THE EVOLUTION OF THE LEGAL SANCTION IN SOME ANCIENT STATE ENTITIES

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Abstract:

The concept study of the legal sanction necessarily implies historical vision, linked to decipher its origins. In accepting the thesis, according to which the right can express only the social needs of a community established in the political form, there is no doubt that the right appears in social historical conditions characterized by differences, specific for a political society.

The ancient works and subsequently those developed in the Middle Ages did not set any distinction between the concept of punishment and that of sanction, the latter intervening only in modern times as a variant of the punishment. At first, the two concepts were confused; there were only small differences in the quality between several types of punishments. From this perspective, our analysis is based on the "sanctions" imposed on the society, following a brief overview of the primitive society, the tribe, till the ancient Greek society, which was considered more advanced.

Key-words*: social norm, punishment, legal sanction, the ancient era, society, community, sanctioning reaction, antisocial deeds*

INTRODUCTION

The notion of responsibility is inextricably linked to that of punishment applied as a result of a breach of social norms. Even though it was a clearer outline barely within Roman civilization, the *nulla poena sine lege* principle was applied since the most remote ages, although the rules of law have been developed in classical societies, which have influenced the culture and education of ancient worldwide, Greece and particularly, Ancient Rome. Thus, even if there were no standards by which to apply penalties for antisocial deeds committed by the community members, the guilty one received the punishments established by the community members. The first relatively primitive measures to punish the persons who broke the law applied by the

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company were to drive them away or to hit them with stones, having no relation to the rule of law.[2] When applying the death penalty has become a habit, it turned to the community in the rule of law, being enforced obligatorily.

During the human development at the stage when the social power was not yet organized, the injured person in his interests was forced to make his own right, avenge himself against those who had hurt them. With the organization of the social power, to punish those who broke the rules of coexistence, it was considered a social office. The community was thus substituted to the victim, taking his right to revenge. Demosthenes, in his plea "Against Conon" shows: "It was decided that, with regard to all these crimes, a judgment on the basis of laws should take place and not starting and deciding every person's own will." Quintilian shows that "private revenge is not only an enemy of the law, but of the peace, too." The emperors *Honorius* and *Theodosius*, the *King Theodoric* show that the state has the authority to punish and that the acts of private justice are no longer permissible.[3] It should be noted that vengeance is still a form of punishment in some societies, such as Albania, where the revenge practice was over time informally institutionalized at the cost of the genuine criminal law.[4]

The historical evolution of the social sanctioning reaction meant a tortuous and complex historical process from the very beginning in primitive society the individual, instinctive, violent and limitless reaction, continuing with revenge, the private composition, the law of retaliation and the state's increasingly strong intervention.[5] M. Djuvara appreciated

[2] G.M. Calhoun, *The Growth of Criminal Law in Ancient Greece*, Law Book Exchange (New Jersey: LTD Union, 1999): 2.
[3] H. Grotius, *Despre dreptul războiului şi al păcii* (Bucureşti: Scientific Publishing House, 1968): 487-488.
[4] H.F. Ellenberger, „La vendetta", in *Revue internationale de criminologie et de police technique* 2(1981): 125‑142.
[5] Dumitru Baltag, *Teoria răspunderii şi responsabilităţii juridice* (Chişinău, 2007): 138.

that, in any case, there could not be the legal sanction itself than with the idea of the legal community, the form from which the state evolved.[6]

Whether it is an excessively rough-specific feature of forming and strengthening process of the states (the code of Hammurabi), whether it is considered a creation of the divinity (the laws of Manu), the legal sanction is applied to some acts committed in order to disregard the law, with the aim to eliminate the imbalance (injustice) and to restore the normal functioning of the society.[7] However, even after the emergence of the state, it acknowledged in some cases the right of individuals to do themselves justice. Hugo Grotius mentions some examples in this regard as the Justinian Code, a law under the title *Quando liceat unicuique sine iudice se vindicare vel publicam devotionem* (when it is allowed to everyone without judgment to get revenge on himself or to avenge the violation of the faith versus the state) it allowed to anyone to kill the soldiers who robbed. This solution, as it appears from the text of the law, was justified on a preventive basis: knowing that they could be killed without trial the soldiers would not rub. The next law with the same title allowed to anyone to exert revenge against public thieves and army deserters. [8]

