to recognize that the difference between mere vengeance and the rendering of justice lies in who wields the authority. Retaliation or the enforcement of sentences distinguishes justice from social justice, as justice—embodied by the Law—is not always fair or balanced, nor is it necessarily grounded in equity. At times, vengeance may even appear more fair. However, the lack of objectivity provided by the courtroom, the trial, the procedure, and the executioner often falls short of achieving true justice.

One significant aspect is the relationship between the earliest forms of writing and the emergence of law codes. While it remains debated whether rules or implied oral laws existed before the advent of writing.[5] The earliest known written laws are the Sumerian laws. These laws reflect the administrative and trading systems established during the Early Dynastic period. The Babylonian king Hammurabi later codified these systems, creating one of history's most famous legal texts.[6]

[3] McIntosh 2024, entry “Law”, last visited on 02/07/2024.
[4] Lauinger 2016, 125.
[5] Westbrook 2003, 1.
[6] Mieroop 2004, 85-8.

The sources used in this thesis are diverse, including letters, decrees, trial records, and primarily law codes.[7] Law codes are collections of legal statements, often written in a casuistic tradition, presenting hypothetical cases and sometimes containing prologues and epilogues with divine or metaphysical links to justice and fairness. These law codes are the focus here because they represent most textual finds.[8] The corpus of texts analyzed in this thesis is classified chronologically, from the Sumerian laws to the Hittite laws. It is noteworthy that this thesis only focuses on textual evidence, not only by choice, but also because there is a crucial lack of archeological finds for the punishments of criminals. No obvious funerary site which can be associated with a criminal, and most importantly there is no evidence for ways of application of the death penalty within archeological finds.

The Sumerian laws include the Laws of Ur-Nammu, dated to 2100 BCE, and the Lipit-Ishtar laws, dated to 1930 BCE. The Sumerian law codes both consist in a prologue, an epilogue, and the laws. The laws are written in Sumerian cuneiform and employ the expression *Tukum* translated "If".[9] The authorship of the Ur-Nammu collection is debated, but it is agreed that it was written during the reign of Ur-Nammu and then finished during the reign of his son. Both kings are noted for centralizing administration and creating a judiciary system. Following the fall of the 3rd Dynasty of Ur, the city of Eshnunna rose to prominence. The Laws of Eshnunna, dated to 1770 BCE and attributed to King Dadusha,[10] were discovered at Tell Harmal in 1945 and provide insight into societal norms, including the status of different social groups. The laws concerning delicts[11], crimes or relationships are for the most part written with the *summa*, wording which is translated as "if …". The laws include men, women, children, but also other

[7] Roth 1997, 4-5; See also Fales 2017, 398; Westbrook 2003, 5-6.
[8] Roth 1997, 23; See also Westbrook 2003, 8-12.
[9] Roth (1997, 17) § 2: If a man acts lawlessly(?), they shall kill him.
[10] Roth 1997, 57.
[11] Throughout this thesis multiple words which belong to judiciary terminology are used. It has been brought to my attention that the difference between a delict and a crime is not always easy to grasp. Both represent offenses that are punished by law, however, of different degrees. A delict being a minor offense, also called a "misdemeanor". A crime on the contrary, is a major offense, most of the time, punished by the highest punishment of the judiciary system.

categories of people within society such as slaves or the elite. Their social status has an impact on the outcome of the judiciary procedures.[12]

Hammurabi's 43-year reign[13] saw the reconquest of lost Mesopotamian territories[14] and the establishment of a new legal code, earning him the title "King of Justice." The Code of Hammurabi, dated to 1750 BCE, is a significant symbolic text with lasting influence.[15] The representation of the god Shamash at the top of the black stela underscores the divine connection to justice, this god then became known as the god Assur in the Assyrian religious tradition.[16] Assyrian laws followed Hammurabi's system, evolving through Old, Middle, and Neo-Assyrian periods, providing a comprehensive view of legal evolution within a single society. Assur provided a wealth of archaeological finds, including 20,000 clay tablets that reveal commercial and administrative details.[17] The Hittite laws, primarily found in Hattusa, offer similar opportunities for comparative analysis across different periods.

The Neo-Babylonian laws and their trial records, dated to 700 BCE, mark a resurgence of Babylonian power and legal innovation. Although only 15 laws have survived, their distinct formulation, *Amelu sa* translated as "the man who" provides valuable insights, notably influencing the Old Testament.[18] Those more recent texts are primarily used in the conclusion chapter of this thesis.[19]

[12] Roth (1997, 216.) "In a number of cases the fines are graded according to the social status or gender of the victim or the offender. Fines in cases involving slaves are often half that of cases involving free persons (see I] 7-8, 13-18); and those involving free women half that of free men (see {{ II[= {1 3-4], IV [= 6], XVI [= 17]). Similarly, the wages of women are usually half that of men (17 24, 158). Yet the price of an unskilled man or woman is the same ({f 177), and fines expressed in terms of slaves are often indifferent as to biological gender, as though male and female slaves were of equal value (e.g., I] 1-2). ".
[13] Roth 1997, 71.
[14] Mieroop and Potts 2016, 713.
[15] Westbrook 2003, 2; See also Charpin 2010, 4; Westbrook 2003, 27-30; Slanski 2021, 97.
[16] Slanski 2012, 106.
[17] Roth 1997, 154; See also Mieroop and Potts 2016, 854.
[18] Roth (1997, 144) eo-Babylonian Laws § 10: A man who gives a dowry to his daughter, and she has no son or daughter, and fate carries her away—her dowry shall revert to her paternal estate.
[19] Mieroop 2004, 30.

	Number of laws found to this day, in total.	Prologue	Epilogue
Ur-Nammu	37	X	X
Lipit-Ishtar	38	X	X
Eshnunna	60		
Hammurabi	282	X	X
Middle-Assyrian	124		
Neo-Babylonian	15		
Hittite	200		

Tab 2.5. Source: Alexe Doizé. Table that illustrates the number of laws in total in every corpus that is discussed, and the presence of a Prologue and Epilogue. (The Middle-Assyrian Decrees have not been taken into consideration here).

The key difference between those law codes and the previously given definition of the Law is the close relationship these texts have with divinity. The prologues and epilogues are largely dedicated to the deities of the sun, justice, and fairness. A significant mythology employed by the powerful kings of Mesopotamia is the tale of how the gods themselves transmitted and gifted the kings with fairness, justice, rules, and the mission to uphold justice throughout their lands.[20] This mythology is also evident in the Old Testament, notably through the persona of Moses.

This thesis is structured to first introduce and compare the texts by categories of criminal laws, followed by an analysis of the judiciary procedures and stages, focusing on trial organization. Finally, it offers conclusions and discussions based on the corpora, to answer some remaining questions and offer new ideas to explore further in this field of study.

[20] Slansky 2012, 107.

Chapter.1. Comparison study of criminal laws.

1.1. Crimes against persons

The first law in the Code of Ur-Nammu is significant because it marks the earliest clear prohibition of voluntary homicide and the associated death penalty.[21] What is surprising when analyzing this legal corpus is the scarcity of laws concerning voluntary homicide. Only two texts explicitly mention this crime: the Ur-Nammu Code and the Middle Assyrian laws. The Middle Assyrian laws, in general, are notably detailed and comprehensive. Although they do not cover all the crimes discussed in this analysis, their precision is invaluable for understanding their judicial system. While the Ur-Nammu Code is straightforward and unambiguous, the Middle Assyrian laws emphasize malice and premeditation, which are crucial elements in defining "murder".[22] In the Eshnunna laws, one specifies the penalty for accidental homicide during a conflict, clearly influenced by the social status of the victim.[23] Another Eshnunna law addresses the penalty when a dog bites and kills someone, highlighting the owner's responsibility. This can be considered involuntary homicides because the law specifies that the dog's owner failed to properly restrain the animal.[24]

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[21] Roth (1997, 17) Laws of Ur-Nammu § 1: If a man commits a homicide, they shall kill that man.; See also Wilcke (2003, 117) The author explains that during the Early dynastic period, some texts existed, dissociated from the legal and judiciary evidence such as the "reform texts" of Urukagina which mentioned thief and murder. Maybe the absence of laws concerning murder after the Early dynastic period is a proof for dissociations among the texts, based on the gravity. Offering then an impression of division between delict and crime.

[22] Roth (1997, 157) Middle Assyrian laws § 10: [If either] a man or a woman enters [another man's] house and kills [either a man] or a woman, [they shall hand over] the manslayers [to the head of the household]; if he so chooses, he shall kill them, or if he chooses to come to an accommodation, he shall take [their property]; and if there is [nothing of value to give from the house] of the manslayers, either a son [or a daughter ... |; See also tables 2.6 and 2.7 for the charts comparing the law codes, the number of laws they own and the subject that are covered.

[23] Roth (1997, 66) Laws of Eshnunna § 47A: If a man, in the course of a brawl, should cause the death of another member of the awilu-class, he shall weigh and deliver 40 shekels of silver. ; See also Good (1967, 951) article which explains the incompleteness of the legal documents due to the missing of laws about murder after Ur-Nammu.

[24] Roth (1997, 67-8) Laws of Eshnunna § 56: If a dog is vicious and the ward authorities so notify its owner, but he fails to control his dog and it bites a man and thus causes his death, the owner of the dog shall weigh and deliver 40 shekels of silver.

In the Code of Hammurabi, responsibility and evidence are essential for any accusation, emphasizing fairness and honesty. If a fight results in involuntary manslaughter, the penalty is monetary and varies based on the victim's status or gender. One law addresses murder, albeit accidental, when a commoner is killed during a robbery.[25] Details about this crime are scarce, suggesting it was included due to its occurrence rather than thorough consideration like other detailed laws. However, the Code of Hammurabi includes a unique law concerning involuntary manslaughter: if a builder's shoddy work causes a house to collapse, resulting in death, the builder is held responsible.[26] This law is noteworthy because it not only ensures accountability but also serves to warn and threaten workers to maintain high standards in their work. In the Hittite laws, there are no distinct laws concerning varying degrees of responsibility.[27] However, there are numerous laws addressing manslaughter, whether voluntary or involuntary. Most texts focus on manslaughter or aggression, cases arising from quarrels where someone is hurt or killed.

The various law codes studied here provide extensive details about fights involving a pregnant woman that result in miscarriage. However, using the term "murder" in these cases is challenging since the baby is still in the womb. These details, however, offer valuable insights into situations where the mother dies due to the miscarriage.[28] In such cases, the law categorizes the incident as homicide, but not necessarily as murder; it is more accurately described as involuntary.

Another common theme among the nine texts studied in this thesis is the emphasis on honesty and fairness. Although the laws regarding manslaughter often do not distinguish clearly between

[25] Roth (1997, 85) Laws of Hammurabi § 24: If a life (is lost during the robbery), the city and the governor shall weigh and deliver to his kinsmen 60 shekels of silver.
[26] Roth (1997, 125) Laws of Hammurabi § 229: If a builder constructs a house for a man but does not make his work sound, and the house that he constructs collapses and causes the death of the householder, that builder shall be killed.
[27] Haase 2015, 644-5.
[28] Roth (1997, 122-3) Laws of Hammurabi § 209: If an awilu strikes a woman of the awilu-class and thereby causes her to miscarry her fetus, he shall weigh and deliver 10 shekels of silver for her fetus. §210: If that woman should die, they shall kill his daughter. § 211: If he should cause a woman of the commoner-class to miscarry her fetus by the beating, he shall weigh and deliver 5 shekels of silver. § 212: If that woman should die, he shall weigh and deliver 30 shekels of silver."; Driver and Miles 1952, 408; See also Westbrook 2015, 558.

voluntary and involuntary acts, they generally rely on oaths and the testimony of the accused to determine guilt. If the accused swears an oath that the killing was unintentional, the punishment will differ accordingly. This aspect is most prominently highlighted in the Code of Hammurabi.[29]

While the corpus is somewhat unbalanced in the number of laws discussing homicides, all the texts address assault and battery, with the exceptions of the Lipit-Ishtar and Neo-Babylonian laws. In the Eshnunna laws, the compensation paid to the victim depends on the injured body part.[30] This concept is also present in the Hittite laws, where the amount of money varies depending on which body part was broken, bitten, or torn.[31] Additionally, the value of these body parts differs based on whether they belong to a free person or a slave.

In the Ur-Nammu laws, multiple provisions describe the consequences of injuring another person. Similar to the Eshnunna and Hittite laws, the injured body part determines the severity of the crime and the corresponding punishment.[32] Interestingly, these laws do not specify the reasons for the attack or whether the injury resulted from a quarrel or another cause. This omission raises questions about determining guilt and the often-blurred distinction between voluntary and involuntary actions.

The Code of Hammurabi contains numerous laws about physical attacks, the most famous being "an eye for an eye, a tooth for a tooth." This principle, also found in the Old Testament, is a crucial part of this essay, especially in the final chapter, which discusses the legacy of ancient judiciary systems. Although not phrased exactly this way in the code, it marks the beginning of a series of laws stating that if a commoner breaks a bone or knocks out a tooth, the same injury will be inflicted on the perpetrator.[33] Another notable law addresses the severe consequences for

[29] Roth (1997, 122) Laws of Hammurabi § 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 awilu-class, he shall weigh and deliver 30 shekels of silver.

[30]Roth (1997, 65-6) Laws of Eshnunna §42: If a man bites the nose of another man and thus cuts it off, he shall weigh and deliver 60 shekels of silver; an eye—60 shekels; a tooth—30 shekels; an ear—30 shekels; a slap to the cheek—he shall weigh and deliver 10 shekels of silver.

[31] Roth (1997, 219) The Hittite laws § 13: If anyone bites off the nose of a free person, he shall pay 40 shekels of silver. He shall look to his house for it.

[32] Roth (1997, 19 Laws of Ur-Nammu § 18: If [a man] cuts off the foot of [another man with ...], he shall weigh and deliver 10 shekels of silver.

[33] Roth (1997, 121) Laws of Hammurabi § 196: If an awilu should blind the eye of another awilu, they shall blind his eye.

a child that hits its father. The punishment for this action is so harsh that it raises the question of whether this law was intended more as a pedagogical tool to educate and threaten children, rather than as an actual strict legal mandate.[34] Also, the parents themselves would need to denounce their own children which, through the biased eyes of the 21st century, seems unlikely.

The Middle Assyrian laws provide valuable insight into the transition from physical retaliation to monetary punishment. This is mostly visible when the text is compared directly to the Hammurabi code, which uses the death penalty for an outstanding number of laws. A shift also evident in the Hittite laws on physical attacks. Interestingly, the Middle Assyrian laws specify punishment for a physical attack in only a few cases, one such law concerns a woman who hits a man.[35] The second is written with particular emphasis on a woman causing severe injury by crushing a man's testicles, which could lead to long-lasting consequences such as infections. The Middle Assyrian laws include specific protections for women of the *awilu* class, if they are struck, and most specifically if the awilu loses her fetus due to this quarrel.[36]

The discussion surrounding the evolution and perception of crimes across different civilizations reveals several intriguing nuances and complexities. The previous analysis highlights some limits and differences. A significant aspect that stands out is the absence of the term “murder” or the expression “voluntary homicide” in most of the texts. This omission presents a notable gray area within the study, prompting various interpretations and theories. One plausible explanation is that the concept of murder may have been culturally understood and implicitly acknowledged, with the penalty for such a grave offense ingrained within societal norms and oral traditions. However, this interpretation is limited by the consistent absence of these terms across diverse civilizations, regardless of their differences in religions, gods, teachings, and historical periods. The idea that all these societies operated under an implied or customary law without explicitly stating it in their legal codes seems unlikely. And even more when we know that the Ur-Nammu laws did point out such offense.

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[34] Roth (1997, 120) Laws of Hammurabi § 195: If a child should strike his father, they shall cut off his hand.
[35] Roth (1997, 156-7) Middle Assyrian laws § 7: If a woman should lay a hand upon a man and they prove the charges against her, she shall pay 1,800 shekels of lead; they shall strike her 20 blows with rods.
[36] Roth (1997, 160) Middle Assyrian laws § 21: If a man strikes a woman of the awilu-class thereby causing her to abort her fetus, and they prove the charges against him and find him guilty—he shall pay 9,000 shekels of lead; they shall strike him 50 blows with rods; he shall perform the king’s service for one full month.

Another perspective could be that cases involving the threat to human life were managed by religious officials. For instance, in the Old Testament, one of the first laws dictated by God to Moses is "You shall not kill."[37] It is plausible that priests were responsible for adjudicating such crimes, which would reflect a viewpoint where the sanctity of life and certain grave crimes were considered outside the realm of the judicial system and instead left to divine judgment. This theory is compelling as it suggests a separation between severe offenses and the secular legal framework, indicating that these crimes were so serious they were entrusted to the gods for judgment. Now while the connection between religion and law is purely theoretical, it becomes more plausible when taking into account the close relationship between justice, fairness, and the divine, explicitly pointed out in the introduction of this thesis.

