

PHI243/POL312 - PHILOSOPHY OF LAW/JURISPRUDENCE

GRADED ASSIGNMENT #1 - DUE FEB 4

Familiarize yourself with *Hammurabi's Code* and *NY Penal Code*. They are both available on-line on the course website. These documents consist of many pages, so you should look for the essential information. Please answer questions (a) through (h) below in 1-2 pages.

I. Basics (NB: answer and cite your sources, e.g. websites, encyclopedia entries, etc.)

- (a) What is Hammurabi's code? When and how was it written?
- (b) What is NY Penal Code? When and how was it written?

II. Humanity and cruelty

- (d) Are there any laws from Hammurabi's Code which you find particularly wise, modern or humane? Give one example and motivate your choice.
- (e) Are there any laws from Hammurabi's Code which you find particularly idiotic, outdated or needlessly cruel? Give one example and motivate your choice.

III. Stolen goods Hammurabi's code, law [9], deals with stolen goods:

[9] If any one lose an article, and find it in the possession of another: if the person in whose possession the thing is found say "A merchant sold it to me, I paid for it before witnesses," and if the owner of the thing say, "I will bring witnesses who know my property," then shall the purchaser bring the merchant who sold it to him, and the witnesses before whom he bought it, and the owner shall bring witnesses who can identify his property. The judge shall examine their testimony—both of the witnesses before whom the price was paid, and of the witnesses who identify the lost article on oath. The merchant is then proved to be a thief and shall be put to death. The owner of the lost article receives his property, and he who bought it receives the money he paid from the estate of the merchant.

- (f) According to law [9], how can someone found in possession of stolen goods show his or her innocence? Is there any compensation for someone who has purchased stolen goods without knowing they were stolen? What happens to that person if she cannot prove she did not know the goods were stolen? (Please also look at the laws immediately following [9].)

- (g) Let's now compare Hammurabi's code with current law. Identify two (or more) articles in the NY Penal code dealing with the possession of stolen goods. Do you see any analogy and/or difference between Hammurabi's code and the NY Penal Code regarding the possession of stolen goods? Explain and be as detailed and precise as possible.

IV. Rivers and oaths Hammurabi's code contains two puzzling laws:

[2] If any one bring an accusation against a man, and the accused go to the river and leap into the river, if he sink in the river his accuser shall take possession of his house. But if the river prove that the accused is not guilty, and he escape unhurt, then he who had brought the accusation shall be put to death, while he who leaped into the river shall take possession of the house that had belonged to his accuser.

[126] If any one who has not lost his goods state that they have been lost, and make false claims: if he claim his goods and amount of injury before God, even though he has not lost them, he shall be fully compensated for all his loss claimed.

- (h) Can you find any general legal principle or rationale that can justify the laws above? [Hint: Google 'trial by ordeal']