

**THE JUDGMENT OF *THE ORDALI* IN THE FIRST
WRITTEN LAW OF MESOPOTAMIA AND ITS
REFLECTIONS ON OTHER CULTURES**

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ABSTRACT

Ordali, derived from the words “Ordal” in English and “Urteil” in German, meaning judgment, is a method of throwing people into the raging water to find out whether the accused are guilty or not. In the trial conducted under the control of the administrators, under the control of the temple and under the supervision of the judges, those who were thrown into the raging waters and crossed the river without drowning were considered innocent, and those who could not cross the river and drowned were considered guilty. It is understood that this form of judgment, which was applied for the first time in the world on the Tigris and Euphrates rivers in Mesopotamia, actually turned into a form of divine judgment originating from the idea that these two rivers that give life to the region can only cleanse the evil (criminals) with their waters. We encounter the first information about the river ordali in the Urukagina laws, known as the earliest laws. In the 6th article of the Urukagina laws, it is stated that previously women were owned by two men without punishment, but now such women are thrown into the water (ordali). In the Ur-Nammu laws, we see the practice of

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Makalenin Gönderim Tarihi : 16.12.2023.

Makalenin Kabul Tarihi : 22.05.2024.

“throwing into the river” in cases of magic and adultery. In Article 10, if a man accuses a man of witchcraft, the accused man is taken to the river god and thrown into the river. In the laws of Ana Ittishu in Mesopotamia, in Article 1, if a woman hates her husband and tells him that you are not my husband, that woman will be thrown into the river. According to Article 28 of the Eşnunna law, the penalty for a married woman who commits adultery is death. We can also see some different practices in the laws of Hammurabi, which are the most detailed among the Mesopotamian laws. According to Article 132 of the Code of Hammurabi, if a man’s wife is accused of adultery by another man and is caught sleeping with a man, they are thrown into the water together. In the laws of Hammurabi, the important reasons for a woman to be thrown into the river include not keeping her house in order, not protecting her husband’s property, speaking badly about her husband, or being a street-loving person. Again, in Article 2 of the Code of Hammurabi, the harshness of the decisions for river trials, especially regarding witchcraft and slander, is striking. In the Middle Assyrian Laws, the practice of “throwing into water” was also practiced in case of adultery. Article 17 states that if a man accuses a married woman of adultery and there is no witness, the man who slandered will be thrown into the water just as the woman who was slandered will be thrown into the water. Likewise, the practice of river ordal continued in the Neo-Assyrian Period. The most important cities in Mesopotamia where river ordal was made the cities of Hit, famous for its oil spills, and Sippar, the cult center of the god Shamash, to whom Hammurabi attributed his laws. We learn from written sources that river ordal was also practiced in Anatolia, which was influenced by Mesopotamia. We also encounter some practices reminiscent of ordali on the Nile River, which gave life to Egypt. Although the application of River Ordali is not directly encountered in Greek and Roman cultures, it is seen that river gods and water resources have an important place in some legal practices and decisions due to the influence of Mesopotamia.

Keywords: River Ordali, law, Mesopotamia, Urukagina, Hammurabi, Anatolia, Egypt, Greece and Rome.

MEZOPOTAMYA’NIN İLK YAZILI HUKUKUNDA ORDALI VE DİĞER KÜLTÜRLERE YANSIMASI

ÖZ

Yargılama anlamında İngilizce’de “Ordal” ve Almanca’da “Urteil” kelimelerinden türetilmiş olan ordali, suçlananların suçlu olup olmadıklarını anlayabilmek üzere insanları azgın suya atma yöntemidir. Yönetiçilerin

kontrolüyle, tapınak denetiminde ve hakimlerin gözetiminde yapılan yargılamada azgın sulara atılanlardan ırmağı boğulmadan geçenler suçsuz, geçemeyerek boğulanlar ise suçlu sayılmıştır. Dünyada ilk defa Mezopotamya’da Dicle ve Fırat ırmaklarında uygulanan bu yargılama biçiminin aslında bölgeye hayat veren bu iki ırmağın kötülükleri de (suçluları) ancak sularıyla temizleyebileceği düşüncesinden kaynaklanmış bir ilahi yargılama biçimine dönüştüğü anlaşılmaktadır. En erken kanun olarak bilinen Urukagina kanunlarında nehir ordali ile ilgili ilk bilgiler ile karşılaşmaktayız. Urukagina kanunlarının 6. maddesinde önceleri kadınlar ceza görmeden iki erkek tarafından sahipleniyorken şimdi böyle kadınlar suya atılırlar (ordali) denilmektedir. Ur-Nammu kanunlarında büyü ve zina hususunda “nehre atılma” uygulamasını görmekteyiz. Madde 10’da eğer bir adam, bir adamı büyücülükle suçlarsa, suçlanan adam nehir tanrısına götürülerek nehre atılır. Mezopotamya’da Ana İttişu kanunlarında maddel’de eğer bir kadın, kocasından nefret eder ve ona benim kocam değilsin diyorsa, o kadın nehre atılacaktır. Eşnunna kanununun 28. maddesine göre ise zina yapan evli kadının cezası ölümdür denilmektedir. Mezopotamya kanunları içerisinde en ayrıntı veren Hammurabi kanunlarında farklı bazı uygulamaları da görebilmekteyiz. Hammurabi kanunlarının 132. maddesinde eğer bir adamın karısı başka bir erkek tarafından zina ile suçlandığında, bir erkekle yatarken yakalanırsa birlikte suya atılırlar. Hammurabi kanunlarında ayrıca kadının evinin düzenini sağlamaması, kocasının malını korumaması, kocası için kötü sözler sarf etmesi veya sokağa düşkün bir kişi olması da nehre atılması için önemli sebepler olarak gösterilmiştir. Yine Hammurabi kanununun 2. maddesinde özellikle büyücülük ve iftira konusunda nehir yargılaması için kararların sertliği dikkat çekicidir. Orta Asur Kanunlarında da zina durumunda “suya atılma” uygulaması gerçekleştirilmektedir. Madde17’de eğer bir adam evli bir kadını zinayla suçlarsa ve şahidi yoksa, iftira atılan kadın gibi iftirayı atan adam da suya atılacaktır. Aynı şekilde Yeni Asur Döneminde de nehir ordali uygulaması devam etmektedir. Mezopotamya’da nehir ordalinin yapıldığı en önemli kentler petrol sızıntılarıyla ünlü Hit ve Hammurabi’nin kanunlarını atfettiği tanrı Şamaş’ın kült merkezi Sippar kentleri olmuştur. Mezopotamya’dan etkilenen Anadolu’da da nehir ordalinin uygulandığını yazılı kaynaklardan öğrenmekteyiz. Mısır’a hayat veren Nil Nehri’nde de ordaliyi anımsatan bazı uygulamalar ile karşılaşmaktayız. Grek ve Roma kültürlerinde doğrudan Nehir Ordali uygulaması ile karşılaşılmasa da Mezopotamya etkisiyle nehir tanrıları ve su kaynaklarının bazı hukuk uygulamaları ve kararlarda önemli yer tuttuğu görülmektedir.