One law against persons has been omitted from this comparative analysis until now. Although this thesis follows contemporary legal terminology to track modern concepts, one law stands out from modern systems: laws against witchcraft. In no fewer than four in the law codes examined here, there are provisions against witchcraft. While it could be argued that these laws should not be considered "against persons," within the context of ancient Mesopotamia, the perceived power of witchcraft must have been taken very seriously. In the Ur-Nammu laws, for instance, determining the guilt of a person accused of witchcraft involved a trial by ordeal in the sacred river. If the accused drowned, it was taken as proof of guilt, with the gods themselves punishing the witch[38]. If the accused survived, the person who made the false accusation faced the death penalty. This method highlights the intertwined nature of religion, superstition and Law in ancient societies, where divine intervention was seen as a means of ensuring justice.[39] Interestingly, there is no significant difference between the laws against witchcraft in the Ur-Nammu and Hammurabi codes. The only variation lies in the disposition of possessions, which is not precised in the first. In the Second, if the accused is found guilty by the sacred river,

[37] May, 1962, Exodus 20:13 In the revised version of the Holy Bible by the oxford university press.
[38] Witch is here used linked to the word witchcraft, however it should not be read with the modern imagery of a witch as a female. Genders and practitioners of witchcraft are discussed later.
[39] Because the laws concerning witchcraft are for the most, very long, they can be found in Appendix in the section entitled “1.1. Witchcraft.”

all their possessions go to the accuser. If the accused survives the ritual, the false accuser is punished by death, and their possessions are given to the acquitted person.

The Middle Assyrian law code is the largest, reflecting the length and precision of its sentences. Although the section on punishing someone accused of witchcraft is not the longest, it emphasizes the importance of securing testimony through multiple oaths, particularly to the "Bull the-son-of-the-Sun-god." The code also details the consequences for witnesses who refuse to testify or change their testimony. While the penalty for practicing witchcraft is clear, there is no specified punishment for false accusations by witnesses, though they are strongly bound to their oaths.

The last mention of witchcraft can be found in the Neo-Babylonian law code. One major difference between the Ur-Nammu laws, the Code of Hammurabi, the Middle Assyrian and Neo-Babylonian codes is that the first two involve a ritualistic examination by the gods, while the latter two rely solely on evidence, witnesses, and the judicial process. This is particularly evident in the Neo-Babylonian law, which mandates the death penalty for any practitioner of witchcraft, except when the spell targets fields or land. In such cases, the witch must compensate the value of the cursed land or tree threefold.

An interesting aspect of the Neo-Babylonian law is its lack of inclusivity; it exclusively refers to women as practitioners of witchcraft. This could suggest that certain ritualistic activities were considered to be within the domain of women's aptitudes. Unlike the Ur-Nammu and Hammurabi codes, which generally use the term "man" and center around male-oriented laws, the Middle Assyrian law mentions both men and women equally, indicating its greater precision and extensiveness. These differences will be explored further in the discussion section of this thesis.

After observing the laws concerning manslaughter and physical aggression, it appears that a lot of questions remain. In this following part the laws about rape are discussed and hopefully will offer more clarity in their writing and applications. In the Hammurabi Code, one law specifies that if the victim is a virgin bride the punishment is severe.[40] This could be a remnant of the Ur-Nammu laws, which contain two laws against rape: one against a free woman and one against a slave woman, with differing penalties based on their status. Both laws also hinge on the woman's virginity. This focus on virginity raises more questions than answers about its symbolic importance in society and the practicalities of proving virginity, especially for unmarried women.[41] No other situation is suggested.[42] In the Eshnunna laws, there is one law regarding rape. It is phrased efficiently and practically, similar to the Ur-Nammu laws, considering the victim through the prism of her father or future husband. It is possible that the crime was considered as damaging another man's property rather than actually harming a human life, which is why the victim is only considered through this relationship with a male figure such as a father or husband. This is a great insight to understand the perception of women within the society. This law demonstrates the link between the earliest texts and later ones, separated by a few centuries yet still very similar in the phrasing of the laws. This continuity highlights the enduring importance of these legal concepts across different periods and civilizations.

In the Hammurabi Code, another law caught my attention—one that does not specify whether there was consent, but for the purposes of this thesis, it will be included in the corpus and considered as addressing rape. This law reprimands a man who has intercourse with his own daughter. The penalty in such a case is banishment from the city. This penalty is significant because it acknowledges the act as criminal and most importantly, the victim is not subjected to any punishment. This suggests a recognition that in such cases, the child can never consent, or effectively resist their abuser. This law highlights an early understanding of the power dynamics

[40] Westbrook 2015, 418.

[41] Roth (1997, 17) Laws of Ur-Nammu § 6: If a man violates the rights of another and deflowers the virgin wife of a young man, they shall kill that male. (The law that follows, 7, actually emphasizes how the woman will be treated if she initiates the sexual relation.); See also Roth (1997, 18) Laws of Ur-Nammu § 8: If a man acts in violation of the rights of another and deflowers the virgin slave woman of a man, he shall weigh and deliver 5 shekels of silver. ; See also Wilcke 2015, 219.

[42] Roth (1997, 106) Laws of Hammurabi § 130: If a man pins down another man's virgin wife who is still residing in her father's house, and they seize him lying with her, that man shall be killed; that woman shall be released.

and inherent lack of consent in such situations, underscoring the criminal nature of the act and the protection of the victim.[43]

In the Middle Assyrian laws, an attack followed by a non-consensual kiss or embrace is punished. The term "kiss" can be interpreted as a euphemism for rape.[44] The first occurrence of an explicit punishment for rape is found a few laws later in the same code, mandating the death penalty for the perpetrator with no punishment for the woman.[45] This is the only law in this corpus that specifies the act of rape so clearly and is part of the Assyrian legal text's broader intent to protect women from sexual aggression. Another example of rape laws in the Middle Assyrian corpus is more ambiguous because it considers situations where the woman invited the man into the house, possibly for intimacy. However, if the intercourse was forced, it is still considered rape. In such cases, as well as in other laws concerning adultery or sexual relationships, the husband is given the authority to choose the punishment. Notably, the punishment he selects for the perpetrator also applies to his wife, requiring the husband to carefully decide on the appropriate reprimand.[46] This dual punishment underscores the complexity of these laws and reflects the societal norms and values regarding marital relationships and sexual conduct.

The Middle Assyrian laws also address the case of a virgin maiden being raped, providing a clearer picture of the economic implications of rape and the cultural importance of virginity. The price that the rapist must pay for his offense can be seen as an addition to the maiden's dowry,

[43] Roth (1997, 110) Laws of Hammurabi § 154: If a man should carnally know his daughter, they shall banish that man from the city.
[44] Roth (1997, 157) Middle Assyrian laws § 9: If a man lays a hand upon a woman, attacking her like a rutting bull(?), and they prove the charges against him and find him guilty, they shall cut off one of his fingers. If he should kiss her, they shall draw his lower lip across the blade(?) of an ax and cut it off.
[45] Roth (1997, 157) Middle Assyrian laws § 12: If a wife of a man should walk along the main thoroughfare and should a man seize her and say to her, “I want to have sex with you!”—she shall not consent but she shall protect herself; should he seize her by force and fornicate with her—whether they discover him upon the woman or witnesses later prove the charges against him that he fornicated with the woman—they shall kill the man; there is no punishment for the woman. ; See also Westbrooke 2015, 556.
[46] Roth (1997, 158-9) Middle Assyrian laws § 16: If a man [should fornicate] with the wife of a man [... by] her invitation, there is no punishment for the man; the man (ie., husband) shall impose whatever punishment he chooses upon his wife. If he should fornicate with her by force and they prove the charges against him and find him guilty, his punishment shall be identical to that of the wife of the man.

likely to facilitate her marriage, as marrying a non-virgin might be more difficult.[47] This underscores both the economic and social value placed on a woman's virginity. Additionally, the Middle Assyrian laws denounce men sodomizing other men. However, it is not specified whether this applies to non-consensual acts or if it is a blanket prohibition against the sexual practice itself. This ambiguity leaves room for interpretation regarding the societal attitudes towards same-sex relations during that period.[48]

In the Hittite laws, sexual relationships are categorized distinctly. The majority of these laws pertain to men having intercourse with animals, which results in an immediate death penalty. However, there is only one law that addresses sexual assault without consent on a person, and it specifies that the context or location determines the penalty. According to this law, if the assault occurs inside the walls of the woman's house, it is considered consensual. On the other hand, if the same act occurs outside, such as in the mountains, the blame falls entirely on the man.[49] Upon reflection, one possible justification for this distinction could be that in Hittite society, a woman's home was considered her domain and responsibility. Allowing a man inside her home, apart from her family or husband, might have been seen as a sign of consent or even invitation. Therefore, if the assault occurred inside her home, it was perceived that she consented to the act. Conversely, if the assault happened outside her home, where she had less control or protection, it was more likely to be seen as forced and thus constituted assault. This distinction reflects the societal norms and expectations regarding women's autonomy and the sanctity of their homes in Hittite

[47] Roth (1997, 174-5) Middle Assyrian laws § 55: If a man forcibly seizes and rapes a maiden who is residing in her father's house, |...| who is not betrothed(?),2! whose [womb(?)] is not opened, who is not married, and against whose father's house there is no outstanding claim—whether within the city or in the
countryside, or at night whether in the main thoroughfare, or in a granary, or during the city festival— the father of the maiden shall take the wife of the fornicator of the maiden and hand her over to be raped; he shall not return her to her husband, but he shall take (and keep?) her; the father shall give his daughter who is the victim of fornication into the protection of the household of her fornicator. (viii 33) If he (the fornicator) has no wife, the fornicator shall give "triple" the silver as the value of the maiden to her father; her fornicator shall marry her; he shall not reject(?) her. If the father does not desire it so, he shall receive "triple" silver for the maiden, and he shall give his daughter in marriage to whomever he chooses.

[48] Roth (1997, 160) Laws of Hammurabi § 20: If a man sodomizes his comrade and they prove the charges against him and find him guilty, they shall sodomize him and they shall turn him into a eunuch.".

[49] Bryce (2002, 35); See also Roth (1997, 237) The Hittite laws § 197: If a man seizes a woman in the mountains (and rapes her), it is the man's offense, but if he seizes her in her house, it is the woman's offense: the woman shall die. If the woman's husband discovers them in the act, he may kill them without committing a crime. ; Haase 2015, 648; Good 1967, 956.

culture, and maybe an heritage of the Assyrian's. It also highlights the severity of punishments for sexual relationships with animals compared to the more nuanced conditions under which sexual aggression against women was judged.

The evolution of laws concerning sexual assault exhibits a clear progression over time. This evolution is most evident in the Middle Assyrian laws, where the perspectives and punishments for the crime can be compared between earlier and later texts. Initially, there is mention of a euphemistic embrace with a light condemnation for kissing against one's will. However, this progresses to a stringent death penalty for any forced sexual assault, particularly if the victim resisted. The Middle Assyrian law stands out for its severity, resembling some contemporary laws on rape found in modern societies. Despite this progression, the development of laws regarding sexual assault seems to decrease and stabilize with the Hittites. While they do condemn certain sexual relationships with the penalty of death, explicit laws against rape—defined as forcibly imposing sexual interaction on another person—are notably absent. Instead, the legality of such acts hinges on context, with distinctions made based on location and circumstances. This shift highlights a blurred delineation between consensual and non-consensual sexual aggression in Hittite laws compared to the earlier Assyrian laws. It suggests a nuanced approach influenced by societal norms and the legal frameworks of the time, reflecting a complex evolution in attitudes toward sexual misconduct across different civilizations.

The analysis now shifts to the crime of kidnapping, which is addressed in a limited number of laws found in the Ur-Nammu laws, Eshnunna laws, and Hammurabi Code. In the Ur-Nammu Code, the law is straightforward: the kidnapper is imprisoned and fined a certain amount of money.[50] Conversely, the Hammurabi Code places an interesting emphasis on the age of the victim, making its law specifically about kidnapping,[51] distinct from others that address general forms of sequestration. The Eshnunna laws present a unique perspective on kidnapping, where

[50] Roth (1997, 17) Laws of Ur-Nammu § 3: If a man detains(?) (another), that man shall be imprisoned and he shall weigh and deliver 15 shekels of silver.
[51] Roth (1997, 84) Laws of Hammurabi § 14: If a man should kidnap the young child of another man, he shall be killed.

the two laws concerning sequestration could also be categorized under involuntary manslaughter. These laws arise from situations where a commoner suspects that a slave, wife, or child is in distress within a family. In attempting to rescue them, the individual ends up inadvertently causing their deaths by detaining them for too long without proper care.[52] This specific case highlights a response to a recurring crime, possibly prompting the creation of this law within the Eshnunna legal framework. The sporadic appearance of laws specifically addressing kidnapping prompts questions about its prevalence as a crime. One possible explanation could be that kidnapping and sequestration were not common offenses, thus laws were not frequently enacted. However, an alternative perspective suggests that the absence of explicit laws against murder or kidnapping may stem from reliance on oral tradition and customary laws. In cases of child abduction, for instance, customary laws concerning family and safety may have guided the punishment of the abductor. This nuanced exploration underscores the complexities in ancient legal systems regarding crimes against persons, reflecting both societal norms and responses to specific incidents that shaped legal frameworks over time.

[52] Roth (1997, 62) Laws of Eshnunna § 23: If a man has no claim against another man but he nonetheless takes the man's slave woman as a distress, detains the distress in his house, and causes her death, he shall replace her with two slave women for the owner of the slave woman. § 24: If he has no claim against him but he nonetheless takes the wife of a commoner or the child of a commoner as a distress, detains the distress in his house, and causes her or his death, it is a capital offense—the distrainer who dis-trained shall die.

	Murder	Voluntary manslaughter	Involuntary manslaughter	Assault and battery	Sexual aggression	Kidnapping	Witchcraft
Ur-Nammu	X			X	X	X	X
Lipit-Ishtar		X					
Eshnunna		X	X	X	X	X	
Hammurabi		X	X	X	X	X	X
Middle-Assyrian	X		X	X	X		X
Neo-Babylonian							X
Hittite		X	X	X	X		

Tab. 2.2. Source: Alexe Doizé. Table of the different crimes against persons that are discussed above, and which law code covers them. Summary of the repartition of the laws that were discussed in this part.

1.2. Crimes against property

Crimes against property in ancient legal texts can be categorized into several subcategories, with theft being the most apparent. While the oldest texts in this corpus lack specific laws on theft, subsequent legal codes, beginning with the laws of Eshnunna, begin to address this crime with more detailed rules. It is important to note that in ancient times, theft encompassed not only the taking of objects but also the abduction of humans. The two laws from Eshnunna concerning theft provide insight into these practices. The first law states that if a slave or fugitive is stolen, the reparation is the return of exactly what was taken—a slave for a slave.[53] This highlights the legal framework's recognition of slaves as property and the restitution based on the stolen item's value. The second law is more complex and raises questions about its enforcement. It concerns a military official tasked with recovering stolen property—a slave, fugitive, or animal—belonging to either a commoner or the palace. The official must present the recovered property to the government within a month. Failure to meet this deadline results in the official being labeled a thief.[54] However, the law does not specify any penalty for this offense, leaving the outcome unclear. This ambiguity suggests that penalties for theft may have been decided during the process of trial, as to find equity of reparation based on the value of the stolen item. One could suggest, similarly to murder that those penalties were implicit or culturally understood rather than explicitly stated in every case, but this thesis tends to lean for the first theory. The scarcity of theft laws in the Eshnunna legal corpus may indicate that penalties were assumed based on societal norms, case by case procedures or customary practices. This assumption underscores the evolving nature of legal systems and the interpretation of justice in ancient civilizations.

The Hammurabi laws provide clearer guidelines regarding theft, delineating two distinct cases with specific penalties. The first law addresses theft of valuable or precious items from temples or palaces, which could also be construed as an act of treason. This offense is punishable by the

[53] Roth (1997, 66) Laws of Eshnunna § 49: If a man should be seized with a stolen slave or a stolen slave woman, a slave shall lead a slave, a slave woman shall lead a slave woman.
[54] Roth (1997, 66) Laws of Eshnunna § 50: If a military governor, a governor of the canal system, or any person in a position of authority seizes a fugitive slave, fugitive slave woman, stray ox, or stray donkey belonging either to the palace or to a commoner, and does not lead it to Eshnunna but detains it in his house and allows more than one month to elapse, the palace shall bring a charge of theft against him.

death penalty, underscoring the severity with which such crimes were regarded.[55] In contrast, the second law deals with theft of less expensive or common items. Here, the penalty is restitution of the stolen goods plus an additional payment totaling thirty times the value of the stolen items. If the thief is unable to make this restitution, they also face the death penalty. This law is particularly intriguing as it introduces a concept of punitive damages—beyond mere restitution—to compensate the victim and potentially serve as a fine imposed by and for the government.[56] The ambiguity regarding whether the additional payment goes directly to the victim (whether palace, temple, or commoner) or serves a broader governmental purpose adds complexity to its interpretation. Nonetheless, this dual approach in Hammurabi's laws demonstrates a progression from simple restitution to punitive measures, reflecting a sophisticated legal understanding of property rights and the consequences of theft in ancient Mesopotamia.

The Middle-Assyrian laws provide unique insights into theft, reflecting both specific and somewhat ambiguous perspectives on the crime. The first law in this corpus is particularly intriguing, as it states that if a person enters a temple with the intent to steal and is caught, the temple officials must perform a ritual of divination. This ritual involves directly consulting the deity of the temple to determine the appropriate penalty for the thief.[57] This approach is distinctive because it acknowledges the deity as a victim of the theft, rather than focusing solely on the material loss to the temple or its officials.

