Mesopotamian Law ***Hammurabi Law Code*** **(1772 B.C.) (Babylonia)**

Hammurabi's laws As a divinely descended ruler Hammurabi (1792-1750 B.C.) believed his law code to have been handed down to him by a succession of divine order-givers. His laws, inscribed in cuneiform letters on human sized basalt stelae, were found in Persia and consisted of 282 proscriptions—regulations and legislations--which if thought out to their implications could form the basis of a Constitution, but which as presented to their reader were take it or leave it statements about offences 'in connection with property, marriage, divorce, adoption, purchase and sale, loans, dismissal, calumny, corrupt jurisdiction, theft, receiving stolen goods, robbery and kidnapping, plundering, burglary, murder, prices and wages, and much more, each with its respective punishment.' The tenor of the laws is harsh and firm: punishments by death are frequent, and cautionary examples like injudicious rulings from the bench, or false accusations of witchcraft, are punished as severely as murder itself—in each of these cases by death.

196. If a man destroy the eye of another man, they shall destroy his eye.
127. If a man point the finger at a priestess or the wife of another and cannot justify it, they shall drag that man before the judges and they shall brand his forehead.
6. If a man steal the property of a god (Temple) or palace, that man shall be put to death; and he who receives from his hand the stolen (property) shall also be put to death.

Kinds of law Hammurabi's laws are in the if/then or casuistic mode, except for the beginning and concluding laws, which are apodeictic, and simply state that 'you must do this or you must not do that.' None of these laws include their own legal foundations; so that, although Hammurabi's laws show potential as the basis of a Babylonian Constitution, they skip the nicety of explaining on what foundations they rest. In that, these laws resemble not only a number of Mesopotamian law-codes more or less contemporary with that of Hammurabi, but resemble in great detail the admonitions of the Mosaic Law Code (*Exodus* 21-23), which is incorporated in Judaeo-Christian theology.

The implications The implications of Hammurabi's law code, for his own time, are only evident when we consider this ruler's broad acculturation project. He was a great regulator, insisting on the careful collection of taxes, the protection of the underprivileged—though within a slave society--and the provision of large work projects—vast *ziggurat* construction—which necessitated the formulation and observance of a respected legal system. The Babylonian Empire, under Hammurabi, was one of the masterpieces of ancient societal development. The implications of this code, for the civilized world which *followed* Hammurabi, are broad. He formulated a balanced, humane, yet hard-nosed blueprint for social justice, and in doing so contributed to the accumulating amalgam of Judaic and Roman legal systems, and thus to the legal systems we still live under in the West.

Readings

Kelly, J.M., *A Short History of Western Legal Theory*, Oxford, 1992.

Van de Mieroop, Marc, *King Hammurabi of Babylon: A Biography*, London, 2005.

Discussion questions

Were societies regulated by law or laws, prior to the Mesopotamian development of a civilized law code? What was the nature of the *earliest* legal systems?

Hammurabi was an absolute ruler, divinely inspired. Does he give any account, in the body of his laws, of the justification for them, or does he feel that he can simply promulgate and proclaim his laws?

Hammurabi's Law Code bears numerous relations to the 'law code' of Moses, the grandfather of Jewish religious tradition, and himself reputedly an Egyptian prince. Can you point out some of the relationships between Hammurabi's code and that attributed to Moses?