

THE ROB MAŠ 1 SOUTH ARABIAN LEGAL INSCRIPTION REVISED*

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The Rob Maš 1 inscription was discovered by Christian Robin in 1976, and published by him jointly with J. Ryckmans in the *Raydān* journal in 1978¹. The text has been newly translated by Jamme² and Müller³.

The inscription is an official decree issued by the major political bodies of a tribal community of the Yemenite highlands (in the region of Arḥab)⁴, with a specific regulation regarding a cistern dedicated to the deity *Nws'm*; as such this document has great cultural and historic importance for it gives us further information on the legal system of ancient South Arabia and it is of special importance, because it enables us to reconstruct beliefs and customs closely linked to religion, which seem to have been incorporated into a legal system.

The relation between the religious sphere and the legal system is an historical issue of crucial significance. It has often been the subject of investigation in several areas of the Near East, but unfortunately lacking in the documentation of ancient South Arabia.

Accordingly, we have not only revised the inscription philologically, but we have also tried to analyze its content within the framework of those ancient South Arabian (hereafter ASA) legal documents which specifically concern the religious sphere.

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* This article is the revised version of a paper I delivered at the "Gli operatori culturali" Congress on 10-11 May 2005 at the "La Sapienza" University in Rome. I wish to thank the organizers Profs. Paolo Xella and Maria Rocchi for allowing me the opportunity of presenting the text dealt with in this work.

1 Robin - Ryckmans 1978.

2 Jamme 1979.

3 Müller 1983a.

4 In particular in al-Mašāmain (the correct transcription of this name is given by Müller 1983a, 268); for the identification of the region of Arḥab see Robin - Brunner's map of Yemen, 1997, and for the specific section where this district is located see Jung 1992, 100; for a general description of the site see Robin - Ryckmans 1978, 39-43.

Edition of the text

- 1 ḥgn k-tqhw w-s'twddn bnw Ġ[d]=
 2 bm w-Drmt w-s'bn d-hgrn Mdrn
 3 qs'd-hmw w-rgl-hmw w-²dm-hmw k-yh=
 4 grnn w-^crbn dt brktn l-Nws'm b=
 5 n s'qy b-dt brktn qnym f-²[w]
 6 rhđ b-hw w-d-ys'qyn b-hyt brk[t]=
 7 n bqrm f-²w ḥmrn f-²w d²nm
 8 l-ydbḥnn ²dkrn T²lb w-²ty[n]
 9 Nws'm w-d-y^ckrn ftđyn qny-hw [l-y]=
 10 s²mn-hw ^cnm Nws'm w-ḥmrn l-yw(g)=
 11 rn w-d-yrhđ b-hw l-ys'^btn ḥms'y
 12 s'^btm b-mqmn w-d-y²s'^{yn} b-hw qn[..
 13 f-²w d-ydrmn-hw w-²l yhđtn ²=
 14 qdmn l-yhnkrn ḥms' bltm l-
 15 ²ht drn

The whole left-hand section of the stone on which the text is engraved is slightly damaged. Reconstructing these small lacunae is problematic in lines 8, 10 and 12 because the details of the photograph published by the editors are not clear.

The reading of the end of lines 8 and 10 has been improved by Müller, who had at his disposal another (unpublished) photograph of the text⁵ and who states that the end of line 8 should read «sicherlich» ²ty[n]⁶, whereas the editors had read: ²t(n)⁷.

Müller points out that there can only be two readings for the end of line 10: «mit grosser Wahrscheinlichkeit entweder *lywgrn* oder *lywlrn*; da die letztere Form wegen der Inkompatibilität des zweiten und dritten Konsonanten in einer Verbalwurzel *wlr* nicht in Frage kommen dürfte, bleibt somit nur *lywgrn* übrig»⁸. Accordingly, we accept Müller's reading *l-yw(g)rn*⁹ which has a significant bearing on the general sense of the text, as we shall see further.

At the end of line 12 the lacuna cannot be restored with certainty. The most probable candidate is *qn[ym]* on the basis of the parallel form *qnym* occurring in line 5, as also suggested by Müller¹⁰.

⁵ As reported by Müller 1980, 68.

⁶ Müller 1980, 68 and 1983a, 269.

⁷ This reading has been accepted by Jamme 1979, 31; Sima 2000a, 95; Stein 2003, 19.

⁸ Müller 1980, 67-68.

⁹ This reading is also accepted by Nebes 1995, 227 and Sima 2000a, 95-96, whereas Robin - Ryckmans 1978, 52-53 and Jamme 1979, 31 had proposed *d*, hence the term *ywdrn*.

¹⁰ Müller 1983a, 269; by contrast Robin - Ryckmans 1978, 45 and Beeston 1981a, 55 read *qn*; Jamme 1979, 32 proposes: *qn(m)*.

Syntactical arrangement¹¹ and translation

Unit 1

¹ ḥgn k-tqhw w-s'twddn
bnw Ḡ[d]²bm w-Drmt w-s'c'bn d-hgrn Mdrm³ qs'd-hmw w-rgl-hmw w-²dm-hmw

¹ Thus did they order and decide in agreement
the bnw Ḡ[d]²bm and Drmt and the tribe of the city of *Mdrm*³ and their priestly
class (?) and their men in arms (?) and their vassals

Unit 2

k-
yh⁴grmn w-^crbn dt brktn l-Nws²m
b⁵n s'qy b-dt brktn qnym f-²[w]⁶ rhq b-hw

that is that
they⁴ make intangible and offer to *Nws²m* this cistern
against the letting wa⁵ter animals in this cistern o[r]⁶ washing in it

Unit 3

w-d-ys'qyn b-hyt brk[t]⁷n bqrn f-²w ḥmrm f-²w d²nm⁸
l-ydbḥnn ²dkrn T²lb w-²ty[n]⁹ Nws²m
and who lets water in this ciste[rn]⁷ bovines or ass or sheep⁸
let the males be sacrificed to *T²lb* and the femal[es] to ⁹*Nws²m*

Unit 4

w-d-y^ckrn ftdyn qny-hw
[l-y]¹⁰s²mn-hw ^cnm Nws²m

w-ḥmrm l-yw(g)¹¹rn
and who resorts to the right to redeem their animals
[let h]im pay¹⁰ to (buy from) *Nws²m*

while the ass be sto¹¹ned

¹¹ Here, syntactical arrangement means a text linguistic approach which I proposed earlier in my analysis of the Sabaic legal text C 609 (Mazzini 2004a). Despite a first tentative proposal by Gruntfest 1986, this approach does not yet enjoy sufficient support among specialists of ASA epigraphy. It is, however, well known that this documentation is entirely made up of precise genres (substantially dedicatory, constructional and legal, to which should be added the very special documentation written on sticks and palm-leaf stalks), the textual structure of which is highly recognizable on the basis of prefixed formulae and lexical uses peculiar to each genre. It should be noted that epigraphic documentation from other areas has been successful in experimenting with this approach, see e.g. the Phoenician inscription of Karatepe as recently dealt with by Shade 2005, the Aramaic inscription of Tell Fekherye by Leonhardt 1995 and the Moabite inscription of Meša' by Niccacci 1994.

Unit 5

w-*d*-yrh*d* b-hw

l-ys'*b*l'n hms'y¹² s'*b*l'm b-mqmn

and who washes in it

let him be struck with fifty¹² strokes at the place

Unit 6

w-*d*-y²s'y'n b-hw qn[..¹³ f-²w *d*-ydrmn-hw w-²l yhd'tn ¹⁴qdmn

l-yhnkrn hms' bl'm l-¹⁵ht drn

and who accompanies animals in it¹³ or who walks around it but does not commit¹⁴ the preceding (misdemeanours ?),

let him be punished with five coins for¹⁵ one time.