Other laws concerning theft in the Middle-Assyrian period address various contexts and nuances. For instance, there are provisions for theft committed out of extreme necessity, such as a widow stealing to survive without a husband to support her. Additionally, if a wife steals something

[55] Roth (1997, 82) Laws of Hammurabi § 6: If a man steals valuables belonging to the god or to the palace, that man shall be killed, and also he who received the stolen goods from him shall be killed.
[56] Roth (1997, 82) Laws of Hammurabi § 8: If a man steals an ox, a sheep, a donkey, a pig, or a boat—if it belongs either to the god or to the palace, he shall give thirtyfold; if it belongs to a commoner, he shall replace it tenfold; if the thief does not have anything to give, he shall be killed. (See also laws 9, 10, 11, 12, 13 for the details of lost properties found in another's hands and determination of who is the thief among the chain of loss).
[57] Roth (1997, 155) Middle Assyrian laws § 1: If a woman,' either a man's wife or a man's daughter, should enter into a temple and steal something from the sanctuary in the temple> and either it is discovered in her possession or they prove the charges against her and find her guilty, [they shall perform(?)] a divination(?), they shall inquire of the deity; they shall treat her as the deity instructs them.

valuable, her husband is held responsible for her actions, indicating a social and familial accountability within marital relationships. Furthermore, the laws also govern the handling of gifts, including scenarios where a free wife gives a gift to a slave. This particular law is complex and difficult to interpret, suggesting that gift-giving in this context may be viewed negatively. The husband is given the authority to decide whether to physically punish both his wife and the slave, or to allow the slave to keep the gift.[58] This raises questions about whether this law primarily concerns what is considered as a form of theft, or if it signifies deeper cultural or societal meanings regarding relationships and property. Overall, the Middle-Assyrian laws on theft reveal a multifaceted approach to the crime, encompassing religious, social, and legal dimensions that reflect the complexities of ancient Mesopotamian society.

The Hittite laws on theft are the most detailed among the texts studied, encompassing a wide range of items, animals, and possessions that could be stolen. Each law specifies an additional payment of increased value as a penalty. For instance, the theft of a bull results in the criminal having to return 15 cattle of varying ages, demonstrating a significant punitive measure beyond simple restitution.[59] This meticulous approach extends to all conceivable stolen items, from sheep to slaves. The specificity of these laws illustrates the importance of property rights in Hittite society and reflects a comprehensive legal framework designed to deter theft through severe economic consequences. Each item is personified within the legal code, ensuring that the penalties are tailored to the value and significance of the stolen property. In summary, the Hittite laws represent a highly structured and punitive system of theft deterrence, emphasizing detailed restitution and substantial penalties to uphold property rights and maintain social order.

The analysis above was not entirely accurate regarding the absence of laws specifically addressing theft during the Sumerian period, as there is indeed a law in the Lipit-Ishtar law code that touches upon the concept. However, this law focuses more on illegal entry into a place,

[58] Roth (1997, 155-6) Middle Assyrian laws § 4: If either a slave or a slave woman should receive something from a man's wife, they shall cut off the slave's or slave woman's nose and ears; they shall restore the stolen goods; the man shall cut off his own wife's ears. But if he releases his wife and does not cut off her ears, they shall not cut off (the nose and ears) of the slave or slave woman, and they shall not restore the stolen goods.

[59] Roth (1997, 226) The Hittite laws § 57: If anyone steals a bull—if it is a weanling calf, it is not a "bull"; if it is a 2-year-old bovine, that is a "bull." Formerly they gave 30 cattle. But now he shall give 15 cattle: 5 two-year-olds, 5 yearlings, and 5 weanlings. He shall look to his house for it.

which is categorized as burglary.[60] Burglary laws are found in the Lipit-Ishtar, Eshnunna, and Hammurabi law codes. Interestingly, more recent legal texts are devoid of specific laws pertaining to burglary. The Eshnunna law concerning burglary closely resembles the one found in the earlier Lipit-Ishtar code, with both prescribing a penalty of 10 shekels. The notable difference lies in the timing of the burglary: if committed at night, the penalty increases to the death penalty.[61] Another law related to burglary focuses on punishing guards for negligence in their duties, rather than addressing the act of burglary itself. This underscores the importance placed on security and the consequences of failing to uphold it.[62]

It has become evident to the reader that the Hammurabi Code is characterized by its directness and the consistent application of the death penalty across various categories of crime. This includes burglary, where regardless of the time of day or night the crime occurs, the punishment is uniformly the death penalty.[63] This straightforward approach underscores the severity with which Hammurabi sought to deter such offenses. Additionally, the Hammurabi Code uniquely addresses robbery, a crime distinct from theft or burglary. Unlike burglary, which involves illegal entry with intent to commit a crime, robbery typically involves taking property directly from a person or in their presence through force or threat. Hammurabi's law on robbery stands out because it specifies the crime without collateral victims, focusing solely on the act of taking property unlawfully.[64] The Hammurabi Code's clarity and its consistent use of severe penalties, such as the death penalty for burglary, reflect both the ruler's commitment to maintaining order and the evolving legal sophistication in addressing different types of criminal behavior in ancient Mesopotamia.

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[60] Roth (1997, 28) Laws of Lipit-Ishtar § 9: If a man enters the orchard of another man and is seized there for thievery, he shall weigh and deliver 10 shekels of silver.
[61] Roth (1997, 61) Laws of Eshnunna § 13: A man who is seized in the house of a commoner, within the house, at midday, shall weigh and deliver 10 shekels of silver; he who is seized at night within the house shall die, he will not live.
[62] Roth (1997, 68) Laws of Eshnunna § 60: [If] a guard is negligent in guarding [a house], and a burglar [breaks into the house], they shall kill the guard of the house that was broken into [...], and he shall be buried [at] the breach without a grave.
[63] Roth (1997, 85) Laws of Hammurabi § 21: If a man breaks into a house, they shall kill him and hang him in front of that very breach.
[64] Roth (1997, 85) Laws of Hammurabi § 22: If a man commits a robbery and is then seized, that man shall be killed.

The final crime against property that remains to be examined is vandalism. Interestingly, there are no specific laws in ancient Mesopotamian legal codes that correspond directly to the modern conception of vandalism. However, there are three laws that touch upon the idea of deliberately damaging property, albeit in a different context. These laws, found in the Ur-Nammu Code, the Hammurabi Code, and the Neo-Babylonian laws, all revolve around incidents where someone opened irrigation canals to water their own fields but neglected to close them afterward. This resulted in the flooding of their neighbors' fields, leading to the ruin of crops and loss of resources.[65] It could be argued that these laws are more concerned with the devastation of land and the loss of agricultural resources than with the act of vandalism as understood today. Despite the differing contexts of these laws, they share a common penalty: reparation in the form of grain. This reparation is significant as it aims to mitigate the impact of the damage caused, ensuring that the victims and their families do not suffer from starvation due to the loss of crops. While ancient Mesopotamian legal codes do not directly address vandalism in the modern sense, these laws reflect concerns about property damage and provide insights into how ancient societies dealt with issues related to agricultural practices and resource management.

[65] Roth (1997, 20) Laws of Ur-Nammu § 31: If a man floods(?) another man's field, he shall measure and deliver 900 silas of grain per 100 sars of field; see also Roth (1997, 92) Laws of Hammurabi § 55: If a man opens his branch of the canal for irrigation and negligently allows the water to carry away his neighbor's field, he shall measure and deliver grain in accordance with his neighbor's yield. § 56: If a man opens (an irrigation gate and releases) waters and thereby he allows the water to carry away whatever work has been done in his neighbor's field, he shall measure and deliver 3,000 silas of grain per 18 ikus (of field); Roth (1997, 145) Neo-Babylonian laws § 3: [A man who opens] his well to the irrigation outlet but does not reinforce it, and who thus causes a breach and thereby [floods] his neighbor's field, shall give [grain in accordance with the (yields of his)] neighbor [to the owner of the [field].

	Theft	Burglary	Robbery	Vandalism
Ur-Nammu				X
Lipit-Ishtar		X		
Eshnunna	X	X		
Hammurabi	X	X	X	X
Middle-Assyrian	X			
Neo-Babylonian				X
Hittite	X			

Tab 2.3. Source: Alexe Doizé. Table of the different crimes against properties that are discussed, and which law code covers them. Summary of the repartition of the laws that were discussed in this part.

1.3. “White collar” crimes

“White-collar” crimes are highly specific to certain societies as they aim to safeguard the government, economy, and particular social classes. The term itself in English reflects this protective intent. While not all white-collar crimes are addressed in this thesis, several can be analyzed: fraud, embezzlement, and treason. It's worth noting that the categorization of laws into these subcategories may be somewhat arbitrary. In the realm of fraud, four laws have been identified from the Hammurabi Code and the laws of Eshnunna. Within the latter, there exists a law that can be interpreted as fraudulent behavior, focusing on the neglectful actions of parents who fail to provide the caregiver of their child with the agreed-upon compensation and participation, in the form of money, clothes, and other necessities.[66] This law is deemed fraudulent due to its financial repercussions on the caregiver and the deceptive nature of the parents' actions. Another law from the Eshnunna code could arguably fall under fraud or burglary. This law aims to prevent insurance fraud through the administration of an oath to the god *Tishpak*, thereby ensuring truthfulness and honesty in claims related to stolen property.[67] However, the clearest denunciation of fraud leading to theft is found in another Eshnunna law concerning the theft of a boat. This law underscores the serious consequences of fraudulent actions that result in tangible losses, such as the theft of valuable assets. This being said, I opinionated that this law reflect more the preceding category of crimes on property than fraud, if the law is situated here its is notably because of the use of the expression “fraudulent circumstances” in Marta T. Roth’s translation.[68]

In the Hammurabi Code, there is a law addressing a case where a shepherd sells cattle that he is responsible for but does not own.[69] This act, although indirect, can be seen as a form of theft. The

[66] Roth (1997, 64) Laws of Eshnunna § 32: If a man gives his child for suckling and for rearing but does not give the food, oil, and clothing rations (to the caregiver) for 3 years, he shall weigh and deliver 10 shekels of silver for the cost of the rearing of his child, and he shall take away his child.
[67] Roth (1997, 64) Laws of Eshnunna § 37: If the man’s house” has been burglarized, and the owner of the house incurs a loss along with the goods which the depositor gave to him, the owner of the house shall swear an oath to satisfy him at the gate of (the temple of) the god Tishpak: “My goods have been lost along with your goods; I have not committed a fraud or misdeed”; thus shall he swear an oath to satisfy him and he will have no claim against him.
[68] Roth (1997, 60) Laws of Eshnunna § 6: If a man, under fraudulent circumstances, should seize a boat which does not belong to him, he shall weigh and deliver 10 shekels of silver.
[69] Roth (1997, 130) Laws of Hammurabi § 265: If a shepherd, to whom cattle or sheep and goats were given for shepherding, acts criminally and alters the brand and sells them, they shall charge and convict him and he shall replace for their owner cattle or sheep and goats tenfold that which he stole.

severity of this offense is reflected in the penalty stated: the shepherd is required to replace ten times the value of what was sold. This law serves not only as a deterrent against such fraudulent behavior but also aligns with the concept of embezzlement, where an individual misappropriates assets entrusted to them for personal gain.

Again, only the laws of Eshnunna and Hammurabi cover the category of embezzlement. This trend of addressing crimes against the system or economy during the early years of Babylonian dominance in Mesopotamia is intriguing. It may stem from the establishment of a new, better-organized system under powerful kings, as well as the expansion of city-states and unification of wider territories. This necessitated a stronger system of regulation to improve after the end of the Early Dynastic Period. The laws concerning embezzlement primarily focus on cases where a commoner entrusts their property to someone else and suffers a loss as a result. The Eshnunna law explicitly notes that the person entrusted with the goods is a *naptaru* (a foreigner).[70] The Hammurabi law is nearly identical but does not specify the status of the person entrusted. Where the Hammurabi Code stands out is in another law related to embezzlement. This law addresses the case of a man hired to tend a field who neglects his duties and attempts to steal property. If the theft involves seeds or fodder, the penalty is amputation of the hand. If the theft involves stored grains, the penalty is to repay double the amount stolen. This demonstrates Hammurabi's unique approach to addressing various forms of embezzlement and theft within his legal framework.[71]

The final crime to be discussed in this descriptive and comparative analysis is treason against the government or state. While there were no specific laws against treason or espionage in ancient Mesopotamian legal codes, the judicial system addressed behaviors that could undermine its

[70] Roth (1997, 64) Laws of Eshnunna § 36: If a man gives his goods to a naptaru for safekeeping, and he (the naptaru) then allows the goods which he gave to him for safekeeping to become lost—without evidence that the house has been broken into, the door jamb scrapped, the window forced—he shall replace his goods for him.
[71] Roth (1997, 128) Laws of Hammurabi § 253: If a man hires another man to care for his field, that is, he entrusts to him the stored grain, hands over to him care of the cattle, and contracts with him for the cultivation of the field—if that man steals the seed or fodder and it is then discovered in his possession, they shall cut off his hand. § 254: If he takes the stored grain and thus weakens the cattle, he shall replace twofold the grain which he received.

integrity, thereby threatening the government as a whole. This can be viewed as a form of treason against the judiciary system and indirectly against the government. Such offenses are first handled in the Ur-Nammu laws during the Ur III period, dedicating three laws specifically to this purpose. The first law is intriguing because it does not detail the accusation itself. Instead, it states that a person making false accusations must provide some form of reparation to the victim.[72] The second law specifies the amount of compensation to be paid if someone falsely accuses a wife of infidelity to her husband.[73] Notably, the amount varies depending on the nature of the accusation. The final law in this category within the Ur-Nammu corpus penalizes a witness who lies or refuses to take the oath intended to ensure the truthfulness of their testimony.[74] These laws reflect the Sumerians' early recognition of the importance of maintaining honesty and integrity within legal proceedings, thereby protecting the judiciary and by extension, the government from internal threats.

The Hammurabi code is renowned for its principle of "an eye for an eye, a tooth for a tooth," a concept previously mentioned in the preceding section. Hammurabi took on the title "King of Justice," and the character and mythology surrounding him are intertwined with numerous laws aimed at ensuring fairness and honesty within legal proceedings, while also deterring false accusations.[75] One notable law in the Hammurabi code, similar to provisions in the Ur-Nammu laws, mandates that citizens must deliver criminals to the authorities, detailing consequences for failing to do so.[76] Although these laws bear similarities to those in the Ur-Nammu corpus, the

[72] Roth (1997, 18) Laws of Ur-Nammu § 13: If a man accuses another man of ... and he has him brought to the divine River Ordeal but the divine River Ordeal clears him, the one who had him brought (ie., the accuser) (...1°) shall weigh and deliver 3 shekels of silver.
[73] Roth (1997, 18) Laws of Ur-Nammu § 14: If a man accuses the wife of a young man of promiscuity but the River Ordeal clears her, the man who accused her shall weigh and deliver 20 shekels of silver.
[74] Roth (1997, 20) Laws of Ur-Nammu § 28: If a man presents himself as a witness but is demonstrated to be a perjurer, he shall weigh and deliver 15 shekels of silver. § 29: If a man presents himself as a witness but refuses to take the oath, he shall make compensation of whatever was the object of the case.
[75] Roth (1997, 81) Laws of Hammurabi § 1: If a man accuses another man and charges him with homicide but cannot bring proof against him, his accuser shall be killed. § 3: If a man comes forward to give false testimony in a case but cannot bring evidence for his accusation, if that case involves a capital offense, that man shall be killed. // 4 : 4 If he comes forward to give (false) testimony for (a case whose penalty is) grain or silver, he shall be assessed the penalty for thatcase. Roth (1997, 105) Laws of Hammurabi § 127: If a man causes a finger to be pointed in accusation against an ugbabtu or against a man’s wife but cannot bring proof, they shall flog that man before the judgesTM and they shall shave off half of his hair.
[76] Roth (1997, 101) Laws of Hammurabi § 109: If there should be a woman innkeeper in whose house criminals congregate, and she does not seize those criminals and lead them off to the palace authorities, that woman innkeeper shall be killed.

Hammurabi code introduces four additional laws on the subject, which are unique in Mesopotamian legal history. Among these additional laws is one that specifically addresses military treason and fraud. It condemns individuals who hire substitutes to fulfill their military duties, an act that undermines not only the judicial system but also the city-state itself, representing a profound disregard for honor and the responsibilities associated with military service.[77]

	Fraud	Embezzlement	Public intoxication	Treason
Ur-Nammu				X
Lipit-Ishtar				
Eshnunna	X	X		
Hammurabi	X	X		X
Middle-Assyrian				
Neo-Babylonian				
Hittite				

Tab 2.4. Source: Alexe Doizé. Table of the different white-collar crimes that are discussed, and which law code covers them. Summary of the repartition of the laws that were discussed in this part.

This chapter aims to describe and compare the different law codes with one another. To do so it has been convenient to use modern concepts and definitions of the Law to have a clear path to follow. However some concepts are purely idiosyncratic to the ancient Mesopotamian laws and may not be grasped. The practice of witchcraft is a great example of arbitrary choice in this thesis as its consideration in the “crimes against person” follows assumptions based on the

[77] Roth (1997, 87) Laws of Hammurabi § 33: If either a captain or a sergeant should recruit(¢) deserters or accepts and leads off a hireling as a substitute on a royal campaign, that captain or sergeant shall be killed.

penalty and gravity of the crime within the law codes, but could have earn its own category, linked to religious crimes, most specifically in societies in which there is no clear seceding of the government and the religious authorities.

This comparative study brought light on some issues within the study of ancient legal documents. The absence of a clear definition of murder or the use of a similar terminology within the corpus. But also the similar question about theft and possible penalties, specifically in the Middle-Assyrian law. Those questions will be further explored in the last chapter of this thesis, and hopefully answered or rendered clear. In this last chapter will also be discussed the evolution of sexual crimes and the influence of social norms in the increasing or decreasing severity of the punishments, and the possible perception of women and their voices in the societies. To do as such, the research of modern concepts should be extended to judiciary procedures as well as the law codes. Trials and the process of rendering justice are the logical next step to this study as to not only understand the laws, but also, the Law.