Anahtar Kelimeler: Nehir Ordali, hukuk, Mezopotamya, Urukagina, Hammurabi, Anadolu, Mısır, Grek ve Roma.

I. INTRODUCTION

Since water is one of the most important needs of life for human beings, along with food, it is seen that the first civilizations developed in

areas close to water resources. Water, which is indispensable for both themselves and the game animals and plants they depend on, has been turned into a cult by people since the early periods as the most important value that constructs life. It is understood that after Emmer and Eincorn wheat were cultivated in Çayönü, a Neolithic settlement in Southeastern Anatolia¹ southward migration was initiated by following the valleys of the Tigris and Euphrates rivers for wheat cultivation². While the water god “Ea” (Enki), one of the most important gods of the Mesopotamian civilization that developed with agriculture, is also depicted on seals as the god of reason, intelligence and justice, with water gushing on his shoulders³, this god was actually the representation of the Tigris and Euphrates rivers⁴. Mesopotamia, which became extremely attractive for people’s lives, was especially visited in B.C. In the 4th millennium, immigrants began to arrive from different geographies⁵ and painful process was experienced in the cities that grew under the influence of these irregular migrations . It is understood that one of the reasons why⁶ the first written laws⁷ emerged in this painful period⁸ was to prevent

¹ BRAIDWOOD, Robert: Prehistoric Man (trans. B. Altınok). Archeology and Art Publications, Trial, Criticism and History Series: 14, Istanbul, 1995, p. 35.

² AKIN, Enver: Migrations in Anatolia and Its Surroundings in Ancient Times, 5th International Economy, Politics and Management Symposium (İSEPA), Diyarbakır, 2022, p. 103.

³ BLACK, Jeremy and GREEN, Anthony: Dictionary of Mesopotamian Mythology, Gods, Demons, Symbols, AramYayıncılık, İstanbul, 2003, p. 71.

⁴ KRAMER, Samuel Noah: Sumerian Mythology, Hamide Koyukan (trans.), Kabcacı Publishing House, Istanbul, 1999, p.114.

⁵ MEMİŞ, Ekrem and BÜLBÜL, Cemil: Amurru (The Oldest Ancestors of the Arabs), Fırat University Middle East Research Center Publication, Elâzığ, 2012, p. 46, 49.

⁶ FRANGIPANE, Marcella: The Birth of the State in the Near East, Archeology and Art Publications, Istanbul, 2002, p. 11th; BIEDLER, Murray: “Hydropolitics of the Tigris-Euphrates River Basin With Implications for the European Union”, Hydrology, Rhode University, South Africa, 2004, p. 4.

⁷ KRAMER, Samuel Noah: Sumerler, Istanbul, 2002, p. 309; IŞIK Adam: The First Cities and the Transition to Written Civilization, Blue Atlas,6 (2)/2018, p. 58.

⁸ NISSEN Hans Jörg: “Mesopotamia in Main Line”, Trans. Zühre İlgelen, Archeology and Art Publications, Istanbul, 2004, p. 105.

problems that may arise between immigrants from different geographies and different cultures and settled communities. In these first written laws, in order to ensure justice in this new social structure consisting of different cultural groups, the divine rivers Tigris and Euphrates, which gave life to the region and were respected by everyone living here as the reason for their existence, were adopted as judge-gods (Ordali)⁹.

Ordali is derived from the words “Ordal” in English and “Urteil” in German, meaning judgment¹⁰, and is a method of throwing people into raging water to find out whether the accused are guilty or not (the idea that water that cleans everything also cleans evil spirits). In the trial held under the control of the temple and under the supervision of the judges¹¹, those who were thrown into the raging waters and crossed the river without drowning were deemed innocent, and those who could not cross the river and drowned were deemed guilty¹². It is understood that this form of judgment, which was applied for the first time in the world on the Tigris and Euphrates rivers in Mesopotamia¹³, actually turned into a form of divine judgment arising from the idea that these two rivers that give life to the region can only cleanse the evil (criminals) with their waters. Similar to the practice in Mesopotamia, we see that river ordali was applied in Kızılırmak, which played an important role in the development of the Hittite civilization in Anatolia, and we also encounter some practices reminiscent of ordali in the Nile River, which gave life to Egypt. Although there is no direct application of River Ordali in Greek and Roman cultures, it is seen that river gods and water resources have an

⁹ FRIEDEL, Egon: The Cultural History of Egypt and the Ancient Near East, Trans. Ersel Kayaoğlu, Dost Kitabevi Yayınları, Ankara, 2006, p. 236; KLENGEL, Horst: King Hammurabi and the Babylonian Diary, Trans. Nesrin Oral, Telos Publications, Istanbul, 2001, p. 202.