In the primitive societies, the right appeared to be closely related to religion and this is precisely why Fustel of Coulanges demonstrated in his famous work *La cité antique*, that "*the right has not appeared out of an abstract idea of justice, but derived from religion*" the phenomenon that determined that for a long time, the activity of judgment to be the monopoly of the priests. The theology was among the first subjects that legitimized the state's right to punish, the issue was touched by many theologians, such as *Th. Aquinas, Molina Lessio, Lugo*, but without becoming a central objective of their studies.[9]

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[6] Mircea Djuvara, *Teoria generală a dreptului (Enciclopedie juridică), Drept raţional, izvoare şi drept pozitiv* (Bucureşti: All, 1995): 231.

[7] Mihai Bădescu, *Concepte fundamentale în teoria şi filosofia dreptului* (Bucuresti: Lumina Lex, 2001): 3.

[8] Ibidem, 500. See other quoted examples at 488-489.

[9] C. Rotaru, *Fundamentele pedepsei. Teorii moderne, thesis* (Bucurest: University, manuscript, 2004), 5.

Thus we will make an analysis of the earliest periods of human society's development, particularly the antiquity in Babylon, because according to great scientists of the world, the right appeared in the ancient East. The Babylonian and Assyrian societies were based on a system of organic laws. As underlines and *S. Moscati*" *for the peoples of Mesopotamia, the right was a typical fundamental category of thinking, naturally seeking to transform the customs into the rules; so, another aspect of that worship of the order which coincides with the social existence.*"[10]

For Mesopotamians the divinity was a legislator. The king was designed only to convey people's legal standards. The great discovery of Babylonian law is the *code of Hammurabi*. The most important fact of the reign of Hammurabi owes its historical knowledge to the discovery in 1901, in the old capital of the *Elam, Susa* (currently Suș), a black basalt column on which those 317 items (35 deleted) of the famous *Code of Hammurabi* were dug. The legislative *code of Hammurabi* told us about the Babylonian hierarchical society of that period, which was, broadly, formed from three social layers: priests and dignitaries, freemen and slaves.[11] Being proclaimed 2000 years before Christ, the *Hammurabi's Code* contains strict legal rules, moral norms and religious rules. According to the principle considerations, the legislator from Babylon stated that the law should bring good things for the people, has to stop the strong person from harming the weak one.[12]

As with regards to the sanction - for us it represents the greatest importance-it was a very harsh penalty regime, otherwise characteristic for process of formation and consolidation of the States. The sentencing system lacks unity. The punishment varied according to the social conditions of the accused or the injured party. The offence brought against a person from a lower class was punished less severely than the

[10] Sabatino Moscati, *Vechi civilizaţii semite* (Bucureşti: Meridiane, 1975): 74 quoted by C. Stroe and N. Culic in *Momente din istoria filosofiei dreptului* (Bucureşti: the Ministry of Interior's, 1994): 10.

[11] Iohanna Şarambei and Nicolae Şarambei, *Personalităţi ale lumii antice*, (Bucureşti: Signs, 1997): 193-196.

[12] Nicolae Culic and Constantin Stroe, *Introducere în filosofia dreptului* (Bucureşti: 1993): 11.

one brought against a member of the same class: "*If someone has removed the eye of a free man, to remove and his*" (art. 196); "*If he broke a bone or eye of a muşkenn, to pay half a silver mine*" (art. 186); "*If a free man (awelum) gave a slap to another free man he has to pay a silver mine"* (art. 203); "*If someone's slave has been given a slap to a free man, to cut one of his ears*" (art. 205); however, if the victim is a slave, the fine will rise at half the price versus (art. 199) and will be charged to its master.[13].

