

THE AKKADIAN LEGAL TERM

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Among the number of Akkadian legal terms¹ which have found their way into Hebrew legal terminology is the term dīnu [u] dabābu, which may be translated as "suit or process." It is especially common in the Assyrian legal documents.² The usual format of these documents provides a description of the particular legal action at hand, the parties involved, the amount of funds transferred and the names of the witnesses to the transaction. We cite a typical document of this period in order to illustrate the usage of dīnu [u] dabābu: kaspu gammur tadīn mannu ša ina urkiš ina matīma ipparikūni lū amēlē annūte lū mənmanūšunu lū rēb kiširšunu ištu pān Šar-Nergal amēl nār-kabti dīnu dabābu ubta'ūni 2 manē kaspi iddan "the silver is completely given. Whoever, be it these men or anyone belonging to them at any time in the future, shall obstruct and institute suit or process against Šar-Nergal the wagonman, shall pay 2 mina of silver."³ Other Assyrian documents describe what would constitute such a dīnu u dabābu. PN has purchased a field,

1. E.g. dīn napištīm (KH II:65) דיני נפשות "capital case(s)", bēl dīni (see references in AHW, p. 119) בעל דין "one of the contending parties," bīt dīni (YOS 3:35,8) בית דין "court," gimīr dīni גמר דין "verdict," mulūgu (mulīgu) מלוּיג "a type of marriage gift," nudunnū נדוּניא "dowry," compare also semantic parallels like purussū(m) and גזירה .

2. See e.g. Kohler-Ungnad, Assyrische Rechtsurkunde (Leipzig:1913), ## 163, 342, 345, 369, 373, 376, 377, 603, 609, 610, 611-13, 617, 622, 625 etc. With this term we should also compare dīnu(m) u ragām(m) and dīnu u šaltu; ana dīni(m) lā ušši šaltu(m) [lā] išsal "He did not get into a lawsuit and did not quarrel with anyone" (CAD § p. 89b).

3. Ibid., #609.

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the silver has been given. The document⁴ stipulates *tuāru dīnu dabābu laššu* "having no return, no suit or process," the sale is final. Whoever shall institute a suit or process by claiming *kaspu lā gammur lā tadin eqlu bītu kirū lā apil lā zarip lā laqqi* "the silver was not completely given, the field, the house and the garden were not paid for, not bought, not taken," shall be subject to such and such penalties, monetary and physical.

The phrase *dīnu u dabābu* as a unit is unattested before the Middle Assyrian period.⁵ However, *dīn* is found as early as the Old Akkadian period and is very well attested in Old Babylonian e.g. *dīnam idīn* "he judged a case." Or *dīnum šū ruqummām ul išū* "that suit shall have no claim."⁶ Likewise *dabābu*, in addition to its use in the meaning "to speak," is attested in Old Babylonian in the sense of "to make a legal claim." In Schorr we find *mahar dayyānī kī'am idbub* "in the presence of the judges, he claimed as follows."⁷ Again in the Old Babylonian period we have the following proceeding recorded *dMarduk-mušalim u Imgur-dSin aššum mānahāt 1 GAN eqlim idbubma dMarduk-mušalim mahīr libbašu tīb* "Marduk-mušalim and Imgur-Sin litigated concerning the expenses of a 1 GAN field. Marduk-mušalim is satisfied with the price."⁸

The combination of the two terms *dīnu* and *dabābu* results in a fixed *terminus technicus* which is carried bodily over into Egyptian Aramaic. It is well attested in the papyri which have come down from the Jewish colony at Elephantine.⁹ In these papyri the term appears as דבב ודין. As was already seen by Cowley, there can be no question that the Aramaic term is equivalent to the Akkadian.¹⁰ The usage of the term in both instances is the same. Furthermore, entire passages seem to have been transferred from the Akkadian to the Aramaic by

4. *Ibid.*, #163.

