



JAOS, suppl. 17 (July-Sep.)

# AUTHORITY AND LAW IN THE HITTITE KINGDOM

H. G. GÜTERBOCK

UNIVERSITY OF CHICAGO

## I. AUTHORITY WITHIN THE STATE

### (a) ROLE OF THE KING

IN A HITTITE TEXT we find the following statement: "The land belongs to the Storm-god, heaven and earth with the people belong to the Storm-god. And he made the *Labarna*, the king, his deputy (*maniyahhalallaš*) and gave him the whole land of Hattusa. The *Labarna* shall govern the whole land!"<sup>1</sup>

In accordance with this theocratic view of kingship, we find that the Hittite king was not deified during his lifetime: he only "became god" when he died. There is, however, one detail which has to be discussed in this connection: the title "My Sun" used for the king. Since the word "sun" is, in cuneiform, necessarily spelled with the determinative for "god," this title has been taken as evidence for the divine character of the Hittite king.<sup>2</sup> In favor of this interpretation, one might adduce the fact that in the reliefs of the Empire the king wears the same costume as the Sun-god:<sup>3</sup> round cap, long gown, and curved staff. Thus, one might say that the king wore the attire of the Sun-god (or vice versa) because he was "My Sun," and attribute both title and concept to Egyptian influence. But against the latter theory it has been pointed out that the title already occurs in the Old Kingdom, that is, at a time when contacts with Egypt seem unlikely.<sup>4</sup> Whatever the explanation of these reliefs, the fact remains that the phrase "the king became god," meaning he died, can only be understood if he had

not been a god before his death; and there is not a single text referring to the cult of a living king that could be compared to those of the Third Dynasty of Ur. On the contrary, in the countless cult texts the king worships the gods as a human being, and in the prayers he addresses them as his lords and calls himself their slave. In conducting the great cult ceremonies in person and in praying on behalf of the country, the king acted as the highest priest<sup>5</sup> and represented the people in front of the gods. How important these priestly duties of the king were, can be seen from the fact that he sometimes postponed or interrupted a campaign in order to perform one of the cult festivals.

Special rites performed at the occasion of a king's accession existed, but the texts referring to them are too fragmentary to give a clear picture. We hear that "the King sits down on the throne of kingship, and the Queen on the throne of queenship," and that this ceremony is called a festival.<sup>6</sup> (The mention of the Queen reflects her status as we know it from other sources, but we cannot dwell on it here.) More details are learned from a ritual describing the temporary installation of a substitute king (corresponding to the Akkadian term *šar puhi*);<sup>7</sup> obviously the symbolic acts carried out with a prisoner whom the gods shall take as substitute, are those of a real coronation. They are: anointing with the oil of kingship, putting on the garments of kingship and a special kind of headdress which, in function at least, corresponds to a crown.

Turning now to the authority of the king, we shall postpone a discussion of the question as to in what degree his power was limited until we come to the role of the nobles. Let us see first his function as supreme judge. Law 173 of the so-called Hittite Code says that "If anyone rejects the judgment of the king, his house shall be made a shambles (?); if anyone rejects the judgment of a dignitary, they shall cut off his head."<sup>8</sup> From other texts we learn that the king reserved for himself the right of deciding lawsuits which

<sup>1</sup> *Istanbul . . . Boğazköy Tabletleri* I, No. 30; transl. Goetze, *JCS* 1, 90 f.

<sup>2</sup> I. Engnell, *Studies in Divine Kingship*, p. 60; cf. C. J. Gadd, *Ideas of Divine Rule in the Ancient East*, p. 48.

<sup>3</sup> Compare reliefs No. 34 (Sun-god) and 64 (king) in Yazilikaya (numbering according to Bittel, *Die Felsbilder von Yazilikaya*, and Bittel-Naumann-Otto, *Yazilikaya*). On the interpretation of No. 34 as Sun-god see Güterbock, *Bellenden* 7, 298 ff., and S. Alp, *Archiv Orientalní* 18, 1/2 p. 4.

<sup>4</sup> F. Sommer, *Die hethitisch-akkadische Bilingue des Hattušili I.*, p. 72.