In order to be punished, the defendant must have committed the offence or crime in the way premeditated. The crimes committed by imprudence were punished more easily if he proved by oath that the act was not committed premeditated: "*If in a fight, someone hits another one and causes a wound and swears*:" *I did not hit him with intention* ", "*he must pay only the doctor*" (art. 206); "*If, because of his coups, the wounded died and he would swear (that was not intentional) and if (the dead) was a free man, would pay a silver mine*" (art. 207).

A contribution of the Mesopotamians and in general, of the Semites, is the law of retaliation. The principle of retaliation constitutes a Semite contribution, more precisely the Hammurabi dynasty. This principle dominates the chapter concerning the offences damaging the physical integrity between the Patricians and it lacks attenuation only in what concerns the plebeians and the slaves. The law of retaliation provides in many situations, such as in article 196(eye for eye), article 197 (bone for bone "*If someone broke another person's bone to be broken and his own bone*"), article 200 (a tooth for a tooth). In some cases, the law of retaliation keeps some specific shapes, known as the "*family compensations*". The 209 and 210 articles provide that, where someone has caused the death of a free man's daughter, as a punishment the delinquent's daughter will be murdered.[14]

The death penalty was provided for the event of committing some acts directed against the property, for example: (art. 6) - *the theft from the Royal heritage or the theft from temples; (art. 21) - the theft committed*

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[13] Mihai Bădescu, *Concepte fundamentale în teoria şi filosofia drptului* (Bucuresti: Lumina Lex, 2001): 9.

[14] Vladimir Hanga, *Mari legiuitori ai lumii* (Bucureşti: Lumina Lex, 1994): 319.

by a burglary or a fire (art. 25). With the same punishment were sanctioned those who sold a stolen work (art. 9), which claimed a foreign thing though it didn't belong to them (art. 9), those who facilitated the runaway of the slaves (art. 15) and those who sheltered the runaways (art. 16) those who committed the deeds likely to prejudice the state's security (the revolt against the disposition, the disobedience to the mobilization orders, etc.).[15]

The capital punishment is applied in the case of the woman's adultery (art. 129), when raping the girls (art. 130), the incest (art. 154, 155, 157, 158), the assassination of the man by the woman (art. 153), leaving the home by the wife whose husband was taken prisoner (art. 133). The latter punishments had the aim to encourage developing of the patriarchal family.[16]

The code does not provide all the modes of execution of the capital punishment. There are specified only the drowning, burning and hanging.

Also, some corporal punishments having sanction material values and a meaningful symbol can be counted as a gentile rest of the community. Such sanctions symbolically reminded the offense committed and ensured the atonement meant within the magical views of the era, to purify the individual and also to be a warning to all who would try to defeat the law commands.

It should be noted the fact that at that time the constrain foundation, the basis of the punishment, was expressed through the theory of revenge. This theory has survived for a long period of time. With the strengthening of the development of social formations was manifested a stronger tendency to equalize the gravity of the act of vengeance to the gravity of the offence. This principle is common in almost the entire world's laws, the ancient period in India, China, and Roman Empire, in the Ten Commandments and in the five books of Moses.

The law of retaliation was gradually alleviated through the so-called voluntary compositions; the victim could opt out of revenge for an equivalent (metal, pet, etc.). Here "*we have the beginning of the State, as*

[15] Vladimir Hanga, *Mari legiuitori ai lumii:* 78.
[16] Vladimir Hanga, *Mari legiuitori ai lumii:* 78.

the guarantor of private law, it takes away the vengeance and replaces it with judicial punishment".[17]

The main progresses of the code against previous legislations are: replacing the principle of personal revenge with that of sanctioning through judicial bodies' pronouncement (generally, by the state); it was said that (in the introduction) the premise of the state was to protect the weak people from the strong ones; it established that the punishment can be done only in a situation where the guilt was proven clearly".[18] The code is dominated by the idea of justice, but the justice could not be otherwise than as it appeared in it. Less applied for the slaves, the justice is pervasive because Hammurabi considered it as a law of nature. It is not the same for all people, but more or less it is to everyone, by virtue of the fact that they are people.[19]

In the general history of the civilization, this first legal monument has an important meaning: this time the law seeks to ensure the lives of citizens and guarantee them certain rights to an extent, still much higher than in other countries in antiquity.