¹⁰ LAFONT Bertrand: “The Ordeal”, Everyday Life in Ancient Mesopotamia, Ed.: J. Bottero, The Johns Hopkins University Press, Baltimore, Maryland, 2001, p. 276.

¹¹ WESTBROOK Raymond: Old Babylonian Period. A History of Ancient Near Eastern Law. Handbook of Oriental Studies, 2003, 1, p. 361- 430.

¹² ZACCAGNINI Carlo: “Sacred and Human Components in Ancient Near Eastern Law”, History of Religions, The University of Chicago Press, Vol.33, No.3 (Feb.), 1994, p. 267.

¹³ FRYMER-KENSKY, Tikva Smone: The Judicial Ordeal In The Ancient Near East. (volumes I & II). Diss. Yale University, 1977, p. 66; LAFONT Bertrand: The Trial of the Mesopotamian River Gods, Ancient Near East, (Ed. J. Bottero), Dost Kitabevi Yayınları, Ankara, 2005, p. 200-209.

important place in some legal practices. River trial was used as a trial method in the inquisition courts of the Middle Ages as well as in ancient societies. In these courts established in the Middle Ages, when confessions were not received, the defendant was thrown into the raging waters, and if he managed to avoid drowning, it was decided that he would be burned to death¹⁴.

II. MESOPOTAMIA

River ordali, which was primarily a divine judgment in Mesopotamia, became a form of judgment and punishment used on issues such as adultery, casting spells, dividing property, and gossiping¹⁵. It seems that some special rules are applied to show seriousness in such important trials¹⁶. For example, the defendant who was decided to be thrown into the river had to spend the night in a special place before this test. It was mandatory for the defendant, whose hands and feet were washed, to repeat the words ordered by the regional king who would be present at the exam during the “dawn” when the sun began to rise. In this practice, rituals such as the defendant spending the night in a special place, washing his hands and feet, and repeating the words commanded by the king before the sunrise are included, and it is understood that the power of the local kings is combined with belief behind the shaping of this form of judgment. It is understood from written sources that the places where the exam for river ordali is held are special places¹⁷. It is noteworthy that these mysterious places, believed to reveal the divine

¹⁴ BOZKURT, H. Argun: “Law in Anatolia in Ancient Ages (Hittite-Assyrian-Sumerian)”, *Hukuk Gündemi Magazine*, issue: 3, 2009, p. 79-82.

¹⁵ The legal articles in Mesopotamian law discussed in this study were evaluated according to the order put forward by researchers working on the subject.

¹⁶ FLORIOTI, Hanım Hande Durmuş and DEMİRCİ Gözde: An interesting crime detection and punishment method in cuneiform law texts: throwing into water, *Journal of Historical Research*, Volume: 32, Issue: 54,1, 2013, p. 31.

¹⁷ Whichever river the cities where the river ordali was practiced was located near, the practice took place on that river. For example, since the city of Hit was on the Euphrates, the ordali took place in the Euphrates River, and since the city of Assyria was on the Tigris, the ordali took place in the Tigris River.

power, were specifically chosen¹⁸. For example, one of the most important cities in Mesopotamia where river ordeal was made was the city of Hit, near Babylon and Mari¹⁹. This place was famous as the “City of the River of Judgment”, where people accused of matters such as adultery and sorcery, or those who claimed property, were thrown into the Euphrates River, which passes through here, to prove their case. The most important reason why this city was considered the City of the River of Judgment was that, in addition to being a leading trade center, bitumen (pitch), the raw material of today’s oil, mysteriously (divinely) surfaced here through leakage (Figure 1). While a criminal-person who was thrown into the water from which the tar spring emerged was poisoned and died in a short time due to swallowing intensely carbonated water, it was accepted as divine that the person was brought to the surface due to the strong leakage coming out of the water²⁰. In Mesopotamia, bitumen, which was used in many areas from its use in Mesopotamia to obtain strong heat for melting metal and as an insulation material in ships, to architecture and health,²¹ was observed to be cleaned by the Euphrates River after mixing with it. It was accepted as a cleansing judge-god in the Hit city of the Euphrates River. should be an important factor.

¹⁸ ARSLAN, Yavuz: Some Evaluations on the Implementation of River Judgment in Mesopotamia, Bitlis Eren University, Journal of Social Sciences, 10(2), 2021, p. 4.

¹⁹ KUHRT, Amelie: Near East in Ancient Age-3000-330 B.C., Trans.: D. Şendil, Volume: I-II, Türkiye İş Bankası Kültür Yayınları, Volume I, Istanbul, 2013, p. 138.

²⁰ HEÏMPEL Wolfgang: The River Ordeal in Hit, Revue d'Assyriologie et d'archéologie orientale, 90, (1), 1996, p. 8, 10.

²¹ CONNAN, Jaques, KAVAK, Orhan-AKİN, Enver-YALÇIN, Mehmet Kemal, -IMBUS, Kendra-ZUMBERGE, John, Identification and origin of bitumen in Neolithic artefacts from Demirköy Höyük (8100 BC): Comparison with oil seeps and crude oils from southeastern Turkey, Organic Geochemistry 37 (12), 2008, p. 1723-1724.



Figure 1: Map showing Mesopotamia and its surrounding geography. (Source: <https://tr.wikipedia.org/wiki/>).

