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ՀԱՏՈՐ IX, ՀԱՍԱՐ 1 – 2015

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HITTITE CRIMINAL LAW IN THE LIGHT OF MODERN PARADIGMS: SEARCHING FOR THE TRACES OF MODERN-DAY CRIMINAL LAW IN THE PAST

İlknur Taş, Veysel Dinler

Introduction

This study is intended to discuss Hittite criminal law in a systematic manner. For this purpose, we will review the subject within the framework of modern-day criminal law and its institutions. Thus, our research aims for a bilateral scientific contribution.

This contribution is primarily for the studies on Hittitology. It would be quite assertive to claim that the study reveals new findings or data. On the other hand, it may be argued that the study functions as an innovation in, and contribution to, the approach to Hittite criminal law. That is to say, the Hittite law will be analyzed in such great detail and systematic approach for the first time, specific to criminal law. Secondly, it is intended to explain Hittite criminal law through institutions and conceptions of modern-day criminal law. This may, at first glance, seem to be open to criticism as an unsafe and extraordinary approach. To us, it represents an innovation for the studies on Hittitology, just as is necessary for modern-day jurists to understand the Hittite criminal law better.

The second contribution is intended for the legal history. Consequently, as a set of rules regulating social relationships, law is in a constant state of development and evolution along with societies. Institutions and conceptions of law automatically emerge in line with social needs rather than being an invention and they are altered and reconstructed by practices. The origin of today's conceptions dates back to past times. Considering this fact, one needs to search for origins of modern criminal law and its institutions in the past.[1] The term legal archaeology used by Novkov refers to analyzing the production of legal discourse. It is a kind of methodology that enables us to seek and understand what the real meaning of law is and why law is formed.[2] In a like manner in this study, we will discuss, in terms of criminal law, to what extent modern-day criminal law conceptions play a part in the Hittite criminal law and to what extent the Hittite world of law corresponds to modern-day practices. Surely, one cannot expect criminal

[1] See Somer 2005: 223.

[2] Novkov 2011: 348.

AJNES IX/1, 2015, p. 73–90

law practices of the Hittite era to be exactly the same as modern-day criminal law. However, some clues could be obtained as to whether it formed the basis of modern-day practices. On the other hand, it is also possible to encounter the exact opposite of modern-day practices. In any case, seeing or not seeing the opposite of or the same of modern-day criminal law conceptions and institutions within Hittite criminal law will yield significant results for the legal history.[1] As specifically emphasized by Alp, the Hittite law code does not only provide information, but also enables us to identify the position of Hittite law in the development of law by comparison between the role of the Hittites and that of ancient civilizations.[2]

Some concerns are likely to occur in relation to the subject of the study. First of all, the information on the Hittite law code is based on two groups of cuneiform clay tablets found during the excavations between 1906 and 1912.[3] It is a known fact that some parts of these two tablets are missing. Furthermore, it is questionable that all tablets of the Hittite law code could be found. Under these circumstances, it would be a more truthful approach to indicate that it is unknown whether or not the Hittites had some institutions instead of claiming that they were missing the said institutions vis-à-vis modern times. Out of available findings, those of which enable us to make comparison will be analyzed. In addition, some differences between the edited clay tablets may result in several interpretations of a single subject.[4]

The study will progress under three main topics. Under the first topic, some information will be provided in connection with the Hittite criminal law. We will generally refer to the basis of punishment and the legal texts on which criminal law is based and their content. Under the second topic, institutions and conceptions of modern-day criminal law will be mentioned and their equivalents in the Hittite criminal law will be discussed. Under the last topic, crimes and punishments in the Hittite criminal law will be provided systematically. The intention hereunder is to explain the subject by a bilateral perspective (on Hittitology and legal history) and multi-disciplinary methods.[5]

A. Hittite Law and Criminal Law

The Hittite law code is a set of laws that were codified, not in a written form of law which existed among the community.[6] In the inscription on the bottom of one of the tablets it is declared that the one who wrote the law code was the father of "his majesty". Additionally, the existence of some provisions on Arzawa, Luwiya and Pala nations in the law code demonstrates that laws were codified during the most powerful era of Hittites,

[1] Somer 2005: 229.

[2] Alp 1947: 465.

[3] CTH 291, 292; Hoffner 1997: 8ff.

[4] For examples see Alp 1947: 467.

[5] For the importance of multi-disciplinary study on this subject see Alp, 1947: 467. See also Somer 2005: 229f.

[6] Alp 1947: 469.

probably in the middle of the era of Hittite Empire and the 16th century BC.[1] In addition to clay tablets, kings' orders and decrees, court decisions, wills, agreements and cult inventory records provide insight into Hittite law and particularly Hittite criminal law.[2]

The first one of two tablets begins with the words 'if a man' and mainly includes some provisions on the protection of the rights of individuals, and of the property. The second tablet begins with the words 'if a vineyard' and includes some regulations on landowning and agricultural equipment. What is more, a tariff of penalties is also included in these tablets.[3]

Each tablet contains 186 articles. It is thought that other tablets may exist due to the impossibility of governing the entire social life by a total of 186 articles.[4] The lack of documents supports the opinion that one should not consider the Hittite law code as codex similar to that of the civilizations in South-West Asia.[5] A fixed sorting (sequence) criterion is not very clear in tablets. The items in tables are sorted sometimes depending on types of crime and sometimes on the content of crimes. And sometimes, articles are sorted randomly.[6] As advocated by Alp, Korosec claims that articles are sorted starting with the most important ones and ending with the least important ones. It is not possible to refer to an individual criminal law for the Hittites. In two tablets including the Hittite law code, it is possible to encounter various provisions from family law to commercial law, legal obligations and even to business and environmental law.