5. See *CAD D* p. 3ff.

6. For Old Akk. citations see Gelb, *MAD III*, p. 105. Old Babylonian citations here from KH #5 and #115.

7. M. Schorr, *Urkunden des Altbabylonischen Zivil und Prozeßrechts* (Leipzig: 1913) #269.

8. *Ibid.*, # 308.

9. Cowley, *Aramaic Papyri of the Fifth Century B.C.* (Oxford:1923), #6:12; 8:12,14,20,22; 9:13,15; 13:9; 14:7,9-11; 15:26-9; 20:11-16; 25:10; 43:4; 47:4. 15:26 has דבב ולא דיין which apud Cowley p. 49 no. 26 is a mistake and nothing more. Likewise 13:10 דיין ודיבב for דיבב ודיין. Kraeling, *Brooklyn Aramaic Papyri* (New Haven: Yale University Press, 1953) #1:3,5; 3:13,14; 5:15; 10:12; 12:25. 3:17 reads דיין ודיבב which apud Kutscher (*JAOS* 74) is a hyper-correction with the intention of an archaism.

10. Cowley, *op. cit.*, p. XXIX.

direct translation or loan.¹¹ Thus to quote one example והוֹטַבַּ לְבַבִּי עַל אַרְקַא זֶךְ לֹא אִכְהַל אֲגַרְנָךְ דִּין וְדַבְבָּ זֵי יִגְרַנְךְ בְּשֵׁמִי אַרְקַא זֶךְ יִנְחֵן לְךָ כֶּסֶף כֶּרֶשֶׁן
 "You have satisfied me concerning this land. I shall have no power to institute suit or process against you. whoever sues you concerning this land shall pay you the sum of 20 kar-ash. . . ."¹²

As can be seen from the above example and from the passages referred to in the footnotes, the Aramaic papyri treat the term purely as a loan. Rabbinic Hebrew of the Mishnah,¹³ Tosefta¹⁴ and Talmud¹⁵ retains דִּין which of course is standard Hebrew. For *dabābu*, however, late Hebrew substitutes the semantic equivalent דַּבַּר and renders the same concept as וְדַבְרִים דִּין וְדַבְרִים.¹⁶ It is a *terminus technicus* just as are its Akkadian and Aramaic semantic equivalents and is always found in the same fixed form. Its meaning is clearly presented in a case cited in the Babylonian Talmud.¹⁷ האָמַר לְחֵבְרָה דִּין וְדַבְרִים אֵין לִי עַל שְׂדֵה זֶה אֵין לִי עֵסֶק בָּהּ וְיָדִי מְסוּלָקָה הֵימְנָה
 "He who says to his neighbour 'I shall have no suit or process regarding this field, I shall have no dealings with it, and my hand is removed from it'" The three terms are equivalent. "I shall have no suit or process = I shall have no dealings = my hand is removed from it."

11. A) *והוטב לבי* from *tūb libbi* (Cowley p. XIX against Kraeling who claims it is Egyptian). It is attested however in Old Babylonian. Note *Marduk-mušalim mahīr libbašu tāb* quoted above. B) the listing of the various relatives cf. e.g. Kohler-Ungnad #158,159,170,171,189,201. C) *בשם* has the same function here as *aššum*. *בשמי* in Cowley's text is either his error or a copyist's. Aside from the Akkadian parallels, the *שם* in this usage is well attested in the Elephantine papyri themselves e.g. Kraeling #1:5,6,9; 3:13,17; 4:14; 10:15; 12:25,28,29. D) *יגרנך* on the Akkadian provenance of this term see below. E) *ינחן לך כסף* is the regular penalty clause cf. Kohler-Ungnad #609 "anyone who raises suit or process" *2 manē kaspi iddan*. Some contracts provided a penalty which a god or goddess collected, see e.g. *ibid.*, #617.