Another important center where judgments took place in Mesopotamia was the city of Sippar near Babylon²². Founded where the Tigris and Euphrates rivers approach each other, this city was not only a very important place in terms of agricultural production²³, but also a rich city built on the trade routes coming from the east and reaching the Eastern Mediterranean ports²⁴. It is understood that Sippar gained the identity of the city of river trials, especially because²⁵ it turned into an important cult center with its temples in the city center dedicated to

²² LAFONT, 2005, p. 203.; ÖZ, Esma: “The Concept of Justice in the Formation of Legal Rules in Ancient Mesopotamia and the Application of River/Water Ordali in the Solution of Some Legal Problems”, Gift to Cahit Günbattu, Editors, İ. Albayrak, H. Erol, M. Çayır, Ankara, 2015, p. 193, 198.

²³ KILIÇ, Yusuf and FLORIOTI, Hanım Hande Duymuş; “Religious Women (Nuns) in Ancient Mesopotamia”, Turkish Journal of Social Research, Year 13, No. 1, April 2009, p.165, 166.

²⁴ SEVİN, Veli: Neo-Assyrian Art I-Mimarlık, TTK, 1999, Ankara, p. 190

²⁵ HOOKE, Samuel Henri: Middle Eastern Mythology, Alaeddin Şenel (trans.), İmge Publishing House Ankara, 2002, p. 85; FLORIOTI and DEMİRCİ, 2013. p. 31.

Shamash, the god of justice, to whom Marduk and Hammurabi attributed their laws²⁶ (Figure 1).

Mesopotamia, which became an important geography after the Neolithic age, turned into a region where cities developed where different ethnic groups lived together due to migrations²⁷. B.C. It is observed that written laws began to emerge in Mesopotamia after the invention of writing in the last quarter of the 4th millennium BC²⁸. We encounter the first information about the river ordali²⁹ in the Urukagina (2375 BC) laws, known as the earliest law³⁰. In Article 6 of the Urukagina Laws, it is stated that while women were previously owned by two men without punishment (they could marry two different men), now such women are thrown into the water (ordali)³¹. While Urukagina conveys the old and new position of women here, we understand that the king is actually trying to protect and secure the new moral structure formed in society by introducing the river ordali practice to those who want to continue the old one. It is understood that in this period, in addition to economic penalties for crimes such as adultery, rape and breaking of marriage, penalties of being thrown into the river (like today's monetary penalty) were also applied³².

²⁶ MAHMOOD, Lina: Two Cities of Sippar: Tell Abu-Habbah and Tell ed-Der (Master's Thesis). Stony Brook University: New York, 2006, p. 2, 66; MIEROOP, Mark Van De: King Hammurabi of Babylon. USA: Blackwell Publishing, 2005, p. 80, 99, 123.

²⁷ BÜLBÜL, Cemil: Amurru Migrations and the Roles of Amurru in the History of Ancient Asia Minor, Ankara University Faculty of Language History and Geography, Journal of Historical Research, Ankara, 2010, p. 31

²⁸ NISSEN, p. 3-7.

²⁹ IŞIK, p. 57, 58.

³⁰ FİDAN, Sezer Seçer: River Ordeal in Hittite Written Documents, Anadolu Researches, AnAr, 2023, p. 74.

³¹ BİLGİÇ, Emin: "Conception of Law and Tradition in Ancient Mesopotamian Tribes", Ankara University DTCF Magazine, XXI/3-4, Ankara, 1963, p. 107, 108; TOSUN Mebrure and YALVAÇ, Kadriye: Sümer, Babylon, Assyria Laws and Ammi-Şaduqa Edict, TTKB, 2nd Edition, Ankara 1989, p. 40-41; EDZARD, Dietz Otto: "Irikagina (Urukagina)", Aula Orientalis, Vol. IX, Barcelona, 1991, p.77, 78.

³² ARSLANTAŞ Yüksel and SEPTİOĞLU, Rüstem Kadri: "Women in Mesopotamia According to Cuneiform Legal Documents", Fırat University Journal of Middle Eastern Studies, Volume: XII, Issue: 1-2, Elazığ, 2016, p. 10, 11.

During the reign of Ur-Namu (2100-2050 BC), the founder of the new Sumerian state, who took power after the collapse of the Akkadian Kingdom, which was established in place of the Sumerian state captured by Sargon (2334-2279 BC),³³ gods were mostly used to protect weak individuals in society³⁴. It is observed that some new legal revisions have been made with the support of Nannar³⁵. In the Ur-Nammu laws³⁶, we see the “throwing into the river” judgment regarding magic and adultery in articles 10 and 11. In Article 10, if a man accuses another man of witchcraft, the accused man is taken to the river god and thrown into the river³⁷. However, if the man thrown into this river is cleared by the river god, the accuser will pay 3 seqels of silver as a penalty. Article 11 states that if a man’s wife is acquitted after being accused of adultery by another man and thrown into the river, the man who accused her shall pay a fine of 1/3 mana of silver³⁸.

In the laws of Ana Ittishu (2060-1960 BC) in Mesopotamia, it is seen that the punishment of being thrown into the water was applied to a woman who hated and rejected her husband. In Article 1, if a woman hates her husband and says to him, “You are not my husband” that woman will be thrown into the river³⁹. However, a man who hated his wife would be given some economic penalty (like today’s fine) instead of this punishment. According to Article 28 of the Eşnunna law (1930 BC), the penalty for a married woman who commits adultery is death⁴⁰.

While in the laws of the Ur-Namu and Ana Ittishu period, when a woman accused by a man was thrown into the river to be cleared and she was cleared by the river, only economic punishment was given to the

³³ KINAL, Füzün: History of Ancient Mesopotamia, AU. DTCF Publications, Ankara, 1983, p. 94, 95.

³⁴ SASSOON, John: Ancient Laws and Modern Problems, Third Millennium Publishing, London, 2001, p. 177.

³⁵ BİLGİÇ, 103-119.; FİNKELESTEİN, Jacob Joel: “The Laws of Ur-Nammu” Journal of Cuneiform Studies, V.XXII, 1969, p. 66-82.