Those authorized to make laws hold the power to punish. As is in other civilizations of South-West Asia, the creator of law is the king. He is granted this authority by God. Based on the cuneiform tablets in the Hittite language, the enforcer of written law, in other words the chief judge, is the king. Those committing crimes, whether or not referred to in articles of code, against the king are punished relentlessly.[7] In ancient ages, criminal law was considered in association with morals and religion. It is almost impossible to make a separation between law, morality and religion in communities governed by theocracy.[8]

As stated above, the Hittite civilization's perspective on law is completely based on religion. The word '*waštul*' has two meanings, being 'crime' and 'sin'. It expresses any act which is sinful before Gods and which is also deemed criminal act to the law code.[9] Gods are righteous and truthful masters protecting all beings.[10] It is also possible to come across religious characteristics of law in some practical examples. For example,

[1] Alp 1947: 469 and 471.
[2] Alp 1947: 482.
[3] Dinçol 1990: 84.
[4] Dinçol 1990: 84f.
[5] Dinçol 1990: 85.
[6] Alp 1947: 471.
[7] Süel 2012: 310.
[8] Süel 2012: 309.
[9] Dinçol 2003: 11.
[10] Dinçol 1990: 86.

those who rape a horse or mule are not allowed to be a priest. Similarly, when an offender is executed in a city, all inhabitants of that city are required to wash themselves and thus enter into a stage of religious purification.[1]

The principle of 'talion', a practice of personal revenge, which is expressed as 'eye for an eye, tooth for a tooth', is practiced in ancient civilizations.[2] The Hittite civilization prevented those injured from taking law into their own hands.[3] On the other hand, some traces of such ancient practices could be found.[4] For example, if a wife is caught (in flagrante) committing adultery by her husband, he is entitled to execute his wife and the man who seduced her wife in accordance with the law code.[5] In one of his prayers, Muršili II said that slaves could be punished by their masters in case of committing any crimes and they could also be forgiven by their masters again when they confessed their crimes.[6] Furthermore, the law code allows that slaves who enraged their masters could be injured physically or executed by their masters.[7]

The lawmaker in the Hittite civilization perceived punishment not as the prevention of others from suffering the same injury, but as the compensation of injury incurred by the claimant and this is a matter of progressive understanding when compared to its era from this perspective. [8] A parallel may be drawn between this approach and today's prominent conception of 'restorative justice'.[9] It is also possible to see other similar examples of modern-day restorative justice conception within the Hittite criminal law. When a legator is murdered, the rights of inheritors to compensation continue to exist. Where the murderer cannot be identified, the owner of the land where the dead body is found has to pay compensation. If the dead body is found on an unclaimed land, the compensation is collected from the nearest settlement.[10] For crimes of bodily injury, treatment expenses incurred by the injured and compensations for the period in which the injured is deprived of the ability to work should be paid.[11]

It is understood, by the introduction of punishments, that the primary purpose is to preserve state authority. The failure to obey the king's orders and decisions requires capital punishment.[12] With the exception of crimes requiring capital punishment, the king had the last say on this matter again since the lower courts were not authorized to rule for capital punishment.[13]

[1] Dinçol 1990: 87.
[2] Dinçol 1990: 86.
[3] Alp 1947: 479; Dinçol 1990: 86.
[4] Alp 1947: 479.
[5] &197; Hoffner 1997: 121.
[6] Alp 1947: 477.
[7] Alp 1947: 477.
[8] Dinçol 1990: 86f.
[9] For details see Çetintürk 2008: 15ff.
[10] &6 Hoffner 1997: 13; Friedrich 1971: 90; Doğan 2012: 110ff.
[11] &7- &10, Hoffner 1997: 16-19; Doğan 2012: 120ff.
[12] &173, Hoffner 1997: 109.
[13] Doğan 2012: 75.

However, one may point out that punishment within Hittite criminal law pursued a goal of prevention, particularly regarding the severity of punishments enforced in relation to specific crimes (for example, the obligation for those stealing animals to pay a penalty 15 times the value of animals or a penalty 30 times that value as in the old law code). Having not taken into consideration the ability of these offenders to pay, Alp directly describes punishments in terms of their preventive aspect.[1] Penal provisions on the protection of agriculture are also available in the Hittite law.[2]

There is some incomplete information on the existence of an individual judicial institution in the Hittite society. What we know is that no separate justice institution existed and it is accepted that administrative and military officers also had judicial power.[3] As referred to in legal texts, we know that the officers bearing titles such as the council of aldermen $^{LÚ.MEŠ}$ŠU.GI, the provincial commissioner MAŠKIM URU^{KI}, magistrates $^{LÚ.MEŠ}$DUGUD and military governors *BEL MADGALTI* may represent the king in jurisdiction and execute jurisdiction on behalf of the king.[4] The magistrates called as ^{LÚ}DUGUD were present at non-central courts. When referring to the court in the Hittite law code, the phrases 'the palace gate' and 'the king's gate' are used. The king serving as the high priest is also the chief judge.[5] It is impossible to think that the king heard all cases. The other judicial officers named above presumably heard cases of less significance.[6] And the king heard cases where a capital punishment was required or high officers had difficulty in resolution. In a sense, the king served as a supreme court.[7] The statement of Tudhaliya IV in one of his decrees verifies this thought: "However, place the case with which you are unable to deal before your master the king. The king shall personally examine it."[8]

At the same time, the king had the right to pardon. On the other hand, he had no power to pardon in murder cases. The following statement is included in a decree enacted by the king Telipinu: where a blood feud occurs, "it is the blood owner who rules the roost and if he rules for execution, the offender will be executed and if he rules for compensation, the offender will pay compensation, and the king has no authority in this respect."[9]

It is understood that the Hittite law underwent a crucial reform from the type of inscriptions in the Hittite law code and their grammatical features as well as the phrases 'before' and 'now' as provided in the articles of code.[10] The Hittite law code

[1] Alp 1947: 479.
[2] Alp 1947: 476.
[3] Alp 1947: 481.
[4] Alp 1947: 481.
[5] Süel 2012: 310.
[6] Dinçol 1990: 88f.
[7] Alp 1947: 481.
[8] Süel 2012: 310.
[9] Dinçol 1990: 89.
[10] Dinçol 1990: 85.

was developed in four stages during the period between Muršili I and Tudhaliya IV. At the first stage, customary rules were gathered and put in writing. At the second stage, the torture punishment (punishment of dismemberment as being fastened to oxen) was replaced with the penalty of sacrificing an animal as compensation. At the third stage, capital punishments were altered as compensation penalties. And at the last stage, severe compensation penalties were mitigated.[1] In addition to the codified law code, one should always remember (*natta ara*) by which established customs were practiced and customary laws were put into effect.[2]

B. Hittite Law Within the Framework of Modern Criminal Law Principles and Institutions

What is implied by the phrase 'modern criminal law principles and institutions' is a set of principles and institutions particularly governing the European and Anglo-Saxon laws in today's modern societies? In the historical process, criminal law emerged with the creation of society and underwent a wide range of stages and changes and took its current form.

