

# TOWARDS A DEFINITION OF MUŠKĒNUM

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One of the most controversial problems in Assyriology since the discovery of the Code of Hammurabi is the position of the muškēnum in Old Babylonian society. According to the Code there are apparently three social classes: the wardum, the muškēnum, and the awilum. The wardum is a slave. The muškēnum has been considered as a half-free person, a vassal, a poor man, a leigeman, a plebian, a common citizen, etc. In light of this the awilum has been considered as a free citizen, a noble, a patrician, a common citizen, etc. In 1963, R. Borger gave the following definition of a muškēnum: "subordinate, i.e. of the palace or of the temple (therefore perhaps an ordinary citizen), or of an awilum (therefore perhaps a half-free person)."<sup>1</sup>

Borger's ambivalent definition reflects some recent studies of the problem. In 1958, E.A. Speiser formulated the currently accepted definition, i.e. the muškēnum is a dependent of the palace. In the same year, F.R. Kraus - on the same evidence - came to the conclusion that the muškēnum is a common citizen (and the awilum a noble). In 1964, W. von Soden attempted to defend Speiser's interpretation adding that the muškēnum class was made up of newly urbanized semi-nomads and freed slaves. In other words, people who have not yet acquired full-citizenship. Thus it stands at the moment.<sup>2</sup>

1. Babylonisch-Assyrische Lesestücke (Rome:1963) p. LXXIII. On page L. he defines awilum as "a man, a member of the upper class, a patrician."

2. Speiser, Or 27, pp. 208-17 -reprinted in idem, Oriental and Biblical Studies (Philadelphia: 1967) pp. 332-43; F. R. Kraus, Ein Edikt Ammisaduqu (SD 5: Leiden) pp. 144-55; W. von Soden, ZA 56 (NF 22) pp. 133-41 (cf. Akw. 684a).

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The term muškênum has one of the longest attested histories of any Semitic word. The Amorite form maška'enum was borrowed into Sumerian in the Fara period (about 2600 B.C.).<sup>3</sup> It was written in Sumerian MAŠ.KAK.EN and apparently pronounced mašdá. After the Old Babylonian period the meaning of muškênum - aside from a few survivals of older usage - changed to "a poor man, one of low social position." Through Assyrian it was borrowed with this meaning into all other Semitic languages, such as Hebrew (miskên, miskenôt) and Arabic (miskīn). From Arabic, it found its way into Italian (meschino), Spanish (mezquino), and French (mesquin) and is in use to this very day.

There are two ways to approach an understanding of the use of this term during the Old Babylonian period. The first is through etymology. In form, muškênum is the participle of the verb šukênum, meaning "to greet someone by placing the hand before the mouth (in the gesture of adoration)."<sup>4</sup> This action is commonly found in scenes of worship, in which the worshipper stands, or kneels on one knee, with his right hand in front of his mouth.<sup>5</sup> At most this would indicate that the muškênum refers to a person who is a subject of, or subservient to another.

The second way is to examine the use of the word in context and the relationship of the muškênum with other social entities. In order to facilitate this examination we will posit four questions: 1) was the muškênum a dependent of the palace? 2) how were the muškênum and the awilum connected? 3) is the muškênum an ordinary citizen? 4) what is the relationship of the muškênum to the redûm?

#### 1. Was the muškênum a dependent of the palace?

It is generally accepted today that the answer is yes. One basis for this answer is the frequent association of muškênum with the ékallum or palace. This is very true of two law "codes", The Laws of Eshnunna and the Code of Hammurabi. Thus in LE 34 a slave-girl of the palace is forbidden to hand her child over to a muškênum for the customary three year period of wet-nursing (tarbitum). In LE 50 an official can be indicted for appropriating the property either of a muškênum, or of the palace. Similarly, in CH 8, theft from either is the

3. A. Falkenstein, ZA 51, p. 262.

4. From A. Goetze, The Laws of Eshnunna, AASOR 31 (1951-2), p. 51.

5. Examples of this are frequent in art. For convenience see M. A. Beek, Atlas of Mesopotamia (London:1962) pp. 78-9, illustrations 158, 160, 162 (Hammurabi Period), p. 140, illustration 263 (Tukulti-Ninurta I).

situation. CH 15 and 16 deal with aiding the escape and the harboring of slaves of both. Finally, CH 175 and 176 deal with the case of a slave of either who marries a mārat awīlim, a woman of the awīlum rank. It is noteworthy that parallel laws concerning the awīlum are conspicuously absent. The subjects of the laws, particularly of slavery, are of more general concern than of merely the palace and its dependents.