General content of the text

1. The decree lays down (Unit 1)¹², that the cistern be dedicated to the deity *Nws'm* and that, hence, it is not to be used either for watering animals or for washing in (Unit 2). The document also gives details (units 3, 4, 5 and 6) of the sanctions to be applied as punishment for a precise series of transgressions¹³.

Despite the publication of the inscription raising the interest of a number of scholars, only the editors of the text, Robin and Ryckmans, gave it an overall interpretation¹⁴. They maintain that the dedication was of a *profane* nature because it was ordered by the tribal community, not by the god, and that this dedication had the function of strengthening the prohibition laid down by the decree. The prohibition was of a practical nature in that it served to prevent contamination of the water in the cistern which was for *consummation humaine*¹⁵. In addition, the authors maintain that this document could prove the relationship between the deity *Nws'm* to whom the cistern is dedicated, and water.

Although the authors are due the credit for first raising the question of "contamination" caused by animals, it is still somewhat hazardous to infer such clear-cut conclusions on the meaning of this text. Indeed, it should not be forgotten that almost nothing is known of the archaeological context, and this absence must surely condition any assessment on

¹² As is the rule for ASA legal documentation, the first Unit contains an introductory formula which presents the various juridical and social organs involved in the legal act, and a series of verbal expressions on the concept of emitting the legal document. cf. the comment by Robin - Ryckmans 1978, esp. 46-52, where the authors go into some detail on the historical aspects typical of the tribal group involved.

¹³ This type of text is structured within the syntactic framework of *d*+imperfective (the case that happens) / *l*-imperfective (the sanction applied), typical of casuistic legal language amply attested in ASA legal documentation.

¹⁴ In taking a strong stance on this interpretation of Robin - Ryckmans, Jamme 1979, 33 concludes his comment stressing that: «it may be less glamorous, but it is simply more honest, to confess our limited knowledge in SA social conditions and refrain from dreaming».

¹⁵ Robin - Ryckmans 1978, 59.

the practical use of the cistern¹⁶. The inscription is no longer *in situ*, and no further extra-textual data are available save that given by the owner (and discoverer) of the inscription according to whom it was originally located near a *maʿgil*. This means that the inscription had originally been placed near the water cistern whose use it regulated in accordance with a very widespread custom in pre-Islamic South Arabia¹⁷. Unluckily, we are unable to ascertain what kind of cistern it was and what its original function was.

Furthermore, the decree contains no direct information in this sense, nor does it specify whether the water in the cistern had to be kept pure for human consumption. It is to be noted that if this text were also proof of a relationship between the deity *Nwsʿm* and water, it would become even more unlikely that the water consecrated to this deity would be put to practical use. In any case, the serious lack of knowledge about the divine world of South Arabia seriously weakens this point (absolutely nothing is known about the characters and functions of *Nwsʿm*)¹⁸.

By contrast, I feel it is crucial to note that the relationship between the dedication of the cistern and its regulation raises an issue essentially of cult and religion. As we shall see, any practical implications – and it must be established what is actually meant by “practical” – take on particular significance only if they are read in a completely different light.

The prohibition against “watering animals” or “washing” in the cistern reveals a fundamental incompatibility between sacred areas and extraneous entities which, we shall see, are deemed sources of contamination and therefore subject to certain prohibitions.

2. This general principle of incompatibility between sacred areas and extraneous entities has many significant parallels in ASA juridical-normative documentation. I note especially the DAI Barʿān 1990-1¹⁹, MB 2000 I-7²⁰ and Y.92.B.A²¹ inscriptions which prohibit certain animals to have contact with sacred areas (or parts of them), on pain of being killed, or of a monetary fine²². The parallel with these texts suggests extending the

¹⁶ I also stress that the term *brkt* mentioned in the inscription does not enable the cistern type to be defined clearly, just as it is very difficult in general archaeologically to reconstruct the actual use to which ancient cisterns conserved up to the present day were put; note that there are a number of terms in ASA (*mwdy*, *mʿhḏ*, *krf*, *mʿgl*) that refer to that which we generically translate and identify as a single entity, namely the water cistern.

¹⁷ A particularly significant example is the ancient Sabaic legal texts from Jawf on managing private water supplies. These are inscriptions written on stone slabs similar to Rob Maš 1, and placed near dams or canals built by private individuals; highly significant is the MAFRAY-Ḥuṣṣn Āl Šālīḥ I inscription (Robin 1987).

¹⁸ In general see the recent overall picture drawn by Müller 2002 and Sima 2002.

¹⁹ Ancient Sabaic text from Mārib, Nebes 1990, 2004; animals such as goats ʿnz (Sima 2000a, 29-31; Kogan - Korotayev 2003, 99) found grazing near the temple building must be killed.

²⁰ Middle-Sabaic text from Mārib, Maraqtan 2002.

²¹ Minaic text from Barāqish, De Maigret - Robin 1993.

²² There is a similar prescription in the R 4176 decree cf. Müller 2002, esp. 178-179, and more in general Müller 1997.

comparison to another group of typical ASA legal texts²³. These are documents which set boundaries on certain areas declaring them sacred belonging to the god, and prohibited to animals passing over or grazing (the technical use of the *hgr* root is linked to this practice, cf. below in the Philological remarks, Unit 2)²⁴.

Furthermore, it is interesting that in all the documents mentioned here, there is a constant reference to clear sanctions against animals or their owners guilty of transgression. These sanctions reflect particular underlying beliefs and habits, which could be an excellent source for reconstructing ASA civilisation. In this, the Rob Maš I inscriptions stand out for the wealth of information contained in their Units 3, 4, 5 and 6.

The main sanction consists in the maximum penalty (death) to be inflicted on animals guilty of drinking from the cistern. That animals be guilty of an illicit act, and thus punished as equals of human beings, is part of the basic principle according to which animals are part of a family clan and are consequently effective members of society.

In practical terms, since the misdemeanour pertains to the sphere of the sacred, killing the animal coincides with an act of ritual sacrifice, which is also suggested by the *dbh* root, which in ASA (and even more in Arabic and in the Old Testament) has this precise connotation. Inflicting capital punishment on an animal found guilty of similar misdemeanours is again found in the ancient Sabaic decree DAI Barʿān 1990-1²⁵, mentioned above. The parallel to the inscription GI 1628, a royal decree prohibiting various kinds of animal from entering a certain area (cf. above) could also be of specific interest. Line 6 of this text has the expression *l-ydb[n] wdm hms' q[nym]*, possibly containing a similar sanction to the Unit 3 of Rob Maš I, namely sacrificing the animals that trespassed on the prohibited territory to the god *Wdm*. Unfortunately, this part of the inscription is fragmented and it is impossible to reconstruct its entire context exactly²⁶.

²³ See esp. the following inscriptions: GI 1142, Beeston 1955; MAFRAY-al-ʿAdan, 10+11+12, Robin 1985; GI 1628, Höfner 1981, 18-26; MAFY/Yašīʿ 8/1; cf. also the Qatabanic decree CSAI I 195 =Ja 2360. Avanzini 2004, 265-267 and in part also R 4176, Müller 1997.