³⁶ It is thought that the laws of Ur-Namu were published by his son Shulgi. For detailed information, see KRAMER, Samuel Noah: “The Ur-Nammu Law Code: Who Was Its Author?”, *Orientalia*, Nova Series, V. LII, 1983, p. 454.

³⁷ LAFONT, 2005, p. 201.

³⁸ KRAMER, 1983, p. 454.

³⁹ TOSUN and YALVAÇ, p. 40-41.

⁴⁰ TOSUN and YALVAÇ, p. 40-41.

accuser, in the laws of Hammurabi (1760 BC), which is the most detailed among the Mesopotamian laws⁴¹ (Figure 2), it is different. We can see some applications⁴².



Figure 2: Hammurabi receiving the laws from the sun god Shamash. (Source: <https://tr.wikipedia.org/wiki/>).

While the punishment of “throwing into water” is often applied to women in matters of adultery, we see some practices showing that men are also thrown into water. Article 132 of the Code of Hammurabi states that if a man’s wife is accused of adultery by another man, even if she is not caught sleeping with a man, she must go to divine river judgment for her husband⁴³. However, it is understood that this divine judgment applied to women regarding adultery is sometimes applied to men in cases where the man is deemed guilty, and sometimes it is applied to the man and woman committing adultery together. Similar practices are seen in articles 129 and 155 of the Code of Hammurabi: In Article 129, if someone’s wife is caught sleeping with another man, they are tied and

⁴¹ A total of 282 laws are included on a 2.25 meter-long stele. For this subject, see HARPER, Robert Francis: Code of Hammurabi, Argus Press, 1901, p. one.

⁴² MIEROOP, p. 123.; WESTBROOK, p. 361; AYDIN Nafiz, Hammurabi's Laws, Alfa Basım Yayım Dağıtım San. and Tic. Ltd. Şti., Istanbul, 2017, p. 21.

⁴³ ROTH, Martha Tobi-HOFFNER, Harry A-MICHALOWSKĪ, Piotr: Law Collections from Mesopotamia and Asia Minor, Scholars press, Second Edition, Atlanta, Georgia, 1997, p. 283.; TOSUN and YALVAÇ, p. 40, 41.

thrown into the water. However, if the husband of the woman who will be thrown into the water wants his wife to live, the king will allow the other man to live⁴⁴. In Article 155, we encounter a situation regarding the moral rules within the family; If a man buys a bride for his son and is caught lying on the bosom of the bride he bought for his son, they will tie that man and throw him into the water⁴⁵. In the laws of Hammurabi, the important reasons for a woman to be thrown into the river include not keeping her house in order, not protecting her husband's property, speaking bad words about her husband, or being a street-loving person⁴⁶. Article 133a stipulates that if a man has food in his house, even if he is taken by force and taken to another place, his wife will protect his property and he cannot enter someone else's house. In Article 133b, which specifies the punishment for the same crime, it is stated that if that woman does not protect her property and enters another house, if that woman's situation is proven,⁴⁷ she will be punished by being thrown into the water. In Article 143, it is stated that if a woman is spoiled, does not act carefully, damages the belongings of her house and disparages her husband, that woman will be thrown into the water⁴⁸. In the 2nd article of Hammurabi's laws (Figure 3), which is also quite advanced compared to the others, the harshness of the decisions for the river trial, especially regarding slander related to witchcraft, is striking⁴⁹. If a man claims that he cast a spell on another man and does not prove it, the slandered man will be thrown into the river. If the man thrown into the river drowns, the slanderer will be able to take his property and property. However, if that man thrown into the river survives the river test, the man who slandered him will be killed and the slandered man will inherit the property of the slain slanderer⁵⁰.

⁴⁴ ROTH-HOFFNER-MICHOLAWSKI, p. 283.

⁴⁵ HARPER, p. 31, 35.

⁴⁶ BOTTERO, Jean, "The Rights of Babylonian Women", Eski Near East, Der.J.Bottero, Dost Kitabevi Yayınları, Ankara, 2005, p. 130.

⁴⁷ TOSUN and YALVAÇ, p. 40, 41.

⁴⁸ ROTH-HOFFNER-MICHALOWSKI, p. 283.

⁴⁹ DAVIES, William Walter: The Codes of Hammurabi and Moses. New York: Eaton and Mains, 1905, p. 23.

⁵⁰ ROTH, Martha Tobi, Law Collections from Mesopotamia and Asia Minor. Atlanta, Georgia: Scholars Press, 1995, p. 81.

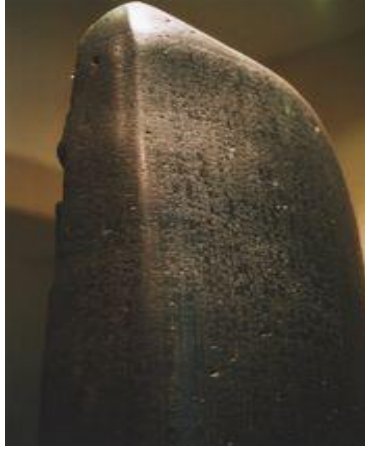


Figure 3: Stele on which the 282-item Hammurabi laws were written, found in Susa (1792-1750 BC). (Source: <https://tr.wikipedia.org/wiki>).

It is understood that the practice of being thrown into the river, which is generally seen in matters such as adultery, witchcraft and inheritance division, was also applied in some commercial matters in Article 108 of the Code of Hammurabi. However, it is noteworthy that here again the punishment of being thrown into the river is applied to women. For example, in Article 108, if a female innkeeper does not accept grain in exchange for the price of drink (beer) and accepts a large measure of silver instead, and the value of that drink is lower than the value of the grain, that female innkeeper will be deemed guilty and will be thrown into the water⁵¹.