Chapter.2. Comparison of the judiciary procedures.

2.1. Stages of the trials

The purpose of this chapter is to analyze the structure of the trials and to gain a comprehensive understanding of the functions of the court systems in ancient Mesopotamia. Unfortunately, most trial records from the third and second millennia BCE, assuming they existed systematically, have not been discovered. This lack of early records presents a significant challenge for historians and researchers who aim to reconstruct the legal practices of that era.

However, the Neo-Babylonian period, fortunately, left behind a substantial collection of trial records. These records are invaluable as they provide detailed insights into the legal proceedings, judicial decisions, and administrative practices of the time. In this study, these pieces of evidence will be analyzed, since they date from a much later period compared to the rest of the corpus.[78] The records from the first millennium BCE significantly enhance our perception of Mesopotamia as the birthplace of a well-structured and sophisticated legal system.

It is important to note that there are additional sources beyond the Neo-Babylonian period that contribute to our understanding of Mesopotamian legal practices. For example, there are descriptions left behind by apprentice scribes, which offer valuable information about the training and education of those involved in the legal profession. Moreover, copying exercises[79] from the Old-Assyrian period provide further context and insights into the evolution of legal thought and documentation practices over time.

[78] Holtz 2009, 1.
[79] Milstein 2021, 30.

By examining these various sources, this chapter aims to paint a more complete picture of the legal landscape in ancient Mesopotamia. The analysis of these trial records and supplementary documents will shed light on the development, structure, and function of early legal systems, highlighting Mesopotamia's significant contributions to the history of law.

The first logical step in any legal practice lies in the charges brought against an individual.[80] As mentioned earlier in the discussion on crimes of treason, there is a significant emphasis on the fairness and caution required for making accusations. This focus on fairness acts as a safeguard, ensuring that no one abuses the power to accuse, and it underscores the necessity for proof or a solid foundation for any charge. The historical records, particularly those from the Neo-Assyrian period, provide some insight into this stage of the legal process, although it is not the most well-documented step. Nonetheless, the records that do exist highlight the importance of a well-founded accusation. For instance, in one recorded case, the victim described the incident in detail and was able to identify the perpetrator without hesitation, promptly denouncing the criminal.[81] In the same case, a witness also came forward, offering their testimony to support the victim's accusation and help identify the thief.

The examples from Neo-Assyrian records illustrate the procedural aspects of making an accusation and the collaborative efforts often involved in substantiating a claim. The process of accusation, therefore, serves as the cornerstone of legal proceedings, ensuring that charges are based on credible evidence and that the accused has a fair opportunity to respond. This meticulous approach to accusations not only reflects the legal principles.

The presentation of the case might be one of the most critical steps in the legal process, as it sets the stage for the jury to understand the conflict. This step has been consistently important across

[80] Roth (1997, 106) Laws of Hammurabi § 130: If a man pins down another man's virgin wife who is still residing in her father's house, and they seize him lying with her, that man shall be killed; that woman shall be released. Here it is precise that the criminal was seized while lying with the woman. It could imply that if it was not the case, the verdict would be different by lack of proof of guilt.
[81] Holtz 2014, 24.

different periods and city-states since the Old Assyrian period.[82] It is likely that this practice was inherited from the Early dynastic period, when the Sumerian law codes laid the foundation for subsequent legal texts.

In Old Babylonian resources, there is evidence of an additional step that occurs between the accusation and the presentation of the case to the judges. This extra step, which is not common to every society studied in this thesis, involves a formal meeting between the two parties before the trial. During this meeting, they discuss their dispute in the hopes of reaching a settlement and avoiding a trial altogether.[83]

This pre-trial meeting underscores the emphasis on resolution and reconciliation in the Old Babylonian legal system. By providing an opportunity for the parties to resolve their issues outside the courtroom, this step aims to reduce the burden on the judicial system and promote amicable settlements. It reflects a pragmatic approach to justice, recognizing that not all conflicts require formal adjudication and that some disputes are best settled through direct negotiation.

The consistency of the case presentation process across different periods and city-states highlights the enduring importance of context in judicial proceedings. By ensuring that the jury has a clear understanding of the conflict, the legal system can deliver more effectively fair and informed judgments. This practice not only facilitates justice but also promotes transparency and accountability in the legal process.[84]

Witnesses play a crucial role in every trial presented in the Neo-Babylonian corpus. Their testimony is essential for substantiating accusations and supporting evidence, ultimately

[82] Fales 2017, 409.
[83] Lafont 2000, 23.
[84] Dombradi 1996, 122; See also Lafont 2000, 23.

influencing the final verdict.[85] Typically, both the accusers and their witnesses are required to take an oath before delivering their testimonies. This oath lends credibility to their statements, whether they pertain to the accusation, evidence, or defense.

The significance of the oath is a notable feature of the Near Eastern legal system, reflecting its deep cultural and religious roots. The practice of taking oaths has endured over millennia, influencing texts like the Old Testament and continuing in contemporary legal practices. The enduring role and widespread adoption of the oath underscore its perceived reliability and the divine qualities it was believed to confer upon the justice system.[86] Neo-Babylonian records also reveal that interrogations were a part of the trial process. These interrogations provided the accused with an opportunity to confess or defend themselves, a critical step that could potentially alter the course of the trial. This procedure emphasizes the importance of due process and the rights of the accused to a fair hearing.

Judges in the Neo-Babylonian legal system were only responsible for delivering verdicts, not facilitating settlements. A settlement differs from a verdict in that it occurs when the parties involved reach a mutual agreement or when the accusations are withdrawn. For example, in one document case.[87] The two opponents settled their dispute by one party abandoning the charges and the other withdrawing their defense. The reasons for such settlements can vary: perhaps the litigation was resolved privately, or maybe both parties feared the potential outcomes of the judge's verdict or the costs associated with a lawsuit.[88] Technically, this outcome is not considered a verdict because the judges did not deliver any formal decision. It is likely that the Neo-Babylonian legal system encouraged settlements before court proceedings began. This approach would save time and resources for the judges, allowing them to focus on cases that

[85] Lafont 2000, 24-6.
[86] Holtz 2014, 45-8.
[87] Lafont (2000, 23 and 31) This dissociation between settlement and verdict can be found in every procedure studied in this thesis, from the Summerian period, and is probably one of the fundamental features of Near-Eastern justice; see also Wilcke 2007, 47-8.
[88] Lafont (2000, 23 and 31) This dissociation between settlement and verdict can be found in every procedure studied in this thesis, from the Summerian period, and is probably one of the fundamental features of Near-Eastern justice; see also Wilcke 2007, 47-8.

could not be resolved through negotiation. The presence of a private meeting before the trial supports this theory, as it provided an opportunity for the parties to settle their disputes without the need for a formal trial.

The case of the infamous Gimillu in the Neo-Babylonian trial records is particularly intriguing due to its completeness. It involves charges of fraud and theft, with a later revelation of a suspicion of contract for murder. However, the lack of evidence or testimony prevented any punishment for the alleged premeditated homicide. This case illustrates every step of the legal process previously described: accusation, testimony, confession, and settlements.

In this case, the accused had the right to defend himself both during the interrogation and throughout the trial. Both parties were granted equal rights to present their defense and bring forth their own evidence and witnesses. The records suggest a commitment to fairness, indicating that the accused were not presumed guilty until the final verdict was rendered. Each accusation was treated independently, with the accused confessing to most of the charges brought against him. Instead of consolidating all the crimes and their respective punishments into a single comprehensive penalty, each accusation was addressed and resolved separately.[89] As a result, Gimillu received multiple penalties, one for each crime, rather than a single penalty that encompassed the entirety of his offenses. This approach of the Neo-Babylonian legal system, ensures that each charge was thoroughly examined and appropriately penalized.

Some records are more detailed and complete than others. This variability may depend on several factors: the gravity of the case, whether it was overseen by royal judges, or the particular scribe who documented it. Regardless of these variables, the theatricality and drama depicted within the records are common to every trial record, transcending the individual hand or case.

[89] Holtz 2014, 152.

Even in the model cases of the Old Babylonian period, one cannot help but notice how the situations are introduced with a dramatic flair, using rhetoric and oral tradition to emphasize the gravity of the case. For example, the tablet CBS 11324 from the Old-Babylonian period is a model case concerning adoption, the abandoned child is depicted by referencing every absent family member who did not claim the baby.[90] This dramatic presentation is likely intended to evoke an emotional response from the judges. Another model case portrays the accused making a dramatic entrance and delivering a passionate defense speech.[91] Other types of records only describe part of the judicial process, such as the conclusion, verdict, or settlements, while omitting details of the trial itself. Conversely, some records focus solely on the trial process and do not include the final decision or verdict. This inconsistency in the documentation can make it challenging to gain a comprehensive understanding of certain cases.

The use of dramatic elements in these records underscores the importance of rhetoric in ancient legal proceedings. By presenting cases in a way that highlighted their emotional and moral weight, scribes and legal practitioners aimed to influence the judges' perceptions and decisions. This approach reflects the sophisticated understanding of human psychology and persuasion that underpinned the judicial practices of the time.[92]

The step-by-step procedures found in Neo-Babylonian trial records bear striking similarities to contemporary organizational structures within national justice systems. It is highly likely that these procedures reflect practices from older Babylonian periods and Assyrian legal traditions, suggesting continuity and consistency over time and across different societies in Mesopotamia.

The stability and continuity of these legal procedures over millennia raise the possibility that they remained largely unchanged through various periods. It is plausible that while the

[90] Klein 2007, 1-3.
[91] Milstein 2021, 7,18.
[92] Holtz 2009, 86-90.

fundamental steps of accusation, testimony, defense, and verdict were consistent, the administrative capacity of the legal system may have varied. For instance, during the third millennium BCE, there may have been fewer judges and scribes available, resulting in fewer trial records being produced and preserved. This could explain why trial records from this earlier period are relatively rare and less consistent compared to those from later periods, such as the Neo-Babylonian era.

Furthermore, the continuity of legal procedures over time may also account for why the corpus of trial records that have survived to the present day becomes more extensive from the Neo-Assyrian and Neo-Babylonian periods onwards. The increased administrative capacity during these later periods likely enabled more thorough documentation and preservation of legal proceedings.

In the case of the Hittite Empire, the role of the king in judicial matters was nuanced, particularly evident in cases involving powerful families and vassals where the king would participate in delivering verdicts.[93] This distinction highlights variations in the king's involvement based on the social status and influence of the parties involved, suggesting the potential existence of multiple courts tailored to different situations or social classes. This raises questions about the possibility of appeals or specialized courts like martial courts within the Hittite legal system. Some records prove the possibility to call for an appeal. This is very important in the notion of presumption of innocence as it is a right of the accused to remain in question justice itself.[94]

Unlike in many other systems where the king's role as supreme judge is often ceremonial or symbolic, in the Hittite Empire, the king's involvement in certain judicial matters was substantive and direct.[95] While not extensively documented outside of his role in appointing judges, the

[93] Brice 2002, 43.
[94] Durand 1977, 125.
[95] Brice 2002, 16-8, 29.

king's presence as a supreme judge for significant cases underscores his tangible influence in the administration of justice.

Unfortunately, specific trial records from the Hittite period are scarce. However, surviving sources provide valuable insights. The king, like rulers in other ancient societies, typically remained distant from everyday judicial affairs, focusing instead on broader governance and strategic matters. The effective administration of justice relied heavily on constant communication between the king and judicial officials, ensuring that royal authority was maintained.

Responsibility for rendering judgments often fell to judges, viceroys, and local representatives. Due to the general nature of laws and the inability to cover every circumstance, judges often had to rely on their own discretion and interpretation, improvising verdicts as needed. Scribes played a crucial role in this system by meticulously recording and preserving trial records. These records not only served as a repository of legal precedents but also facilitated the improvement and refinement of the legal system over time.[96]

Under the Old-Assyrian period, the king held a pivotal role as the chief of the "Assembly of citizens" or "Assembly of Assur",[97] where one of his primary functions was serving as the supreme judge, a common feature in many judicial systems of the time. However, what sets the Old-Assyrian system apart is the multifaceted role of the assembly itself. Beyond its judicial responsibilities of deciding verdicts during trials, the assembly also served as an advisory body to the king on broader matters such as general policies, trade decisions, and regulations extending beyond the immediate territory. This arrangement suggests a parallel with modern-day councils of ministers rather than a straightforward judiciary committee, highlighting the diverse functions carried out by the assembly under the king's leadership.[98] In the Neo-Assyrian legal

[96] Brice 2002, 38.
[97] Veenhol 2004, 435.
[98] Fales 2017, 408.

system, as evidenced by surviving records, multiple officials could act as judges, possibly reflecting an evolution or adaptation from the Old-Assyrian model. One such official, known as a *hazannu*, could be considered a "chief judge" appointed by the king. This suggests a structured hierarchy within the judiciary, where certain officials held significant authority in legal matters.

However, the exact process and criteria by which judges were chosen by the kings remain unclear. It is likely that appointments were influenced by factors such as loyalty to the crown, competence in legal matters, and possibly familial or political connections. The selection of judges would have been crucial for ensuring the integrity and effectiveness of the legal system, particularly in maintaining public trust and upholding the king's authority. It is noticeable that no traces of training specifically for scribes or judges seem to exist to educate professionals in the world of legislation. If, as mentioned earlier, some false cases were found as exercises for scribes it still raises questions for more details. In the case where a specific education was needed, then one could conclude that the places as judges are not inherited, and so, not reserved to the elite only. Informations about the training of any important role related to the judiciary systems could offer great advancement in the field and more understanding of the responsibility of each professional.

The fluidity observed between the Old-Assyrian and Neo-Assyrian periods indicates a continuity in judicial practices and administrative structures, albeit with adaptations over time to meet changing societal needs and challenges. Despite gaps in historical records, the role of judges appointed by the king played a crucial role in shaping and maintaining the legal framework of ancient Assyria, influencing governance and justice administration throughout its history.

In the Neo-Assyrian judiciary system, judges evolved from being definitive judgment figures to assuming roles as counselors and mediators, emphasizing flexible conflict resolution over rigid legal proceedings. The absence of trial records suggests a shift towards informal,

resolution-oriented justice.[99] This trend echoes earlier Babylonian and Old-Assyrian systems where judicial councils were dynamic, formed and dissolved as needed. Despite these variations, trial processes remained consistent.[100] Punishments in ancient Mesopotamia were tailored to offenses and social status, including fines, restitution, corporal punishment, and capital punishment, reflecting societal norms and circumstances.[101] The evolution towards advisory roles for judges in Neo-Assyrian times reflects societal changes and a focus on practical conflict resolution, showcasing the adaptability of ancient legal systems.

2.2. Punishment and sentences

[99] Jas 1996, 97-8.
[100] Lafont 200, 19.
[101] Fales 2017, 409.

In modern judicial systems, a fundamental principle is the distinction between *actus reus* and *mens rea*. *Actus reus* refers to the guilty act or criminal behavior, while *mens rea* pertains to the criminal intent or state of mind. These concepts are crucial as they determine whether the accused is guilty of a criminal action and whether the crime was premeditated or committed with intent. *Actus reus* and *mens rea* help differentiate between voluntary and involuntary actions, and between different degrees of criminality such as homicide versus murder. However, in earlier legal systems, as discussed in the comparison study chapter, these distinctions were not explicitly defined. Instead, guilt was typically established through witness testimonies and often relied heavily on the confession or testimony of the accused.

In modern legal discourse, much focus is placed on *mens rea*—understanding the state of mind of the accused—which can significantly influence perceptions of the crime and the individual's culpability. The intent behind a crime can vary greatly, affecting how the offense is judged and punished.[102] Unlike modern judicial systems, ancient legal codes often did not delve deeply into the motives or mental state of the accused when determining guilt. This absence of consideration for motive or intent in ancient legal texts can lead to a different understanding and interpretation of crimes and their punishments.

The Hammurabi Code is renowned for its extensive use of the death penalty, suggesting it was intended to deter crime through fear of severe consequences. Inscribed on a monumental stele, the code served as both a legal document and a symbolic testament to Hammurabi's authority and greatness. The stele likely functioned as a public display of justice, ensuring the laws were visible and known to all, while also serving as a divine and possibly sacred monument. Its prominent display underscored Hammurabi's power and ensured his legacy in codifying laws and maintaining societal order.[103]

[102] Stannard 1993, 200.
[103] Slanski 2012, 100-2.

In the laws that prescribe the death penalty, particularly those concerning marital relationships like adultery in the Hammurabi Code, there is often ambiguity regarding the method of execution.[104] Specific to adultery, one law stands out as it addresses not only the act but also potentially reveals a motive or *mens rea*, marking a rare example of specifying intent or motive for a murder.[105] This law raises questions about previous conclusions regarding the absence of clear distinctions between murder and voluntary, or involuntary homicides in ancient legal texts. This particular law is unique because it deals not only with murder but also with adultery, specifically committed by a woman. It underscores a notable absence of more general laws specifically targeting murder itself in ancient legal codes.

And the precedent example also shows a rare case of precision in the punishment imposed on the criminal. The absence of specificity in capital punishment methods in ancient Mesopotamian societies could be attributed to cultural factors. Just as France was associated with the guillotine for centuries, different Mesopotamian societies may have had varying preferences for methods of execution. The lack of detailed records regarding the use of death penalty methods could also suggest that judges had discretion in selecting the method based on the circumstances of each trial. This flexibility may have allowed for the use of death as a symbolic message, similar to how hanging can serve as a theatrical deterrent intended to dissuade others from committing similar crimes.

