



Muskenum in the laws of old Babylonian period

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There is no doubt that in written laws related to a society recognizes classes differentiation , like old Babylonian society , is a good source for studying its social classes , beside other documents left by their people . The purpose behind enacting and recording laws , and granted a scared nature (ancient by God's orders ⁽¹⁾ , and recently in the name of people) , was to make them as obligatory and instructive to every body in order to save the current situation and the common privileges of classes

(economical , political and social) , and in order to be obligatory , the overruled class threatened any one who think of rebellion and overcoming by various harsh punishment . These laws did not only define the limits of relationship between classes ; but also between people especially those of the preoccupied class , in order to prevent any exceeding on other life and properties which resulted by selfishness .

If we study social classes in a time unlike ours , we will exclude our opinion on fair laws , that organize the relationships between these classes , and we have to avoid new theories deal with fairness concept as long as this concept changes generally according to the changeable place and time .

Iraqi ancient societies surpassed other societies of a same civilization by long centuries in law legislation in order to make

them obvious to people , this reference to big thirst for fairness , related with a hidden revolution within societies sought to achieve ⁽²⁾ , that make us saying : Fairness was a sign of these laws .

The old Babylonian period and Muskenum :

After two centuries and a half of Akkadian and Gutian periods , the arrival of the third dynasty of Ur , was a wakefulness of political Sumerian power death , a wakefulness that gave to the Sumerian's civilization a marvelous lively push , and this civilization did not end with the end of this sovereign by the hands of the attach of Amorite tribes and the Elamite attach on the capital Ur ; but it drew its paces clearly along the way of the succeeding civilizations ^(*) .

The Amorite tribes that descent from Arabian peninsula , at the end of third millennium B.C. to Mesopotamia as a big dwelling waves , crept from the upper part of Euphrates ⁽³⁾ , who brought about after Ur III fall , a great era which was called old Babylonian period (2003 – 1594 B.C.) , during which they practice their social and political sovereignty , and established many independent city states , the most prominent of those was Babylonian kingdom in the middle , Eshnunna kingdom to the northeast in Diyala region , Mari kingdom in the western north in Syria , Assur to the north , and the two kingdoms (Isen and Larsa) to the south . That sovereignty had conflicted until Hammurapi's arrival (the first half of second millennium B.C.) which put an end it's independence , and brought political unity again to the country under Babylonian leadership .

The old Babylonian period was prominent with a move of writing and translation of Sumerian literary , linguistics and religions documents ⁽⁴⁾ .

^(*) This perspective is clearly obvious in the beliefs , religious mythes , cuneiform and the Art of Temple Buildings .



We were supplied with a lot of that heritage through the digging of Tal Harmal that belonged to Eshnunna kingdom , and from another sites . Of that period we have received Sumerian king lists ⁽⁵⁾ . The greatest gift we have even given from that vital period , were three laws that shed light on the old Babylonian society life and social classes . In two of these laws there was a mention of a class , which was called Muskenum (beside two classes called Awilum and Wardum which meant free people and slaves) that reference to the numerical importance for that class in the society .

The concept of the term Muskenum which appeared in Eshnunna and Hammurapi 's laws , was the same as it was seemed from their study , although their social situation differed according to their role in production in the period of two laws , in accordance with a geographical site and time . But this term was different in its connotations from historical period to another ⁽⁶⁾ , a difference that resulted in a meaning away from Muskenum's term we are dealing with . The littleness of legal articles of this class and its ambiguity , in addition to scarcity of other documents, resulted in different definitions of scholars , [some of them thought of Muskenum as those aliens whom lived in the Babylonian society . (Like Mula in early Islamic period) as a distinct class independent from Awilum . Some saw no difference between the two classes , while others saw that this term meant the poor class of Awilum from the authority's point of view] ⁽⁷⁾ . However looking at the map (historically) will help us in our research to understand the position of this class clearly , let us start with Eshnunna's law , which preceded Hammurapi's law for about one hundred years ^(*) .

* Till now there is no proof about the exact date of writing the law .