In the Middle Assyrian Laws⁵², the practice of “throwing into water” was also practiced in case of adultery. Article 17 states that if a man accuses a married woman of adultery and there is no witness, the man who slandered will be thrown into the water just as the woman who was slandered will be thrown into the water⁵³. Article 22 deals with the accusation of adultery against a woman who goes on a journey with a

⁵¹ KITCHEN Kenneth A. and LAWRENCE, Paul NJ: Treaty, Law and Covenant in the Ancient Near East, Part 1: The Texts, Harrassowitz Verlag: Wiesbaden, 2012, p. 1086.; TOSUN and YALVAÇ, p. 40, 41.

⁵² AKYÜZ, Faruk: Nehir Ordali in Assyrian Documents, OANNES, International Journal of Ancient History Research, 2/2, 2020, p. 167, 168.

⁵³ ROTH-HOFFNER-MICHALOWSKI, p. 283.; TOSUN and YALVAÇ p. 40, 41.; KITCHEN-LAWRENCE, p. 1086.

man other than her husband or relative. From this it becomes clear that it is not only the woman accused of adultery who has to go to divine judgment, but also the one who is thrown into the water on the side of the accuser⁵⁴. Again, in the Middle Assyrian laws,⁵⁵ in Article 24, it is stated that judgment is applied in cases of denial and adultery between spouses, and in Article 25, it is stated that there is no need to go to the river and take an oath while explaining how a woman whose husband dies should benefit from the inheritance. Article 24 states that if a man's wife goes away from him and stays in the same or another city (staying for 3-4 nights), even if the owner of the house is not aware that it is the wife of a man who lives in his house, when that woman is caught by her husband, he takes his wife back and the wife of the man with whom his wife lives is taken back. Their ears will be cut off. However, if the necessary fines are paid and the parties give up their complaints, the accused will be deemed clean⁵⁶. It is understood that the issue of property distribution was also tried to be secured in Assyrian laws. In Article 25, if a woman stays in her father's house because her husband has died, she receives her share of the valuables and inheritance that her siblings do not share, even if she does not have children. For the remaining inheritance, they must apply to God's decision and receive the inheritance, and they cannot be forced to take river judgment or oath⁵⁷.

Likewise, the practice of river armies continued in the Neo-Assyrian Period. During this period, the use of being thrown into the river to detect a crime under the arbitration of the River God (Nârum/Nârim) in Mesopotamia can be seen in the written legal rules, especially in the articles regarding adultery and witchcraft. In these articles, the expressions: "ana dÎD illak dÎD išalliamma: He will go to the river (and) dive into the river" are clearly read⁵⁸. In a text dated to the beginning of the reign of Ashurbanipal (668-626 BC) in the Neo-Assyrian Period, it is seen that the term "Hursanu" was used differently for Nehir Ordali in two accusations made by Asalluhi-nadin-ahi⁵⁹.

⁵⁴ FLORIOTI and DEMİRCİ, p. 31.

⁵⁵ AKYUZ, p. 167, 167.

⁵⁶ TOSUN and YALVAÇ, p. 40-41.; KITCHEN and LAWRENCE, p. 1086

⁵⁷ ROTH-HOFFNER-MICHALOWSKI, p. 283.; TOSUN and YALVAÇ, p. 40, 41.

⁵⁸ FLORIOTI and DEMİRCİ, p. 29.

⁵⁹ KATAJA, Laura: "A Neo-Assyrian Document on Two cases of River Ordeal", SAAB 1 /2, Helsinki, 1987, p.66, 67; FAÏST, Betina: 014. "The

III. ANATOLIA

It is known that Hittite law was under the influence of Mesopotamian law⁶⁰. Detecting crimes by throwing them into water, which was seen in Mesopotamian societies, was a practice that influenced the Hittites and was adopted by them⁶¹. In the tablets unearthed in Kültepe near Kayseri in 1962, information was found about the practice of people committing crimes going to the river (throwing them), that is, resorting to the arbitration of the River God (dNārum) to prove the crime (nehir ordali)⁶² (Figure 4). However, although there are places in the Hittite texts recovered so far where river ordal is mentioned within the framework of the phrase *ıDya/hapa pai* - “going to the river”⁶³, it is noteworthy that there is no legal provision on this subject in the Hittite laws⁶⁴.

Ordeal in The Neo-Assyrian Legal Procedure” in: AOAT 412, Ugarit-Verlag, Münster, 2014, p. 189–200.

⁶⁰ TOSUN, Mebrure: “Law, Code and Justice Concepts and Related Terms in Sumerian, Babylonian and Assyrians”, *Bellefen*, XXXVII/148, TTK, Ankara, 1973, p. 561.

⁶¹ HOUT, Theo Van Den: Ordal. B. Bei den Hethitern, *Reallexikon der Assyriologie* 10, 2003-2005, p. 129, 130.

⁶² GÜNBATTI, Cahit: “Water Ordali” in Ancient Anatolia. *Archivum Anatolicum Anatolian Archives*, 1995, p. 4, 85-86.

⁶³ SEVİMLİ, Şükran: Water Use in the Value System of the Ancient Hittite Civilization of Anatolia, National Water Days 6-8 October 2004, *Proceedings*, İzmir, 2004, p. 268.

⁶⁴ IMPARATI, Fiorella: Hittite Laws Trans. Erendiz Özbayoğlu, Italian Cultural Delegation, 1992, Ankara, p.139; TOPÇUOĞLU, Hamide: “The Origin of Ancient Israeli Law, Its Characteristics and Its Relationship with the Law of Hammurabi”, *A.Ü. Faculty of Law Journal*, 1948, Vol.5, P.1-4, p. 294; FIDAN, p. 75.