²⁴ In this text can be seen the original of what in Islam is considered *ḥimāʾ* (referring to a prohibited area, cf. Koran, 11, 64: 7, 73 and also the Old Testament Es 19) as suggested by Robin - Ryckmans 1978, 59-60, cf. also the comment in the section of philological remarks. I have serious doubts on Robin - Ryckmans' later reference to the institution of the *waqf* which is substantially different; the origin and historical significance of this institution is the subject of a far-reaching debate cf. Gil 1998; Shatzmiller 2001 and Hoexter 1998 (who convincingly links this institution to the *zakāt*, on which in general see Bashear 1993). The Qatabanic inscription CSAI I, 196=Ja 2361, I attesting the term *qf* does not prove the existence of the institution of the *waqf* in ancient South Arabia as Robin - Ryckmans 1978, 60 suggest. The term *qf* is, in fact, a graphic variant of *qyf* well known in ASA (cf. Avanzini 2004, 268: «this is the boundary of the territory») indicating both an altar dedicated to the deity (SD, 111: «cult-stone») and a legal document written on stone or on the side of a mountain containing the prescriptions for a certain area (SD 111: «boundary stone»); the ancient Sabaic inscription Ja 541, 7, is a parallel meaning cf. Von Wissmann 1982, 168-169a (see also similar use in the *yqfm* verbal form in GI 1142, 6, cf. preceding note).

²⁵ Note esp. that here the verb used is *grd* and not *dbh*. In any case, even the verb *grd* (typical form of Southern Semitic seeing the Arabic and Ethiopic parallels) has ritual connotations as emerges from the parallel with R 4176, 3, cf. Müller 1997, 97.

²⁶ One possible confirmation is that this punishment might be linked to the verbal form at the beginning of this line: *y[h]ʿsʿyn*, the same found in the last clause of Rob Maš I (cf. below). This would reject the idea put forward by Höfner 1981, 25 that the term *wdm* is a common name

The hypothesis of “sacrifice” with its historical-religious implications²⁷, might be further confirmed by the fact that animals were being offered up distinguished by gender to two precise deities (males / *Tʿlb* vs females *Nwsʿm* to whom the cistern was dedicated)²⁸ and were explicitly defined in order of species (bovines, asses and ovines)²⁹: this is an approach which seems to reflect certain prescriptions typical to ritual sacrifice (one type of animal, distinguished by gender to a certain deity)³⁰. These considerations seem all the more likely if we accept Müller’s suggestion on the special treatment reserved to asses who were stoned³¹. Indeed it is known that in the ancient Near East the ass was traditionally distinguished from other animals for certain and symbolic connotations³². Stoning instead of sacrifice could lead back to a strongly rooted belief in Islam (and also in the Bible) according to which the meat of the ass may not

meaning «Versöhnungsopfer» parallel to the Qatabanic hapax *wdm* attested in CSAI I 198=R 3689, 5; CSAI I 199=R 3691, 4; CSAI I 2000=R 3692, 3, while it is much more likely that it is the god *Wdm* (on this cf. the detailed analysis in the Philological remarks, Unit 6).

- 27 E.g. sacrifice as a reparatory act, cf. an ASA legal text, CIAS 33.21/r1, cf. Müller 1983b, 268 prescribing a sacrifice, *dbh*, for a misdemeanour the nature of which, though, is not clear.
- 28 The proposal by Robin - Ryckmans 1978, 62-63, that «*Nwsʿm* est une déesse» and that *Tʿlb* et *Nwsʿm* formaient un couple divin», parallel to the Qatabanic *ʕmby-Ḥwkn* seems to be confirmed by a new Qatabanic document CSAI I, 88= Mift 99.69 (recently published by Arbach 1999). This text attests the divine couple *Wrḥ* / *Ṣwr* in which *Ṣwr* must be the female (*Wrḥ* the moon is assuredly masculine), since the nominal scheme *fwʿl* is used specifically for the names of female deities (Arbach 1999, 153 based on Bron 1992, 21-22; cf. also the couple *ʿttr* / *Hwbsʿ*, Ryckmans 1989, 161). This would be a plausible explanation of offering female victims to the goddess *Nwsʿm* (Robin - Ryckmans 1978, 60). On the *Nwsʿm* cult in general see also Robin 1982, 59. The god *Tʿlb* is the main deity in this part of the high plateau (esp. the tribal god of *Sʿmʿy*), cf. Robin 1982, 51-53, 62-67.
- 29 Domestic grazing animals, as is known from various ASA sources (cf. Sima 2000a), esp. cf. Gl 1628 and MAFY/Yašif 8/1. On the issue of typifying animals in this way, a significant example is the legal text, Ḥadaqān 1-2, regulating the grazing of animals on private property (not related to a cult) which states that bovines (*ṭwr*), asses (*ḥmr*) and sheep (*qny*) must graze separately in their own type of pasture (*mrʿt ṭwrm*, *mrʿt ḥmrm*, *mrʿt qnym*, cf. also Gen. 12, 16, exactly the three types of animals in Rob Maš 1).
- 30 Gender distinction in sacrifice can be traced back to the text C 392, 9-10, cf. Müller 1988b, 448-449.
- 31 The proposal by Müller 1980 is accepted also by Nebes 1995, 227 and Sima 2000a, 96.
- 32 The ass as an ambivalent (positive/negative) animal, or in any case dealt with by special statute, has many parallels in the Near East. Although the imaginary of the ass has negative associations, certain positive traits are also noted: see Mari, cf. Lafont S. 1998, 164-165 and Lafont B. 1999, 72-73, where the ass is synonymous with the sacrificial animal of the pact of alliance (an issue which could also be echoed in ancient Arabia as suggested by Höfner 1965 in whose view the term *ḥmrm* in certain contexts alludes to the pact of alliance, an idea also accepted by SD, 68 cf. also Maraqtan 1998, 196; Kogan - Korotayev 2003, 103). Furthermore, the ass is deemed to be a special animal to be ridden indicating royalty cf. Old Testament 2 Sam 16; Zac 9-9-10; Solomon’s gifts of horses and asses, in 1 Kings 10, 25 (use also extended to the term *pered*, mule) paralleled also in Muslim tradition where the Prophet and the first Caliphs are described in the fullness of their authority astride an ass (also hinted at in the Koran, 16, 8 horses and asses for riding in the context of the bounties created by God for humankind. Similarly see the use of the term *pered* to indicate the ass used in battle in 2 Sam 13, 29; 18, 9).

become *dabh*, a sacrificial animal killed by cutting its jugular vein³³. The use of stones for carrying out a sentence, furthermore, is typical of the guilt of subjects having particular connotations of impurity.

Exactly symmetrical to the misdemeanour caused by animals, is washing in the cistern. Unit 2 is not clear on the subject of the action (human, animal, both?), while the context of Unit 5 seems to identify it as human. Nor is it clear to which precise action the verb *rhḏ*, used in this context, refers to (washing one's body, that of an animal, clothes or other objects?). In any case, they are exogenous subjects which trespass on the sacred area, just as the animals who drink from it. The seriousness of the punishment, fifty blows with a blunt instrument as seen in the root *s'bl*³⁴, has no parallels in ancient Arabia, which could prove the extreme gravity of the misdemeanour because it pertained to the sphere of the sacred³⁵.