<sup>5</sup> Called "priest" in *KUB (Keilschrifturkunden aus Boghazköi)* VI 45 i 20, iii 26-30.

<sup>6</sup> *KUB* IX 10 and X 45; A. Götz, *Kleinasien*, p. 84, n. 2.

<sup>7</sup> *KUB* IX 13 + XXIV 5; transl. A. Goetze in *Ancient Near Eastern Texts*, ed. by J. B. Pritchard, p. 355 f. (*ANET*). Anointing to kingship also mentioned in the text quoted by H. Otten, *MDOG* 83, 56 fn.

<sup>8</sup> Goetze's transl. in *ANET* 195.



exceeded the power of his subordinates, such as a vassal ruler<sup>9</sup> or a governor.<sup>10</sup>

(b) ROLE OF PRIESTS, NOBLES, OR ELDERS

About any role the priests played directly in the fields of authority and law we hear nothing. The existence, in Hittite times, of "holy cities" governed by their priesthood is only inferred from Strabo's account of Comana Cappadociae and from the mention of a "city of a god" in a treaty.<sup>11</sup> Also, when real estate was donated to a deity,<sup>12</sup> one may assume that it was administered by the priests of that deity, but this is not expressly stated.

On the other hand, it is true that the priests exercised some power by administering the oracles. Records of oracle questions with their answers are among the most numerous texts in Boğazköy. The subject matters with which such oracles are concerned are for the greater part connected with the correct performance of the cult, that is, with the priestly duties of the king; a few deal with the conduct or outcome of campaigns,<sup>13</sup> and thus, with his military duties. But as far as I can see, matters of policy or jurisdiction were not treated in the oracles.

"Elders" are mentioned occasionally. Thus, it is said in the Laws that the finder of stray cattle "shall drive it to the Gate of the King, but if he finds it in the country, the elders may assign it to him. . . . If they do not assign it to him he becomes a thief" (§ 71). Correspondingly we find elders mentioned as making decisions in court, together with the governors of towns and districts, in the instruction for the latter.<sup>14</sup> But we do not know whether, or to what extent, such elders had a say in the local administration; in other words, whether the existence of "elders" reflects anything that could be called "Primitive Democracy."<sup>15</sup> The assembly of gods in one of the Kumarbi epics is no more than

<sup>9</sup> KBo (Keilschrifttexte aus Boghazköi) III 3 iii 29 ff.

<sup>10</sup> Instruction for the *bēl madgalti*, KUB XIII 2 iii 23 f.

<sup>11</sup> A. Götze, *Kleinasien*, p. 96; O. R. Gurney, *The Hittites*, p. 72; treaty with Kupanta-KAL § 10 (J. Friedrich, *Staatsverträge* I 116).

<sup>12</sup> "Vow of Puduḫepa" (E. Laroche, *Revue d'Ass.* 43, 55 ff.).

<sup>13</sup> Götze, *Kleinasien* p. 121, n. 6.

<sup>14</sup> *Bēl madgalti* iii 9.

<sup>15</sup> Th. Jacobsen, *JNES* 2, 117 ff.

a literary motif taken over from Mesopotamian models.<sup>16</sup> It is significant that in the proclamation of Hattusili I, a ruler of the Old Kingdom, the elders are not allowed to speak personally to the king.<sup>17</sup>

As far as noblemen are concerned, it seems as if there was a difference between their role in the Old and New Kingdoms. Our main source for the Old Kingdom, the Proclamation of Telipinu,<sup>18</sup> speaks of the *pankuš*, presumably the body of the nobles, in the following terms:

Whoever hereafter becomes king, and plans evil against his brother or sister—you are his *pankuš*—speak frankly to him (as follows): 'Read this tale of bloodshed in the tablet [that is, the historical introduction of the text itself]. Formerly bloodshed became common in Hattusa, and the gods exacted of the royal family the penalty for it.' Whatever king does evil among his brothers and sisters, risks his royal head. Call the assembly! [Here called *tuligaš*] . . .