Foundations of modern criminal law were laid along with the Enlightenment. In this age, restrictions imposed on state power and the idea favoring that people had rights before the state affected the perspective on criminal law. Torture ceremonies that became very ordinary and widespread during absolute monarchies gave rise to the re-questioning of crimes and punishments. The treatise 'On Crimes and Punishments' written by the Italian jurist Beccaria in 1764 is recognized as the beginning of modern criminal law and the Classical School.[3] Schools which emerged thereafter and discussion between these schools took their current forms by developments experienced in the understanding of human rights.

It is possible to refer to a vast number of principles that govern modern criminal law. These may be listed roughly as 'the rule of law', 'legality principle', 'principle of guilt' and 'humanitarianism'.[4] Although one may count more of these principles, this chapter will particularly refer to the role of these four principles in the Hittite law.

1. The Rule of Law and the Principle of Equality

As a *conditio sine qua non* of a libertarian and pluralist contemporary law, the rule of law means, by the simplest definition, any state following the rules established by itself.[5] This definition may also be broadened as follows: any state complying with pre-specified legal rules in all its acts and actions. The basic purpose of the principle of the constitutional state is to impose restrictions on the state by norms which have

[1] Dinçol 1990: 85.

[2] Cohen 2002: 73ff.

[3] Beccaria 2004.

[4] Centel *et al.* 2011: 42; Hakeri 2011: 11.

[5] Metin 2008: 577.

existed before the state and which are superior to it. Additionally, it aims to enclose the state by some fundamental principles such as legality, justice and human rights.[1]

The rule of law expresses the government being restricted by law and individuals being ruled lawfully in accordance with the rule of law.[2] The purpose for the existence of this principle is the security of an individual before the state. The rule of law enclosed by the principles of 'predictability', 'universality' and 'justice' intends to eliminate the government's arbitrary behaviors.[3] The rule of law provides individuals with assurance against arbitrary ruling by rendering the state government bound by very strict rules. Any prior knowledge about the rules by which the government will be governed is of great importance to individuals.[4] The rule of law means providing a judicial security for individuals. For such accomplishment, the judicial order should include some elements.[5] The laws enforced by a constitutional state should be explicit and clear so that individuals living within the boundaries of that state may know what is prescribed by law and may act accordingly.[6]

The Hittite kings devised that the establishment of a sound social structure could primarily be achieved by justice. They took considerable measures for securing justice. The ordinance of Tudhaliya II, which was remarkable for every individual serving as a judge without any segregation, is as follows:[7]

"No matter to which province you may return, gather all the citizens of that province. Whenever one has a case to be heard, deliver a judgment on the case and satisfy the said person. If a slave or its master or an elderly woman has a case to be heard, deliver a judgment on the case and satisfy the said person. Do not make a simple case difficult. And do not demonstrate a difficult case as if easy. Do what is right." As is seen, the said addressing indicates that justice was secured and laws were (or intended to be) enforced duly.

In legal terms, equality is a new phenomenon for mankind. The idea that men are equal before law and codes of law does not date back to very old times and it was included in positive law by the French Declaration of the Rights of Man and of the Citizen in 1789 for the first time. For example, the equality before law was provided in the first version of the United States Constitution and the principle of equality before law was constitutionalized under the Section 1, the Amendment 14 to the United States Constitution[8] by the abolishment of slavery in 1868. As is in other fields of law, the development rate of the equality principle was also slow in criminal law. It is possible to find different practices until the ratification of the equality principle for crimes and

[1] Erdoğan 2007: 65.
[2] Arslan 2000: 77.
[3] Arslan 2000: 77.
[4] Erdoğan 2007: 66.
[5] Metin 2008: 578.
[6] Metin 2008: 578.
[7] CTH 258; Otten 274f.
[8] Gardner-Anderson 2012: 23.

punishments. For example, the punishment for crime could vary according to the social class to which the offender belonged in the past. Serious crimes committed by the noble class against those from a lower class could be punished with minor penalties, whereas minor crimes committed by those from a lower class against the noble class could be punished severely.[1]

Whether or not Hittite civilization had an institution of slavery is very controversial.[2] Slavery, which existed until the periods of ancient Greece and Rome and subsequent recent centuries with all its legitimate status, was not established among the Hittites similarly. As we may subsequently track down under the Hittite articles, the status of those placed under this category does not correspond to the conception and institution of slavery known to us. In consideration of the whole of Hittite social life, Hittite law, regulations and philosophy as a whole, we also agree with the idea that it would be a correct approach to translate and name their status as 'non-free' as asserted by Friedrich instead of slavery.[3] The differences between the status of non-free and slavery are considerably serious. However, for the purpose of rendering the thesis more visible when comparing Hittite law with modern law, the said persons were specifically named as slaves so that the recognized status of slavery could be compared with the status of those non-free in Hittite civilization.[4]

Even if the party injured by crime due to the offender's act is a slave, that slave will be treated in accordance with sanctions almost similar to those of imposed in respect to free persons. The only difference is that compensation is reduced by half. As a matter of fact, the same practice is valid for female 'offenders'. In a sense, this results from the relatively poor economic position of non-free persons and women and constitutes a positive discrimination indeed.