Unit 6, which closes the decree, seems to go further in this direction. Unluckily, philological interpretation of the text is rather vague, and scholars are in disagreement. The new translation suggested here, while yet hypothetical, would help to shed light on a much more generalised prohibition, viz. the text deeming a misdemeanour merely approaching the cistern whether or not with an animal (the text is ambiguous on this); it is crucial to understand the exact meaning of the ambiguous expression *w-ʔl yhḏtn ʔqdmn* (see in detail in the section on philological remarks, Unit 6). While the preceding clauses specify the actual misdemeanour (drinking and washing), this preventative measure places emphasis on the danger involved in approaching or loitering in the area, and the preventative nature of the clause provides for a mere monetary fine (the misdemeanour is minor) and seems to suggest that the cistern's location is part of the sacred area and, thus, subject to similar sanctions.

3. From this short analysis of the text, let us now attempt a number of more general interpretations.

Up to now, we have said that the regulation laid down by the decree is based on a more general concept of "incompatibility between sacred area and certain exogenous

33 Thus not edible and deemed impure: this prescription is found widely in the Old Testament (interesting the case studied by Müller 1989); see esp. the parallel suggested by Müller 1980 with Es 13, 13 (but see also Es 34, 20).

34 Note the parallel with the Sabaic dedicatory text published recently by Bron - Ryckmans 1999, referring to the murder of a servant. In lines 8-10 the text states that the servant was struck and died as a consequence in a fashion similar to that described in the inscription Ja 669, 18-20: the root used for indicating blows in both cases is *s'bl*. They could have been blows inflicted by a stick as also emerges from comparison with Ja 700, 12 where this root is associated with the expression *b-qdbm* certainly «with a stick» (comparison with Heb. *šebet* and Akk. *šabbītu* is conclusive).

35 On this the Haram 13 inscription (a legal text very close to penitential texts) comes to mind in which the maximum punishment for certain transgressions in the sphere of the sacred are duties (in addition to ritual acts) paid in coin. Unfortunately, Halévy's handing down of the text is not wholly reliable but Robin 1992, 78-80 does suggest a plausible interpretation. The inscription Na 74 is a parallel example, sanctioning a misdemeanour having to do with the sacred area of the temple, and the sanction consists in the payment of twenty *bl* (cash); see in general on this text Müller 1987, esp. 57-69 and 1988a, esp. 449-450.

subjects” In my view, this incompatibility takes on clearer boundaries when seen within a broader historical-religious category of sacred purity. The cistern is sacred because it is dedicated to a deity, and this sacredness manifests itself through purity. This purity must be respected and maintained since every breach is perceived as contamination.

Every civilisation defines this relationship with the sacred in some phase of their history by developing their own theory and “code of purity”. Ancient Arabia is no exception; in addition to its many legal texts mentioned above, there is also ample documentation comprising the so-called penitential texts³⁶, namely documents drawn up by private individuals containing explicitly confessed “sins” to be expiated, linked to having breached the rules of purity of sacred areas³⁷.

The length that the text goes to in dealing with misdemeanours and their relative penalties, especially capital punishment, clearly shows how fundamental it was to protect this purity. If, however, we accept that the decree had a strictly religious function, the need inevitably arises to review our starting point, namely the Robin - Ryckmans suggestion. The authors attempted to identify a practical objective in the sphere of the profane (keeping the cistern clean for human use). Despite the absence of precise archaeological evidence, this suggestion is objective in its essence because ASA documents were by nature strongly steeped in the socio-economic and political reality³⁸, and aimed at providing solutions to real problems. Robin - Ryckmans interpretation therefore, clearly identifies an aspect of the text which cannot be completely ignored. Indeed, if we compare the syntactic and stylistic construction, the basic legal lexicon and the extra-textual factor of the custom of placing the written text near the object it related to, this text obviously becomes similar to many other legal documents which have no pertinence to religious issues. Suffice it, among the many, to consider the Middle Sabaic decree R 4646 fixing specific boundaries for a certain area against extraneous trespassers³⁹; while the two are seemingly parallel in regulating the management of a certain area, there is a substantial difference in the fact that the area dealt with in R 4646 is not sacred but private, belonging to a certain tribe, on which trespassing is purely material (in its social and possibly political implications)⁴⁰.

In this perspective, the practical function served by Rob Maš I is easily identifiable. Waterworks like the cistern for gathering water (like *brkt*) were very probably also used in ancient times for watering animals⁴¹ (exactly like the modern-day *maʿgil*). The

³⁶ Ryckmans 1972; Frantsouzoff 1995; Bron 1997; Sima 1999.

³⁷ An issue that has strong continuity in Islam (see simply the obligatory ablutions before prayer) which also has many parallels in the Old Testament.

³⁸ As can be seen e.g. by the absence of real legal codes (developed abstractly from the actual context); on the concept of the legal code in the ancient near East in general, see Westbrook 1986; Smith 1996, esp. 84-92.

³⁹ On this text see Mittwoch-Schlobies 1936; Rhodokanakis 1937; Beeston 1973, esp. 448-550.

⁴⁰ The royal Qatabanic decree CSAI I 195=Ja 2360 can be considered similar; the extent of the sovereign’s land is defined and its cultivation prohibited as suggested recently by Avanzini 2004, 265-267.

⁴¹ As also expressed clearly by the authors themselves, Robin - Ryckmans 1978, 59: «que les animaux et les gens avaient, en règle générale, libre accès aux citernes (publiques?) et que la réglementation de cet accès était l’exception».

guarantee that the cistern (and the area around it) became sacred depended on prohibiting its use to anything that would inevitably cause contamination. The area of the cisterns was thus “selected” from the surrounding territory (cf. the technical use of the verb *ḥgr*).

These practical functions enacted by the text, similar to its “profane” language should not mislead us on the actual aims⁴² which the document was to express, because the “material” prohibitions (water cistern closed to the public) and the social function of the document (addressed to those committing a misdemeanour) have the objective of creating a sacred area, as we have seen above⁴³.

In my view, this apparent contradiction is only solved if we imagine a society in which the boundary between sacred and profane is drawn in ways we would find highly unusual, ruled by consuetudinary law, and in which beliefs and traditions linked to the imaginary are raised to behavioural rules for guiding social life. In this perspective, transgressing a sacred area is obviously perceived on a similar level as transgressing private tribal land; in both cases, the social order on which the delicate balance of the whole community stands has been breached.

Broadly speaking, therefore, it could be affirmed that the rules laid down by the decree refer to the possible consequences deriving from a contamination of its contents, viz. the negative effects in religious terms, which could befall an entire community if contamination of the purity of a sacred area were to occur. Indeed, this contamination is perceived as a violation against the general order of things (probably, an order preordained by the deities, guarantors of the community’s wellbeing but of whom, unfortunately, we have no direct knowledge); whoever violates this order automatically

⁴² It should also be remembered that the modern Arabic term *ma’gil* (borrowed from ASA, Selwi 1987, 33-34; Behnstedt 1993, 20) typical of the Yemeni dialects of the high plateau (Deboo 1989, 155) according to Piamenta 1990, 1, 3, indicates: «masonry open cistern which diverted run-off water to the terraced fields»; this kind of cistern was not normally used to supply drinking water as Dr. Yusuf Abdallah confirmed to me privately. See also Kirchner 2003. It is also to be noted that Maktari’s study of 1971, to which Robin - Ryckmans refer for support of their idea, actually seems to prove the opposite. Indeed the data supplied by Maktari 1971, 9-20 show that private water supplies were habitually accessed by all those who needed to, irrespective of whether they were humans or animals; furthermore, when an area was adopted as *ḥimā’* it had to be limited to places where the water was stagnant not flowing (obviously of principal use) so as not to harm the public interest. While relying on such late sources is admittedly debatable, it is however clear that Maktari believes that resorting to a type of *ḥimā’* for the cistern to improve the water supply, as Robin - Ryckmans maintain for Rob Maš 1, is to be ruled out. In addition, reference to C 617 which prohibits «aux hommes et au bétail de s’abreuver aux eaux d’une conduite» (Robin - Ryckmans, 1978, 60, note 30, according to Beeston’s interpretation, 1981b, 21-22) is not conclusive because the text should rather be understood as Nebes 2004, 307: «und es ist nicht erlaubt, dass Mensch und Vieh d(ies)en Weg begehen».