This means that the assembly had jurisdiction over the king if the latter committed a crime, and the right of warning him when it was obvious that he was about to do so. In the following paragraphs the assembly is granted jurisdiction also over royal princes and courtiers. The theory, however, that the *pankuš* had a voice in electing the successor to the throne, is not borne out by the texts, as Sommer has shown.<sup>19</sup> We are informed, it is true, that the grandees in fact once appointed a ruler,<sup>20</sup> but this is mentioned as an offence, a usurpation of rights by the king's "subjects" (lit., slaves).

In the New Kingdom, we hear nothing of the *pankuš*. Nobles are mentioned, under different names, such as "the lords" (*bēlū*), "the dignitaries" (LÚ.MEŠ.DUGUD), or "the grandees" (GAL), etc.; we have the texts of the regulations to which they were subjected and the oaths they had to take. These texts only speak of their obligations, particularly that of loyalty toward the

<sup>16</sup> Güterbock, *Kumarbi*, pp. 21 and \*20 f., frgm. c; p. 98.

<sup>17</sup> Sommer, *l. c.*, p. 8 f.; ii 60; Gurney, *l. c.* p. 68.

<sup>18</sup> E. Forrer, *Boghazköi-Texte in Umschrift* II No. 23, § 30 f.; E. H. Sturtevant and G. Bechtel, *A Hittite Chrestomathy*, p. 190 f.: their translation quoted here with slight changes.

<sup>19</sup> Sommer, *l. c.*, p. 209 ff.; *id.*, *Hethiter und Hethitisch*, p. 28.

<sup>20</sup> Sommer, *l. c.*, p. 14 f., iii 43 ff.; Gurney, *l. c.*, p. 63.

king and his direct descendants, but not of their rights, and the whole tenor implies that they had none.

It should be remembered in this connection that both in the Old and New Kingdoms the Hittite state was organized along the lines of feudalism, a system that prevailed at this time over a large area; according to some scholars it is characteristic of "Überlagerung," that is, a society in which a conquering group was superimposed over the local population, and this is actually true of the Hittite, Mitanni and Kassite empires. The holders of big estates formed a kind of aristocracy, but apart from the exemptions from certain feudal duties we learn nothing about their powers. On a higher level, the feudalistic system meant that conquered territories were incorporated into the Empire as vassal kingdoms. The local ruler was denied the rights of external policy, but had authority in the internal affairs of his realm, except in cases of special gravity as mentioned before. Such a system could only work as long as a king was powerful; in times of trouble it was bound to collapse, and the history of the Hittites contains enough examples of such setbacks.<sup>21</sup> The very elaborate loyalty oaths show clearly the vital importance that was attributed to the loyalty of vassals and officials toward the king.

#### (c) THE PEOPLE AND THEIR RIGHTS

The social structure of the Hittite state is not clear. In the Laws, only two classes are mentioned: free men and slaves. Who were the free? The fine stipulated in the latest version of the Laws for the murder of a free man is so high that one is inclined to take "free man" here as equivalent to "noble" or "land owner" (§ IV). There were serfs, listed as inhabitants of estates, who were "given" to a new owner together with the land. What proportion of population consisted of serfs, and whether there existed free small farmers beside them at all, is not clear. The term *muškēnu*, known from the Code of Hammurabi as a special class between "free men" and "slaves," is used occasionally in Hittite texts, but seems simply to mean "poor"; there is no indication for the existence, among the Hittites, of a social class of *muškēnu*.

<sup>21</sup> After the murder of Mursili I (Proclamation of Telipinu), at the accession of Mursili II (his Annals), before Suppiluliuma (KBo VI 28), and under the latest kings (the Madduwatta text and texts referring to Suppiluliuma II, Laroche, *Rev. d'Ass.* 47, 70 ff.).