Eshnunna kingdom lies in Diyala region to the east of Tigris river , contained Sumerian's dwellings , like Tell Asmar (Eshnunna kingdom's capital) , Tell Ajrab , Khafaja , Ishjali , Tell Harmal and Tell Muhammed , which were close to the starting point of Ammorites migration in the upper part of Euphrates and far from Sumerian's big groups in its ancient cities to the south of Nippur , (Isin , Uruk and Ur..... etc.) , This closeness in addition to the region fertility and civilization helped in gathering the immigrants⁽⁸⁾ , in density that resulted in constructing a new society , which was strong enough to replace the old one . What confirms this is that Eshnunna's law was written in the language of new dwellers , taking Babylonian language . That law dealt with social norms that established inside people's spirit and empowered by the cruel desert . In more than one legal article , death punishment appeared on the contrary to the law of Ur-Nammu , and the law of Lipit-Ishtar ⁽⁹⁾ . Women also appeared in this law , suffering from social chains hard enough comparatively with these two laws ⁽¹⁾ , The law of Eshnunna in these points , meets the law of Hammurapi , and in another common point , is the term : Muskenum .

Muskenum in laws :

Eshnunna's law worked hard to protect Muskenum's properties from thieves by making death as punishment ⁽¹⁾ , a common aspect with Hammurapi's law ⁽¹³⁾ , which came after about a century , their life in first law , was not cheaper than their properties as it was indicated in the legal article (25) , that referred to depriving life of the killer , even if he was free (Awilum) . Muskenum's life was equal to Awilum's life , on the contrary to what was happened in hammurapi's period , where the person's life of that class had a certain price , even for every part in his body . This made the killer of Muskenum paid a cash forfeit as compensation to the killed person's family ⁽¹⁴⁾ . But if the victim

person was from Awilum , then the judgement would be an eye for an eye ⁽¹⁵⁾ .

Thus if a person from Awilum brake another Awilum's bone , the judgment should be to break the offender's bone , and the same was true if he pierced another Awilum's eye . But if the victim was from Muskenum then the judgment would be paying one Mana ^(*) of silver . But if the victim was Awilum's slave ^(**) , then the offender had to pay half of his price as a punishment ⁽¹⁶⁾ . Also if an Awilum caused fall woman's embryo and that woman was free , then he had to pay 10 sheqils ^(***) of silver , and if the woman was from Muskenum , then he should pay 5 sheqils , but if she was a maid of Awilum , then he should pay 2 sheqils ⁽¹⁷⁾ .

Accordingly doctor's free in return of saving Awilum's life was 10 sheqils , Muskenum's life was 5 sheqils , and the fee of saving Awilum's slave was 2 sheqils of silver , paid by his master (Awilum) ⁽¹⁸⁾ .

Now what are the justifications of equaling the two lives (the Muskenum and Awilum) in eshnunna's law , then changing this concept in Hammurapi's law) ? .

The rational (as we shell explain) is that society in the first ear was in urgent need for those people in the social production procedures , and that their role was vital . Which in the second ear those Muskenum descended to be a normal people but aliens in the Babylonian society .

(*) weight unit .

(**) legislative articles differentiated between free people's slaves and palace's and Muskenum's slaves .

(***) weight unit .

What supports this opinion is that Eshnunna's society was new to its surroundings , therefore it needs the expertise required by the Urban-agricultural society , like management , agriculture



and various crafts . Intuitively desert with its barrenness forced people to leave social production process , in another meaning those circumstances made Amorites distant from those expertise . This fact appeared clearly in Sumerian's documents contemporary to their migration ⁽¹⁹⁾ . So it was natural that those people asked for alien's help , as Arabs did in the first centuries of Islamic conquest ⁽²⁰⁾ . But people of that society looked disdainfully to the beaten alien's , a look that was rooted inside Bedouin's spirit by the harshness of desert , that resulted in intercepting the production process in Eshnunna's new society . The evidence was those articles referring to a certain people , who suffered from that oppression due to those circumstances within the Babylonian society , the same look appeared after 26 centuries inside the Islamic societies ⁽²¹⁾ , in spite of their humanity mission and Umarr's ^(*) everlasting should " When did you enslave people whom are borne free ? " . So there should be protection from law to save their souls , Muskenum was those poor people .

The reason behind sending down the harsh punishment of death on the thief in both laws , as far as I 'm concerned (as a comparison) , is that Muskenum were offering a defined sum of money to the palace in order to protect them from other's offends , because of their social weakness . This state was obvious during : Umayyad and Abbasid periods , when the land lords of Mawali ^(**) did the same process ⁽²²⁾ . There is also a support

To this statement is that there is no sign on a marriage between man of Muskenum and a free woman , a fact that let us agree on inability of achieving this marriage ⁽²³⁾ , as it was hard to Mawla in Islamic society ⁽²⁴⁾ , to marry an Arab woman .

(*) The second Caliph .

(**) One is Mula (Mawali are original population) .