A penalty not yet addressed in this thesis is incarceration. The legal codes examined in the first chapter do not mention this form of punishment. Instead, prisons appear to have been primarily used for holding criminals before their trials rather than as a punitive measure.[106] Moreover, the concept of a "prison" in the modern sense likely differed significantly from the types of detention or confinement used in ancient Mesopotamia. Some scholars even argue that incarceration as a

[104] Roth (1997, 17) Laws of Ur-Nammu § 1: If a man commits a homicide, they shall kill that man.
[105] Roth (1997, 110) Laws of Hammurabi § 153: If a man's wife has her husband killed on account of (her relationship with) another male, they shall impale that woman.
[106] Reid 2016, 81.

form of punishment did not exist, and that detention primarily served to secure payment of debts or fines, which were the actual penalties imposed.[107]

As discussed extensively in the previous chapter, monetary fines are one of the most prevalent penalties in ancient legal codes. This shift towards financial penalties over physical punishment is notably observed in the Hittite laws.[108] In a Neo-Assyrian case involving manslaughter, a sentence stands out: "repay the life." This phrase carries a dual significance. It reflects the transition from physical to monetary penalties during the late second millennium and early first millennium BCE. The formulation of "repayment" suggests a monetary payment in this particular case due to the era's context. However, it also retains the possibility of an older tradition where repayment could encompass both physical restitution and financial compensation, depending on historical circumstances.[109]

2.3. Rights of the accused

A unique aspect of the Early-dynastic period, distinct from the later Neo-Babylonian corpus, is the presence of a mediator known as "responsible for case" or *maskim* in Sumerian. The exact role of this official remains somewhat ambiguous, but it is suggested they were tasked with

[107] Reid 2016, 83; See also Roth (1997, 17) Laws of Ur-Nammu § 3: If a man detains(?) (another), that man shall be imprisoned and he shall weigh and deliver 15 shekels of silver.
[108] Roth (1997, 218) The Hittite laws § 7: If anyone blinds a free person or knocks out his tooth,' they used to pay 40 shekels of silver. But now he shall pay 20 shekels of silver. He shall look to his house for it.
[109] Holtz 2014, 43.

maintaining order and possibly acted as an early form of a legal advocate or mediator akin to a "lawyer" in modern terms.[110] This perspective raises the possibility that accused individuals had representation or assistance in constructing their defense, similar to practices observed among the Greeks. In the Old-Assyrian legal system, a figure known as *rabisum* is introduced, often considered akin to an "attorney" or "lawyer." However, the specific duties and role of these individuals are not fully elucidated in available sources, and the terms "attorney" or "lawyer" are speculative interpretations based on their potential functions within the legal framework.[111]

The roles of legal advocates or lawyers in ancient legal systems, while not fully clarified by modern scholarship, highlight several important issues. Firstly, the absence of attorneys or lawyers could potentially render the judiciary system unfair, particularly for individuals who lacked education or the ability to understand legal complexities. The presence of a lawyer in court would signify a right to defense, allowing the accused not only to proclaim their innocence and present evidence but also to receive assistance from a trained advocate or official to construct a coherent defense.

The availability of defense representation could also widen the gap between social classes. If legal representation was costly and considered a privilege rather than a right, it could advantage the wealthy and influential classes in navigating legal proceedings more effectively. However, due to the ambiguous nature of these roles in historical texts, it is challenging to form a definitive opinion on how they functioned within ancient societies. Nevertheless, the right to defense is often indicative of a legal system that upholds the presumption of innocence until proven guilty. This principle underscores the importance of ensuring fairness and justice in legal proceedings, regardless of societal status or background.

[110] Mieroop 2004, 190.
[111] Veenhol 2004, 433.

The presumption of innocence serves as a cornerstone for ensuring fairness and equality in legal systems, and its presence can be discerned in the Old-Babylonian records. These records indicate a possibility for negotiation or settlement before formal court proceedings, suggesting a recognition of fairness in legal dealings. And the possibility to call for an appeal, notably in the UR society provides additional evidence of the presumption of innocence and the voice of the criminals.

It's plausible that there was no formal presumption whatsoever. Instead, there may have been a more straightforward approach focusing on disclosing facts objectively regarding both parties involved in a case. An argument supporting this idea of presumption—or lack thereof—can be found in the way penalties and crimes are individually discussed in ancient legal texts. The emphasis on specific crimes and their corresponding punishments without a comprehensive presumption of innocence suggests a different approach to justice compared to contemporary systems.

In the ancient Near Eastern societies between the 3rd and 1st mill BCE, crimes and offenses were judged with varying considerations based on social conventions. It's well-documented that different societal groups such as slaves, women, and elites were not afforded the same protections under the law. Interestingly, among these distinctions, there appears to be no specific differentiation for repeat offenders. It would seem logical to treat someone who has committed multiple offenses differently than a first-time offender. However, historical texts indicate that such distinctions were not typically made. Instead, severe offenses often resulted in capital punishment, while lesser offenses were resolved through payment or other forms of restitution. This lack of a formal "criminal record" system suggests a possible concept of full redemption after the completion of penalties.

This idea raises the question: after completing their punishments and satisfying all parties involved, were past mistakes and offenses effectively erased? This perspective aligns with how

crimes and offenses were individually judged during trials, such as in the case of Gimillu where each offense and its corresponding penalty were addressed separately. Once a verdict was settled and payment made, individuals were not necessarily labeled as criminals thereafter. Their past conduct was not typically brought up in subsequent legal proceedings unless directly relevant to the new offense. This approach underscores a system where the focus was on resolving current disputes and ensuring restitution rather than maintaining a lasting record of an individual's criminal history. It reflects a nuanced understanding of justice in ancient Near Eastern societies, where the concept of redemption and resolution was integral to legal proceedings.

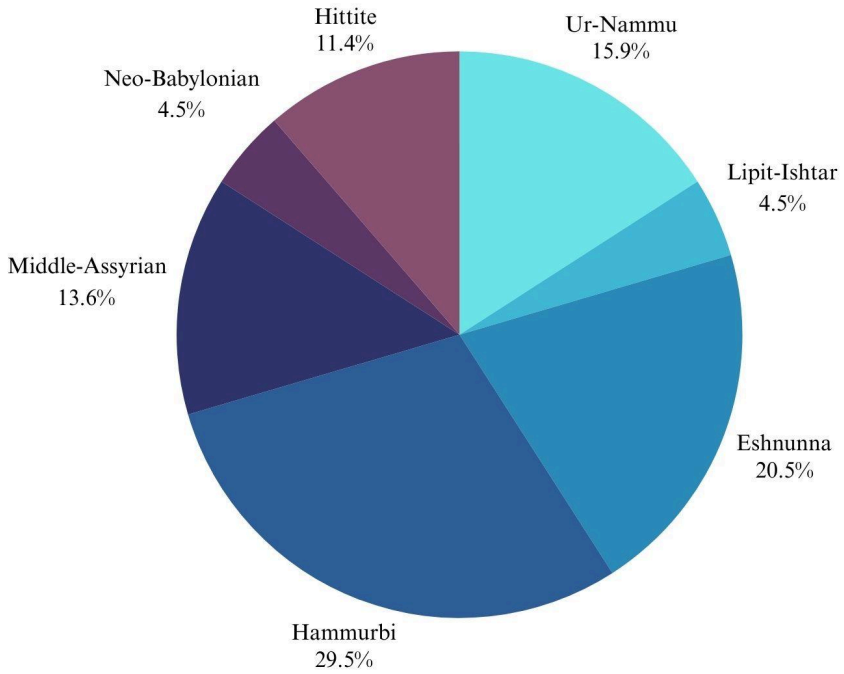
Chapter.3. Conclusions

3.1. Questions that are yet to be answered

Numerous questions have been raised in this thesis, but the primary inquiry that drove this study was understanding how crimes and criminals were perceived in ancient Near Eastern societies.

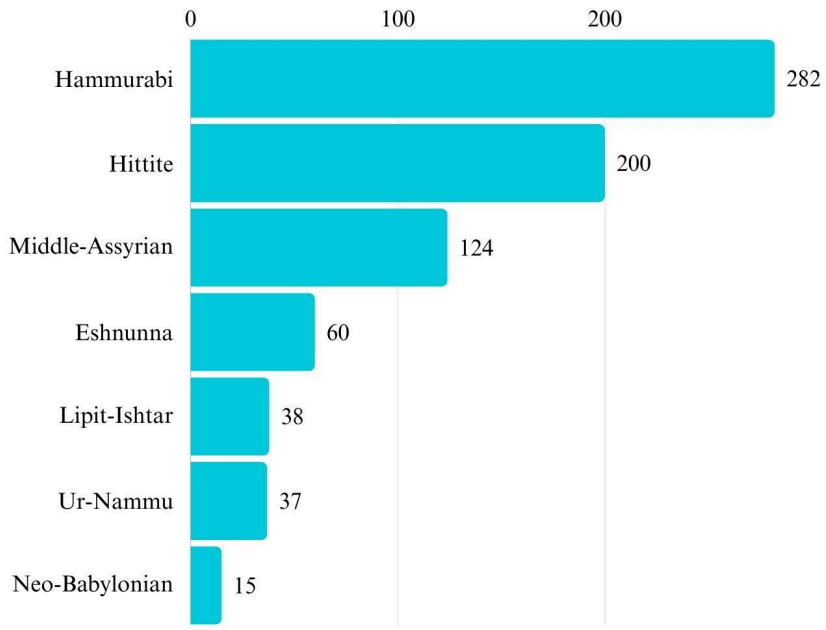
Central to this investigation was gaining insight into the workings of the judiciary system and carefully interpreting the laws. Discrepancies in punishments and the relative absence of concern for certain offenses provided crucial clues.

In summary, it is now apparent that while the Middle Assyrian laws may not be the most extensive in quantity, they are the most precise and comprehensive, encompassing no less than 13.5% of the crime categories studied here. Of course, the Hammurabi Code, with its 282 laws covering 29.5% of the legal categories, stands out as the most complete and rigorously written law code. However, the prevalence of the death penalty in these laws appears exaggerated. It is likely that this severity served more as a deterrent and example rather than reflecting actual legal practice. The theatricality, size, prologue, epilogue, and carved scenes associated with the Hammurabi Code lend credence to this theory. Indeed, a paradox emerges when comparing the number of laws and the percentage of subjects they cover. Despite the relatively small number of Eshnunna laws, they are remarkably broad in terms of the crimes they address, highlighting the efficiency of the Babylonian legal tradition.



Tab 2. 6 Source: Alexe Doizé. Chart of the percentage of legal subjects that are covered by the laws. Based on the

different tables. This chart does not take into consideration the presence or not of a prologue or an epilogue.



Tab 2. 7 Source: Alexe Doizé. Chart of the number of laws by law codes.

Unfortunately, while the number of laws, their coverage, and the severity of punishments provide clues, they do not fully answer several critical questions. It is becoming evident that differences in punishments for the same crimes reflect a sense of individuality. If each civilization treats victims of assault, often women, differently, it suggests two possibilities. First, the crime itself may be perceived differently across classes, population groups and periods, shedding light on its gravity. Second, differing treatment of victims indicates varying societal perceptions of their status and importance.

For instance, if rape is scarcely mentioned, it could signify challenges in proving guilt, but more importantly, it may indicate that the offense itself was not considered significant. Conversely, if victims are disregarded in legal contexts, it underscores the societal role and status of women within that culture. Perhaps in the Hittite legal framework, rape was not emphasized because it predominantly affected women—an issue separate from broader criminal concerns.

It's crucial to clarify that this study does not seek to delve into feminist discourse or the status of women in ancient societies. Rather, it suggests that rape, due to its perceived insignificance and gendered nature, was classified as a misdemeanor rather than a serious offense. The distinction lies in definition: a crime being one of the gravest offenses, often carrying severe punishments, while a misdemeanor is a lesser offense typically resolved through monetary compensation, labor, or penitentiary time.

These laws concerning rape also provide insight into societal views on the virginity of victims, particularly unmarried women. Virginity was a significant factor in marital relationships and contracts, symbolizing ownership by the future husband. This fixation on virginity underscores the belief in a woman's marital value and raises questions about how husbands might react upon learning of their wife's assault by another man[112].

Another perspective to consider is how homicide laws were approached. The absence of specific laws concerning murder has sparked various theories. It's possible that this offense fell under the jurisdiction of temple authorities, perceived as inherently understood through earlier Sumerian or customary oral traditions.

The issue of murder complicates matters further. As previously noted, there are no explicit written laws for intentional homicide. Public opinion towards accidental killings may have been disapproving or judgmental but not necessarily vengeful or fearful. Restitution or punishment often depended on the status of the victim, underscoring their pivotal role in shaping public perception of the incident.

[112] Muntingh (1967, 102-110) In this article the author presents how Women are considered in the Ugarit society, and it reflects how women were considered in Ancient Mesopotamia and Near-East.

Interestingly, it appears unlikely that societal condemnation of the murderer persisted in the long term. In cases where intentional homicide might have warranted the death penalty, societal opinions after the fact were inconsequential, as the criminal did not live to face them. Instead, the *memoriae* of the crime and criminal likely bore the weight of social judgment, which some might consider worse when *post-mortem*. However, this remains speculative and challenging to substantiate within the scope of this thesis.

Social status, including that of both the perpetrator and the victim, significantly influenced the severity of punishment and societal attitudes towards the act. Gender also played a role, as evidenced by compensation to the victim's family in accidental homicides. Yet, there are no laws addressing protection for criminals after they return to normal life, raising questions about potential retaliation from victims' families, whether covertly or otherwise. This issue also applies in cases where murder was punished by death, as retaliation between families could ensue. The lack of media and limited dissemination of such incidents likely mitigated these conflicts, confining knowledge primarily to close-knit communities and those involved in legal proceedings. Unlike today's instant dissemination of information through media, public recognition of criminals and their acts was likely minimal. While this may have prevented societal unrest, vigilante justice, or social ostracization, it also obscured public perception of crimes and perpetrators. This intentional or unintentional shielding of criminals may have preserved societal integrity but has left scholars with scant evidence of public opinion on offenses.

Nevertheless, I remain committed to addressing lingering questions and demonstrating the significance of this thesis and its inquiries. One way to comprehend justice and its definition within Near Eastern societies is to investigate notions of equality, defense, and presumption. The concept of equal retribution appears consistently across legal documents from the Old Babylonian period to the Hebrew Bible, serving as potent evidence of its international and enduring legacy. It's noteworthy, however, that equal retribution was not evident before the Old

Babylonian period; its first appearance is in the Lipit-Ishtar laws.[113] This underscores that equal retribution was not simply a matter of common sense or ancestral logic but evolved as a defined concept within legal traditions of the Near East. Scholars widely acknowledge the unique nature of biblical laws while also recognizing their deep roots in earlier Near Eastern texts. Extensive research indicates that some biblical laws were not merely influenced by predecessors but were directly borrowed, adapted, and rephrased.[114]

In light of this thesis, I would argue that the perception of justice predominantly emerges not from the laws themselves or the judiciary system, but from their mere presence. The difference between vengeance and justice lies in the hand of the executioner. The system and the judgment, embodied by the judges, are the reason why the death penalty is not merely a form of retaliation or homicide. This is particularly evident in the example mentioned earlier about men who sodomize other men. If the sexual practice is prohibited, it is still used as a punishment, proving that the tormentor is allowed to perform an illegal act such as sodomy or murder within the context of a judicial verdict.

It is now clear that the need for written documentation and organized judicial systems are the foundation of a great and prosperous kingdom. This also explains why the kings who helped build those systems are recognized today for their contributions and the significant improvements they brought to their city-kingdoms. This is further enhanced by the mythology surrounding these kings and their connection to the divine world. This divine association also helps distinguish between vengeance, retaliation, and penalty.

The myriad questions posed are not only intriguing but also remarkably contemporary in their relevance. Trial records hold the potential to unravel numerous mysteries, including the disparity between law codes and their practical application, the adaptation of punishments for specific

[113] Frymer-Kensky 1980, 231.
[114] Milstein 2021, 14.

crimes like murder or theft, and the processes of justice and perception of outlaws in ancient Near Eastern societies. However, as discussed in the dedicated section, there is a notable absence of systematic trial records before the Neo-Babylonian period. While it's often cautioned that "absence of evidence is not evidence of absence," let's consider the implications of this absence.

Imagining a judiciary system without traceable trial records is complex. Without such documents, the enforcement of verdicts and stated punishments would have been challenging. Trial records served not only to uphold the precision of the legal system but also assisted judges in cases lacking precedent.

In some civilizations, the absence of clay tablets may be attributed to their reuse due to scarcity or other practical reasons. Yet, in the Near East, where clay tablets were durable and abundant, this explanation holds less weight. Moreover, the region's climate and the material's resilience to time suggest that reuse was unlikely. Perhaps the issue lay in limited storage space for these crucial records, although this seems incongruous given the monumental architecture and extensive storage facilities of ancient Near Eastern civilizations. It was also brought to my attention that, if some societies produced many laws, some did not record the trials, in ancient Greece, one possibility was the existence of professionals whose role was to remember the information relative to some trials. However, one could easily question the efficiency of this method, as well as the reliability of humans for such tasks.

Another plausible scenario involves the role of military personnel, guards, or early forms of "police" ensuring compliance with payments and proper execution of punishments immediately after the verdicts, which would have rendered the records useless. Exploring this theory would necessitate a comprehensive examination of the military's function and their potential interaction with justice within city-kingdoms.