In some cases, there are differences in the enforcement of law for women. The code of law allows a husband to execute his wife for committing adultery, whereas women are granted no such right with regard to their husbands committing adultery. Likewise, the code of law segregates married women from single women and married women committing adultery is sentenced to death, whereas such act is not deemed a crime for single women.[5] A discrimination against women is observed for rape. When rape takes place outside the house, the male offender is punished, but if rape takes place inside the house, then the woman is deemed to be guilty and she is thus punished.

In terms of equality, one might count privileges granted to the noble class as one of the practices impairing equality in the enforcement of criminal law. Under the Hittite law code, noblemen or noblewomen who committed sorcery were punished by death or banishment, whereas slaves were definitely punished by death.[6]

[1] Taner 1949: 22.

[2] For discussions see Doğan 2012: 117ff.

[3] See Doğan 2012: 118.

[4] See Doğan 2012: 118.

[5] & 197, Hoffner 1997: 121f.

[6] Muršili II accused his stepmother Tawananna of Babylon, with whom he could not get along, of

2. The Legality Principle

The legality principle briefly means that crimes and punishments could be regulated by law; in other words, it is expressed by the phrase "no crime and no punishment without law". This principle is deemed to be the most significant principle of modern criminal law. It is also referred to as a 'guarantee/security function' against the state's power to punish due to the fact that it prevents the arbitrary exercise of the power to punish and provides individuals with security as crimes and punishments are recognizable beforehand.[1] The legality principle was first cited by Beccaria in the 18th century.[2] The phrase *nullum crimen sine lege nulla poeana sine lege* (no crime without law, no punishment without law), which has today turned into a maxim, was formulated by the German jurist Feuerbach.[3]

The most significant characteristic of the legality principle is the determination of crime and punishment by law. The legislation is the sole source of criminal law.[4] Accordingly, no penalty could be imposed on anyone and no security measures could be taken, unless any act is expressly considered a crime under the code of law. The act which is not expressly considered a crime by the code of law is legitimate.[5] Acts of crime should be specified under the code of law on an individual basis and the scope and limits of every act should be described very expressly.[6] Regulating a crime under the code of law does not suffice itself, but also it is necessary to set out a penal sanction against such crime.[7]

Some subjective consequences arise with respect to the specification of crimes and punishment under the code of law. These are the openness and pellucidity of crimes and punishments and the foreseeability of results. Furthermore, criminal codes should warn individuals before inflicting punishment on them. No negative situations are observed in the Hittite law regarding the openness of criminal norms. Although transcriptions of cuneiform scripts include different interpretations, it is possible to say that the Hittite criminal norms are open and explicit under their own circumstances.

In accordance with the legality principle, criminal judges may inflict a punishment that is expressly specified under the code of law only for an act that is expressly defined under the code of law again. This precludes judges from making comparison; that is to say, restrains them from inflicting punishment for similar acts even if not stated as a crime under the code of law. No precise information could be obtained as to whether or not judges made comparison when enforcing the Hittite criminal law.

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bewitching and killing his own wife and banished the queen mother. Dinçol 2003: 16-18; Süel 2012: 313.

[1] Önder 1992: 56; İçel-Donay 2005: 74; Özbek *et al.* 2012: 67.

[2] Beccaria 2004: 41.

[3] von Feuerbach 1812: 22.

[4] Alacakaptan 1958: 6.

[5] Alacakaptan 1958: 6.

[6] Hafızoğulları - Özen 2010: 19.

[7] Alacakaptan 1958: 6.

Another result of the legality principle is the non-retroactivity of laws. In other words, crimes and punishments set out by the law may not be applicable to a retrospective act. The reform experienced in the Hittite criminal law is mentioned above. It is understood that punishments were mitigated and compensation was reproduced and rendered more humanitarian during the reform. From the phrase 'it used to be that way', not 'it is this way' referred to in the Hittite inscriptions, one might understand that the new code of law was applied to acts committed after the amendment to laws.[1] However, there is no precise information on whether or not the new code of law was applied to retrospective acts. On the other hand, it is impossible to indicate that criminal law was executed retrospectively in consideration of the relatively long duration of reform period.

Ensuring the social order requires making laws in writing. Because varying punishments may be inflicted for crimes in case of the lack of written laws, thus leading to the impairment of the sense of justice among society. By written laws, the infliction of varying punishments on individuals and arbitrariness are precluded.[2] The words said by Tudhaliya II "Let him not make a justified case be lost and let him not make a unjustified case be won! Do whatever is right!" may be considered crucial for the preclusion of arbitrariness intended by today's legality principle. However, what is written in laws or the king's decrees are not alone enough to assert the existence of a legality principle in the Hittite criminal law. It is also necessary to be able to know court decisions and the practice. When one obtains sufficient information on whether or not there were practices other than those written in laws, or whether judges inflicted punishments only for crimes specified under laws or for similar misdeeds, this question will be answered in a more precise manner. Nevertheless, the known fact that the rulers of Hittites had an understanding of 'law enforced straightforwardly' as an ancient civilization is a crucial point on which one should dwell.

3. The Principle of culpability (Principle of Guilt)

The principle of culpability prescribes punishment, provided that the offender is accused of any act constituting a crime. The offender will be an imputable person and engage in such an act willingly and deliberately (at least knowingly).[3] In Latin, it is expressed as a*ctus non facit reum nisi mens sit rea* (an act does not make a person guilty unless the mind is guilty).[4] The understanding of objective liability was abandoned due to the culpability principle. In accordance with this principle, only if the offender is culpable will he or she be subject to punishment to the extent of his culpability. The existence of any crime does not necessarily mean that the offender will be punished accordingly. For the imposition of a penal sanction on the offender, he or she should culpable due to the injustice constituting a crime.[5]

[1] For exemplary articles see & 7; &9; & 121 usw.; Hoffner 1997.

[2] Dinçol 1990: 84.

[3] Hakeri 2011: 28.

[4] Gardner-Anderson 2012: 55.

[5] Centel-Zafer-Çakmut 2011: 44f.