Hammurapi's law came later to make more explanation about the identity of the Muskenum . For it came in a period during which Amorites did not only receive civilized faithfulness, but also they proceeded ahead and gave it their nature , in a period distinguished with their sons proficient in various civilization's arts , thus Muskenum hadn't been that scarce currency in production process as they were in the beginning of the old Babylonian period , for this reason Hammurapi's law didn't care so much about their life , that it should their real value as a second degree citizens , so the article (202) indicated to the class's scale steps in another way as follow : [If a man hit a highest one (than him) on his cheek , then the first one should be hit publicly sixty times by a whip made of Ox's tale] .

But as we find the decline of social situation of Muskenum's life during Hammurapi's period , we find a protection of his properties related to palace's properties under the punishment of death too . It seemed that the reason behind this protection was the same reason that made those properties protected under the paradox between Muskenum's humble life in the period of Hammurapi and the expensive " price " proposed on his properties . As long as the Muskenum possessed fields , cattle , slaves and houses that attract the thieves to attach them , as the two laws indicated ⁽²⁵⁾ , it is an invitation to avoid the idea of treating them as a free poor people , for whom the Palace sought to protect and proposed a monetary fine on the offender because those poor people needed it instead of the physical punishment⁽²⁶⁾. If this is true then this fine wouldn't be so miserable relatively to compensation of the free (Awilum) (the rich man in the concept of this view) , and there should be a monetary fine instead of death punishment , upon the offender thief .

Accordingly and as long as Muskenum's marriage from a free woman did not mentioned in Hammurapi's and Eshnunna's laws , then we agree with the proposition saying that they were an

independent class , and that Muskenum's term approached the Arabic term (Mawla) ⁽²⁷⁾ . But we have still an ambiguous point about the subject of Muskenum's marriage from a free woman , a point that Hammurapi's law indicated to the possibility of that marriage relative to Palace's slave and the Muskenum's slaves ⁽²⁸⁾ . If the slave was from a humbler position than Muskenum , then why Babylonian society refused this marriage when the matter concerned the master of this slave ? .

It is to be noted that the Palace's and Muskenum's slaves were the ones who only had the right to marry from a free woman, which means those who had a special treatment and gave them a distinct social importance ⁽²⁹⁾ . Those who had the right to do , may be citizens of that society whom Hammurapi's law sought to liberate them ⁽³⁰⁾ , some of them were degraded to slavery because of war or debt ⁽³¹⁾ . Most probably these slaves were able to marry a poor man's daughter only ⁽³²⁾ . Finally if our analysis is true that Muskenum were alien people in the society , and that their lives were protected under death punishment , during the first beginning of old Babylonian period , due to society's need , then I may ask a question in every step of this research as follows :

Is that Muskenum from Sumerian Origin ?

The proofs that indicated to yes are many : the first one is that the new society of Eshnunna kingdom had to be asked the help of Sumerian people of this area above all , because of their long experience in agriculture , industry , and irrigation projects , and in various crafts needed by urban society . From many proofs one can see that Amorites had soon adored Sumerian gods ⁽³³⁾ , due to facing the same natural circumstances which gods represented . A matter that obliged others to ask Sumerian priests help , and the proceeding of Sumerian religion explaining the continuity of using the cuneiform in spite of its hardness till later eras , until appearance of Aramic Alphabet later . There is no

doubt that the revival of Sumerian heritage had raised by the efforts of Sumerian priests and educated men ,for they were still exist , for example we find a lot of Sumerian names in the documents of eshnunna kingdom ⁽³⁴⁾ , such as the name of the writer Ur-Nanna ^(35 a) , In these documents we also find the widespread usage of Sumerian words when defining craftsman like sculptor . author , gardener , shoemaker sailor , employee and barwoman and others ^(35 b) , (This was true relative to Eshnunna kingdom when was far from big Sumerian groups in the south , how about Babylonian region near by ?) .

Palace should have been asked help from those people in the management and professional fields , as Islamic State did in the beginning period succeeded in publishing their heritage and culture in the Islamic society ⁽³⁶⁾ . The other proof is that Muskenum's class did not exist in Lipit-Ishtar's law , (king of Isin) (1934-1904 B.C.) and by concentrating on the surroundings of law , would approach from the proposition Muskenum = Sumerian .

Isin state lies far south from Eshnunna by about (200 km) in an area contains big Sumerian cities like Ur , Larsa , Isin , Uruk.....etc. , it lies far from the starting of Amorite immigration in the northwest , a situation that helped on the existence of the majority of Sumerian society until the date of writing the law , the proof was the Sumerian language was the language of Lipit-Ishtar's law. We were lucky to receive one legal article related to that king written in Babylonian language ⁽³⁷⁾ , then this means that Amorites existed as minority in society , but what is established is that the essential law that was put in public , helping people to read it was written with Sumerian language ⁽³⁸⁾ . The thing that asserted the majority of Sumerian was law concerned of Sumerian people norms just like the Sumerian law of Ur-Nammu as we mentioned ⁽³⁹⁾ .All these proofs show to us the extent of social weight of Sumerian society and its effects on Isin society [may

be Lipit-Ishtar tried to limited this weight by enacting the article (14) which stated the following :

(If a slave complained on his master because of his bad treatment and got a proof on this behavior twice , then this slave would be freed) . It is normal that this strange article , that had no counterpart in other laws , caused many social problems as long as a person couldn't have full control on himself and eventually would hurt his family , [then how couldn't he hurt his slave ?] . Now if Muskenum were strangers from other countries , or poor people , then they would be mentioned in Lipit-Ishtar's law or in Ur-Nammu's law , under any other Sumerian name . But wherever Sumerian were a majority in a society then Muskenum would be justification Sumerians standing with their old enemies (Elamites) against Hammurapi ? , for he faced a strong resistance to overcome Sumerian cities in far south ⁽⁴⁰⁾ , like Uruk ,Eridu , Ur , lagash , Larsa and others ? Was it their feeling of the minority's humility of their people in the Babylonian society ? Like the Mawalli participated actively into opposed movements in Islamic State ? .

Investigation Muskenum's term after Hammurapi , makes us contemplating too , this term was called on the lower part of government sector (workers) ⁽⁴¹⁾ , in the reign of the Babylonian king Ammi-saduqa , who came after Hammurapi a century later . this indicated that Muskenum lost their importance (Muskenum of Eshnunna and Hammurapi periods) , at this late time of old Babylonian period , It is worth to mention that there is great number of Muskenum who worked in the government sector in the two periods of Eshnunna and Hammurapi as the articles 25 , 26 , 51 of the first law , mentioned also the articles (8 , 15 , 16 , 175 , 176) of the second law . Where there was an indication in one way or another of this relationship with authority ⁽⁴²⁾ . There is another relationship we still find , it in the letters of Samsu-Iluna ⁽⁴³⁾ (son of Hammurapi) . [We also find another relationship between Muskenum and the government in Mari's letters during Hammurapi's region ⁽⁴⁴⁾ , and in

Hurrian ⁽⁴⁵⁾ and Ugarit district as had shown in one letter returned to after the second half of 15th century B.C.] ⁽⁴⁶⁾ .

During the Neo-Babylonian period the term Muskenum had the same meaning of Arabic word Meskeen " poor " and it was called on the poor majority in the society ⁽⁴⁷⁾ .

The progress of this term coincided historically with Sumerians go down as distinct people within the Babylonian society . This matter explained by the great number of legal articles that Assyriologist explored , one of these groups may be returned to a period close to Lipit-Ishtar's period written in Sumerian language , which was found in Nippur ⁽⁴⁸⁾ in which there is a mentioning of slave after the term free directly in two articles of a same subject . There is no mentioning of Muskenum laws .

In second group of legal articles perhaps returned to the end of old Babylonian period or to kassite period ⁽⁴⁹⁾ (1680-1157 B.C.) , there is no mentioning of Muskenum , and not mentioned too in the third group of articles related to the Neo-Babylonian period ⁽⁵⁰⁾ (900-539 B.C.) , Now , the late two groups were written with Babylonian language and related to the two periods where the sovereignty were without dispute , for people from the Arabian Peninsula in language , culture and policy . Here we also find that the disappearance of Muskenum coincided with the disappearance of Sumerian inside the Babylonian society , as well as ended Kassite people in a big haste .

Finally we may ask ourselves is the Babylonian society at these late periods devoid of aliens or poor that exclude them of these legal articles ?

Answering yes is not easy , because of certain reasons raising doubts that Muskenum after Hammurapi's period would not be Sumerian strangers any more , constituting a class of numerical importance and had an essential role in production .

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- 11- Compare between article (6-11) of Hammurapi's law , and article 127 of same law with article 11 of Ur-Nammu law and article 33 of Lipit-Ishtar's law .
- 12- article (12 and 13) .
- 13- article (8 , 15 , 16)
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Burkhart kie nast , Erlangen , zu Muskenum = Mula

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