We also find the muškēnum and the palace mentioned together in the Mari letters. It states in one letter (ARM II 55) that the muškēnum of a certain place were not satisfied (apālam ul ēli) because four other villages had been freed (waššur) of obligation, while their fields had been given over to the palace. In another (61), there is a complaint that both the lands of the muškēnum and the palace have been exploited (ugēr). Again, in letter 80, it seems that the grain of both was abandoned on the far side (aḥarātum) of a river. Finally, concerning an apparent lack of delivery of wood, it is written, muškēnum ul ilegge u hišihiti ēkallim ul ibbašši (ARM V 86, reverse 2-5), "The muškēnum received nothing and the desires of the palace were not fulfilled." We learn from these that the muškēnum and the palace were treated together in certain economic situations. Further, the muškēnum has certain obligations to the palace, which are not entirely clear from the texts cited above.

Both the law codes and the letters present a picture of the muškēnum which is amenable to two interpretations. PALACE The muškēnum could either be a temple dependent or a common citizen. Both interpretations fit the references given above, as well as certain references not given which speak of the muškēnum alone. More evidence is needed for a decision.

## 2. How were the muškēnum and the awīlum connected?

In the Code of Hammurabi a clear distinction is made between the awīlum and the muškēnum. This distinction can be divided into two kinds. One is money payment. Thus, an awīlum pays a substantially higher divorce settlement than a muškēnum (CH 139-40). This is also the case with regard to payments to surgeons (CH 215-16, 221-22). The second kind is in the so-called lex talionis. If an awīlum loses an eye, or a bone of his is broken, an equivalent injury is done to his assailant. The muškēnum, however, receives a money payment for damages (CH 196-211). It should be noted, however, that all these laws are framed with reference to the awīlum, and the muškēnum is mentioned only with regard to special provisions provided for them. Further, as regards the lex talionis, it is interesting that the money payment for injury is a direct continuation of Sumerian practice, while injuries to an awīlum

are punished in a uniquely drastic manner. In non-legal texts this contrast is generally lost. There is, however, a letter from Mari which refers to the muškênum who dwell in the cities (...muškênum wāšibūt ālim). The writer says: ul kīm ummāmi awīlu ekallim inassahū, "Do not say thusly: 'The awīlu of the palace will uproot them.'" (RA 42 (1948) pp.73-77, no.11, lines 24-27).

We learn from all these texts that the awīlum was comparatively wealthy and strong measures were taken to protect him against physical abuse and injury. The evidence can be taken two ways. On the one hand, if one says that the awīlum is the ordinary citizen, then the muškênum is a member of a class which does not have all of the freedoms of the awīlum, nor the debilities of the slave. On the other hand, if one takes the muškênum as the ordinary citizen, the awīlum becomes a member of a privileged, but wealthy, community. The evidence is still incomplete.

### 3. Is the muškênum an ordinary citizen?

We can advance a few more arguments for believing that the muškênum was an ordinary citizen. Thus, in a letter from Mari (ARM V 25) a suggestion is presented that the muškênum of the cities (muškênum ša ālāni) should in the following month perform the sacrifice of the 'chariot of Nergal'. In a middle Babylonian letter from Tell Amarna (EA 1) Kadašman-Enlil, the king of Babylon (Kār-Duniaš), writes to Nibmuaria (nb.m.r. = Amenophis III) that he does not know whether his sister (Amenophis's wife) is still alive. The messengers he sent do not recognize her: mende mārat ištēn muškênu (sic!) u šumma ištēn Gaḡaya, šumma mārat Hanigalbati u mende ša Ugarit ša imurū mārē šipriya, "Perhaps she is a muškênu or a Gageian, or a citizen of Hanigalbat or perhaps of Ugarit (the girl) whom my messengers saw" (ll. 37-40). All the references are to cities and it would be strange that muškênu here meant something very different from 'citizen.' Finally, there is an Old Babylonian letter which clearly implies that the three classes of the society were slave, citizen and awīlum. The letter (CT 44, no.53)<sup>6</sup> is sent by Rapaš-šilli-Ea who was the official in charge of the nadītu-women of Shamash from the end of the reign of Hammurabi through the greater part of the reign of Samsu-iluna. He complains that a certain Liwir-an-ilī has been wrongfully