Objective liability, in other words, the possibility of a person being punished owing to any actual crime regardless of culpability, is an understanding abandoned in today's modern criminal law. There are some examples as to the practicing of objective liability in the Hittite criminal law. If a dead body is found on a field (arable land), the field owner is liable for paying compensation to the relatives of the deceased person. If the dead body is found on an unclaimed land, the nearest village is held liable for this act.[1] Whether or not the field owner or the village community is culpable is not taken into consideration. It is possible to consider this situation as an extreme practice of the sense of restorative justice among the Hittites.

Intention is the basis of penal liability in modern criminal law. That is to say, a person should be engaged in an act of crime willingly and knowingly to be held liable for such crime. On the other hand, negligence liability is accepted for specific crimes as an exception. A person may lead to the emergence of a consequence due to negligence and he or she is held liable for such consequence, although it arises out of his or her accord. The institution of negligence is known to have existed in the Hittite criminal law. For example, if an act of homicide has occurred by accident (*keššaršiš waštai*), the punishment is mitigated by half.[2]

Similarly, the institution of self-defense is known to have existed in Hittite criminal law. If the act of homicide has occurred as a result of self-defense, the punishment is mitigated in consideration of this fact.[3] The Hittite law code also includes a regulation on criminal attempt.[4] A penalty of 12 shekels is imposed when a free person committing a theft is caught on the doorway, whereas a slave is penalized with 6 shekels for the same crime.[5]

In a modern society, the personality principle on crimes and punishments arises as a natural consequence of the culpability principle.[6] Collectiveness is the basis of penal liability in ancient ages.[7] In Europe of the Enlightenment, it was generally emphasized that the liability for crimes and punishment had to be personal.[8] The crime will be left unpunished under any circumstances whatsoever or the infliction of punishment on individuals will not be sought against every crime that has taken place. Neither the offender's relatives could be punished nor should any other person be affected by the punishment inflicted on the offender. This assurance is a significant one for precluding individuals from being punished in today's legal system due to acts which have occurred beyond their own will. Since individuals may not be punished for any act for which

[1] &6, Hoffner 1997: 13; Friedrich 1971: 90; Doğan 2012: 110ff.

[2] &174, Hoffner 1997: 38; Alp 1947: 480.

[3] &37, Hoffner 1997: 38.

[4] "Attempt crimes: Acts that are substantial step toward the commission of a crime that is not completed yet.", Gardner-Anderson 2012: 89.

[5] & 96-97, Hoffner 1997: 74f.

[6] Hakeri 2011: 28f.

[7] İçel-Donay 2005: 38.

[8] Montesquieu 2011: 108.

they are not held culpable, a punishment may be inflicted on someone only for his/her culpable act. Therefore, any crime committed by a family member, his/her relatives or anyone from his/her clan will not bear any impact on the punishment of the individual. This principle is also a consequence of the culpability principle.[1]

One might assert that Hittite law included crimes and punishments with personalities. On the other hand, it is also possible to encounter any liability arising from the family in relation to crimes and punishments. In an instruction text which is understood to have been written for servants at the palace and dated to the Imperial age, one of the Hittite kings threatens to kill the servants serving in the palace kitchen along with their spouses and children where they commit a crime.[2] The expression of Muršili II in his plague prayers "Mankind is a sinner and the sin of a father is passed to his son. And the sin of my father is now mine." also indicates the acceptance of collective/family liability.[3]

The acceptance of culpability principle in modern criminal law prohibits the punishment of properties, animals, and people devoid of capacity to commit a crime (infancy and insanity defense).[4] The death penalty for oxen leading to the death of people was accepted among the Hittites.[5] Likewise, it is surprising that a provision on the punishment of cattle exists on the basis of the presumption that cattle and pigs could rape people.[6]

4. Humanitarianism

In criminal law aspects, the humanitarianism principle expresses the compliance of crimes and punishments with human dignity. It might not be very logical to discuss humanitarianism for a period of underdevelopment of human rights and, in particular, of human dignity.[7] In modern criminal law torture and cruel punishment were abandoned[8] and whether death penalty is inhuman is a controversial issue.[9] The 5th article of Universal Declaration of Human Rights is as "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment." This phrase is widely repeated in international human rights conventions and in most constitutions.[10]

At this point, referring to some practices in the Hittite law associated with human dignity might come in useful. The inhuman praxis dismemberment, torture and water ordeal were practiced as punishment in Hittite Age. Another type of punishment, which

[1] Hakeri 2011: 29.
[2] CTH 265; von Schuler 1982: 124ff.; Dinçol 1990: 87.
[3] CTH 378, Singer 2002: 48; 59 (& 8, Rs. 10'-19').
[4] See Gardner-Anderson 2012: 109ff.
[5] &166-167, Hoffner 1997: 105; Dinçol 1990: 87.
[6] &199, Hoffner 1997: 122.
[7] See Özbek *et. al.* 2012:79f.
[8] Centel-Zafer-Çakmut 2011: 42.
[9] See Chemerinsky 2004:1052f.
[10] Hakeri 2011: 26f.

may be characterized as against human dignity and even as an 'indignity punishment', is the practice of covering the head of a married woman who has cheated on her husband.[1]

It is observed that during the period of reform in Hittite criminal law, torture punishments and capital punishments were abandoned respectively in full and in part with the prioritization of fine as intended for free individuals. In other words, punishments were rendered more humanitarian after reforms in comparison with the old legal system.

C. Crimes and Punishments in the Hittite Criminal Law

Criminal norms consist of two elements, being a rule and a sanction. The rule is an order established for avoiding a specific behavior or act. The sanction is a legal consequence followed in breach of a rule.[2] It is also possible to see this characteristic in the inscription of the Hittite law code.

1. Crimes

Objecting to the decisions given by the king and the officers with jurisdiction power[3] and stealing the spears on the palace gate,[4] which are symbols of the kingdom's authority, are two of the punishments requiring the death penalty. On the other hand, the king has the power of pardon in such crimes.