⁴³ It should also be remembered cisterns for collecting water linked to the religious sphere have numerous parallels in many religions. It is still very hard to construct these links with absolute certainty for ancient Arabia, despite these cisterns being archaeologically very common. A possible parallel could be the archaeological complex of in Itwā, studied by Jung 1992, where the presence of a water reservoir located in front of the mosque can be found, the whole site being probably connected to a preislamic sanctuary. See also the photographs of the cistern (Jung 1992, fig. 13 and fig. 20); the cistern mentioned in Rob Maš 1 could be of a similar type, considering also that the area of *al-Gāmi’* in Itwa is located very near to *al-Mašāmayn*.

bringing guilt on the head of the whole community⁴⁴. This is why a regulation affecting the religious sphere becomes juridical, and extended to the community as a whole since its violation directly affects the entire community.

4. One last remark concerns the more general issue of assessing forms of law in ancient Arabia.

We have seen in our interpretation of Unit 4 that capital punishment can be commuted into an alternative penalty involving an economic transaction, and that Unit 6 attests resorting to an economic transaction as the sole means of extinguishing a misdemeanour⁴⁵, both of which find frequent echo in ASA juridical documentation. In the first case a mechanism linked to the ancient tradition of *redemption* can be seen in the use of the root *fdy*⁴⁶, while in today's parlance, the second was an authentic "fine".

In my view, this is an aspect which has broader implications, because a similar phenomenon appears in the juridical documentation of other areas of the ancient Near East, beginning from very ancient times⁴⁷; the example of homicide is a particularly eloquent proof because, although the death penalty was frequently inflicted, alternative forms of sanction could also be applied in fitting with specific circumstances and conditions⁴⁸.

Without wishing to get involved in a debate which is also hotly contested on a more general, theoretical level, we can agree with Yaron⁴⁹ who states that bargaining (through some form of payment) reflects an archaic manifestation of law.

It could thus be affirmed that features and structures from a long and complex tradition flowed into the legal system of ancient South Arabia. This tradition must have been prior to when ASA legal documents began to be attested in the first millennium.

⁴⁴ Cf. Fensham 1988; this parallelism between humans and animals is seen in C 617 where prohibition applies to *'ns'm* and *b'rm* (Nebes 2004, 307), see also the biblical episode of Achan in Jos, 7 in particular see 24-26.

⁴⁵ Cf. MAFRAY-al-'Adan 10+11+12; Y.92.B.A 19, mentioned above. Note, however, that the redemption in Rob Maš I is understood as the alternative to a more serious penalty (which is inflicted automatically) while in these documents the penalty consists in payment, as is the cases for a less serious misdemeanour in Unit 6.

⁴⁶ See the example of divorce (YMN 19, cf. Beeston 1997) and the redemption of debts (GI 1533, cf. Jamme 1976, 87-92); the example emerging from the Kāniṭ 4 inscription is also interesting, although the reason for the redemption alluded to here is still unclear (cf. Robin 1982, 47-50, cf. philological remarks Unit 4).

⁴⁷ See on this the example of the Eshnunna code which gives very many cases in which bargaining is allowed, even for homicide.

⁴⁸ See the traditional death penalty (*qiṣāṣ*) in Islamic law which, however, is limited through substitutive forms of payment (*diya*) in certain cases (manslaughter, impossibility of identifying the perpetrator), cf. in general Schacht 1964 and Anderson 1951. Reconstructing a similar mechanism might also be possible for ancient South Arabia, cf. the CSAI I 204=R 3878 Qatabanic inscription on the homicide (Rhodokanakis 1924, 13-25; Grohmann 1963, esp., 132-135; Irvine 1967; Mazzini 2004b, 281-284).

⁴⁹ Yaron 1988, 262-264.

If we think that the ASA legal system has many original aspects which distinguish it from the rest of the ancient Near East, the roots of this tradition must go back very far in time.

While these remarks still have a strong element of uncertainty, they can certainly find comfort in data on linguistics and the archaeology recently brought to light⁵⁰.

Furthermore, the historical hypothesis that the ASA legal system dates back to much earlier than the first millennium does not seem to be so surprising when one thinks of the well-known, significant parallels which have been identified for some time between the legal code of the Old Testament and the documentation of Mari or ancient Babylon.

Philological remarks

UNIT 1

The interpretation of the term *qs'd* is still open to debate; no convincingly conclusive rendering has yet been suggested. The context suggests the designation of either a political body or of a social class involved in the question at issue in this legal document, comparable to other contexts where the term occurs⁵¹. According to Robin - Ryckmans, *qs'd* indicates a social class⁵² and appears to be specific to the geographical area of Saba and the northern areas of the high plateau (the tribe *S'm'y*)⁵³. Bron recently put forward the hypothesis that the term *qs'd* designate «soit une certaine catégorie de prêtres soit le clergé en general»⁵⁴. This proposal is sufficiently convincing so we have adopted it in this translation, despite the precise identification of the actual structure behind it still being controversial.

UNIT 2

Of particular interest in terms of the overall economy of the texts is the verb couple *yhgrnn w-ʿrbn*.

An analysis of a number of significant Sabaic texts, R 4176, 3, 13, G1 1142, 7 and G1 1532 shows that, technically, the root *hgr* designates the specific act of tracing boundaries

⁵⁰ Given the final recognition of the validity of the so-called long chronology, which only took place in recent times, a number of scholars (including the writer) began pondering the issue of an endogenous phase of development for ASA civilisation dating back at least to the beginning of the second millennium; see on this, e.g. Avanzini 2006; Mazzini 2004c; Wilkinson 2005.

⁵¹ See Robin - Ryckmans 1978, 49-50.

⁵² Robin - Ryckmans 1978, 49-50, who render it as: «paysans libres» (Robin - Ryckmans 1978, 46), an interpretation followed by Müller 1983a, 269: «Siedler»; Jamme's translation of 1979, 31 is generic «dependants»; cf. also Ryckmans 1967, 272. The idea of social class is accepted in SD, 107. This interpretation comes from Rhodokanakis 1927, 50.

⁵³ This might be taken as a cultural and dialectal trait of what Stein calls «Zentrale Dialekte», Stein 2004, 232-233.

⁵⁴ Bron 1996, esp. 111-112.

around and protecting certain territories, as recently mentioned by Nebes⁵⁵. In the inscriptions R 4176 and GI 1142, this action is bound in particular to a religious context, namely that the areas are confined from the world outside and hence become divine property, normal access thus being prohibited because they are tabooed. The semantic coincidence between the concept of confining and that of tabooing explains the usage of *hgr* on certain ASA amulets indicating the magic power that protected whoever possessed them⁵⁶.