Among the cultures of antiquity, the **Indian culture** cannot be compared - as the extension, variety and duration - than with the Chinese. "India and China - as stated O. Drîmba - are in fact the only large countries which represent a tradition founded on uninterrupted cultural continuity that goes back to the third millennium BC, traditions present today."[20]

Moreover, in any country of the Ancient East, in India, for example, the concept of law and the worship were confused. A religious rule became a rule that would legally regulate the social relations. These religious, moral, civil, legal rules were gathered in the collections - each being drafted by a school or a Brahman sect that enjoyed a true authority over their respective followers.

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[17] J. Jeremias, *Moses und Hammurabi* (Leipzig, 1903): 26.
[18] C. Stroe, N. Culic, *Momente din istoria filosofiei dreptului:* 14.
[19] C. Stroe, N. Culic, *Momente din istoria filosofiei dreptului*: 14.
[20] Ovidiu Drimba, *Istoria culturii şi civilizaţiei*, vol. I-X, *Saeculum* 1.0 – *Vestala* P.H., (Bucureşti: 1998), 372.

The best known of these collections is the code or the laws of Manu, whose original nucleus was perhaps a satire of the V-VI centuries BC. The laws of Manu are the most important law code of ancient India, assigned by Hindu tradition to Manu, the first man. The code is written in verse (2685 stanzas), the 12 books include: principles of metaphysics and theology, cosmogony, moral precepts, pedagogy, economics, commerce; rules for carrying out acts of marital debts and by relatives, friends and strangers; the main castes and debts of the secondary, so some against others, as well as members of the caste, among them getting domestic and foreign policy, strategy and tactics; tips for conclusion of political and military alliances, and then detailed agrarian, civil, criminal, commercial laws, etc.

The laws are necessary because they contain penalties, which are the most important instrument of the King in fulfilling his essential mission - justice." The punishment governs and protects the humanity" and the spirit of punishment is considered as the son of God, the protector of all that is doer of justice.[21] The criminal cases were tried by Brahmans, and the civilian by lay magistrates. There were rural courts, composed of three judges and judicial courts in towns.

Being generally regarded, the Law of Manu has coloring and religious sanction, like all ancient peoples' laws. In comparison with the laws of other legislators, as they were Kratu, Urihaspati, Paraşara and Narada, the Law of Manu has enjoyed a special pass and today it forms the basis of the Indian public and private law.

To prevent the confusion and the degradation, the wise Manu, the son of Brahma, drafted the code of laws, which show the good and evil deeds and the ancient customs of the four castes. The source of the code is the ancient custom approved by the divinity, expressing the transition from the custom to the law.

About Manu, who was assigned the composition of this act, nothing is known precisely. What is said in the text about him is related to the myth. However, we have no reason to doubt his historical existence, only that we do not know when he lived and who he was.

[21] http://ru.scribd.com/doc/7059258/Introd-drept-Anul-I-Sem-I

The social balance, so necessary for the coexistence of the castes, wouldn't have been accomplished without a guarantee of compliance with debt, which, in "the laws of Manu" - is considered to be a punishment. The penalty is a creation of the deity. It should be applied to those who deserve, because: "If the King would never punish ceaselessly those who deserve to be punished, the strong would roast the weaker, as is the fish roasted" (VII, 7). Furthermore, "the punishment is justice" (VII, 18) and "the justice lies in applying the punishment according to the law" (IX, 249), which expresses the concept that the right must be bound by the sanction. The identification of Justice with punishment does not mean assimilation with the act of punishing, but with its consequences: the elimination of the imbalance (of injustice) and restoration of the normal operation by removing everyone's debt. Non-application of the death penalty has the same consequences as punishing an innocent. Regarding the penalties applied to acts committed in contempt as set forth in the law, we note that the offences and the crimes were carefully investigated and severely punished. "If the justice is destroyed, it also destroys; if it's defended, it defends ... the justice is the only friend that remains even after death ... "(VIII, 15, 17).[22]

