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THE CHARACTER OF ANCIENT NEAR EASTERN ECONOMY: RESPONSE TO CHRISTOPHE PÉBARTHE

The following remarks from the comparative perspective of Ancient Near Eastern legal history focus on three aspects: first, the *raison d'être* of theory in economic and legal history, second, the relationship between money and law and third and last, the possible economic functions of legislation¹.

The discussion about the character of Ancient Near Eastern economy and especially the question if there existed a market or not – may it be as a location and/or as a principle – resembles very much the one that was presented by Christophe Pébarthe in the context of the Greek world. The answers to that question, again very similarly, depend directly on the theoretical commitment of the scholars that take part in this discussion. Whereas some of them see clear evidence for the effectiveness of market principles, others deny this categorically. Johannes Renger, the German Nestor of Ancient Near Eastern economic and social history, has always been rather sceptical towards applying modern, especially neo-classical economic theories:² For him the combination of the *oikos*-system of the temple up to the end of the third and the redistributive system of the palace from the second millennium BCE onwards on one hand and a sustenance-oriented production on the other hand leaves little space for competition and therefore for exchange that follows market rules, even though we have clear evidence of individual exchange, of course. Strongly influenced by the work of Karl Polanyi,³ but trying to get beyond it, he does not stop to stress the need to develop a methodological approach of its own for studies in ancient economic history (which is as much as true for ancient legal history), even though he himself never offered that theoretical approach, but stuck to his admirable work on the sources.⁴

The turn towards Max Weber's social economics in Pébarthe's article, however, would probably stand Renger's critique: Weber's use of ideal role models for the decisions of social actors⁵ is anachronistic in the best sense, simply because it doesn't imply any results. This methodological approach enables us to take into

¹ For abbreviations cf. the lists in AHW and CAD.

² The essence of his reasoning on the basis of several profound studies can be found in the according articles in *Der Neue Pauly*: Renger 1998; 1999; 2000; 2002.

³ Mainly Polanyi *et al.* 1957 and Polanyi 1977.

⁴ E.g. Renger 1993; 1994 and 1995.

⁵ See Weber 1980, p. 11-17.

regard the social environment, and law as a part of that environment, as decisive elements of ancient economy. Still, it has to stand proof with regard to the evidence of our sources: From Weber's three direct links between law and economics as referred to by Pébarthe I would like to take the third one as a starting point for a question in detail: absolute foreseeability of the rule of law and its enforcement by the political power.⁶ Taking into regard economic and legal practice within this context raises the question if there isn't just a narrow time horizon for the individual that provides little planning reliability and if is it not just the political power itself that marks a factor of uncertainty: For example if we think of debt releases, even though it has to be admitted that they probably did not play a role as much important in the Greek world as in the Ancient Near East, including Ancient Israel.⁷ In Ancient Near Eastern societies debt releases were used irregularly, but again and again by rulers to maintain social stability and as an instrument to fulfill the theological and political program of justice.⁸ The probably most prominent example for that phenomenon is the so-called edict of Ammišaduqa from about 1640 BCE.⁹ Debt release means of course that some people – debtors – were released from their obligations by the cancellation of debts and their effects like forced labor, while other people – creditors – at the same time lost the loans they had given, i.e. parts of their assets. In this case law lacks its character of a reliable decisive element in respect of economic behavior. We will come back to this question in a more general sense at the end of this response.

When it comes to the relationship between money and law, the task to draw an outline for Ancient Near Eastern circumstances that can be compared to the Greek world gets difficult, just because there never has been “money” in an narrower sense in any of the Ancient Near Eastern economies, nor has there been a word for it either.¹⁰ Instead we find uncoined silver and barley as means of payment, respectively as media of exchange and as a standard of value. The close relationship between this “money stuff” and the political power which becomes manifest in various forms of rules is not only indicated by (royal) definitions of measure and weight we find in early royal inscriptions, e.g. in the prologue to the law collection of Urnamma from Ur, about 2100 BCE.¹¹ Even more detailed and maybe marking the first efforts (or rather attempts) of economic governance are the rates or tariffs that are preserved e.g. in the so-called Laws of Eshnunna: § 1 gives equivalents for the weight of 1 shekel of silver (ca. 8.3 g)¹²; § 2 gives equivalents for grain (or

⁶ See Weber 1980, p. 195-198.