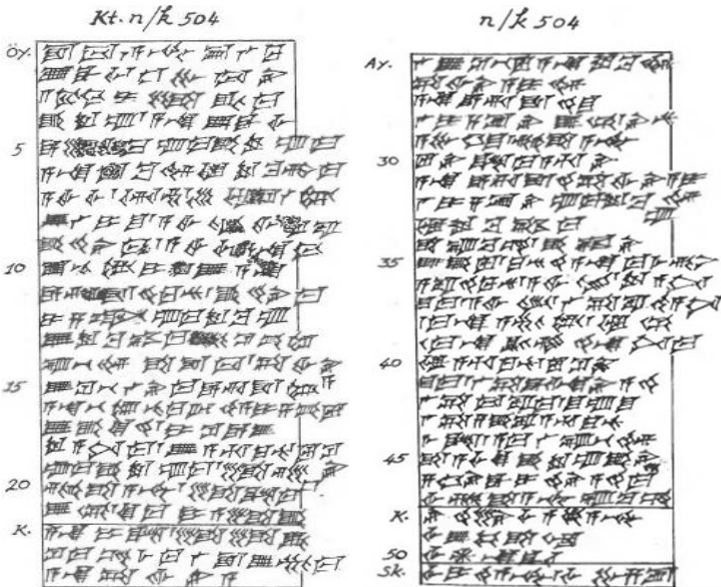


Figure 4: KT documenting the river god ordal unearthed in Kültepe in 1962. Tablet n/k 504. (Source: Cahit Günbattı, Water Ordali in Old Anatolia, <https://dergipark.org.tr>).

Which was found in Kültepe in 1962 and shows the details of the trial of the river god (ordali) practiced in the Ancient Anatolian culture⁶⁵, shows that some events that took place between the king and queen of an unnamed kingdom in Anatolia and the representatives of that settlement (Karum) were arranged in the presence of witnesses. It is understood that there is a report. The content of the report on the tablet is as follows: The Assyrian merchant, Assur-taklaku, was arrested by the palace. Two months after this incident, a delegation from Karum appeared before the king and queen in the palace, declared that this person was innocent, and asked for his release. Those in this delegation told the king and queen that Asur-taklaku had a workplace near their workplace and that he, like them, would always be ready for the orders of the king and queen, and asked him to either swear on the dagger of the god Asur⁶⁶ or the local people. They offered him a chance to prove his innocence by going to the river exam (ordali). Upon this offer, the king and the queen requested the

⁶⁵ LARSEN, Mogens Trolle: Kültepe Tablets VI-a. Ankara: Turkish Historical Society Printing House, 2010. P. 327.

⁶⁶ AKYUZ, p. 165-177.

delivery of a person who had a relationship with their enemy, the king of Tawiniya, and who was engaged in some activities against them, so that the detained merchant could be released. They stated that if this person was not handed over, they would be given 1 mina amutum or 10 minas of gold, otherwise Assur-taklaku would be killed because these conditions were not met and the name of the person accused of serving the king of Tawiniya was not disclosed⁶⁷. The phrase of going to the river like the local people mentioned in this text is an important document showing that in Ancient Anatolian cultures, as in Mesopotamian cultures, the river god was consulted to prove innocence.

IV. EGYPTIAN

The Nile River, which is the most important water source that gives life to the region, has been sacred in Egyptian geography, just like in Mesopotamia. Although direct river ordali application is not observed as in Mesopotamia and Anatolia, some themes reminiscent of ordali application are observed in the mythology of Osiris, the god of the underworld. According to mythology, Osiris was killed by his brother Seth on the river bank and put him in a coffin and left him⁶⁸ in the Nile River, just like children, the mythical hero we encounter in Mesopotamian and Anatolian mythologies, are left in rivers. Although the coffin of Osiris, protected by the Nile, was found and hidden by his sister Isis⁶⁹, Seth found the coffin again and cut the body of Osiris into pieces and scattered them all over the world⁷⁰. However, after Isis found the other parts, one of which was missing, she revived Osiris with a spell, allowing him to unite the abundance of the underground with the waters of the Nile as the god of the underworld. As a matter of fact, it can be seen that many mythologies about the abundance and abundance that the Nile offered to the Egyptian geography have been passed down to the present day. One of these narratives is the “Nile Bride Ceremony”, in which a beautiful young girl is thrown into the water, which was practiced from the Old Dynasties Period until the Islamic conquest in

⁶⁷ GÜNBATTI, 1995, p. 4, 78.

⁶⁸ WESTENHOLZ, J. Goodnick. Legends of the Kings of Akkade: The Texts (E-Mc-7). Indiana: Eisenbrauns, 1997, 39.

⁶⁹ WITT, Reginald Eldred: Isis in the Graeco-Roman World, 1971, p. 18

⁷⁰ MOSJOV, Bosana, Osiris: Dead Afterlife of Good, Published by John Wiley and Sons, Ltd., United Kingdom, 2005, p. 102.

order to neutralize the excesses of the raging waters of the Nile River. It is noteworthy that it is continued by the Copts today as the “night of immersion in water”⁷¹.

V. GREEK AND ROMAN

Although there is no direct practice of river law in Greece and Rome, we encounter some practices that resemble this form of law. The similarity of Themis (Figure 5), the representation of nature’s order and justice in Greek mythology⁷², to Enki, who regulates the shaping, functioning rules and laws of the earth in Mesopotamian mythology,⁷³ indicates a cultural influence.



Figure 5: Themis, goddess of justice and order. (Source: <https://tr.wikipedia.org/wiki/Themis>).

In addition to this cultural influence, the Areopagus Hill near Athens, where the noble class who advised the governments of the period

⁷¹ EYMEN, Fuad Seyyid, EF, 2000. “Alexandria” Encyclopedia of Islam, (vol.:22- pp.574-576), Türkiye Diyanet Foundation Islamic Research Center, İstanbul, 2007, p. 123.

⁷² ERHAT, Azra, Dictionary of Mythology, Remzi Kitapevi, İstanbul, 1978, p. 309.

