

THE RULE OF LAW



BY STEVEN SILVA, ESQ.*

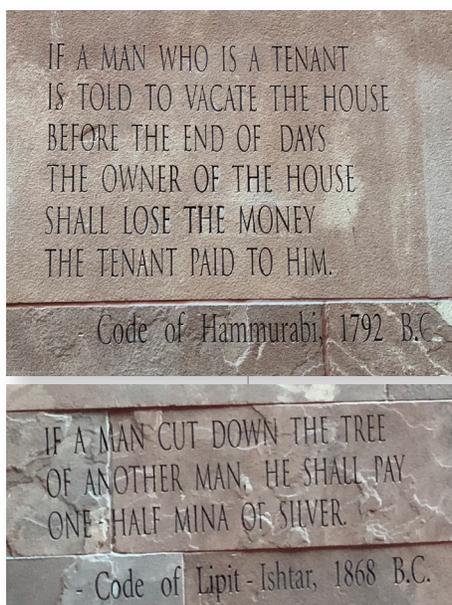
CORRECTING THE (CUNEIFORM) RECORD

I am writing in response to the “Rule of Law” column by Patty Cafferata that appeared in the April 2018 edition of *Nevada Lawyer*. In her column, Cafferata shared State Bar of Nevada past President Gene Leverty’s statement that the earliest known code of law was compiled by Hammurabi, in Babylon.

Nevada Lawyer’s readers might find it interesting to learn that, although the Code of Hammurabi is fairly old, even that ancient document is based on published precedent.

Specifically, the Code of Ur-Nammu predates the Code of Hammurabi. The Code of Ur-Nammu is about four millennia old, and it is my go-to citation for saying an aspect of the law has been in existence as long as law itself. The Code of Ur-Nammu is drafted as a series of “if-then” statements: “if condition X occurs, then Y is the result” (albeit written in Sumerian). This continues to be a useful analytical tool through which to view the law.

As a fun aside, the City Court of Buffalo, New York, has also utilized Ur-Nammu to make the point that something law-related is as ancient as law itself. In 1967 that court stated, “[I]t appears that the compulsion to say ‘There ought to be a law’ is not of recent origin but dates back to the time of King Urnammu about 2145 B.C.” *People v. Bielmeyer*, 54 Misc. 2d. 466, 282 N.Y.S.2d 797 (1967) (in a case discussing police power of the state to constitutionally require motorcyclists to wear helmets).



Leverty is not alone in thinking of Hammurabi when discussing the oldest-known code. He is in quite good company; Bryan Garner, in his editions of Black’s Law Dictionary, describes the Code of Hammurabi as “The oldest known written legal code.” Black’s Law Dictionary 293 (9th Edition), 274 (Del. 8th Edition) & 251 (7th Edition). Interestingly, the earlier 5th Edition, of which Garner was not the editor, describes the Code of Hammurabi as a “Set of laws once considered the oldest promulgation of laws in human history, prepared by Babylonian King.” Black’s Law Dictionary 644 (5th Edition 1979). The 4th edition of Black’s (at least the copy sitting on my desk) has no entry for Hammurabi, or his code.

But the takeaway is that the Code of Ur-Nammu predates the Code of Hammurabi, as do the Sumerian language Code of Lipit-Ishtar and the Code Eshnunna (which is the oldest code, written in the Akkadian language). Indeed, there are even inscriptions discussing the legal reforms of Uru-Inimgina (also called Urukagina) of Lagash, dating as far back as c. 2,400 B.C.E. But, I believe Ur-Nammu’s is the oldest extant code to which we have access at this point in history. **NL**

** This column expresses the views of its author and does not reflect the opinion of any organizations with which she may be employed or affiliated.*

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