12. Cowley, *op. cit.*, #6 l. 11 ff.

13. Mishnah Ketubot 9:1 (five times), 10:6.

14. Tosefta Ketubot 6:8; 10:1.

15. E.g. Ketubot 83a, 95a, Gittin 77a, Baba Batra 43a (all Babylonian Talmud).

16. A) see e.g. Fischer, *Jahrbuch der Jüdische-Literarischen Gesellschaft* (1912), p. 151 and the reference there to Blau. Kutscher (JAOS 74 (1954)) credits Schultess in *GGA* (Göttingen:1904) with making the connections between the various terms. B) Hebrew *דבה* is probably related to *dabābu*. It means speech and can have a neutral meaning as in Prov. 25:10, or a negative meaning as in Num. 14:36. Cf. the Targum to the latter *שום ביש* for *דבה*. *דבה* in Canticles 7:10 is probably from another root.

17. Keritot 24b and parallels.

Further support for the equivalency *dīnu* [u] *dabābu* = דִּין וּדְבַב = דִּין וּדְבָרִים comes from other expressions in which דָּבַר = *dabābu*. Compare for example דָּבַר סָרָה 18 "he spoke falsehood" with Akkadian *sarrātīm ul idabbub* "he did not¹⁹ speak falsehood." Since סָרָה = *sarrātīm*, דָּבַר = *dabābu*. Another expression for comparison is the phrase "speech of the lips," Akkadian *dababti šapti*, Hebrew דָּבַר שְׁפָתַיִם.²⁰

Having established the equivalency of the three terms, we would like to call attention to some philological points in connection with their usage. First the verbs used to introduce the respective terms. Hebrew always uses אָמַר or כָּתַב to introduce one of the terms as a form and as a form only. For example, ... לֵעֹלָם הוּא אוֹכֵל ... עַד שִׁכְתַּב לָהּ דִּין וּדְבָרִים אִין לִי. "He continues to enjoy the usufruct²¹...until he writes to her דִּין וּדְבָרִים etc."²² As an example of אָמַר,²³ האָמַר לַחֲבֵרָה 23 The Assyrian documents most frequently use *bu'ū* in the 2-conjugation with the ventive ending as the introductory verb i.e. *ubta'ūni*.²⁴ Although this last word is common enough in Aramaic בעָא the Elephantine documents do not use it to introduce דִּין וּדְבַב but always employ instead the verbs גָּרָא 25 and רָשָׂא.²⁶ These verbs seem themselves to be interchangeable, in some documents, רָשָׂא serving to introduce דִּין וּדְבַב, while גָּרָא is found at other times in the identical context. Furthermore, witness the following:²⁷ לֹא אִכְהַל אֲנִי עֲנִינִי אַרְשֻׁנְכִי עַל דְּבָרָה דִּין אִף לֹא יִכְהַל בְּרִי לִי וּבְרָה אַח וְאֶחָה יִגְרֹנְכִי בְּשֵׁם בֵּיתָא זֶן "I Ananiah shall be unable to sue you regarding it. Neither shall a son of mine nor a daughter, a brother or sister sue you regarding this house."

18. Deut. 13:6; Jer. 28:16; 29:32; 59:13.

19. *ARM* II:124-126 (cited in *AHW*. D. p. 147).

20. Isaiah 36:5. For further examples see *CAD* and *AHW*.

21. *Akālū* = אָכַל in the sense of having usufruct - *14 šanāte eqla ātakal*.

22. Ketubot 56a.

23. Keritot 24b and parallels.

24. E.g. Kohler-Ungnad #340,341,342,345,369,373,376,377 etc. The translation in *AHW*. "estreiben" is superior to Kohler-Ungnad's "suchen." The word has a technical meaning here. Compare also its use in the legal idiom "to hold accountable" *ina qāti bu'ū* e.g. *ilī ša šarri ina qātišu luba'ū* "may the gods of the king call him to account" *ADD* 619 r. 5 (cited in *CAD* B p.364b) = Hebrew לִבְקַשׁ מִיָּד.