Sex crimes have an individual place and importance in the Hittite law code. The sexual intercourse between free people and the physical intimacy between free men and their concubines are not deemed a crime in the Hittite civilization, provided that such acts are not forced.[5] On the other hand, a man was not allowed to marry his sister, mother or daughter and incest (*hurkel*) relationship resulted in capital punishment.[6] The act of incest which required capital punishment was not only effective for relatives by blood, but also for relatives by marriage. For example, it was also necessary to punish a man, who raped his stepdaughter or his mother-in-law or his stepmother, by death.[7] Notwithstanding, levirate marriage (in which the brother of a deceased man marries his brother's widow) is not recognized as a crime.[8] There was no provision on the consideration of homosexuality as a crime in the Hittite law code.

As to sexual intercourse with animals, the Hittite law code included special provisions. The act of sexual intercourse with cattle, pigs and dogs is a crime requiring capital punishment.[9] Although the act of sexual intercourse with horses and mules is

[1] &198, Hoffner 1997: 122.
[2] Toroslu 2011: 32.
[3] &173, Hoffner 1997: 109.
[4] &126, Hoffner 1997: 86.
[5] &190-194, Hoffner 1997: 118-ff.; Alp 1947: 480.
[6] &189, Hoffner 1997: 118.
[7] &190-195, Hoffner 1997: 118-ff.
[8] &193, Hoffner 1997: 120.
[9] &187-189, Hoffner 1997: 117f.

deemed to be a crime, it does not require capital punishment. Those who engaged in such acts are accepted to be stained in religious aspects and they are not allowed to be a priest.[1]

As is in Mesopotamia, casting 'witchcraft' is a serious crime and the king's judgment is required. Some articles in the Hittite law code addressed this subject.[2] Witchcraft is one of the major crimes among the Hittites and it requires capital punishment. If the person casting witchcraft is a member of royalty, banishment is imposed instead of capital punishment.[3]

Proprietary crimes are also considered significant in the Hittite law code. As mentioned above, stealing a bronze spear placed on the palace gate results in capital punishment since it is associated with the state authority.[4] Notwithstanding, stealing a wooden chair from the palace gate requires a fine of 6 shekels of silver, whereas stealing a water pipe requires a fine of 1 shekel of silver.[5] Stealing a plow required death by dismemberment by oxen in the old period of law. In the new law code, the penalty for this crime is 6 shekels of silver.[6] Resowing seeds on a field required death by dismemberment in the old law code.[7] In the new law code, it requires to pay a compensation of 30 breads and 3 bowls of quality beer. Stealing a stick of grapes from an enclosed vineyard requires a fine of 6 shekels of silver (up to 100 sticks), whereas stealing a stick of grapes from an unenclosed vineyard requires a fine of 3 shekels of silver.[8]

In the land of the Hittites, polluting a can of water or a water pond is also considered a crime since water resources are deemed holy and the offender should pay a compensation of 3 shekels accordingly.[9]

2. Punishments

In the Hittite law, punishment may be discussed under three primary groups as crimes requiring capital punishment, torture/physical punishments and compensation.[10] In addition, the 'water ordeal' was practiced in some cases as in other South-West Asian civilizations.[11] Fines were more predominant in the Hittite criminal law. Capital punishment and mutilation punishment which were more frequently referred to in the Code of Hammurabi are less encountered in comparison with fine.[12]

[1] &200, Hoffner 1997: 123.
[2] &111, Hoffner 1997: 81; Doğan 2012: 106ff.
[3] Dinçol 2003: 16-18; Süel 2012: 313.
[4] &126, Hoffner 1997: 86.
[5] &125, Hoffner 1997: 85.
[6] &121, Hoffner 1997: 83.
[7] &166-167, Hoffner 1997: 105.
[8] &108, Hoffner 1997: 80.
[9] &25, Hoffner 1997: 28ff.
[10] Dinçol 2003: 15.
[11] Sevimli 2004: 268.
[12] Alp 1947: 479.

Offenders were punished by death for serious crimes. There were several ways of execution. As mentioned above, the most horrible of these procedures applied in the past was the execution by dismemberment as the offender was being fastened to two oxen and pulled in opposite directions.[1] Stealing a plow or claiming a cultivated field also required this punishment stated above.[2] Another procedure for executing capital punishment was decapitation; in other words, it was the procedure of cutting off the head of an offender with the help of a sharp object such as axe.[3]

It is understood, by the comparison between the old and new versions of articles of code, that capital punishments which were inflicted for specific crimes in the early times ('*karuli karuli karuweli*': expressed as former, onetime, early) of the Hittite law code, were amended to compensation penalties in the subsequent period (*kinun*: expressed as now).[4] For example, it was found sufficient for the offender who committed a homicide to pay compensation instead of capital punishment which was formerly inflicted for this crime. In parallel with this, the retaliation law which required physical punishments was also replaced with the obligation to pay compensation. That is to say, the understanding of punishment among the Hittites was transformed into the understanding of compensating injuries and remedying losses and damages in time and physical punishments were abandoned.[5] It is a matter of fact that this was more humanitarian than other codes of South-West Asia with its existing form.

In the Hittite criminal jurisdiction, an offender took an oath where he or she could not provide adequate evidence in order to prove his or her innocence. Where an oath was not deemed sufficient, the water ordeal was practiced.[6] The water ordeal was the submersion of an offender (who was suspected to have committed a crime) in a stream and the exercise of arbitration of the River God (^{d}Nārum) in order to understand whether or not the offender was guilty. The person would be considered sinful if he or she sank and clean, if he or she floated. The water ordeal was expressly specified in the Code of Ur-Nammu and the Code of Hammurabi. The Hittites had this practice in their customary law.[7]

Conclusion

Law exists with the formation of a society. The rules of law were put in writing as the state emerged in an institutional manner with all its aspects. In tandem with a prolonging institutionalization process, the rules of law were put in writing in the Hittite State which displayed all characteristics of ancient states. The existence of Assyrian trade colonies in the land of the Hittites for a long duration caused the Assyrian law to be influential on these lands. As an outward-oriented civilization having all kinds of commercial, political

[1] &121, Hoffner 1997: 83.