⁷³ KRAMER, 1999, p. 114.

on religious, political and legal matters, gathered,⁷⁴ attracts attention. According to mythology, there was a spring gushing water at the foot of the Areopagus hill, also known as the Ares hill. One day, when he saw Halirrhotos, the son of the sea god Poseidon, teasing his own daughter Alkipe at the bottom of this spring, the god Ares killed Halirrhotos with a sudden move. The name of this hill became the judgment hill (Areopagus) because Poseidon, whose son was killed, asked the assembly of gods to judge Ares here⁷⁵. Most likely the Greeks B.C. While opening to the east during the period of colonization activities in the 8th century⁷⁶, by adapting the stories about Hit and Sippar, which were the judgment cities in Mesopotamia and where the criminals were thrown into the river from a high place, to the mythology about Ares, the Eropagos hill, which had a water source underneath it, was declared as the judgment hill in terms of formal similarity, since there was no stream nearby. It is understood that they did. It is known that Nymphs, the nymphs of nature who protect and balance the forests and groves in nature that give life to the Greek geography, as well as in Mesopotamia, Anatolia and Egypt, where rivers give life, and especially the rivers and waters like the god Enki in Mesopotamia, play important roles as divine beings⁷⁷. When the Greeks, who saw God as a human being and built houses and temples for the gods just as people needed houses, started to build houses and temples for the Nymphs, whom they saw as secondary gods, on sacred water sources, fountain (Nymphaeum) architecture in the form of houses⁷⁸ emerged⁷⁹. It is understood that the Danube River was adopted as a human god because it gave life to Europe. On the “100-foot column of Trajan”, erected in Roman form in 113 AD in memory of the two Dacia

⁷⁴ MANSEL, Arif Müfid, Aegean and Greek History, TTK Publishing House, 1999, Ankara, p. 183.

⁷⁵ GRIMAL, Pierre, Mythology Dictionary, Greek and Roman, Social Publications, 1997, Istanbul, p. 86.

⁷⁶ LOON, Maurits Van, “The Place of Urartu in First-Millennium BC Trade” Iraq, 1977, p. 229.

⁷⁷ ERHAT, p. 239.

⁷⁸ SALTUK, Secda, Archeology Dictionary, İnkılap Publishing House, 1997, Istanbul, p. 126.

⁷⁹ Fountain structures, transformed from Greek mythology narrative into architectural form, truly resemble a human face. With its façade and temple-shaped superstructure (a human god giving water to everyone passing in front of him), it continues to exist until today as the basic example that affects fountain architecture in all world cultures.

(Romania) campaigns organized by Trajan, the God of the Danube River, “Father Danube”, is depicted in the position where he inspects Trajan’s army from a cave, as if welcoming them to victory⁸⁰ (Figure 6). Here, Baba Tuna, the god of the Danube River, welcoming and greeting the army of Trajan, who came to invade and capture the region, or showing him inspecting it, can be interpreted as an attempt to justify and legitimize the Roman attack through the river god, in a way that evokes the practices of river ordali.



Figure 6: Baba Tuna, god of the Danube River, on Trajan’s Column. (Source: <https://www.google.com/search>).

VI. CONCLUSION

Since human beings are water-dependent creatures, they have not moved away from water resources. With the Neolithic age, the first settlements emerged along the river. The geographies where the first riverside settlements emerged were Southeastern Anatolia Region and Mesopotamia. The Tigris and Euphrates rivers, which give life to Mesopotamia, have gained a divine feature for the people living in the region because they are the main factor in maintaining everyone’s life. We witness that people from different geographies began to migrate to Mesopotamian cities in order to survive in these fertile geographies. In order to ensure justice in cities consisting of different ethnic structures,

⁸⁰ WHEELER, Mortimer: Roma Sanatı ve Mimarlığı, Hömer Kitapevi ve Yayıncılık, Limited Şirketi, İstanbul, 2004, p. 170.

law and laws were created with the invention of writing. In these laws, which appeared for the first time, people accused of crimes were thrown into the raging waters of the Tigris or Euphrates rivers for the river trial called ordali, in order to find out whether they were guilty or not. The word Ordali is derived from the words “Ordal” in English and “Urteil” in German, meaning trial, and is a method of throwing people into the raging water to find out whether the accused are guilty or not. While conveying the old and new position of women for the first time during the Urukagina period, we understand that the king was actually trying to protect and secure the moral structure of the society by introducing the river ordali practice to those who wanted to continue the old one. In the laws of Ur-Namu, river ordali was applied regarding magic and adultery. However, valuable goods will be taken from those who cross the river crossing and slander as punishment, as determined by the law. It is seen that during the Hammurabi period, river ordali was implemented in more detail according to the needs of the society. In the laws of Hammurabi, it is understood that river ordali was also applied in commercial disputes. In the Ana Ittishu laws, river ordali was applied to women who hated their husbands and could not be tied to their homes. We witness that the river ordali exam was widely used in the Middle and New Assyrian periods. We can understand from written sources that river ordal was practiced in Kızılırmak during the Hittite period in Anatolia. Although there is no direct application of ordali for the Nile River in Egyptian civilization, there are some mythological narratives reminiscent of the river ordali. There is no direct application of river ordali in the Greeks and Romans. However, in the mythology associated with Ares, the place where Ares committed the crime, that is, the Eropagos hill, is adopted as the court or trial hill, reminding us of the river ordal in Mesopotamia. Likewise, in Roman culture, it is understood that there were some practices reminiscent of the river ordal from the depictions on the Trajan column erected in the Roman Form in memory of the Dacia expedition.

The need for law was felt as large and diverse human communities came together in the processes of urbanization and statehood. The Tigris and Euphrates rivers, which were accepted as the reason for everyone’s existence in Mesopotamia, became a form of divine judgment by throwing people into these rivers to understand the crime and the criminal. It is seen that this form of judgment later affected the surrounding cultures.

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