As previously discussed, the role of penitentiary time has been proposed in ensuring compliance. However, another compelling possibility lies in judges acting not only as arbiters but also as mediators and advisors. In this capacity, their judgments may have focused on suggesting appropriate punishments tailored to the crime while promoting fairness and honesty.[115] Verdicts, in such a fluid context, could have been seen more as recommendations on how parties should resolve their conflicts rather than strict punishments. In this scenario of fluidity, trial records may not have been deemed as essential since the oath taken by parties involved would ensure that judgments were followed without overreaction, maintaining order and adherence to the suggested resolutions.

Why is this argument a personal favorite? Because it suggests that judges acted as mediators within society, approaching conflicts, offenses, and crimes with improvisation and adaptation to each unique case, which would imply that criminals were perceived as humans and members of the society even after committing an offense. This approach allowed for a nuanced control of fairness and justice among people, without imposing rigid verdicts on every situation. This theory aligns with the notion that law codes were used to deter offenses through threat of punishment. If punishments and their application varied case by case, some cases may have served as examples with more severe punishments depending on the judge or the political climate of the city-kingdom. The ability to modulate advice behind closed doors or seek settlements would have compelled individuals to engage directly with the consequences of their actions, fostering a search for common ground. This implies that criminals were considered part of society, individuals with a stake in decisions regarding their punishments for less severe offenses. However, this argument remains largely theoretical and would challenge the notion of societal ostracization of delinquents and criminals.

Unfortunately, this section strives to propose solutions and challenge prevailing views. Even if verdicts were fluid and adapted on a case-by-case basis within a system presuming innocence, it

[115] Jas 1996, 98.

does not necessarily indicate societal acceptance of criminals. Religious influences could have shaped public attitudes and interactions with outlaws in daily life.

If this thesis was to expand further, a comparison with modern social issues could be insightful. For instance, the slow progress of legal rights for homosexuals in Greece until 2024, was largely influenced by the dominant Orthodox institution. This parallels how ancient temples in Mesopotamia might have influenced justice. Perhaps temples held missing laws on murder and rape because these crimes were seen as the utmost disrespect to the gods themselves. The oath, overseen by temple officials, may have been their tangible role, with broader implicit responsibilities. While ancient texts may appear secular, the impact of religion on public opinion and social justice cannot be overlooked. Exploring the legacy of law codes from the Early Dynastic period to the Old Testament could provide a relevant method to deepen our understanding of Near Eastern legal documents and their evolution across different societies and eras.

3.2. The legacy of the Ancient Near Eastern legal documents.

The Ur-Nammu laws have profoundly influenced and established legal traditions by introducing terminology and principles that resonate in modern legal texts. These laws are characterized by powerful prologues, grateful epilogues, and the transmission of specific legal provisions. For instance, one law in the Ur-Nammu code establishes the penalty for a false accusation, laying the foundation for the crucial principle of honesty observed in the Hammurabi Code. Additionally, the imagery of the shepherd found in the Lipit-Ishtar prologue is another symbol that has been passed down and incorporated into the Hammurabi Code.

As mentioned earlier, the representation of the Sun-god on the Hammurabi stele is a powerful symbol of the relationship between the king, the god, and the principles of fairness and justice. This close relationship was passed down and can also be found in the Hittite system.[116] Indeed,

[116] Beckman 1989,101; See also Taggar-Cohen (2020, 13) the author also points out the multiple references to God as “sun-god” in the Bible.

the association between the Sun-god or Storm-god and the king is very significant, representing the role of deities in the administration of justice, governance, and power. A tangible example of Babylonian influence on Hittite civilization is the concept of "an eye for an eye",[117] which is reflected in the myth of Illuyanka and echoes the famous adage from the Hammurabi code.

The legacy and similarities found in various legal documents across different periods are numerous. While "an eye for an eye" is the most famous example —mostly because of the old testament— there is also a strong heritage of other terms. Legal terminology enhances the precision of these texts. For instance, the term "commoner" refers to a person who is free and not part of the religious class or elite. This term is used in the Eshnunna laws but is not present in the Hammurabi code.[118] Heritage can also be perceived in cultural aspects, such as the deities mentioned in legal contexts. The god Enlil appears in both the Hammurabi code and the Neo-Assyrian laws (as an honorific title in the latter). This indicates that, like the god Shamash, who became Summa over time, some deities are shared and associated with the concept of justice.[119] The mythology created around those kings not only bring legitimacy to the texts itself, but to the kings, the authors. Their power becomes unquestionable because their knowledge was offered directly by the divine world. Again, this is particularly relevant in the case of the Hammurabi stele, a monument, public, displayed for all to see, offering the knowledge of the Law to the population, as well as a cultic link to the gods to demand justice.

One legacy that has been left aside until now is the influence of the Near Eastern legal traditions of the 3rd and 2nd millennia BCE on the Old Testament. In his study, Joseph Lam re-examines and interprets the second psalm of the Tanakh, highlighting the need to create familial-like relationships between kings and God, even in Judean history.[120] Moses has already been mentioned in relation to the powerful characteristics of King Hammurabi or Ur-Nammu, with striking resemblances between their mythologies and the character of Moses. Among the Ten Commandments, one particularly resonates with a concept from Near Eastern laws: the idea that

[117] Beckman (1989, 104-5): Here the myth tales how the storm-god got his heart and eyes back after being fooled and armed. Even if there is some distance between the Hammurabi stella and this story, the meaning of the moral remains similar.
[118] Roth 1997, 60.
[119] Roth 1997, 76, 197.
[120] Lam 2014, 37.

no false accusation is acceptable in the name of fairness and truth.[121] Additionally, the language used in the formulation of the commandments is reminiscent of an evolved version of the *summa* found in these ancient laws.[122]

The fact that God himself interacted with one gifted human to give him divine precepts of justice and immutable rules is closely bound with the Near East legal system. The Old testament also mirrors the sexual offense legal statements. In the Tanakh, the implication and amount of force used by a man upon a woman determined the guilt of the woman, but did not modify the punishment of the man.[123] This emphasis on force vaguely echoes the Assyrian law on the subject, which stressed the importance of the woman to try defending herself for the offense to be categorized as rape. However, the lack of punishment for the aggressor reflects older versions of this law and some Babylonian traditions.

Another common point among all these legal documents is the powerful kings who produced them, portraying themselves as guardians of justice and fairness. However, do we fully understand the king's role in the law? The king has often been described as being responsible for justice, but it is more accurate to say that the king was responsible for social justice. If its role as chief of justice seems vastly agreed upon within Mesopotamia, it has also been proved that this role was mostly symbolic. In the case of the protection of justice meaning social justice, then the myth of defending the weak and poor instantly resounds.

Based on the elements assembled in this study, much has been deciphered concerning justice, crime, and criminals, emphasizing honesty, fairness, and equal retaliation. The similarities in the construction of the judiciary system and its many organs prove the tight relationship and influence of different Mesopotamian societies. The evolution of penalty and the shift from

[121] Taggar-Cohen (2011, 473) this idea of sacred oath, or to "swear" to tell the truth is one of the many meanings of the formula *ishiul* that was discussed in the first part of this study. This oath protects the king but when it is the king himself who takes the oath it is to receive judgment and protection from the gods.
[122] Taggar-Cohen (2011, 482) and the link between the Hittites political treaties and the tale of the Exodus.
[123] Wells 2015, 295.

physical to financial repayment can be observed in every society of ancient Mesopotamia, at different paces but during the same period nonetheless.

The role of the texts and their importance throughout time and geography, due to their performative secondary role of divine reliability, is also crucial. This covers both the interconnectivity of Mesopotamia and the legacy of early judiciary texts from the Sumerian period. If the king is described as the protector of social justice and the population, this conclusion might seem paradoxical in a system defined by social classes and conventions. Even if not equal within society, every person had the right to protection and fairness,[124] which must have concerned politics more than justice itself.

Through the eyes of the 21st century, imagining an administrative system that is centralized and unified but not completely dependent sounds like science fiction because of the modern three-branch system and the fragile balance of power it ensures. However, if the kings of the ancient Near East operated as mediators, judges, decision-makers, protectors, and military commanders, these roles were distributed among numerous officials and authorities. This would have allowed the kings to focus on social justice through their elected delegates, who acted as extensions of themselves.[125] Thus, the king was the guardian of a certain *status quo* and the title "king of justice" would have meant a "great king"—one who protected the city-kingdom and society as a whole, maintaining its balance. Similar to how Alexander was called "the Great," the "king of justice" would have signified greatness in creating and protecting an efficient system that allowed for fairness and comfort, rather than justice in the sense of a judiciary system alone.

This care for social justice is evident in some legal documents where nobles are specifically asked not to lose their temper when a commoner refuses to sell them their property.[126] Additionally, some textual evidence suggests the right of redemption in social justice was based

[124] Westbrook 2009, 145-50.
[125] Wilcke (2007, 36) Even in the Earliest form of government, the king elects officials that will represent him in certain matters to divide his duty, this “extension” of the king, also appears with the help of oaths to the kings.
[126] Westbrook 2009, 146.

not only on the delinquents but also on their surroundings.[127] Debts were shared and were the responsibility of the entire family, not just one individual. This concept might seem completely foreign to the 21st century, but it provides a fitting conclusion to this thesis.

The idea of social justice or the outcasting of delinquents is a modern construct, likely influenced by the end of the death penalty in many societies today. With numerous capital punishments in ancient times, criminals were likely not rampant in the streets of early city-kingdoms. Delinquents, supported by their families, were no longer considered as such after paying their debts, making any status as a delinquent probably ephemeral. If the Old Testament's biblical laws are considered the culmination of previous legal traditions, then the book of Proverbs offers insight into the Near Eastern mindset on criminals with the proverb: "A thief is not held in contempt for stealing to appease his hunger; yet if caught he must pay sevenfold; he must give up all he owns".[128] I point out with this proverb that justice not only depends on the face that renders it, but also, of the capacity to explain the context of a crime. Criminality for criminality is a philosophical debate entirely, theorized mostly by the brilliant French philosopher Jean Baudrillard. In general, in justice, one of the most important questions is the motifs, the reason, and a crime without meaning is completely foreign to the conception of justice, in our contemporary societies, but also in the Mesopotamian systems.

As this thesis concludes, it seems safe to assert that the perception of criminals is not linear. The chronology and socio-cultural differences between civilizations were not the only distinguishing factors. While penalties changed, certain fundamentals, such as social class differences and the gender of victims, remained constant. I would allow myself to raise a purely theoretical question, if the penalty differs based on the gender of the victim, why is the gender of the criminal not taken into consideration?

[127] Westbrook 2009, 149-50.
[128] Book of proverbs, 6:30-31.

The varying levels of precision in the texts do not conclusively explain the absence of the term "murder" but do not prove its non-existence either. In a contemporary world where punishment for murder is a major concern, the lack of explicit laws outlining consequences for this act is curious. The laws provide insight into social structure, gender roles, contracts, relationships, and perspectives on criminality. However, this paper could not clearly determine the marginalization of criminals. Although trial records mention prison since Hammurabi's time, there is no evidence that ex-prisoners were marginalized or disrespected. In a small demographic world, people likely lacked the ability to marginalize others. Yet, the prevalence of the death penalty in some civilizations remains puzzling. Some gaps and ambiguities leave a sense of mystery about criminality, law usage, and respect.

While this thesis did not fully achieve its goal, it approached ancient Mesopotamian legal documents with sufficient detail and theorization to gain some confidence in how justice was rendered and how delinquents were perceived. If the justice system is seen as a society within society, with its hierarchy, model, and conventions, then criminals were likely viewed as part of the population, albeit with varying perceptions of crimes across societies. The thesis presumed that punishments and the perception of criminals were reciprocally linked. A harsher punishment in one society could mean greater criticism and judgment of the criminal, but this is not conclusive. A severe punishment may aim to prevent offenses rather than to socially exclude criminals. The absence of criminal records or notice for repeat offenders suggests that once a penalty is paid, the person is free from past actions. There is no term for "criminal" or judgment toward past crimes.[129] Legal documents worldwide are crucial for understanding a society's divisions, relationships, religion, economy, and ownership. This thesis has been inspiring because it provides textual evidence for a clearer image of Mesopotamian societies, which remains blurry with archaeological evidence alone. It is hoped that this subject will persist and that the field of ancient textual analysis and legal structure understanding will continue to thrive, as it is a vital resource for anthropology and chronology.

[129] Wilcke 2007, 51.

On this note, I suggest that this field needs new research and expansion. A diachronic approach to legal documents, from early proto-history until the culmination of the Arabic Empire, could offer a new perspective on justice and the heritage of legal traditions throughout the Near East. This approach could also explain periods of pluralism and the coexistence of different definitions of justice within a geographical frame. A comparative study, linked with a careful analysis of historical events, could investigate the impact of significant occurrences such as conquests, migrations, or famines on judicial systems, laws, and the very definition of justice. Additionally, it could explore the reciprocal impact of legal documents on political decision-making. This field of study has yet to be fully explored, and new perspectives could provide a different view on historical events, the evolution of Near Eastern societies, and the importance of justice in the establishment or fall of societies. In a world where understanding the origins of cultures and the heritage of the past are prominent questions, the Near East, as well as the Middle East and Maghreb, deserve a new approach to honor the rich and diverse cultures that emerged in these areas and continue to impact our modern concepts of fairness and justice.

Appendix

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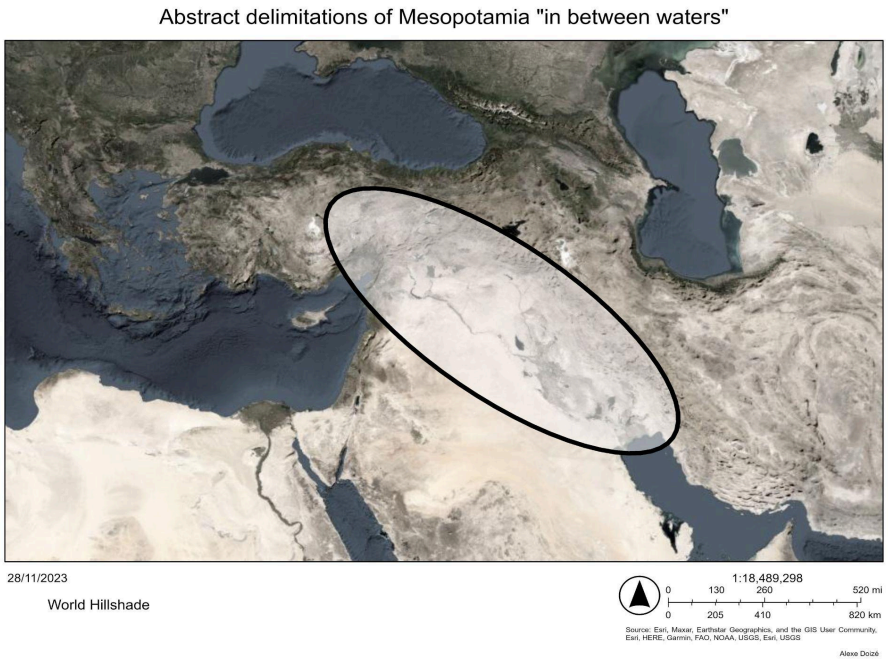
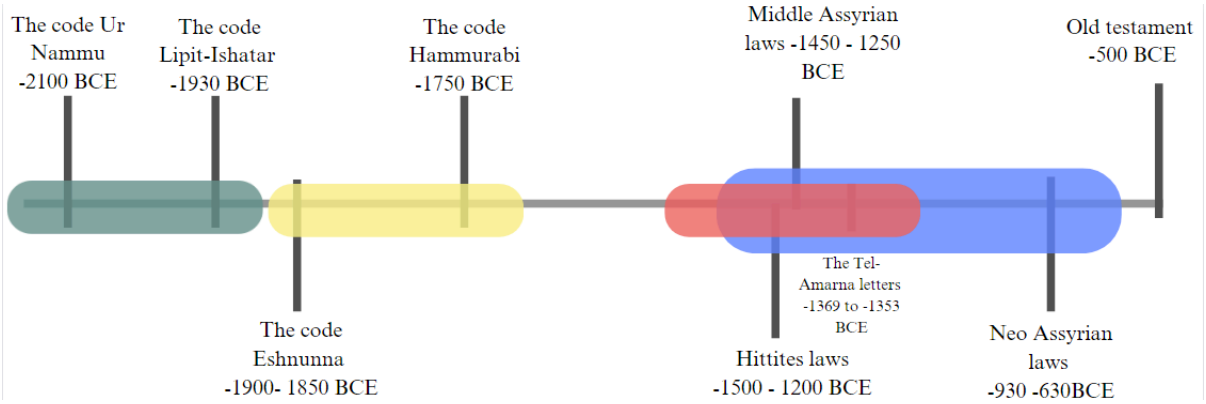
Tables



Map.1 (produced by Alexe Doizé on GIS)



Periods of linguistic domination	Sources
Summerian	Made by Alexe Doizé the 30/04/2024 after:
Akkadian	• Mieroop, M. Van de. 2004. A History of the Ancient Near East ca. 3000-323 BC. Oxford: Wiley-Blackwell.
Hittites	• Roth, Marta. 1997. Law Collections from Mesopotamia and Asia Minor.
Assyrian	• Charpin, Dominique. 2010. Writing, Law, and Kingship in Old Babylonian Mesopotamia. University of chicago.

Tab. 2.1. Source: Alexe Doizé

	Murder	Voluntary manslaughter	Involuntary manslaughter	Assault and battery	Sexual aggression	kidnapping	Witchcraft
Ur-Nammu	X			X	X	X	X
Lipit-Ishtar		X					
Eshnunna		X	X	X	X	X	
Hammurabi		X	X	X	X	X	X
Middle-Assyrian	X		X	X	X		X
Neo-Babylonian							X
Hittite		X	X	X	X		

Tab. 2.2. Produced by Alexe Doizé. Table of the different crimes against persons that are discussed, and which law code covers them.