The root *ʿrb* of the second verb form is used here to indicate the precise act of making an offering to the deity⁵⁷ consequential to the action expressed by the preceding verb. The

⁵⁵ Nebes 2002, 228; Höfner 1973, 26-27. The reconstruction of the meaning in Sabaic is confirmed by a similar usage of the Arabic term *maḥgir*. Note also the parallel meaning in the Phoenician inscription KAI 81, 1, 4, whose context is very similar to Rob Maš 1: *km <ʾ>š hgr ḥšmrt ḥr ʾ[lm]*, «when the restricted area of the gods (the temple mount) was enclosed» (Krahmalkov 2000, 176); this parallel is not registered by Tomback 1978, 98. It is also to be stressed that Qatabanic seems quite clearly different since the root *hgr* is used in legal contexts with the meaning of «ordonner», as emphasized by Robin - Ryckmans 1978, 51 (evidently an internal development of this dialect). Despite being substantially correct, the issue turns problematical with the use of *hgr*, seemingly similar to Qatabanic in the Sabaic legal text Ḥadaqān 1+2 (*w-ḥgr w-l yrʿy ʿil est prescrit: que l'on fasse paître*», Bron 1996, 104) and to that on an amulet from the cemetery of Timnaʿ (cf. Maraqtan 1999, 148-150), where the root *hrg* seems instead to be attested with the meaning of magic protection (see following note).

⁵⁶ On the use of this root in amulets see the study by Ryckmans 1980, esp. 195 and Nebes 2002. Furthermore, the idea of prohibition as a taboo recurs in the Koran 6, 138, possibly with reference to prohibited access (Paradise) in Koran 25, 22; 53. An interesting parallel can also be seen in the use of the term *ḥgrʾ* in a Nabataean text from Taymāʾ carved on a sacrificial altar; the editors (Livingstone *et alii* 1983, 105-106) had earlier translated this term as «enclosure», but later Beyer – Livingstone suggested rendering it «das Geweihte», linking the altar to the ASA amulets. It is still uncertain whether the term should be considered a loanword from ASA.

⁵⁷ From a lexical standpoint the use of this root for expressing the concept of the dedication is typical of Minaic (possibly two cases, CSAI I 120=R 311, 3; CSAI I 129=Doe 2, 1, can be also found in Qatabanic as well according to Avanzini 2004, 169-170; 178), whereas it is attested sporadically in Sabaic and only in the northern region of the high plateau (cf. R 4767, 5 (Mārib); R 4773, 1 (Mārib); Ja 735, 9 (Mārib); Ja 720, 15 (Mārib); Ja 574, 11 (Mārib); C 461, 5 (Jar al-Labbā); Rob Rayda 2, 2 (Rayda); C 308, 23-4 (Riyām); Ghul Mārib 1, 4 (Mārib); Ja 578, 22 (Mārib), the last two examples in a non-religious context), so it could be a dialecticism of this area similar to that identified in the term *qsʾd* (cf. above). The use of *ʿrb* to indicate the ritual offering to the deity is a lexical issue of not secondary importance since as we know the dedicatory verb typical of all ASA documentation is the causative form of the root *qny* (note that interpreters of this text have sought to distinguish the translation of this verb from the normally used *hqny*: Robin - Ryckmans 1978, 46 and comment on pg. 51: «attribuera»; Müller 1983a, 269: «bestimmen für»; Jamme's rendering of 1979, 31 «restricted» is unclear). A possible explanation could be a Minaic influence in this very area of Sabaic. The Minaic usage of *ʿrb* in the sense of a ritual offering could, in turn, be the upshot of linguistic contact with the northern areas, outside ancient Yemen. One thinks of the biblical usage in Hosea 9, 4 and Jeremiah 6, 20, as well as a similar usage in the Phoenician inscription published by Avigad - Greenfield 1982, 124-125 (Krahmalkov 2000, 386 and Hofstijzer - Jongeling 1995, 885 agree whereas Amadasi Guzzo 1987, 123 has doubts). Proof of this contact would be that in the 2nd millennium the Semitic root *ʿRB* would not have this semantic connotation which was a probable development of the 1st millennium (in Ugaritic and Akkadian, usages of *ʿRB* in a religious context were linked to the ritual of entering the temple cf. Xella 1973, 149-151).

area confined and declared taboo is offered up to a deity (in this case *Nws'm*), who then becomes the proprietor of the area in question.

The creation of a sacred area (confining an area and making a ritual offering) requires establishing a basic prohibition, namely contact with the outside world (impure). This prohibition is marked in the text by the use of the preposition *bn*, which recurs with a technical function in the ASA legal language⁵⁸; the original meaning of the preposition *bn* (from...) can also be given in the negative «against».

Lexically, the most probable meaning (given here) of the term *qny* in this Unit and in Units 4 and 6 is of animals and beasts in general, as is clear from the context in which *qny* recurs⁵⁹. I therefore see no particular reason for taking Sima's new translation⁶⁰: «nicht soll (jemand) tränken in dieser Zisterne ein Schaf». It may be that *qny*, which in ASA can also generically mean possession, came to mean animals in general and in particular small animals like sheep (there is a parallel semantic shift to Hebrew, cf. *mignē*), and that we must reconstruct an oscillation of meaning between “animals” (in general) and “sheep”⁶¹. Further evidence comes from the Sabaic text Y.92.B.A 19 (prescription against animals entering the temple) in which mention is made of *kl qny w-b'cr*, translated by Robin⁶² as: «tout animal petit et gros», in which the opposition is in size, not type. A similarity is found in the use of *qnt* in, for example, Gl 1124 and RAY-al-ʿAdan 10+11+12, two legal texts which enshrine prohibiting animals from entering a certain place (sacred). In both cases the animals are called *qnt* which etymologically means «the little ones», but it is somewhat unlikely that sacred land (subject to the prohibitions analyzed above) be barred to sheep or goats alone (while asses, cattle and other animals have free access). I rather see *qnt* as animals in the broad sense, gathered together in a herd such as sheep and goats usually are, but then extended to all domestic animals that graze (also, but not necessarily) in groups like cattle and asses (not to mention camels and horses which are also mentioned in legal texts of this kind, like MB 2000 I-7).

Thus, it is possible that also *qnym* attested in the Qatabanic decree CSAI I 207=CIAS 47.82/j 1, 4, be translated as «domestic animals»⁶³, namely the animals belonging to the tribal groupings that the decree applied to. As we mentioned above, since the animals, too, belonged to the clan (together with the servants *s'hm* and the component parts of the house), they are given as the objects to whom the legal act is addressed.

⁵⁸ On the technical use of the preposition *bn* cf. Nebes 1988, 65 and recently Kropp 1998: see on this the parallels in RÉS 4646, 1-8 (see above the more general comparison with this text); CIH 318, 2 (fragmentary); CSAI I 202=RÉS 3854, 4, 7.

⁵⁹ All interpreters are in full agreement on this: Robin - Ryckmans 1978, 46: «animal»; Jamme 1979, 31: «animal»; Müller 1983a, 269: «Stück Vieh».

⁶⁰ Sima 2000a, 133. The author tends toward the idea that the animal designated by *qny* is in particular sheep (Sima 2000a, 133-136).

⁶¹ This coincides with Stein's view, 2003, 67.

⁶² Robin 1993, 484.

⁶³ Avanzini 2004, 292, gives generically «properties»: I do not find the meaning «Sklave» given in this passage by Sima 2000a, 137, particularly convincing.

UNIT 4

The *w-d-y^ckrn ftdyn qny-hw* passage has philological problems. Indeed it must be noted that the word *ftdyn* does not mean «darbringen» (Müller)⁶⁴ nor «confisqué à titre de *fidā*» (Robin - Ryckmans)⁶⁵, but “to redeem, deliver from”. It comes from the Semitic root FDY widely attested all over the near East and has a clear technical meaning regarding the institution of redemption (by means of compensation)⁶⁶. This was probably an archaic custom prior to the formation of the ancient near East judicial systems which would then crystallise into a typical institution of these systems. It provided that you could “redeem” a person or an object that had been sanctioned, through exchange with a material asset, normally money or valuable material substances. This would normally be a situation in which two parties (the person doing the redeeming and the offended party) decide regarding a passive, third party whose redemption coincides with its replacement with an asset of corresponding value.