6. Published in transliteration and translation by F. R. Kraus, AbB I (1964) no. 129.

conscripted as a rēdû: Liwwir-an-ilī warad nadīt Šamaš. Ana minim takla? Ul mār āl Šaga šû; ul mār awīlim. Warad nadīt Šamaš wuššer! - "Liwwir-an-ilī is a slave of a nadītu of Shamash. Why have you detained him? He is not a citizen of Shaga, nor is he an awīlum. Release the slave of the nadītu of Shamash! (11. 6-12). Here we have a clear opposition of the awīlum to a citizen."<sup>7</sup>

The evidence for the muškēnum being an ordinary citizen is not conclusive when examined individually, but when viewed en masse - particularly in relation to the evidence for him being a dependent of the palace - it seems presumptive. If this is so, we are left with a new problem - that of the awīlum! It is, however, still too early in our discussion to come to a final decision for there is yet one more problem to be faced.

#### 4. What is the relationship of the muškēnum to the rēdûm?

In two places<sup>7</sup> the muškēnum is associated with military designations, the bā'erum and the rēdûm. The bā'erum (literally, 'catcher') is probably a net-fighter (AHw 96a). The rēdûm (literally 'pursuer') acted very much like a gendarmerie. It was a conscripted standing military force. We know from complaints sent about the drafting of one or another man into the rēdûtum that it was considered an onerous duty. The heads of various state regulated groups, such as cook-shop operators (nuḥatimmum), herdsmen (kaparrum), millers (kassidakkum), and even fief-holders (iššakkum) demanded that substitutes be found.<sup>8</sup> This would tend to give the range to which the term muškēnum is related. Further, in CH 38, the bā'urum and rēdûm are connected with the phrase nāši biltim, 'taskbearer.' We must remember, too, from the previous section that a rēdûm can also be either a citizen or an awīlum. One final quote must be given, this time from a Sumerian source of the Isin period: mašdā itu.da u4.4.àm hé.gub, "The muškēnu must perform service for four days in the month."<sup>9</sup>

What are we to make of all this? The muškēnum bears some similarity to members of state regulated occupations and to fief-holders. This would seem to bear out the contention that the muškēnum is a dependent of the palace. Yet, even a member of the awīlum class could be a rēdûm. The solution

7. TCL 17, 76:14 (cf. B. Landsberger ZA 43, p. 219f.) and F. R. Kraus, op. cit., p. 36 line 38.

8. A. Ungnad, Babylonische Briefe (VAB 6) pp. 30-39).

9. UM V 74, vi 17-30. (cf. D. O. Edzard, Die Zweite Zwischenzeit Babylonians (Wiesbaden, 1957) p. 97).

seems to be that the muškênum is a nāši biltim, i.e. he bore burdens of public service. He could be conscripted when the need arose for state projects, as is shown in the Sumerian reference.

After reviewing all the evidence presented, we can arrive at the following tentative conclusions. The term muškênum refers to the common citizenry but does not really mean 'citizen' - it indicates that portion of the population who had obligations to the state, particularly as regards activity in public works projects. The awilum, however, is neither a noble nor a freer citizen. He is rather someone who is exempt from such service not only because of his wealth, but more importantly, because the awilum probably was already in government service, being a scribe or an administrative official, etc. This can be seen as a major reason why the laws of lex talionis impart such a high penalty for those who injure an awilum. The point is, the distinction between the awilum and the muškênum is not in social class as such, but rather in their duties to the state institutions.