Still less do we know about the rights of the people. In the same context in which the old king Hattusili I says that the elders should not talk to the king, this statement includes the people of several towns and of the whole country.<sup>22</sup> On the other hand, it was the duty of the government to treat the people justly; just judgment for all, including slaves and widows, is made a rule for the governors.<sup>23</sup>

## II. LAWS OF THE STATE

### (a) WHO MADE THE LAW? (b) WAS IT CODIFIED? (c) WAS IT MADE PUBLIC?

There is what we call the Hittite Code, a collection of approximately two hundred laws, in two parts named after the first words of each "If a man" and "If a vine," respectively. Who made it? The collection contains different elements, which are in many cases expressly distinguished by the statement that "formerly" the law was such and such, but that "now" it is different. Usually the reform amounts to reducing the fine or to replacing a cruel penalty by a more humane one. For these two layers, an older and a newer, one has introduced the terms Customary and Statute Laws.<sup>24</sup> I think that this distinction is essentially correct. It would mean that the older laws existed from time immemorial, that they were customary in the sense that they reflect old customs, so that they cannot be ascribed to a legislative act of one ruler. The Statute Laws, on the other hand, would be the result of legislation, and the text sometimes mentions a king as the author of such innovations. Unfortunately the king's name is never mentioned. On grounds of language one may date this version to the period of the Old Kingdom, and as a more exact date the reign of Telipinu or of his son has been proposed. This may very well be correct although it cannot be exactly proved. If it is correct, the redaction of the Statute Laws and the edict regulating the royal succession and the rights of the *pankuš* would fall into the same period.

But the history of the Hittite Laws does not end here. As already mentioned, we have one copy of a later version. Linguis-

<sup>22</sup> See note 17.

<sup>23</sup> *Bēl madgalti* iii 29-32; Gurney, *l. c.* p. 92.

<sup>24</sup> E. Neufeld, *The Hittite Laws*, p. 95 ff.

tically it belongs into the New Empire, and as far as its contents are concerned it marks a considerable step forward toward clearer and more logical formulation. Unfortunately this version covers only a small part of the whole.

Whether this writing down of the laws can be called a codification is another question. Law historians distinguish between a code and a "Rechtsbuch," and the Hittite Laws would rather fall under the second category, if they have not to be considered a still looser compilation. There are instances where the normal case was not mentioned at all, in other words, where only cases of a special nature were felt to require regulation by law.

Whether or not these laws were made public is very hard to decide. With the bulk of the population illiterate, even the setting up of a stele like that of Hammurabi would not mean more to the average person than the possibility of saying: Look, here is what our king has done for us! The Hittite Laws were not even written on a stele; they were available only to the professional scribes. That some importance was given to them can be concluded from the fact that there existed several copies and that these were kept in different buildings of the capital;<sup>25</sup> but that is all we can say.

#### (d) CONTENT: CIVIL OR RELIGIOUS, OR BOTH?

The Hittite Laws are civil, not religious. The prohibition of black magic, or of contaminating a person's property by careless disposal of the remainders of exorcism, cannot be called religious laws. They fall under the category of protection of property and personal well-being just as the laws concerning theft or assault and battery.

Of the subject matters treated we can only give a very brief outline. Homicide, assault and battery, and theft have been mentioned. They take up a large portion of the Laws. Others deal with: marriage and divorce, feudal duties and land tenure, findings, incendiarism, sexual offenses, and other things. Also wages and prices are fixed in the Laws.

<sup>25</sup> The "new" fragments, found in the campaigns since 1931 and published in *KUB XXIX*, come from the "archive" in the SE of Büyükkale (see numbers, find-spots and plan in *KUB XXIX*, Foreword), whereas the "old" tablets, found in 1906-11, come from other parts of the city.

#### (e) HOW WAS THE LAW ENFORCED?

Since we do not have Hittite legal documents, it is impossible to check the rules set in the Laws against actual practice as in Mesopotamia. About the courts we have already spoken when dealing with authority. There is one detail which sheds some light on the question of enforcement: In an instruction an official is told that he should treat cases of homicide according to the usage prevailing in different parts of his realm. Where death penalty is customary, he should apply it; where another penalty (the exact nature of which escapes us) is in use, he should act accordingly.<sup>26</sup> Now, in the Laws, death penalty is not applied for homicide at all; only a Wergeld ("composition") consisting of a certain number of persons, or of silver is paid to the family of the slain. If, therefore, the governor could apply death penalty in places where it was customary, this means that the Laws were not enforced uniformly throughout the Empire.