In the Vedic age (1500-500 BC) the corporal punishments were not applied but only the fines. Then the death penalty was applied as in the assassination as for other cases: the plot against the king, entering in the rooms of the palace reserved for women, the flirt of elephants or horses belonging to the king, the thefts from wheat warehouses, arsenals and temple (VIII, 280). For other kinds of theft the finger, the hand or the leg was cut off or they were pulled through the sliver (VIII, 276-8).

The male adultery was punishable by imprisonment, but with pulling through the sliver if the woman was a "wife" from the king's group of wife. The adulterous woman had a strange punishment: she was trimmed, buttered, tied with the hands behind his back and put on a black donkey back to cross the town backwards - the symbol of debauchery.

We can conclude that the “Laws of Manu " stated more explicitly than other spiritual creations of the ancient East, the dependence of the vision about society and law, ontology, proposing a unitary conception of

[22] C. Stroe, N. Culic, *Momente din istoria filosofiei dreptului:* 19 and the next.

the human, the space and the social, political and legal settlement of the society.

In ancient Greek society, at first, there were disputes based on the evidenced violations of private rights and only during the contemporary period of Hesiod[23], after about 200 years, a few notions that could be considered, with difficulty, as forming part of the criminal law have been drawn. It was appreciated that in this age was achieved a breakthrough, particularly as it has been maintained the supremacy of civil rights defense in relation to penalizing the contravention-crime-committed as an offense against the social order.[24] To determine which traits are a branch of law, according to which for any antisocial deed will be applied a penalty, we must firstly clarify what was meant at that time by crime (murder), as an antisocial deed, and how it was defined. Thus, in ancient Greece, the crime (murder) was defined as the "violation or refusal to live up to the standards of behavior from society" as a "revolt of the individual against the society" or as a "forbidden action". To show more the way how the Greeks evaluated certain antisocial acts, we will quote only one paragraph of the Plutarch's work, "the Solon's Life", in which the reference is made to the lack of difference in treatment between a murderer and one who stole an object of little value: "*bizarrely the murder was considered the most serious of the facts but just as bad were punished and those condemned because they were lazy or those who had just stolen an apple or a cabbage*".[25]

As Solon and Lycurgus alongside, as *Drakon* in Athens and *Pittakos* in Mytilene were famous legislators, who were vested with absolute powers of the respective era, Drakon remained even more famous in history for the severity of the laws which he made. For the first time in this historical period, it has been provided criminal penalties for state intervention in extremely severe cases of homicide cases that until

[23] He lived in the VIIIth cen.BC, being considered the oldest epic Greek poet, after Homer.

[24] R.J. Bonner, *Administration of Justice from Homer to Aristotle*, vol. I, 1911, apud G.M. Calhoun, *The Growth of Criminal Law in Ancient Greece:* 7.

[25] Plutarh, *The life of Solon, apud R. Dargie, Ancient Greece, Crime and Punishment*, (Minneapolis: Compass Point Books, 2007): 6.

then had been left to the aggrieved family, this appealing usually to the *vendetta*.