25. Cowley, *op. cit.*, #6:12; 14:7,8; 25:10, Kraeling, *op. cit.*, #1:5; 3:13, 14.

26. Cowley, *op. cit.*, #8:12,20; 9:13; 13:9; 20:11; 43:4-7; Kraeling, *op. cit.*, #10:12; 12:25.

27. Kraeling, *op. cit.*, #5:13-14.

Kutscher remarks that the connection with the Syriac רשא "vituperavit" is clear enough.²⁸ This is true enough. In Syriac the word does mean "find fault, blame, to accuse, lodge a complaint."²⁹ However, the Sefire inscriptions which are considerably older than the Syriac material have עליה ,³⁰ לחמשל בני גוזי ולתרשה לי עליה "You shall have no say against me in this concern and raise no complaint against me in it." If this interpretation of the Sefire lines is correct then רשא is a native Aramaic term as far back as we can trace it.

As regards גרא Cowley³¹ connected it with Akkadian gerû/gerû, in which Kraeling concurs.³² Kutscher³³ however raised some doubts about this: "The verb (דין ודנב) גרה to institute suit or process... is according to Kraeling of Babylonian origin. But the verb is used in biblical Hebrew as a legal term³⁴...It appears in later Palestinian Hebrew and Aramaic sources denoting legal action³⁵...The Babylonian origin should not be taken for granted." Kutscher is a little troubled by the fact that the use of גרא in a legal sense is limited to Proverbs, the alleged lateness of which book would militate against the native Northwest Semitic origin of the term. This fact in itself is not decisive. What should be more decisive is the use of gerû in the meaning of "to sue, to litigate" as early as Old Babylonian: UD KUR ŠE PN u PN₂ lā igerrūma "In the future PN and PN₂ will not go to law." Or similarly, eqlam ša itti mārē PN PN₂ išāmu PN₃ mār PN ana eqlim šadādim PN₂ igre.³⁶ "With regard to the field that PN₂ bought from the sons

28. JAOS 74 p. 239.

29. Payne-Smith, Compendious Syriac Dictionary (Oxford:1957) p. 550.

30. KAI #224:9 and see note.

31. P. XXIX.

32. P. 135.

33. JAOS 74 p. 238.

34. The best example is Proverbs 15:18 which reads איש חמה יגרה כדון . וארך אפים ישקוט ריב . A la Kutscher this should be translated "an ill-tempered man will institute a suit, but a patient man will quell a litigation." Kutscher also cites Prov. 28:25; 29:22. The Aramaic versions are interesting. Targum Prov. 15:18 מגרא תגרא Peshitta . מגרג הרהא Targum Prov. 28:25 מגרג תגא Peshitta . מגרג ערחה Targum Prov. 29:22 מגרג דינא Peshitta . מגרג תגרא

35. In Tarbiz 17 (1945) למונחי שטרות בתלמוד ובספרות הגאונים, Kutscher lists these occurrences a) Talmud Yerushalmi; Baba Batra 10:1 (17c) "that person tried to raise a suit to profit 30," b) Midrash Shir Hashirim Rabbah 1:6 on the verse בני אמי נחרו בי - נחרו בי, מלאו הדיין חרון אף עלי נחרו בי - נחרו בי, מלאו הדיין חרון אף עלי

36. Both citations listed in CAD G p. 61.

of PN, PN₃ a son of PN sued PN₂ for (incorrect) measurement of the field." Another important factor is the attested use of *gerû* with *dīnu* [u] *dabābu* in Assyrian documents along with the more common *bu''û* e.g. *dēnu dabābu itti Apla u mārēšunu igar-rûni*.³⁷ "Whoever will institute a suit or process against Apla and his sons." This evidence seems to point to Akkadian for the origin of *gerû* in the legal sense.³⁸

37. Kohler-Ungnad, *op. cit.*, #163:15, see also 612:12 and 633:13.

38. Discussion of the Akkadian term *bēl dabābi* and its verbal derivatives must be left for another occasion.