⁷ See Westbrook 1995, p. 149-163.

⁸ Pfeifer 2012, p. 22-23 and 26-28.

⁹ Pfeifer 2005, p. 173-190 with bibliography.

¹⁰ Renger 1995, p. 282.

¹¹ Renger 1995, p. 288.

¹² § 1 LE: 300 silas of barley (can be purchased) for 1 shekel of silver. 3 silas of fine oil – for 1 shekel of silver. 12 silas of oil – for 1 shekel of silver. 15 silas of lard – for 1 shekel

barley), in which “1 sila” equals about 1 liter.¹³ That §§ 3+4 LE provide minimum (and not maximum) hires seems fairly probable, but is in the end still uncertain.¹⁴ In the same context belongs § 18A LE, which gives the standard interest rates for silver loans with 20 % (also called “interest of Shamash”, i.e. the Sun-god and, at the same time, god of justice) and for barley loans with 33.3 %.¹⁵ What should be kept in mind is that those different rates of interest probably equaled each other, as the value of barley varied from sowing to harvest, whereas the value of silver was rather stable.¹⁶ As mentioned above, legislation on money in a narrower sense can not be expected in the Ancient Near East, but the efforts taken to regulate loans might provide a crucial evidence for the attempt to rule a “market.”

Due to that aspect I would like to draw your attention to a new reading of the §§ t and u of the so-called Laws of Hammurabi, that was recently provided by K. Veenhof.¹⁷ §§ t and u LH belong to the about 29 rules that are not preserved on the stele found in Susa, but are amended from copies on clay tablets that enable us to fill the gap on the front side of the stele. Neglecting the philological implications and reading the texts in Veenhof’s sense (which seems very convincing): § t LH

of silver. 40 silas of bitumen – for 1 shekel of silver. 360 shekels of wool – for 1 shekel of silver. 600 silas of salt – for 1 shekel of silver. 300 silas of potash – for 1 shekel of silver. 180 silas of copper – for 1 shekel of silver. 120 silas of wrought copper – for 1 shekel of silver, transl. Roth 1997, p. 59. For measures and weights see Powell 1987-1990, p. 497 and 509.

¹³ § 2 LE: 1 sila of oil, extract (?) – 30 silas is its grain equivalent. 1 sila of lard, extract (?) – 25 silas is its grain equivalent. 1 sila of bitumen extract (?) – 8 silas is its grain equivalent, transl. Roth 1997, p. 59.

¹⁴ § 3 LE: A wagon together with its oxen and its driver – 100 silas of grain is its hire; if (paid in) silver, 1/3 shekel (i.e. 60 barleycorns) is its hire; he shall drive it for the entire day, § 4 LE: The hire of a boat is, per 300-sila capacity, 2 silas; furthermore [x] silas is the hire of the boatman; he shall drive it for the entire day, transl. Roth 1997, p. 59.

¹⁵ § 18A LE: Per 1 shekel (of silver) interest accrues at the rate of 36 barleycorns (= 20 %); per 300 silas (of grain) interest accrues at the rate of 100 silas (= 33 %), transl. Roth 1997, p. 61. See also Yaron 1993. The rates of interest are calculated p.a., but relativized as such with respect to the yield e.g. of fields; cf. Pfeifer 2005, p. 177-178.

¹⁶ Leemans 1950, p. 30.