In the classical era of the Greek civilization, the administration of Justice was entrusted to the people's Assembly. The nature of the sentencing ranged, as in the code of Hammurabi, according to the social condition of the guilty ones, talking about pecuniary penalties (fines, confiscation), temporary or permanent banishment, the loss of civil rights, the prison (was not applied to the citizens) and the tortures, which were applied exclusively for the slaves - the yoke, scraping with iron red and pulling on the wheel. The traitors and the sacrilegious people of the sacred places were sentenced to death, killed with stones or thrown into an abyss. Instead, it is unknown what the usual way of capital punishment was. In this era, the Athenian justice had obvious weaknesses: the lack of a code of laws, the lack of a specialized legal body, the character class system, which let enough place for arbitrariness and excesses. Despite such issues, this justice produced indisputable progress, being able to recall in this regard the abolition of the law of retaliation or collective punishment.[26]

The Chinese legal regime, from the ancient times, was characterized by a system of extremely severe repression. The punishments were barbarian, as in all Asian countries. The most common, after the most trivial (cutting hair), consists of lashes or sticks (at first between 300 and 500, and in the second century BC the number was reduced to 100). Then it was the mutilation. The most common mutilations were scrapping with the iron red, cutting of ears, nose, tongue, legs, castration and paw amputation. Relevant in this regard is a Royal Ordinance whereby the King threatened: "*If among you there are villains ... I'll cut off your nose and I will exterminate everyone, without sparing even their sons*".[27]

Later, in the era of the *Han* (167 BC) the criminal mutilation criminal has been substituted by the walking stick. The death penalty existed in different forms: strangling, decapitation, severing the body

[26] Mihai Bădescu, *Concepte fundamentale în teoria și filosofia drptului* : 93.
[27] Citat de O. Drîmba, *Istoria culturii şi civilizaţiei*, vol. I-X, *Saeculum* 1.0 – *Vestala* P.H : 47.

between two or throwing of the culprit in a kettle with boiling water. During the *Shang* the capital punishment was prescribed and for drunks.

The enforcement regime in ancient China highlights some specific features:

• first, the sanctions only looked repression crimes. Outside the criminal code, the civil code didn't exist;

• then, the punishments were extended over the entire family of the culprit and sometimes even over its neighbors. For example, in case of rebellion, the punishment of decapitation, both looked the guilty person and his male-line relatives, from a grandfather until brother, nephews and the relatives in the female line became slaves.[28]

The Hebrew civilization was formed and lasted for 14 centuries on a limited territory; the Israel's surface was originally of about 15000 km2. It is known that in the civilizations of the ancient East, the religion dominated all aspects of life; in none the dominant character doesn't appear so absolutely and exclusively as in the Jews. They had a unit of a substance between the religious, the moral and the legal life because it had common origins and context in which it took place, and the purpose of the precepts that ensured the conduct of life and that was unique: the acquisition of holiness before God.[29]

The Hebrew religion has a decisive function so that it is always invoked in life, in habits and etiquette, in their policy, law and morality, in their literature and art. The Hebrew culture appears today, configured, transfigured and disfigured by the religious factor.

In Hebrew " *Jahwe* " means " *the one who is* ", " *the one who makes possible to exist* ", " *the one who creates* ". At the origin, Jahwe embodied the omnipotent divinity of the nature, the god of the storm, the lightning and the volcanoes. Morality was its fundamental nature, the spirit of justice, the severity with which he punished mercilessly the guilty.

"*The most important element of the cult of Jahwe was not monotheism, but the sense of divine purpose which gave the Jews their social experience. In this way, the Jews have done a step that has not*

[28] Mihai Bădescu, *Concepte fundamentale în teoria și filosofia drptului:* 18.
[29] C.Stroe, N.Culic, *Momente din istoria filosofiei dreptului:* 28.

done any other people: they found the expression of the divine not in the experience of the physical nature, but in the experience of social progress".[30]

After the sentence was established, it followed the enforcement of the punishment. The corporal punishment consisted in ordinary coup sticks (not more than 40). Another punishment was imprisonment; for example, the thieves who could not repay the theft were sold as slaves. The imprisonment - introduced after the pattern of the surrounding peoples has been applied after the return of the Jews from the Babylonian captivity.