Applying this scheme to the text in question, it is clear that there is a party redeeming (the owner of the animals, expressed by the indefinite *d-*), the offended party (the deity on whom wrongdoing was perpetrated through violation of the sacred purity) and the passive party to be redeemed which must therefore be the animals responsible for the transgression.

In this sense, it is important to stress that the form *ftdyn* does not necessarily have to be passive-reflexive (as translated by Robin - Ryckmans) since it is derived form *ft^cl*. As Zaborski recently clearly pointed out⁶⁷ the VIII derived form in Classical Arabic can often be synonym of the basic form⁶⁸ (thus with an active-transitive meaning); this could also be extended to many examples of *ft^cl* forms in ASA such as this one⁶⁹. Confirmation of this is found in a small stick published recently by Stein⁷⁰ (indeed, the *ftdyn* form was an *hapax* in which the following expression is attested, Mon.script.sab. 129, 11: *k-l-m ftdyn s^llm* translated by the editor as «since for paying a demand...» in which the *ftdyn* form has a transitive significance.

⁶⁴ Müller 1983a, 296. Cf. also Sima 2000a, 96: «Konfiskation».

⁶⁵ Robin - Ryckmans 1978, 46.

⁶⁶ In general see Yaron 1959. Many examples of the strong continuity of this use for the whole of the ancient Near East are to be found in the Old Testament. For significant examples see Es 13, 13; Num. 3, 40-50; Lev. 25, 25-28 (cf. comments by Propp 1999, 426-427 and Milgrom 2001, 2415-2417; 2234-2237), and in the Koran, esp. the Koran story of the sacrifice of Isaac in which the FDY root is used technically to indicate replacing the designated victim (Isaac) with a sacrifice (Koran 37, 107 see also Calder 1986).

⁶⁷ Zaborski 2002, esp. 873; Zaborski 2001.

⁶⁸ It is interesting that the verb *fadā* in Koranic Arabic is used in the VIII form as a reflexive (e.g. Koran 5, 40) while in standard modern Arabic the VIII form is used as a synonym of the base form (note the expression *aftadī-ka bi ...* «I redeem you with ...»). These oscillations are further proof of the tendency of overlapping the VIII form with the base form.

⁶⁹ This is an issue that needs further looking into; in the significant research work of Stein on the phonetic and morphological system of Sabaic, no mention is made of this use of the *ft^cl* stem which, instead, in the author's view (Stein 2003, 157) is used «vor allem zum Ausdruck des Reflexivs bzw Passivs».

⁷⁰ Stein 2004b.

In the light of all this, we have to interpret the expression: ... *fdyn qny-hw* as: «... to redeem one's animals», namely rather than losing his animals through their being killed, enshrined in the last Unit, the owner has the alternative of redeeming them from the wrong committed. To do so, he may make a payment (expressed clearly in the text: *l-ys²mn-hw* *ʿnm Nws²m* «let him pay to (buy from) *Nws²m*») as redemption of the animals destined to be sacrificed and thus regain possession of them by legal means.

The interpretation suggested here, however, is faced by the further difficulty of the sense of the verb *y⁶krn* on which the expression *fdyn qny-hw* depends.

Robin - Ryckmans⁷¹ and Müller⁷² translate this verb «to refuse» in accordance with the commonly accepted interpretation of the root *ʿkr* in ASA, an interpretation seen in the frequent use of the root *ʿkr* in legal texts within a formulaic pattern like *ʾhn ʿkr l-ʾy⁶*, usually taken as: «in the case of dispute exhibit (this document)»; the idea being that a dispute could arise and hence a refusal to accept the validity of the document in question.

This interpretation was put forward by Rhodokanakis⁷³ on the basis of a comparison with the sense of «contradict, oppose», attested in certain usages of this root in Arabic, and is undoubtedly plausible because the Semitic root *ʿKR* can also indicate a negative concept, hence the refusal and dispute in the context of juridical language.

In actual fact, further investigation clearly reveals that usage of the *ʿkr* root in Arabic is much more widespread⁷⁴. As Jamme also stressed⁷⁵, the semantic connotation of this root is «to turn, incline: become inclined, towards an aim (both in the positive and negative sense)». Originally, this was probably a *vox media* which took on a connotation through the context, even though in Arabic (similarly to Syriac and Hebrew) the negative appears to prevail: see for example the jargon expression: *ʿakara al-zamānu ʿalay-hi bi-ḥayr* «fortune turned towards him with good»⁷⁶ and the nominal usage *ʿikr* «original state, disposition, origin» (metaphorically, that to which one is inclined).

A possible lexical confirmation seems to emerge from the Ḥadaqān 1-2, 5-6 ASA legal document (ruling on pastureland and harvests) in which occurs the expression: *w-bkn ʾl y⁶kr ʾs²m r⁶y w-hšrbn b-ʾd⁶-hw b-mḥmynhn*, translated by Bron as: «et quand quelqu'un ne pratique ni le pâturage, ni la freinaison dans sa parcelle, ⁶ dans les deux terres protégées»⁷⁷; obviously, here, *ʿkr* does not indicate dispute in the negative sense but the aptitude for doing something (pasturing or harvesting as regulated in the preceding

⁷¹ Robin - Ryckmans 1978, 46: «et s'il refusait que son animal soit confisqué à titre de *fidā*».

⁷² Müller 1983a, 269: «und wenn jemand sich weigert, sein Stück Vieh darzubringen». Cf. also, Sima 2000a 96: «und wer die Konfiskation seines (Vieh)Besitzes verweigert».

⁷³ Rhodokanakis 1915, 10: «widersprechen, widerstehen, verhindern»; the author also stresses the parallel use of Syriac. Rhodokanakis' interpretation passed on unchanged into later research.

⁷⁴ The root's broad semantic spectrum is typical of certain common Semitic roots which, later, take on diversified, technical meanings in the various languages and traditions. It is to be remembered that the negative sense also seems to have been attested in ASA independently of the legal context in Gl 1574, 17. In addition, a completely contrasting sense («pregnant») was proposed by Beeston 1978, 23 for the problematic text C 581, 7-8.

⁷⁵ Jamme 1979, 33.

⁷⁶ Lane 1980, 2120.

⁷⁷ Bron 1996, 106; see also Lundin 1987, 91, 94.

part of the text). The literal translation should be: «and when someone does not turn to (does not dispose himself as normally) let graze or to gather the harvest». Note that syntactically the verb *ʿkr* also introduces the infinitive (*rʿy w-šrbn*) in this context.

In the light of this, the idea of dispute which was supposedly contained in the legal formula mentioned should be reassessed; in other words: must a juridical “dispute” necessarily be interpreted as negative?

A plausible answer emerging from these philological data would be that Rhodokanakis’ translation of “dispute” alludes more to what, in modern terminology, would be defined as “appeal” (in the technical sense of “lodging an appeal”), that is the request to avail oneself of an “alternative” granted *vis-à-vis* a ruling previously handed down⁷⁸.

Thus, it becomes feasible that the *ʿkr* root in ASA has a technical use, prevalently fixed in a juridical formula but occurring in other contexts too (the case of Rob Maš 1 and Ḥadaqān 1-2), the original sense of which would be «tending towards something» (with an aim). The specific use of juridical language would bring out something along the lines of: resorting to one’s right alternative to what was fixed by a rule or sentence.