### III. CONCLUSION

On the whole, law and authority were well established in the Hittite Kingdom. We have seen that the king was considered the deputy of the supreme god and functioned as the highest priest. The elaborate rules set up in order to protect him from all contamination<sup>27</sup> reflect the sanctity of his person. The punishment for rejection of a royal judgment may also be interpreted as reflecting the same concept. Another way of strengthening the authority by religious means are the oaths, taken by royal princes, officials and vassals alike in the presence of the gods. If the Sun-god is called "the just lord of judgment" in a hymn,<sup>28</sup> this is obviously borrowed from Akkadian hymns to Šamaš; but it is significant that such ideas were taken over. Hattusili III says "Even while I was sick I witnessed the justice of the goddess."<sup>29</sup> Here the Hittite word for "justice," *handandatar*, is written, in a recently discovered copy, with the ideogram NÍG.SI.SÁ which

<sup>26</sup> *Bél madgalti* iii 11 ff.; Gurney p. 89.

<sup>27</sup> J. Friedrich, *Mitt. Altorient. Ges.* 4, 46 ff.; Goetze, *ANET* 207.

<sup>28</sup> *KUB XXXI* 127 i 1; transl. *JAS* 65, 251.

<sup>29</sup> "Apology of Hattusilis" (Sturtevant-Bechtel p. 67), i 44 f. with the dupl. *KBo* III 6 + *Ankara* . . . *Boğ. Tabl.* No. 64 i 38.

stands for Akkadian *mēšaru*. We have heard about this term.<sup>30</sup> It is noteworthy that it occurs here in a context quite different from that in which it is used in Mesopotamia: it is not the king who establishes *mēšaru*, but the deity who has it. It is likely that the Hittite and Akkadian terms did not mean exactly the same, but the fact remains that the association was made by the scribes.

These details reflect the impact of Babylonian civilization upon the scribes of Hattusa. We have seen that the conceptions of law and authority in the Hittite state were not in all points the same as in Babylonia, but the essential similarity is unmistakable and, of course, not accidental.

<sup>30</sup> When writing these "Conclusions" I had seen, through the kindness of the organizers of this symposium, Prof. Speiser's contribution.

## AUTHORITY AND LAW IN CANAAN-ISRAEL

I. MENDELSON

COLUMBIA UNIVERSITY

### I. CANAAN

OUR SOURCES FOR THE STUDY of the institution of kingship in Syria and pre-Israelite Palestine in the second millennium B.C. are extremely meager. We have no law codes or important historical annals. The material at our disposal consists of the Ugaritic legends of King Keret and the hero Aqhat, several short royal inscriptions, a number of legal and business documents from Alalakh, and some references in the Old Testament. Thus our knowledge of the functions of kingship in those countries is at best very sketchy.

At the very outset it should be pointed out that Syria-Palestine was a rain culture. Its prosperity depended on rain coming down from heaven and hence there was no compelling need for a highly centralized government ruling over a large territory as was the case with the irrigation cultures of Egypt and Babylonia. Syro-Palestinian society was organized in small city-states and their kings were mere local chieftains possessing neither great material wealth nor large standing armies, powers which enhance and support the authority of a king.

On the basis of our evidence we may safely conclude that the Syro-Palestinian king was not an autocrat, but that his authority was circumscribed by a state council whose members were recruited from the ranks of the rich agricultural and commercial families of the city-state. In the Keret Legend we are told that the king once invited his seventy "bulls" (translated "peers"), and his eighty "gazelles" (translated "barons"), to a feast.<sup>1</sup> The text does not inform us about the functions of those "peers" and "barons." But from similar references in the Old Testament to "the oxen of Edom," "the rams of Moab," and "the he-goats of the land,"<sup>2</sup> it is quite clear that Keret's "bulls" and "gazelles"

<sup>1</sup> H. L. Ginsberg, *The Legend of King Keret*, p. 24, col. 4, ll. 6-7.

<sup>2</sup> Ex. 15: 15; Isa. 14: 9; Ez. 17: 13; 34: 17; Zech. 10: 3.