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

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

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

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

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

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

1. Was the muškēnum a dependent of the palace?

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

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

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

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

2. How were the muškênum and the awîlum connected?

In the Code of Hammurabi a clear distinction is made between the awîlum and the muškênum. This distinction can be divided into two kinds. One is money payment. Thus, an awîlum pays a substantially higher divorce settlement than a muškênum (CH 139-40). This is also the case with regard to payments to surgeons (CH 215-16, 221-22). The second kind is in the so-called lex talionis. If an awîlum loses an eye, or a bone of his is broken, an equivalent injury is done to his assailant. The muškênum, however, receives a money payment for damages (CH 196-211). It should be noted, however, that all these laws are framed with reference to the awîlum, and the muškênum is mentioned only with regard to special provisions provided for them. Further, as regards the lex talionis, it is interesting that the money payment for injury is a direct continuation of Sumerian practice, while injuries to an awîlum
are punished in a uniquely drastic manner. In non-legal texts this contrast is generally lost. There is, however, a letter from Mari which refers to the *muškênum* who dwell in the cities (...*muškênum wašibût ālim*). The writer says: "ul kim ummâmi awîlu ãkallim inassâhû, "Do not say thusly: 'The awîlu of the palace will uproot them.'" (RA 42 (1948) pp.73-77, no.11, lines 24-27).

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

3. Is the *muškênum* an ordinary citizen?

We can advance a few more arguments for believing that the *muškênum* was an ordinary citizen. Thus, in a letter from Mari (ARM V 25) a suggestion is presented that the *muškênum* of the cities (*muškênum ša ālānî*) should in the following month perform the sacrifice of the 'chariot of Nergal'. In a middle Babylonian letter from Tell Amarna (EA I) Kadâšman-Enîlî, the king of Babylon (Kar-Dûnîaš), writes to Nibmašrû (nâ.b.mû.t/r'= Amenophis III) that he does not know whether his sister (Amenophis's wife) is still alive. The messengers he sent do not recognize her: "mende mārat īštên muškênu (sic!) u šûmma īštên Gaqa(y)â, šûmma mārat Hanigîl(batî) u mende ša Ugarît ša īmûrû mârê šîpriya, "Perhaps she is a muškênu or a Gagaian, or a citizen of Hanigalbat or perhaps of Ugarit (the girl) whom my messengers saw" (ll. 37-40). All the references are to cities and it would be strange that *muškênu* here meant something very different from 'citizen.' Finally, there is an Old Babylonian letter which clearly implies that the three classes of the society were slave, citizen and awîlu. The letter (CT 44, no.53) is sent by Rapaš-šilli-Ea who was the official in charge of the *nadîtu*-women of Shamash from the end of the reign of Hammurâbi through the greater part of the reign of Samsu-ilûna. He complains that a certain Liwwir-an-îlî has been wrongfully
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conscripted as a rēdū: Liwwir-an-ilī warad nadīt Šamaš. Ana minīm takla? Ul mār ĕl Šaga ūš; ul mār awilīm. Warad nadīt Šamaš wušēr! - "Liwwir-an-ilī is a slave of a nadītu of Shamash. Why have you detained him? He is not a citizen of Shaga, nor is he an awilūm. Release the slave of the nadītu of Shamash!" (11. 6-12). Here we have a clear opposition of the awilūm to a citizen.

The evidence for the muškēnum being an ordinary citizen is not conclusive when examined individually, but when viewed en masse - particularly in relation to the evidence for him being a dependent of the palace - it seems presumptive. If this is so, we are left with a new problem - that of the awilūm.

It is, however, still too early in our discussion to come to a final decision for there is yet one more problem to be faced.

4. What is the relationship of the muškēnum to the rēdūm?

In two places the muškēnum is associated with military designations, the bā'erūm and the rēdūm. The bā'erūm (literally, 'catcher') is probably a net-fighter (AHw 96a). The rēdūm (literally 'pursuer') acted very much like a gendarmerie. It was a conscripted standing military force. We know from complaints sent about the drafting of one or another man into the rēdūtum that it was considered an onerous duty. The heads of various state regulated groups, such as cook-shop operators (nuhatimmum), herdsmen (kaparrum), millers (kassiddakkum), and even fief-holders (iššakum) demanded that substitutes be found. This would tend to give the range to which the term muškēnum is related. Further, in CH 38, the bā'erūm and rēdūm are connected with the phrase nāši biltim, 'taskbearer.' We must remember, too, from the previous section that a rēdūm can also be either a citizen or an awilūm. One final quote must be given, this time from a Sumerian source of the Isin period: našā itu.da 44.Âm ḫe.gub, "The muškēnum must perform service for four days in the month."9

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

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

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