On this basis, the passage *w-d-yʿkrn fdyṅ qny-hw* could be translated: «and who resorts to the right of redeeming their animals», similarly to what Jamme⁷⁹ proposed, without, however, adequate philological argumentation.

The text seems to allude to the alternative possibility offered by the decree for “redeeming” the guilty animals; the sense is not so much the refusal to implement redemption but the exact opposite. This interpretation read in the overall context of Rob Maš 1 becomes perfectly logical. The guilty animals can be dealt with in two ways: capital punishment, namely by sacrifice to the deity, or redemption, namely by payment of money to the deity⁸⁰. The death penalty and redemption are two aspects of law in ancient South Arabia which are not to be confused. As we have noted above, commutation of a sentence into a material payment, or undergoing the sentence itself is a recurring feature in the ASA legal system; clearly, identifying the “institution of redemption” seen in this document is perfectly suited to the general juridical framework of ancient South Arabia.

Of special interest is the concluding part of this Unit which regards the special treatment meted out to asses. As was emphasised above, Müller’s reading of *yw(g)rn*⁸¹ identifies the WGR root in ASA indicating the stone and, according to him, proves the existence of death by stoning.

Unfortunately, the structure of the text is ambiguous at this point, and it is not clear whether the clause relating to the treatment of asses refers 1) exclusively to the

⁷⁸ This alternative takes concrete form in our legal system, by the review of a ruling by another commission, which has got nothing to do with the matter on hand. However, it cannot be ruled out that while our minds perceive “appeal” as a sort of second, new legal process, in ASA law (and in that of many other societies in the ancient world) this could not mean commutation of a sentence into another.

⁷⁹ Jamme 1979, 31: «however if he prefers to ransom his animal».

⁸⁰ This idea was also put forward in these terms by Jamme 1979, 32.

⁸¹ Müller 1980, 67-68 (see also Müller 1983c, 284).

implementation of redemption or whether 2) more broadly in addition to redemption it deals with sacrificial killing (*ḏbh*), as mentioned in the preceding Unit (the ass may be neither redeemed nor sacrificed). One formal element lends support to the second hypothesis, namely the position of *ḥmrm* which seems marked in that it is asymmetrical to the whole structure of the text⁸² (coming before the verb). This leads one to think that the expression *w-ḥmrm l-ywgrn* is detached from Unit 4 and is a sort of sub- (or additional) clause counter-posed to the entire block of Units 3-4.

UNIT 6

Unit 6 is the most obscure part of the text; indeed there are lexical difficulties with *ʔs'y* and *drm* and syntax-lexical ones with the expression *w-ʔl yḥdʔn ʔqdmn*.

Beeston's translation – «if anyone brings cattle»⁸³ – of the first lexeme being examined, *ʔs'y*, seems plausible; he then goes on to summarize the matter: «earlier clauses deal with allowing cattle to drink from a reserved cistern, the penalty being that the animal(s) should be confiscated or else redeemed; the fine of 5 *balat* coins is for someone who brings cattle into the vicinity without actually letting them drink (... ..) The fine is the same irrespective of whether the offence is committed more than once or once only»⁸⁴. The clause is preventative and the offence, obviously less serious, provides for a monetary sanction⁸⁵.

The parallel meaning suggested by the use of the *yʔs'yn* verbal form in the legal text GI 1628 backs this theory up. While there are lacunae in the context of line 6, the terms *ḥqrm* (cattle) and *ʔblm* (camels) are found in connection with this verb, followed by the prescriptions *l-yḏbh[n] wdm ḥms' q[nym]*. Again, line 7, still very incomplete, reads [... ..] *qny n w-d- yʔs'yn fhšm [... ..]*. Since GI 1628 belongs to the group of texts which regulates the lands sacred to the deity and prohibited to animals (cf. above), *yʔs'yn* may perhaps be used in a technical sense, meaning the eventuality that an animal cross the boundaries of these lands. Probably, Rob Maš 1 and GI 1628 refer to this prescription⁸⁶.

82 In this perspective, the coordinating *w-* (which introduces the term *ḥmrm*) could also be adversative (viz: *while, instead...*). It should also be stressed that the use of mimation in *ḥmrm* raises some problems. Many interpreters only translate it as an indeterminate noun: an ass («einen Esel»: «un âne»...), which, in the context is unconvincing. The text does not refer to an ass in general (among the many) but to the category - in other words I see *ḥmrm* as collective. The use of mimation obviously stresses the idea of an indistinct group of animals (but apparently of the same species) for which this rule applies without exception. This can also be extended to the list of the animals mentioned in Unit 2, all with mimation, and this particular use of mimation becomes particularly evident when one considers that in Unit 2 the two terms also occur: *ʔḏkr-n / ʔy-n* with nunation since they refer to a specific group within the animals mentioned earlier.

83 Beeston 1981a, esp. 56. This translation is also followed by Stein 2003, 111.

84 Beeston 1981a, 55-56.

85 In this perspective, the translations of Robin - Ryckmans 1978: «Quant à celui qui persisterait (?) à (faire) cela sciemment (?)», and of Jamme 1979, 32: «If one sends in it a slave», are to be discarded. Instead, I find Müller's proposal very interesting, 1983a, 269: «und wenn jemand ein Stück Vieh in ihr sieht (? findet)».

86 See on this the remarks by Müller 1980, esp. 73 in which he stresses that: «der Kausativstamm *hʔsy* und daneben wohl auch ein Doppelungsstamm *ʔsy* haben die aus dem Grundstamm

As for the expression *w-ʔl yḥdtn ʔqdmn*, we propose a new translation which, however, should be taken as very hypothetical. The root *ḥdt* from which the verb *yḥdtn* is derived appears too generic for us to identify a specific meaning suitable to this context. On the other hand, the form *ʔqdmn* has problems of a morphological nature and despite recent attempts to interpret it in an adverbial sense⁸⁷, it still remains unclear. These difficulties have led scholars to offer different renderings⁸⁸. In my translation: «but does not commit the preceding (misdemeanours ?)», the form *ʔqdmn* is considered a plural adjective («the previous, the preceding ones»), referred to the several *misdemeanours* listed in the upper part of the text; the clause specifies that a punishment will be applied even though the person found walking around the sacred area has not committed any of the misdemeanours mentioned previously. This interpretation seems to fit the preventive character of this clause and the general idea that a sacred area is to be considered intangible.

abzuleitende Bedeutung "(aus)senden, schicken"; in this article, the author oscillates between a translation *sehen/finden* and *bringen/schicken*, while in Müller 1983a, 269 suggesting «sehen/finden» (probably on the basis of the biblical parallel Deut 22, 1-3, Müller 1983a, 269 note 12b). On the uses of *ʔsʔy* in ASA in general cf. Drewes 1979; Müller 1980; Beeston 1981a.

⁸⁷ Stein 2003, 61; see also the remarks by Sima 2000b, 192-193, note 25.

⁸⁸ Robin - Ryckmans 1978, 46: «même s'il ne renouvelle pas l'(infraction) antérieure»; Jamme 1979, 32: «but if he does not repeat the former (violation)»; Beeston 1981, 56: «and does not repeat that first offence»; Müller 1983a, 269: «und dies sich (noch) nicht zuvor ereignet hat»; Stein 2003, 111: «sofern (dies) nicht früher (schon einmal) vorgekommen ist (?)».

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