The death penalty was provided by law for voluntary homicide, for kidnapping a person with the aim to bring it in a state of slavery, for idolatry, sorcery and breaking the Sabbath day, and for the case when a daughter of priest occupied with prostitution. It was also applied for a severe reaction of the children against their parents, for adultery, sodomy, homosexuality, incest and bestiality. To be burned alive was provided as well as in the code of Hammurabi, in the cases of incest or for the daughter of a priest who was a prostitute: in ancient times, the same punishment was inflicted and for the woman's adulterous affair.

The Jews from the ancient times did not know about the punishment of crucifixion that was applied by the Persians, the Greeks and the Romans and about the mutilation provided by the Babylonians and Assyrians.

The execution of the capital punishment, which took place in public and usually consisted in killing stone, was entrusted to the family which suffered the offence or to the community. These sanctioning provisions that provided the death penalty or other penalties were applied in atrocious circumstances, quite rare and were formulated as a deterrent, frightening the potential offenders.

During the nomads, the Jewish people had the Supreme Law "blood revenge" principle which could not be suppressed later. Death was punishable by death; the family of the person killed was supposed to kill killer or a member of his family. The law of blood revenge was kept and

[30] Ralf Tunes, *Les grandes culturas de la humanida*. The I-II vol. (Revoucionaria Publishing House, La Habana, 1980).

in the following period, sedentary life, being supplemented by the common law principle that was common for many Semitic peoples - the law of retaliation.

As for the ancient Jewish the justice was a state of equilibrium, the punishment was designed to restore the balance when it was broken. Restoring did not mean returning at the initial stage, but the appropriate modification of that element of the relationship that caused the imbalance. However, this principle has not been cruelly applied neither to the Jews, "*ad litter am*". Even the death penalty could be redeemed with money, at least when he was not a killer".[31]

In the Hebrew law, there are more influences of the Babylonian code; but overall, the originality of the Hebrew law is obvious. To impose absolute rules of law that he had formulated, the legislator Moses claimed that they were taught at Mount *Sinai* by *Jahwe* himself. Hammurabi is depicted receiving himself the legal rules of his famous Code directly in the hands of the *Şamaş*. But, unlike the Babylonian God, *Jahwe-Jehovah* was the God of righteousness, of morality and justice".

CONCLUSIONS

Having analyzed the evolution of the sanction in the ancient period, the author concluded that the legal remedies at the time were pretty tough. Their hardness from that period are not comparable to the sanctioning system of today, the laws of antiquity did not make a clear distinction between the categories of punishable offenses, but rather delimited the penalties applicable to the social class to which belonged the person who violated the norm and victim.

But the most important achievement of that period, lies in the gradual replacement of retaliation principle, a principle that has persisted in almost all ancient state entities, with sanctions regulated legally, enshrined in the laws and codes that became, later, real legal monuments.

The evolution of the law to punish is summed up eloquently by Traian Pop: "It had to pass so many centuries, through so many

[31]A. Bertholet, *Histoire de la civilisation d'Israel* (Paris: Payot , 1982). For the same reason, see: *Cartea a doua a Regilor, XIV*, 6; *Cartea a doua a lui Samuel, XIV*, 6 and the next (433.)

modifications, transformations, to get from passionate, instinctive, exaggerated reaction, manifested through primitive penalty, to the punishment of today. The private penalty is succeeded by the religious punishment and then the age or public punishment. The private vengeance is succeeded by the social and collective vengeance. The revenge is tempered by the law of retaliation and composition. The private vengeance or revenge is succeeded the divine expiation, and its legal expiation. The expiation idea is actually replaced by the idea of equity or justice. The idea of justice joins the idea of social utility or it is replaced by it. The moral, punishment functions are added or substituted by useful functions. The deterrent, barbaric and cruel penalties humanize, becoming milder. The positive corporal punishment is substituted by negative punishments, meaning deprivation of liberty. The punishment successively takes and another character: natural, religious, ethical, legal, ethical, legal, and social." [32]

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