[2] &166-167, Hoffner 1997: 105; Dinçol 1990: 87.

[3] &173, Hoffner 1997: 109; Dinçol 2003: 31.

[4] Doğan 2012: 103.

[5] Özbek 1999: 62.

[6] KUB 13 3 II 14ff., III 29ff.; Alp 1947: 481.

[7] Sevimli 2004: 268.

and cultural relationships with neighboring states, the Hittites were also influenced by the law of Assyrians. The tradition of putting law in writing as witnessed in Babylonia and Assyria was also maintained by the Hittite civilization in its own era as a result of its establishment of political union. The Hittite law code, which was found in two tablets during archaeological excavations, arises from the interactions with other South-West Asian civilizations and the customary law being enforced for many years.

In addition to the rules of law for several fields, the Hittite law code also included criminal law to a great extent. In a manner similar to today's criminal laws, criminal norm manifests itself as the definition of a prohibited act and the identification of punishment to be inflicted for this act. The Hittite law code characterized in religious aspects reflects religious and moral values of the era on itself to such a great degree that almost every act associated with sex against morals was particularly accepted as a crime and one might assert that a modern-day understanding called legal moralism predominated in the Hittite criminal law. It will be necessary to accept this situation as normal in a society where sin and crime are expressed by the same word.

The fundamental purpose of the Hittite criminal norms is the protection of state authority and public order. Therefore, any rebellion against gods and the king requires the most severe punishment. On the other hand, animals and agricultural lands were specifically protected under criminal norms in the Hittite civilization where agriculture was of vital importance.

The change in the Hittite law surprisingly demonstrates that criminal law displayed an evolution from the sense of punitive (retributive) justice to the sense of restorative justice. The old Hittite law code included very severe punishments such as death and torture, whereas the new law code prescribed the imposition of compensation for many crimes, including homicide. The understanding favoring the fact that the retaliation (talion) had to be abandoned, the punishment of the offender with same misdeed would not provide any benefit and what really mattered was the compensation of loss incurred by the injured corresponds to the sense of restorative justice, which was more controversial particularly after 1970's and which was put forward as an alternative to the sense of punitive justice, to a great extent. This also indicates that the Hittite law was more advanced than its contemporaries.

The evolution of the Hittite law code emerged not only in the sense of justice, but also in humanitarian respects. Capital punishments were reduced as much as possible in the new period of law. Crimes committed against gods, the king and the king's judges, in other words, crimes against the state authority and sexual ethics resulted in capital punishment. This situation arises from the acceptance of a notion similar to legal moralism in the Hittites or, more precisely, of a notion supporting that any act against morals is a religious corruption at the same time.

One might point out that the culpability principle in the Hittite criminal law is underdeveloped. There are some practices that recognize the objective liability. Additionally, it is known that there are practices contrary to the personality principle on

crimes and punishments, although only few in numbers. On the other hand, the existence of institutions that are included in modern-day criminal law, such as negligence, self-defense and attempt, in the Hittite law code indicates the advanced extent of the Hittite law in comparison with its contemporaries. As a matter of fact, punishments were mitigated with respect to the cases of injury or killing caused by accident and the crimes committed for the protection of one's own life and honor. Similarly, a distinction was made between the actuality of an act and the one remaining as an attempt.

It is surprising to see some practices in the Hittite law that remind us of the state of law which is crucial today and of the legality principle as a reflection of the state of law on criminal law. In the decree of Muršili, the order which is given to enforce laws as they are and in a straightforward manner evokes the legality principle which could be deemed a very new phenomenon in criminal law. On the other hand, the punishability of the kings committing a crime against god reminds us of modern-day state of law. On the contrary, the infliction of different punishments on slaves and women and members of the royalty does not correspond to the equality principle.

This study questioned whether or not or to what extent principles and institutions included in modern-day criminal law played a part in the Hittite law. Criminal law which emerged along with the history of mankind took its current form after undergoing a fast development under the influence and with the contribution of all civilizations and particularly by the Enlightenment. It would not be a true approach to search for the same of principles and institutions, which particularly emerged or was put into effect in the last two centuries, in the Hittite legal system. Nevertheless, the origins of legal principles should specifically be sought in the past.

We think that this interdisciplinary study will be beneficial to legal historians and particularly to those who will conduct a research on the past of criminal law. Making some assumptions on the era is hindered by the inability to reach all information on the Hittite civilization and the controversial interpretations of some written documents by Hittitologists. New documents and proofs to be discovered and the revelation of some practices particularly in criminal law will come in useful for making more reliable evaluations.

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BIBLIOGRAPHY

Alacakaptan U. 1958, İngiliz Ceza Hukukunda Suç ve Cezaların Kanuniliği Prensibi, Ankara.

Alp S. 1947, Hitit Kanunları Hakkında, "Ankara Üniversitesi Dil ve Tarih-Coğrafya Fakültesi Dergisi" 5/5, 465-482.

Arslan Z. 2000, Devletin Hukuku, Hukuk Devleti ve Özgürlük Sarkacı, "Doğu Batı" 13, 65-85.

Beccaria C. 2004, Suç ve Cezalar Hakkında, (Translated into Turkish by Sami Selçuk), Ankara.

Borger R., Lutzmann H., W.H.P. Römer, E. von Schuler 1982, Texte aus der Umwelt des Alten Testaments (TUAT) I/1, Gütersloh.

Centel N., Zafer H., Çakmut Ö. 2011, Türk Ceza Hukukuna Giriş, İstanbul.

Chemerinsky E. 2004, The Constitution and Punishment, "Standford Law Review" 56, 1049-1080.

Çetintürk E. 2008, Onarıcı Adalet, Ankara.

Çoban A.-R., Canatan B., Küçük A. 2008 (eds.), Hukuk Devleti Hukukî Bir İlke Siyasî Bir İdeal, Ankara.

Cohen Y. 2002, The Unwritten Laws of the Hittites, in: Wilhelm 2002, 73-82.