¹⁷ § t LH: If a merchant/creditor has given barley and/or (u) silver as interest-bearing loan, he will collect as interest 60 silas of barley per gur; if he has given silver as interest-bearing loan, he will collect 36 corns (of silver) per shekel of silver, § u LH: If a man who has contracted an interest-bearing loan has no silver with which to repay it, but does have barley (t: to the value of the silver), in accordance with the royal decree the creditor shall take (t: barley and) as interest still only 60 silas per gur. If the creditor takes as interest on his loan more than 60 silas per gur of barley or more than 36 barley corns per shekel of silver, he will forfeit whatever he has given, transl. Veenhof 2010, p. 284 and 286; for the “common” reading cf. Roth 1997, p. 97-98. The main difference of Veenhof’s reading lies in the reconstruction of the “silver rate” of 20 % in § t LH, which is expressed in barley. The following considerations refer to Veenhof’s interpretation, *op. cit.*, p. 287-293.

restricts so-called mixed loans to the interest rate of 20 %, whereas § u LH allows the debtor of an (obvious) silver loan to repay barley instead of silver at an interest rate of (only) 20 %. The ratio of these rules becomes clear, if we remember that the rates of silver and barley loans usually equaled each other:¹⁸ contrary to that, here both rules reduce the rate of interest to 20 % in advantage of the debtor. This corresponds with § 51 LH, which allows the debtor – in accordance with some royal legislation, that is not described in detail, and in accordance with a so-called market (!) value – to repay his debt in barley or in sesame.¹⁹ At the same time, §§ t and u are to be seen in contrast to § 20 LE which allows the creditor of a barley loan, which is converted into a silver loan, to maintain the (higher) interest of the barley loan, when he executes the (converted) silver loan.²⁰ Thus we learn that legislation was provided in favor of the debtor in one case and in favor of the creditor in another. It is, by the way, not impossible that § t and u LH are a reaction to § 20 LE,²¹ but that's another question. In other words legislation is not only used as a social remedy to protect the socially and economically weaker party, but also in advantage of a successful participant of a “market”. As a result this would not seem too astonishing: Even in the already mentioned edict of Ammişaduqa we find besides a wide range of debt cancellations also exceptions for (professional) investment or business loans.²²

To draw a conclusion: Fixation of rates (of interest) or tariffs and of equivalents for media of exchange may imply an official market policy as does the law of Nicophon on money – but to grant those legislative measurements the character of decisive elements in the social environment of economic actors we have to answer the question if there is any evidence that those forms of legislation – Ancient Near Eastern or Greek – were taken into account by economic actors at all. If we look through the glasses of the legislator we might recognize his intentions, but are there hints towards the reactions and decisions of social and economic actors in a market place? In letters from the Old Babylonian period we get some information about private motivation for business activities,²³ but – as far as I see – none of them corresponds to legislative measurements. On the other hand we have evidence from the legal practice that creditors tried to avoid the effects of debts releases by altering

¹⁸ See above n. 16.

¹⁹ § 51 LH: If he does not have silver to repay, he shall give LH to the merchant, in accordance with the royal edict, <either grain or> sesame according to their market value for his silver borrowed from the merchant and the interest on it, transl. Roth 1997, p. 91.

²⁰ § 20 LE: If a man loans ... grain ... and the converts the grain into silver, at the harvest he shall take the grain and the interest on it at (the established rate of 33 %, i.e.) 100 silas per 300 silas, transl. Roth 1997, p. 62.

²¹ Cf. Veenhof 2010, p. 288-289.

²² See Pfeifer 2005, p. 181 in respect of § 8 of the edict of Ammişaduqa.

²³ E.g. the private letters edited and translated by Ungnad 1914, no. 80-238.

transaction records – in fact this behaviour was even anticipated by the legislators of debts releases.²⁴ There is no doubt that “good legislation” provides good conditions for a “market,” but the characterization as “good” and “bad,” respectively “negative” depends from the point of view and gives as such no guarantee for its effectiveness as an economic factor.

BIBLIOGRAPHY

- AHw: W. von Soden, *Akkadisches Handwörterbuch*, Wiesbaden 1965-1981, (vol. I, 2nd ed., 1985).
- CAD: *The Assyrian Dictionary of the University of Chicago*, Chicago-Glückstadt 1956 ff.
- Leemans 1950: W. F. Leemans, *The rate of interest in Old-Babylonian times*, in *RIDA 5 (Mélanges Fernand de Visscher, 4)*, p. 7-34.
- Pfeifer 2005: G. Pfeifer, *Sanktionen gegen Umgehungsgeschäfte im Edikt des Königs Ammi-šaduqa von Babylon*, in W. Ernst-É. Jakab (eds.), *Usus Antiquus Juris Romani. Antikes Recht in lebenspraktischer Anwendung*, Heidelberg, p. 173-190.
- Pfeifer 2012: G. Pfeifer, *Gerechtigkeit aus der Perspektive der altorientalischen Rechtsgeschichte*, in M. Witte (ed.), *Themen der Theologie – Gerechtigkeit*, Tübingen, p. 15-35.
- Polanyi 1977: K. Polanyi, *The Livelihood of Man (Studies in Social Discontinuity)*, New York-San Francisco-London.
- Polanyi et al. 1957: K. Polanyi-C. M. Arensberg-H. W. Pearson (eds.), *Trade and Markets in the Early Empires*, Glenco.
- Powell 1987-1990: M. A. Powell, s.v. *Masse und Gewichte*, in *Reallexikon der Assyriologie*, 7, Berlin- New York, p. 457-517.
- Renger 1993: J. Renger, *Formen des Zugangs zu den lebensnotwendigen Gütern: Die Austauschverhältnisse in der altbabylonischen Zeit*, *Altorientalische Forschungen* 20, p. 87-114.
- Renger 1994: J. Renger, *On Economic Structures in Ancient Mesopotamia*, *Orientalia* NS 63, p. 157-208.
- Renger 1995: J. Renger, *Subsistenzproduktion und redistributive Palastwirtschaft – wo bleibt die Nische für das Geld?*, in W. Schelkle-M. Nitsch (eds.), *Rätsel Geld. Annäherungen aus ökonomischer, soziologischer und historischer Sicht*, Marburg, p. 271-324.
- Renger 1998: J. Renger, s.v. *Geld, Geldwirtschaft, I. Alter Orient und Ägypten*, in *Der Neue Pauly*, 4, Stuttgart-Weimar, p. 873.

²⁴ Pfeifer 2005, p. 183-190 in respect of §§ 5 and 7 of the edict of Ammišaduqa.

- Renger 1999: J. Renger, s.v. *Markt, I. Alter Orient und Ägypten*, in *Der Neue Pauly*, 7, Stuttgart-Weimar, p. 922.
- Renger 2000: J. Renger, s.v. *Oikos-Wirtschaft*, in *Der Neue Pauly*, 8, Stuttgart-Weimar, p. 1137-1138.
- Renger 2002: J. Renger, s.v. *Wirtschaft, I. Mesopotamien*, in *Der Neue Pauly*, 12/2, Stuttgart-Weimar, p. 523-526.
- Roth 1997: M. T. Roth, *Law Collections from Mesopotamia and Asia Minor*, 2nd ed., Atlanta.
- Ungnad 1914: A. Ungnad, *Babylonische Briefe aus der Zeit der Hammurapi-Dynastie*, Leipzig.
- Veenhof 2010: K. R. Veenhof, *The interpretation of paragraphs t and u of the Code of Hammurabi*, in *DUB.SAR É.DUB.BA.A. Studies presented in honour of Veysel Donbaz*, Istanbul, p. 283-294.
- Weber 1980: M. Weber, *Wirtschaft und Gesellschaft. Grundriss der verstehenden Soziologie*, 5th ed., Tübingen.
- Westbrook 1995: R. Westbrook, *Social Justice in the Ancient Near East*, in K. D. Irani-M. Silver (eds.), *Social Justice in the Ancient World*, Westport, p. 149-163.
- Yaron 1993: R. Yaron, *kurrum šibtam uššab* „das kor wird Zins hinzufügen“: *Weiteres zu § 18 A der Gesetze von Ešnunna*, ZA 83 (NF 49), p. 206-218.