	Theft	Burglary	Robbery	Vandalism
Ur-Nammu				X
Lipit-Ishtar		X		
Eshnunna	X	X		
Hammurabi	X	X	X	X
Middle-Assyrian	X			
Neo-Babylonian				X
Hittite	X			

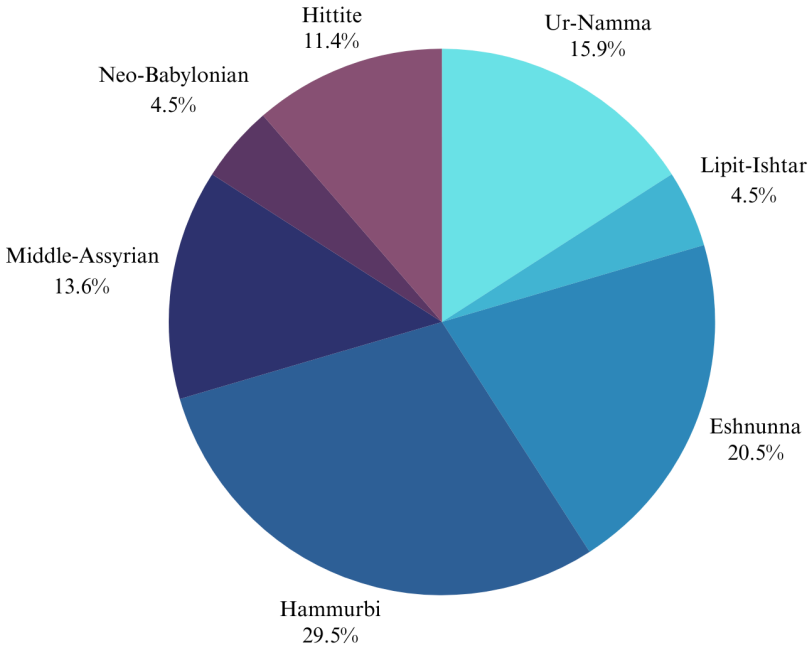
Tab 2.3. Produced by Alexe Doizé. Table of the different crimes against properties that are discussed, and which law code covers them.

	Fraud	Embezzlement	Treason
Ur-Nammu			X
Lipit-Ishtar			
Eshnunna	X	X	
Hammurabi	X	X	X
Middle-Assyrian			
Neo-Babylonian			
Hittite			

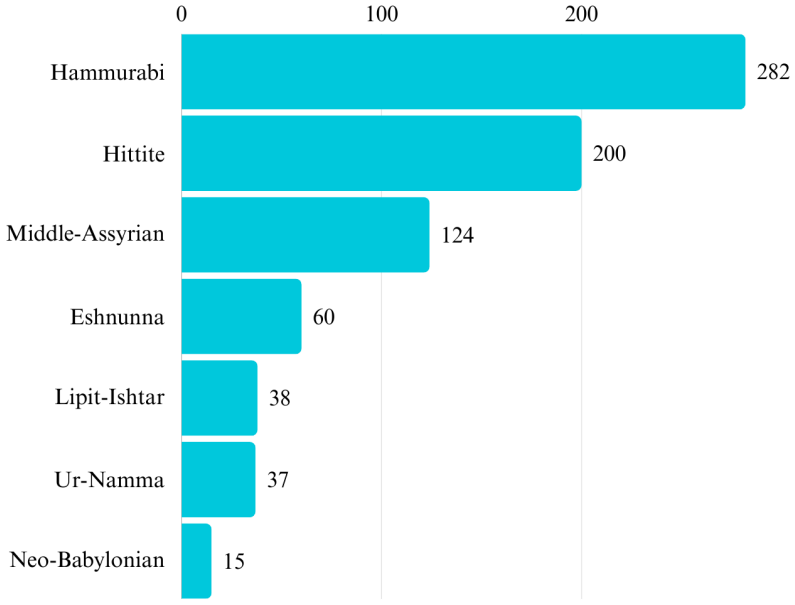
Tab 2.4. Produced by Alexe Doizé. Table of the different white-collar crimes that are discussed, and which law code covers them.

	Number of laws found to this day, in total.	Prologue	Epilogue
Ur-Nammu	37	X	X
Lipit-Ishtar	38	X	X
Eshnunna	60		
Hammurabi	282	X	X
Middle-Assyrian	124		
Neo-Babylonian	15		
Hittite	200		

Tab 2.5. Produced by Alexe Doizé. Table that illustrates the number of laws in total in every corpus that is discussed, and the presence of a Prologue and an Epilogue. (The Middle-Assyrian Decrees have not been taken into consideration here).



Tab 2.6. Produced by Alexe Doizé. Produced by Alexe Doizé. Chart of the percentage of legal subjects that are covered by the laws. Based on the different tables. This chart does not take into consideration the presence or not of a prologue or an epilogue.



Tab 2.7. Produced by Alexe Doizé. Chart of the number of laws by law codes.

The laws

1. Crimes Against Persons

1.1 witchcraft

Roth (1997, 171) Middle Assyrian laws § 47: If either a man or a woman should be discovered practicing witchcraft, and should they prove the charges against them and find them guilty, they shall kill the practitioner of witchcraft. A man who heard from an eyewitness to the witchcraft that he witnessed the practice of the witchcraft, who said to him, "I myself saw it," that hearsay-witness shall go and inform the king. (vii 14) If the eyewitness should deny what he (Le., the hearsay-witness) reports to the king, he (ie., the hearsay-witness) shall declare before the divine Bullthe-Son-of-the-Sun-God, "He surely told me'—and thus he is clear. As for the eyewitness who spoke (of witnessing the deed to his comrade) and then denied (it to the king), the king shall interrogate him as he sees fit, in order to determine his intentions; an exorcist shall have the man make a declaration when they make a purification, and then he himself (ie., the exorcist) shall say as follows, "No one shall release any of you from the oath you swore by the king and by his son; you are bound by oath to the stipulations of the agreement to which you swore by the king and by his son."

Roth (1997, 20) Laws of Ur-Nammu § 2: If a man charges another man with practicing witchcraft but cannot bring proof against him, he who is charged with witchcraft shall go to the divine River Ordeal, he shall indeed submit to the divine River Ordeal; if the divine River Ordeal should overwhelm him, his accuser shall take full legal possession of his estate; if the divine River Ordeal should clear that man and should he survive, he who made the charge of witchcraft against him shall be killed; he who submitted to the divine River Ordeal shall take full legal possession.

Roth (1997, 146) Neo-Babylonian laws § 7: A woman who performs a magic act or a ritual purification against(?) (ie., in order to affect?) a man's field, or a boat, or an oven, or anything whatsoever—(if it is a
field, then concerning) the trees (or: wood) among which(?) she performs the ritual, she shall give to the owner of the field threefold its yield. If she performs the purification against(?) (ie., in order to affect?) a boat, or an oven, or anything else, she shall give threefold the losses caused to the property (text: field). Should she be seized [performing the purification] against(?) (ie., in order to affect?) the door of a man's [house], she shall be killed.

Roth (1997, 81) Laws of Hammurabi § 2: If a man charges another man with practicing witchcraft but cannot bring proof against him, he who is charged with witchcraft shall go to the divine River Ordeal, he shall indeed submit to the divine River Ordeal; if the divine River Ordeal should overwhelm him, his accuser shall take full legal possession of his estate; if the divine River Ordeal should clear that man and should he survive, he who made the charge of witchcraft against him shall be killed; he who submitted to the divine River Ordeal shall take full legal possession.

1.2 **Homicide**: The unlawful killing of another person, including:

1.2.1 **Murder**: Intentional killing with malice aforethought.

Roth (1997, 17) Laws of Ur-Nammu § 1: If a man commits a homicide, they shall kill that man.

Roth (1997, 217-8) The Hittite laws § 6: If a person, man or woman, is killed in another city, the victim's heir shall deduct 12,000 square meters' from the land of the person on whose property the person was killed and shall take it for himself.

IV (= late version of {l 6) If a free man is found dead on another's property, the property owner shall give his property, house, and 60 shekels of silver. If the dead person is a woman, the property owner shall give (no property, but) 120 shekels of silver. If the place where the dead person was found is not private property, but uncultivated open country, they shall measure 3 miles in all directions, and the dead person's heir shall take those same payments from whatever village is found to lie within that radius.' If there is no village within that radius, the heir shall forfeit his claim.

Roth (1997, 157) Middle Assyrian laws § 10: [If either] a man or a woman enters [another man's] house and kills [either a man] or a woman, [they shall hand over] the manslayers [to the head of the household]; if he so chooses, he shall kill them, or if he chooses to come to an accommodation, he shall take [their property]; and if there is [nothing of value to give from the house] of the manslayers, either a son [or a daughter ... |

1.2.2 **Manslaughter**: Killing without malice aforethought, often divided into:

Roth (1997, 217) The Hittite laws § 1: [If] anyone kills [a man] or a woman in a [quarr]el, he shall [bring him] for burial and shall give 4 persons, male or female respectively. He shall look [to his house for it.

Roth (1997, 218) The Hittite laws § 7: If anyone blinds a free person or knocks out his tooth,' they used to pay 40 shekels of silver. But now he shall pay 20 shekels of silver. He shall look to his house for it.

(=late version of 20) If anyone blinds a free man in a quarrel, he shall pay 40 shekels of silver. If it is an accident, he shall pay 20 shekels of silver.

Roth (1997, 65) Laws of Eshnunna § 42: If a man bites the nose of another man and thus cuts it off, he shall weigh and deliver 60 shekels of silver; an eye—60 shekels; a tooth—30 shekels; an ear—30 shekels; a slap to the cheek—he shall weigh and deliver 10 shekels of silver.

Roth (1997, 26-7) Laws of Lipit-Ishtar § D: If [a...] strikes the daughter of a man and causes her to lose her fetus, he shall weigh and deliver 30 shekels of silver.

E: If she dies, that male? shall be killed.

F: if a... strikes the slave woman of a man and causes her to lose her fetus, he shall weigh and deliver 5 shekels of silver.

Roth (1997, 85) Laws of Hammurabi § 24: If a life (is lost during the robbery), the city and the governor shall weigh and deliver to his kinsmen 60 shekels of silver.

1.2.3 **Voluntary Manslaughter**: Killing in the heat of passion.

Roth (1997, 110) Laws of Hammurabi § 153: If a man's wife has her husband killed on account of (her relationship with) another male, they shall impale that woman.

1.2.4 **Involuntary Manslaughter**: Unintentional killing due to reckless or negligent behavior.

Roth (1997, 66) Laws of Eshnunna § 47A: If a man, in the course of a brawl, should cause the death of another member of the awilu-class, he shall weigh and deliver 40 shekels of silver.

Roth (1997, 122) Laws of Hammurabi § 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 awilu-class, he shall weigh and deliver 30 shekels of silver.

Roth (1997, 122) Laws of Hammurabi § 208: If he (the victim) is a member of the commoner-class, he shall weigh and deliver 20 shekels of silver.

§ 209: If an awilu strikes a woman of the awilu-class and thereby causes her to miscarry her fetus, he shall weigh and deliver 10 shekels of silver for her fetus.

§ 210: If that woman should die, they shall kill his daughter. [different payment if the woman is a commoner ! check the same pages laws n° 211 and 212 but also n° 213 and 214 for the case of a slave woman]

Roth (1997, 217) The Hittite laws § 2: [If] anyone kills [a male] or female slave in a quarrel, he shall bring him for burial [and] shall give [2] persons (lit., heads), male or female respectively. He shall look to his house for it.

Roth (1997, 217) The Hittite laws § 3: [If] anyone strikes a free [man] or woman so that he dies, but it is an accident, he shall bring him for burial and shall give 2 persons. He shall look to his house for it.

Roth (1997, 217) The Hittite laws § 4: If anyone strikes a male or female slave so that he dies, but it is an accident, he shall bring him for burial and shall give one person. He shall look to his house for it.

Roth (1997, 67-8) Laws of Eshnunna § 56: If a dog is vicious and the ward authorities so notify its owner, but he fails to control his dog and it bites a man and thus causes his death, the owner of the dog shall weigh and deliver 40 shekels of silver.

§ 57: If it bites a slave and thus causes his death, he shall weigh and deliver 15 shekels of silver.

Roth (1997, 125) Laws of Hammurabi § 229: If a builder constructs a house for a man but does not make his work sound, and the house that he constructs collapses and causes the death of the householder, that builder shall be killed.

§ 230: If it should cause the death of a son of the householder, they shall kill a son of that builder.

§ 231: If it should cause the death of a slave of the householder, he shall give to the householder a slave of comparable value for the slave.

Roth (1997, 173-4) Middle Assyrian laws § 50: [If a man] strikes [another man's wife thereby causing her to abort her fetus, ...] a man's wife [...] and they shall treat him as he treated her; he shall make full payment of a life for her fetus. And if that woman dies, they shall kill that man; he shall make full payment of a life for her fetus. And if there is no son of that woman's husband, and his wife whom he struck aborted her fetus, they shall kill the assailant for her fetus. If her fetus was a female, he shall make full payment of a life only.

§ 51: If a man strikes another man's wife who does not raise her child, causing her to abort her fetus, it is a punishable offense; he shall give 7,200 shekels of lead.

§ 52: If a man strikes a prostitute causing her to abort her fetus, they shall assess him blow for blow, he shall make full payment of a life.

1.3 **Assault and Battery**: Physical attack or threat of attack on another person.

Roth (1997, 65-6) Laws of Eshnunna § 42: If a man bites the nose of another man and thus cuts it off, he shall weigh and deliver 60 shekels of silver; an eye—60 shekels; a tooth—30 shekels; an ear—30 shekels; a slap to the cheek—he shall weigh and deliver 10 shekels of silver.

§ 43: If a man should cut off the finger of another man, he shall weigh and deliver 20 shekels of silver.

§ 44: If a man knocks down another man in the street(?) and thereby breaks his hand, he shall weigh and deliver 30 shekels of silver.

§ 45: If he should break his foot, he shall weigh and deliver 30 shekels of silver.

§ 46: If a man strikes another man and thus breaks his collarbone, he shall weigh and deliver 20 shekels of silver.

Roth (1997, 156-7) Middle Assyrian laws § 7: If a woman should lay a hand upon a man and they prove the charges against her, she shall pay 1,800 shekels of lead; they shall strike her 20 blows with rods.

§ 8: If a woman should crush a man's testicle during a quarrel, they shall cut off one of her fin-gers. And even if the physician should bandage it, but the second testicle then becomes infected(?) along with it and becomes...,? or if she should crush the second testicle during the quarrel—they shall gouge out both her J...|

Roth (1997, 66) Laws of Eshnunna § 47: If a man should inflict(?) any other injuries(?) on another man in the course of a fray, he shall weigh and deliver 10 shekels of silver.

Roth (1997, 120) Laws of Hammurabi § 195: If a child should strike his father, they shall cut off his hand.

Roth (1997, 121) Laws of Hammurabi § 196: If an awilu should blind the eye of another awilu, they shall blind his eye.

Roth (1997, 121) Laws of Hammurabi § 197: If he should break the bone of another awilu, they shall break his bone.

§ 198: If he should blind the eye of a commoner or break the bone of a commoner, he shall weigh and deliver 60 shekels of silver.

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

Roth (1997, 121) Laws of Hammurabi § 200: If an awilu should knock out the tooth of another awilu of his own rank, they shall knock out his tooth.

§ 201: If he should knock out the tooth of a commoner, he shall weigh and deliver 20 shekels of silver.

§ 202: If an awilu should strike the cheek of an awilu who is of status higher than his own, he shall be flogged in the public assembly with 60 stripes of an ox whip.

§ 203: If a member of the awilu-class should strike the cheek of another member of the awilu-class who is his equal, he shall weigh and deliver 60 shekels of silver.

§ 204: If a commoner should strike the cheek of another commoner, he shall weigh and deliver 10 shekels of silver.

Roth (1997, 122) Laws of Hammurabi § 205: If an awilu's slave should strike the cheek of a member of the awilu-class, they shall cut off his ear.

Roth (1997, 160) Middle Assyrian laws § 21: If a man strikes a woman of the awilu-class thereby causing her to abort her fetus, and they prove the charges against him and find him guilty—he shall pay 9,000 shekels of lead; they shall strike him 50 blows with rods; he shall perform the king's service for one full month.

Roth (1997, 122) Laws of Hammurabi § 206: If an awilu should strike another awilu during a brawl and inflict upon him a wound, that awilu shall swear, "I did not strike intentionally," and he shall satisfy the physician (ie., pay his fees).

Roth (1997, 19) Laws of Ur-Nammu § 18: If [a man] cuts off the foot of [another man with ...], he shall weigh and deliver 10 shekels of silver.

§ 19: If a man shatters the ...-bone of another man with a club, he shall weigh and deliver 60 shekels of silver.

§ 20: If a man cuts off the nose of another man with..., he shall weigh and deliver 40 shekels of silver.

Roth (1997, 43) Sumerian exercise tablets § 1: If he jostles the daughter of a man and causes her to miscarry her fetus, he shall weigh and deliver 10 shekels of silver.

§ 2: If he strikes the daughter of a man and causes her to miscarry her fetus, he shall weigh and deliver 20 shekels of silver.

Roth (1997, 218) The Hittite laws § 8: If anyone blinds a male or female slave or knocks out his tooth, he shall pay 10 shekels of silver. He shall look to his house for it.

later versions : VI (= late version of {| 8) If anyone blinds a male slave in a quarrel, he shall pay 20 shekels of silver. If it is an accident, he shall pay 10 shekels of silver. VII (= late version of 1] 7-8) If anyone knocks out a free man's tooth— if he knocks out 2 or 3 teeth—he shall pay 12 shekels of silver. If the injured party is a slave, his assailant shall pay 6 shekels of silver.

Roth (1997, 218) The Hittite laws § 9: If anyone injures a person's head, they used to pay 6 shekels of silver: the injured party took 3 shekels of silver, and they used to take 3 shekels of silver for the palace. But now the king has waived the palace share, so that only the injured party takes 3 shekels of silver.

Later version : VII (= late version of 7 9) If anyone injures a free man's head, the injured man shall take 3 shekels of silver. [see the difference of punishment when the person is temporarily incapacitated.]

Roth (1997, 219) The Hittite laws § 11: If anyone breaks a free person's arm or leg, he shall pay him 20 shekels of silver. He shall look to his house for it.

§ 12: If anyone breaks a male or female slave's arm or leg, he shall pay 10 shekels of silver. He shall look to his house for it.

§ 13: If anyone bites off the nose of a free person, he shall pay 40 shekels of silver. He shall look to his house for it.

§ 14: If anyone bites off the nose of a male or female slave, he shall pay 3 shekels of silver. He shall look to his house for it.

§ 15: If anyone tears off the ear of a free person, he shall pay 12 shekels of silver. He shall look to his house for it.

§ 16: If anyone tears off the ear of a male or female slave, he shall pay him 3 shekels of silver.

§ 17: If anyone causes a free woman to miscarry, [if] it is her tenth month," he shall pay 10 shekels of silver, if it is her fifth month, he shall pay 5 shekels of silver. He shall look to his house for it.

§ 18: If anyone causes a female slave to miscarry,® if it is her tenth month, he shall pay 5 shekels of silver.

[Particularity of the hittite laws resides in the many laws that describe similar issues, already presented above, but in the case of the victim, or attacker, being from the land of Luwia. Which suggests that Luwian might have had a different status than the rest of the unified Hittite empire. See more page 220.]

1.4 **Sexual Assault**: Non-consensual sexual contact or behavior, including rape.

Roth (1997, 157) Middle Assyrian laws § 9: If a man lays a hand upon a woman, attacking her like a rutting bull(?), and they prove the charges against him and find him guilty, they shall cut off one of his fingers. If he should kiss her, they shall draw his lower lip across the blade(?) of an ax and cut it off.

Roth (1997, 106) Laws of Hammurabi § 130: If a man pins down another man's virgin wife who is still residing in her father's house, and they seize him lying with her, that man shall be killed; that woman shall be released.

Roth (1997, 157) Middle Assyrian laws § 12: If a wife of a man should walk along the main thoroughfare and should a man seize her and say to her, "I want to have sex with you!"—she shall not consent but she shall protect herself; should he seize her by force and fornicate with her—whether they discover him upon the woman or witnesses later prove the charges against him that he fornicated with the woman—they shall kill the man; there is no punishment for the woman.

Roth (1997, 237) The Hittite laws § 197: If a man seizes a woman in the mountains (and rapes her), it is the man's offense, but if he seizes her in her house, it is the woman's offense: the woman shall die. If the woman's husband discovers them in the act, he may kill them without committing a crime.

Roth (1997, 236) The Hittite laws § 187: If a man has sexual relations with a cow, it is an unpermitted sexual pairing: he will be put to death. They shall conduct him to the king's court. Whether the king orders him killed or spares his life, he shall not appear before the king (lest he defile the royal person). [pages 236 to 237 are dedicated to the sexual offense with the unpermitted sexual pairing or "not an offense" formulas, and every possible animal.]

Roth (1997, 158-9) Middle Assyrian laws § 16: If a man [should fornicate] with the wife of a man [... by] her invitation, there is no punishment for the man; the man (ie., husband) shall impose whatever punishment he chooses upon his wife. If he should fornicate with her by force and they prove the charges against him and find him guilty, his punishment shall be identical to that of the wife of the man.

Roth (1997, 174-5) Middle Assyrian laws § 55: If a man forcibly seizes and rapes a maiden who is residing in her father's house, |...| who is not betrothed(?),2! whose [womb(?)] is not opened, who is not married, and against whose father's house there is no outstanding claim—whether within the city or in the countryside, or at night whether in the main thoroughfare, or in a granary, or during the city festival— the father of the maiden shall take the wife of the fornicator of the maiden and hand her over to be raped; he shall not return her to her husband, but he shall take (and keep?) her; the father shall give his daughter who is the victim of fornication into the protection of the household of her fornicator. (viii 33) If he (the fornicator) has no wife, the fornicator shall give "triple" the silver as the value of the maiden to her father; her fornicator shall marry her; he shall not reject(?) her. If the father does not desire it so, he shall receive "triple" silver for the maiden, and he shall give his daughter in marriage to whomever he chooses.

Roth (1997, 17) Laws of Ur-Nammu § 6: If a man violates the rights of another and deflowers the virgin wife of a young man, they shall kill that male. (The law that follows, 7, actually emphasizes how the woman will be treated if she initiates the sexual relation.)

Roth (1997, 18) Laws of Ur-Nammu § 8: If a man acts in violation of the rights of another and deflowers the virgin slave woman of a man, he shall weigh and deliver 5 shekels of silver.

Roth (1997, 44) Sumerian exercices tablets § 7: If he deflowers in the street the daughter of a man, her father and her mother do not identify(?) him, (but) he declares, "I will marry you"—her father and her mother shall give her to him in marriage.

§ 8: If he deflowers in the street the daughter of a man, her father and her mother identify(?) him, (but) the deflowerer disputes the identification(?)—he shall swear an oath at the temple gate.

Roth (1997, 63) Laws of Eshnunna § 26: If a man brings the bridewealth for the daughter of a man, but another, without the consent of her father and mother, abducts her and then deflowers her, it is indeed a capital offense—he shall die.

Roth (1997, 110) Laws of Hammurabi § 154: If a man should carnally know his daughter, they shall banish that man from the city.

Roth (1997, 160) Middle Assyrian laws § 20: If a man sodomizes his comrade and they prove the charges against him and find him guilty, they shall sodomize him and they shall turn him into a eunuch.

1.5 **Kidnapping**: Unlawful taking and carrying away a person against their will.

Roth (1997, 84) Laws of Hammurabi § 14: If a man should kidnap the young child of another man, he shall be killed.

Roth (1997, 17) Laws of Ur-Nammu § 3: If a man detains(?) (another), that man shall be imprisoned and he shall weigh and deliver 15 shekels of silver.

Roth (1997, 62) Laws of Eshnunna § 23: If a man has no claim against another man but he nonetheless takes the man's slave woman as a distress, detains the distress in his house, and causes her death, he shall replace her with two slave women for the owner of the slave woman.

§ 24: If he has no claim against him but he nonetheless takes the wife of a commoner or the child of a commoner as a distress, detains the distress in his house, and causes her or his death, it is a capital offense—the distrainer who dis-trained shall die.

2. Crimes Against Property**

2.1 **Theft (Larceny)**: Unlawful taking of someone else's property with intent to permanently deprive them of it.

Roth (1997, 155) Middle Assyrian laws § 1: If a woman,' either a man's wife or a man's daughter, should enter into a temple and steal something from the sanctuary in the temple> and either it is discovered in her possession or they prove the charges against her and find her guilty, [they shall perform(?)] a divination(?), they shall inquire of the deity; they shall treat her as the deity instructs them.

Roth (1997, 155-6) Middle Assyrian laws § 3: If a man is either ill or dead, and his wife should steal something from his house and give it either to aman, or to a woman, or to anyone else, they shall kill the man's wife as well as the receivers (of the stolen goods). (a 1 32) And if a man's wife, whose husband is healthy, should steal from her

husband's house and give it either to a man, or to a woman, or to anyone else, the man shall prove the charges against his wife and shall impose a punishment; the receiver who received (the stolen goods) from the man's wife shall hand over the stolen goods, and they shall impose a punishment on the receiver identical to that which the man imposed on his wife.

§ 4: If either a slave or a slave woman should receive something from a man's wife, they shall cut off the slave's or slave woman's nose and ears; they shall restore the stolen goods; the man shall cut off his own wife's ears. But if he releases his wife and does not cut off her ears, they shall not cut off (the nose and ears) of the slave or slave woman, and they shall not restore the stolen goods.

§ 5: If a man's wife should steal something with a value greater than 300 shekels of lead® from the house of another man, the owner of the stolen goods shall take an oath, saying, "I did not incite her, saying, 'Commit a theft in my house." (i 63) If her husband is in agreement, he (her husband) shall hand over the stolen goods and he shall ransom her; he shall cut off her ears. If her husband does not agree to her ransom, the owner of the stolen goods shall take her and he shall cut off her nose.

Roth (1997, 66) Laws of Eshnunna § 49: If a man should be seized with a stolen slave or a stolen slave woman, a slave shall lead a slave, a slave woman shall lead a slave woman.

Roth (1997, 66) Laws of Eshnunna § 50: If a military governor, a governor of the canal system, or any person in a position of authority seizes a fugitive slave, fugitive slave woman, stray ox, or stray donkey belonging either to the palace or to a commoner, and does not lead it to Eshnunna but detains it in his house and allows more than one month to elapse, the palace shall bring a charge of theft against him.

Roth (1997, 82) Laws of Hammurabi § 6: If a man steals valuables belonging to the god or to the palace, that man shall be killed, and also he who received the stolen goods from him shall be killed.
Roth (1997, 82) Laws of Hammurabi § 8: If a man steals an ox, a sheep, a donkey, a pig, or a boat—if it belongs either to the god or to the palace, he shall give thirtyfold; if it belongs to a commoner, he shall replace it tenfold; if the thief does not have anything to give, he shall be killed. (See also laws 9, 10, 11, 12, 13 for the details of lost properties found in another's hands and determination of who is the thief among the chain of loss).

Roth (1997, 226) The Hittite laws § 57: If anyone steals a bull—if it is a weanling calf, it is not a "bull"; if it is a 2-year-old bovine, that is a "bull." Formerly they gave 30 cattle. But now he shall give 15 cattle: 5 two-year-olds, 5 yearlings, and 5 weanlings. He shall look to his house for it.

pages 226 to 229 : every specific law for every item that can be stolen, most of the time, those laws change because the object or animal is not of the same value.

2.2 **Burglary**: Unlawful entry into a building with intent to commit a crime, typically theft.

Roth (1997, 28) Laws of Lipit-Ishtar § 9: If a man enters the orchard of another man and is seized there for thievery, he shall weigh and deliver 10 shekels of silver.

Roth (1997, 61) Laws of Eshnunna § 13: A man who is seized in the house of a commoner, within the house, at midday, shall weigh and deliver 10 shekels of silver; he who is seized at night within the house shall die, he will not live.

Roth (1997, 68) Laws of Eshnunna § 60: [If] a guard is negligent in guarding [a house], and a burglar [breaks into the house], they shall kill the guard of the house that was broken into [...], and he shall be buried [at] the breach without a grave.

Roth (1997, 85) Laws of Hammurabi § 21: If a man breaks into a house, they shall kill him and hang him in front of that very breach.

2.3 **Robbery**: Taking property from a person through force or threat of force.

Roth (1997, 85) Laws of Hammurabi § 22: If a man commits a robbery and is then seized, that man shall be killed.

2.4 **Vandalism**: Deliberate destruction or damage to property.

Roth (1997, 145) Neo-Babylonian laws § 3: [A man who opens] his well to the irrigation outlet but does not reinforce it, and who thus causes a breach and thereby [floods] his neighbor's field, shall give [grain in accordance with the (yields of his)] neighbor [to the owner of the [field].

Roth (1997, 20) Laws of Ur-Nammu § 31: If a man floods(?) another man's field, he shall measure and deliver 900 silas of grain per 100 sars of field.

Roth (1997, 92) Laws of Hammurabi § 55: If a man opens his branch of the canal for irrigation and negligently allows the water to carry away his neighbor's field, he shall measure and deliver grain in accordance with his neighbor's yield.

§ 56: If a man opens (an irrigation gate and releases) waters and thereby he allows the water to carry away whatever work has been done in his neighbor's field, he shall measure and deliver 3,000 silas of grain per 18 ikus (of field).

3. "White-Collar" Crimes**

3.1 **Fraud**: Deception intended to result in financial or personal gain.

Roth (1997, 64) Laws of Eshnunna § 32: If a man gives his child for suckling and for rearing but does not give the food, oil, and clothing rations (to the caregiver) for 3 years, he shall weigh and deliver 10 shekels of silver for the cost of the rearing of his child, and he shall take away his child.

Roth (1997, 103) Laws of Hammurabi § 116: If the distrainee should die from the effects of a beating or other physical abuse while in the house of her or his distrainer, the owner of the distrainee shall charge and convict his merchant, and if (the distrainee is) the man's son,"! they shall kill his (the distrainer's) son; if the man's slave, he shall weigh and deliver 20 shekels of silver; moreover, he shall forfeit whatever he originally gave as the loan.]

Roth (1997, 130) Laws of Hammurabi § 265: If a shepherd, to whom cattle or sheep and goats were given for shepherding, acts criminally and alters the brand and sells them, they shall charge and convict him and he shall replace for their owner cattle or sheep and goats tenfold that which he stole.

Roth (1997, 64) Laws of Eshnunna § 37: If the man's house" has been burglarized, and the owner of the house incurs a loss along with the goods which the depositor gave to him, the owner of the house shall swear an oath to satisfy him at the gate of (the temple of) the god Tishpak: "My goods have been lost along with your goods; I have not committed a fraud or misdeed"; thus shall he swear an oath to satisfy him and he will have no claim against him.

Roth (1997, 60) Laws of Eshnunna § 6: If a man, under fraudulent circumstances, should seize a boat which does not belong to him, he shall weigh and deliver 10 shekels of silver.

3.2 **Embezzlement**: Misappropriation or theft of funds placed in one's trust.

Roth (1997, 64) Laws of Eshnunna § 36: If a man gives his goods to a naptaru for safekeeping, and he (the naptaru) then allows the goods which he gave to him for safekeeping to become lost—without evidence that the house has been broken into, the door jamb scrapped, the window forced—he shall replace his goods for him.

Roth (1997, 104) Laws of Hammurabi § 120: If a man stores his grain in another man's house, and a loss occurs in the storage bin or the householder opens the granary and takes the grain or he completely denies receiving the grain that was stored in his house—the owner of the grain shall establish his grain before the god, and the householder shall give to the owner of the grain twofold the grain that he took (in storage).

Roth (1997, 128) Laws of Hammurabi § 253: If a man hires another man to care for his field, that is, he entrusts to him the stored grain, hands over to him care of the cattle, and contracts with him for the cultivation of the field—if that man steals the seed or fodder and it is then discovered in his possession, they shall cut off his hand.

§ 254: If he takes the stored grain and thus weakens the cattle, he shall replace twofold the grain which he received.

3.3 **Treason**: Acts of betrayal against one's own country.

Roth (1997, 18) Laws of Ur-Nammu § 13: If a man accuses another man of ... and he has him brought to the divine River Ordeal but the divine River Ordeal clears him, the one who had him brought (ie., the accuser) (...1°) shall weigh and deliver 3 shekels of silver.

Roth (1997, 18) Laws of Ur-Nammu § 14: If a man accuses the wife of a young man of promiscuity but the River Ordeal clears her, the man who accused her shall weigh and deliver 20 shekels of silver.

Roth (1997, 20) Laws of Ur-Nammu § 28: If a man presents himself as a witness but is demonstrated to be a perjurer, he shall weigh and deliver 15 shekels of silver.

§ 29: If a man presents himself as a witness but refuses to take the oath, he shall make compensation of whatever was the object of the case.

Roth (1997, 81) Laws of Hammurabi § 1: If a man accuses another man and charges him with homicide but cannot bring proof against him, his accuser shall be killed.

§ 3: If a man comes forward to give false testimony in a case but cannot bring evidence for his accusation, if that case involves a capital offense, that man shall be killed. // § 4: If he comes forward to give (false) testimony for (a case whose penalty is) grain or silver, he shall be assessed the penalty for thatcase.

Roth (1997, 84) Laws of Hammurabi § 16: If a man should harbor a fugitive slave or slave woman of either the palace or of a commoner in his house and not bring him out at the herald's public proclamation, that householder shall be killed.

Roth (1997, 85) Laws of Hammurabi § 19: If he should detain that slave in his own house and afterward the slave is discovered in his possession, that man shall be killed.

Roth (1997, 87) Laws of Hammurabi § 33: If either a captain or a sergeant should recruit(¢) deserters or accepts and leads off a hireling as a substitute on a royal campaign, that captain or sergeant shall be killed.

Roth (1997, 101) Laws of Hammurabi § 109: If there should be a woman innkeeper in whose house criminals congregate, and she does not seize those criminals and lead them off to the palace authorities, that woman innkeeper shall be killed.

Roth (1997, 105) Laws of Hammurabi § 127: If a man causes a finger to be pointed in accusation against an ugbabtu or against a man's wife but cannot bring proof, they shall flog that man before the judgesTM and they shall shave off half of his hair.

Roth (1997, 82) Laws of Hammurabi § 5: If a judge renders a judgment, gives a verdict, or deposits a sealed Opinion, after which he reverses his judgment, they shall charge and convict that judge of having reversed the judgment which he rendered and he shall give twelvefold the claim of that judgment; moreover, they shall unseat him from his judgeship in the assembly, and he shall never again sit in judgment with the judges.