Dinçol A.M. 1990, Hitit Yasalarının Ana Çizgileri ve Eski Önasya Hukuku ile Etkileşimi, AnAr 12, 83-100.

Dinçol B. 2003, Eski Önasya Toplumlarında Suç ve Ceza Kavramı, Türk Eskiçağ Bilimleri Enstitüsü Yayınları, İstanbul.

Doğan E. 2012, Hitit Hukuku Belleklerdeki "Kayıp", İstanbul (3rd edition).

Erdoğan M. 2007, Anayasa Hukuku, Ankara (4th edition).

Feuerbach von J.A.R. 1812, Lehrbuch des gemeinen in Deutschland gültigen peinlichen Rechts, Giessen.

Gardner T.J., Anderson T.M. 2012, Criminal Law, Wadsworth (11th edition).

Hafızoğulları Z., Özen M. 2010, Türk Ceza Hukuku Genel Hükümler, Ankara.

Hakeri H. 2011, Ceza Hukuku Genel Hükümler, Ankara.

Hoffner H.A. 1997, The Laws of the Hittites. A Critical Edition, Leiden – New York – Köln.

Kılıç Y., Akkuş M.S. 2013, Çivi Yazılı Hukukta Kölelere Verilen Cezalar, TS 8/7, 283-292.

Metin Y. 2008, Avrupa Birliğinde Hukuk Devletinin Unsurları, in: Çoban *et al.* 2008, 577-628.

İçel K., Donay S. 2005, Karşılaştırmalı ve Uygulamalı Ceza Hukuku (1. Kitap), İstanbul (4th edition).

Montesquieu Ch.-L. 2011, Kanunların Ruhu Üzerine (Translated into Turkish by Fehmi Baldaş), İstanbul.

Novkov J. 2011, Legal Archaeology, PRQ 64/2, 348-361.

Otten H. 1979, Original oder Abschrift - zur Datierung von CTH 258, in: Florilegium Anatolicum. Mélanges offerts à Emmanuel Laroche, Paris, 273-276.

Önder A. 1992, Ceza Hukuku Dersleri, İstanbul.

Özbek V.Ö. 1999, Ceza Hukukunda Suçtan Doğan Mağduriyetin Giderilmesi, Ankara.

Özbek V.Ö., Kanbur M.N., Doğan K., Bacaksız P., Tepe I. 2012 (eds.), Türk Ceza Hukuku Genel Hükümler, Ankara (3rd edition).

Singer I. 2002, Hittite Prayers, WAW 11, Atlanta.

Somer P. 2005, Umumi Hukuk Tarihinin Konusu ve Önemi Üzerine Kısa Bir Değerlendirme, "İstanbul Ticaret Üniversitesi Sosyal Bilimler Dergisi", 4/8, 221-232.

Süel A. 2012, Hititlerde Suç ve Ceza, in: Yiğit *et al.* 2012, 323-328.

Tahir T. 1949, Ceza Hukuku Umumi Kısım, İstanbul.

Toroslu N. 2011, Ceza Hukuku Genel Kısım, Ankara.

von Schuler E. 1982, Vorschriften für Diener des Königs, in: Borger et al. 1982, 124-125.

Wilhelm G. 2002 (Hrsg.), Akten des IV. Internationalen Kongresses für Hethitologie: Würzburg, 4-8. Oktober 1999, StBoT 45, Wiesbaden.

Yiğit T., Kaya M.A., Sina A. 2012 (eds.), Ömer Çapar'a Armağan, Ankara.

ԽԵԹԱԿԱՆ ՔՐԵԱԿԱՆ ԻՐԱՎՈՒՆՔԸ ԺԱՄԱՆԱԿԱԿԻՑ ՊԱՐԱԴԻԳՄՆԵՐԻ ԼՈՒՅՍԻ ՆԵՐՔՈ. ԱՐԴԻ ՔՐԵԱԿԱՆ ԻՐԱՎՈՒՆՔԻ ՀԵՏՔԵՐԸ ԱՆՑՅԱԼՈՒՄ

ԻԼՔՆՈՒՐ ԹԱՇ, ՎԵՅՍԵԼ ԴԻՆԼԵՐ

Հոդվածում քննարկվում են խեթական օրենսգրքի՝ քրեական իրավունքին առնչվող հոդվածները մերօրյա քրեական իրավունքի նորմերի համադրմամբ:

Խեթական քրեական իրավունքի նորմերի հիմքում ընկած են հետևյալ երկու հիմնարար դրույթները՝ պետության հեղինակության և հասարակական կարգի պաշտպանությունը: Առանձնակի նշանակություն ուներ նաև խեթական հասարակության կենսագործունեության համար մեծ կարևորություն ներկայացնող երկրագործական-անասնապահական ոլորտը, որը նույնպես պաշտպանված էր բազմաթիվ քրեական նորմերով:

Խեթական քրեական նորմերը քարացած համակարգ չէին, ինչը բացահայտվում է միևնույն հանցագործության համար նախատեսված պատժամիջոցները ներկայացնող հին և նոր օրենքները համադրելիս: Վաղ շրջանի օրենքներն աչքի են ընկնում խիստ պատժամիջոցներով (մահ կամ տանջանքներ), այնինչ նոր օրենքներում գերակշռում է փոխհատուցման սկզբունքը: Խիստ պատժամիջոցները շարունակում են գործել միայն աստվածների և արքայի անձի դեմ կատարված հանցանքների պարագայում: Խեթական օրենքներում պատժամիջոցներ սահմանելիս հստակ տարբերակվում են միտումնավոր հանցանքը անփութության կամ ինքնապաշտպանության նպատակով կատարված հանցանքներից: Տարբերակվում է նաև իրական հանցանքը հանցագործության փորձից:

Հատկանշական է, որ այս առումով խեթական քրեական նորմերը էականորեն տարբերվում են ժամանակի այլ հասարակություններում գոյություն ունեցող քրեական նորմերից, քանի որ նախապատվությունը տրվում է 1970-ական թվականներից ի վեր լայն տարածում ստացած փոխհատուցողական (ռեստորատիվ) նորմերին: