

A REEVALUATION OF THE USE OF זבן AND יהב IN ELEPHANTINE*

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Abstract: A Reevaluation of the Use of זבן and יהב in Elephantine

The legal terminology of the Aramaic papyri from Elephantine has been studied mostly from an Assyriological perspective. This article takes a fresh look at the function, origins of two legal terms (זבן and יהב) used in Elephantine taking also into consideration the Egyptian evidence. We trace their origin within ancient Near Eastern legal traditions paying especial attention to the way the Egyptian formulaic tradition might have influenced the Aramaic use of those terms.

Keywords: Aramaic – Demotic – Elephantine – legal formulae

Resumen: Una reevaluación del uso de זבן y יהב en Elefantina

La terminología legal de los papiros arameos de Elefantina ha sido estudiada en su mayor parte desde una perspectiva asiriológica. Este artículo propone una nueva lectura de la función y orígenes de dos términos legales (זבן y יהב) utilizados en Elefantina, tomando en consideración también la evidencia egipcia. Nosotros trazamos su origen en las tradiciones legales del Cercano Oriente Antiguo prestando una atención especial al modo en que la tradición de fórmulas egipcias pudo haber influenciado el uso arameo de aquellos términos.

Palabras Clave: arameo – demótico – Elefantina – fórmulas legales

The verb זבן, whose root denotes both the act of purchasing and the act of selling,¹ is attested in Elephantine in the same document² as Peal בכסף “bought for silver,” (*TAD* B3.12:4), referring to the acquisition of the house by the seller; and in Pael חזבן לה בכסף, “sell it for silver,” (*TAD* B3.12:24) referring to the buyer’s right of alienation.³ Thus, the single root זבן in the

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¹ *DNWSI*, s.v. *zbn*₂; Muraoka-Porten 1998: §27.

² And also in *TAD* B3.10:3 in the same expression.

³ Also in *XHve/Se* 8a:5 and 9:5.

Aramaic documents fulfills the same function as the two roots *קנה* and *נכר* in the Hebrew Bible.

The etymology of the Aramaic term goes back to the Assyrian word *zibanitu* meaning “scales;”⁴ this sheds light on the possible original *Sitz im Leben* of the Aramaic term. The presence of scales to weigh the metal used in the transaction was a necessary element before the use of coins, as illustrated in Jer. 32:9:

“So I bought the land in Anathoth from my cousin Hanamel. I weighed out the money to him, seventeen shekels of silver.” (JPS).

וְאֶקְנָה אֶת־הַשְּׂדֵה מֵאֵת חַנְמָאֵל בְּיַד־יָדָי אֲשֶׁר בַּעֲנֻתוֹת וְאֶשְׁקֶל הִלּוֹ
אֶת־הַפְּסָף שִׁבְעָה שְׁקָלִים וַעֲשָׂרָה הַפְּסָף:

The symbolism was still present in the Roman *mancipatio*, a form of conveyance in Roman law, whereby a scale continued to be used even in times when coins were circulating.⁵ In the Aramaic documents from Egypt, the use of *יבן* implied that a payment is always involved in the transaction.

יהב, on the other hand, is the term for transfer. The use of the verb “to give” in conveyances, gifts, and other types of deliveries is attested throughout the ancient Near East: Akkadian *nadanu*,⁶ Hebrew *נתן*,⁷ Aramaic *יהב* and *נתן*,⁸ Ugaritic *ym*,⁹ and Egyptian *rdi*.¹⁰ A thorough study of the uses of these verbs in every case is beyond the scope of this study, but some general understanding of the uses in the Aramaic realm is essential for our discussion of the use of *יהב* in the Elephantine documents.

The Aramaic corpus attests the use of two verbs with the meaning “to give,” *נתן* and *יהב*. Folmer’s linguistic study of the use of *נתן* and *יהב* in Elephantine has provided an explanation for their distribution.¹¹ While in the oldest legal documents (*TAD* B1.1 [515 BCE]; B5.1 [495 BCE], B4.2 [c. 487 BCE]) both *נתן* and *יהב* were used in perfect, their paradigms are complementary in later

⁴ See *HALOT* s.v. *יבן*; *CAD* s.v. *zibanitu*; *AHW* s.v. *zibanitu(m)*, vol. 3, 1523. The word is also related to Egyptian *dbn* and Akkadian *zbn* “weight.” Kaufman 1974: 112.

⁵ Kaser 1971: vol. I, pp. 44-45.

⁶ *CAD* N, part 1, 41-59.

⁷ E. Lipinski, “נתן,” in *TDOT* vol. 10, 90-108; esp. 96-101; *HALOT*, vol. 2, 733-735.

⁸ *DNWSI*, II, 766-770.

⁹ Aistleitner 1965: 138-140; del Olmo Lete and Sanmartín 1996-2000: vol. I s.v. *ym*.

¹⁰ *Wb*, II, 464-469.

¹¹ Folmer 1995: 641-648.

documents, (יָהַב is used in perfect, imperative and participle while נָתַן is used in imperfect and infinitive).¹² Accordingly, their distribution in the Elephantine-Syene legal formula shows that the Jewish and Aramean scribes used נָתַן extensively in other formulae,¹³ but out of sixteen attestations of the verb “to give” in the transfer clause (perfect), fifteen are composed by יָהַב¹⁴ and the only one by נָתַן belongs to the aforementioned group of earlier documents.¹⁵ On the other hand, נָתַן is the verb exclusively used when referring to the penalty to be paid (imperfect)¹⁶ and in the defension clause “to cleanse and give” (imperfect).¹⁷ There seems to be no legal or semantic difference in the various uses of יָהַב and נָתַן. In *TAD* B3.13, a loan of grain dated December 402 BCE, both are used in the same formula “to pay and give,” נָתַן in line 4 and יָהַב in line 5. It seems, therefore, that the scribal preference for the different uses of יָהַב and נָתַן was based on the temporal character of the action, as noted above.

Muffs interpreted the formula זָבַן וַיָּהַב “he sold and transferred,” as an example of hendiadys construction.¹⁸ Two examples from the Nabatean realm, however, show that “to give” (נָתַן) was something different from “to sell” (זָבַן). In the following example, “to sell,” “to lease,” and “to give,” are three different options for alienating the property.

wylʿn GN mn yzbn kprʿ dnh ʕw mn yzbn ʕw yrhm ʕw yntn

4-5. “May GN curse whoever would buy this grave or whoever would sell, lease or give it away.” (Doughty, Text II. 2 CE at Medain Salih).¹⁹

¹² Folmer 1995: 641.

¹³ See *infra*.

¹⁴ *TAD* B2.1:3; B2.3:3; B2.4:3; B2.7.2; B3.4:3; B3.5:2; [B3.7:3]; B3.10:2; B3.11.2; B3.12:3; B3.13:3; [B4.3:3]; B4.4:3; B5.1:2; B5.5:3.

¹⁵ *TAD* B4.2:1, a loan of silver written by the borrower Gemariah b. Ahio ca. 487 BCE.

¹⁶ *TAD* B2.1:7, 10, 13; B2.2:14; B2.3:13, 21; B2.4:15; B2.5:2; B2.6:30, 34, 36; B2.7:11; B2.8:10; B2.9:14; B2.10:15; B2.11:10; B3.3:8, 10, 14; B3.4:15, 18, 21, 22; B3.5:16, 21; B3.6:8; [B3.7:16]; B3.8:22, 24, 26, 31; B3.9:7; B3.10:20; B3.13:1; B3.11:13; B3.12:30; B5.1:6; [B5.3:5]; B5.4:6; B5.5:6; [11]; B6.3:9.

¹⁷ *TAD* B3.2:9; 3.4:20.

¹⁸ Muffs 1969: 34 n. 1.

¹⁹ Levinson 1974: 73. יָהַב is not attested in the Naḥal Ḥever documents and נָתַן only in one dubious case XḤve/Se 26:4, a text dealing with deposits and barley.

In the Nabatean realm, “to give,” is used for gifts as the following inscription shows.

*wyhb kpr^ʔ dnh l PN ʔntth brt PN mn zmn šṭr mwhbt^ʔ dy bydh dy t^ʕbd
kl dy tšb^ʔ*

“And he gave this grave to PN, his wife, the daughter of PN from the date of the document of gift which is in her hand, she can do all that she wants (with the grave) (CIS 204).”²⁰

In the Nabatean realm, therefore, יהב is associated with gifts and זבן with sales. It is interesting that the Samaria Papyri use נהן in the defension clause in the formula “stand up, clear and give,”²¹ and in the penalty clause “I will pay and give,”²² two formulae attested in Elephantine, but not in the sale or transfer clauses where the Samaria papyri use only זבן.²³

The verb יהב, like its Egyptian counterpart *rdi*, does not imply that the object is physically transferred from the alienee to the alienor but rather connotes the right of possession. Muffs²⁴ interpreted the formula זבן ויהב, “he sold and transferred,” as similar in function to the Middle-Assyrian *iddinma ušappi* “he effected a final sale” (*iddin* = זבן and *ušappi* = יהב)²⁵ as, for example, in the expression: *eqla ana šim gamir ana x manē anāka A ana B iddinma ušappīma eqlu uppū laqi*, “A field at full price for x minas of tin, A sold permanently to B. The field is permanently taken.”²⁶

²⁰ Levinson 1974, “Nabatean,” 111. See also *mwhb^ʔ* “gift” CIS 219:5; RES 1108:7.

²¹ WDSP 1:6; 2:6; 3:6; 4:8; 5:8; 6:6; 7:10; 8:8; 9:9.

²² WDSP 1:9; 2:8; 4:11; 5:11; 6:9; 7:13; 9:11.

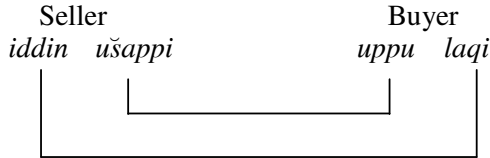
²³ WDSP 1:2; 2:1; 3:1; 4:2; 5:2; 6:2; 7:1; 8:1; 9:1.

²⁴ Muffs 1969: 34 n. 1. Muffs interpreted two verbs together as hendiadys (e.g. *iddin ušappi*), and referring to a single process. We do not regard זבן ויהב as hendiadys but understand the legal meaning of each verb separately. Postgate 1997: 162.

²⁵ Muffs 1969: 34, n.1.

²⁶ Ebeling 1927: 149; 1933: 54-89.

P. Koschaker discussed both terms, *iddin* and *ušappi*, in their relationship with *uppu* and *laqi* in the Middle Assyrian sales documents.²⁷ According to Koschaker, such a relationship, as in the example cited above by Muffs, can be described as follows:



The Middle Assyrian deeds of sale are formulated *ex latere venditoris*. The seller “gives and *ušappi*” while the buyer “takes and *uppu*.” While there is no doubt about the meaning of the verbs *nadanu* and *lequ*, the translation of *ušappi* and *uppu* still presents some difficulties.²⁸ According to J. Postgate, “if *uppu* is correctly derived from *wapu*, D, it probably means ‘publicized’ (by means of herald’s announcement or other formalities needed to precede a legally valid sale).”²⁹ *Ušappi* would belong, therefore, to the Š stem of the same root *wapû*,³⁰ and the whole expression *iddinma ušappîma eqlu uppû laqi* should be translated “he produced a sale, the field is publicly taken.”

The differences between the Aramaic and Middle Assyrian formulation are evident. Not only does the Aramaic not include anything similar to *uppu laqi*, but the semantic fields of זָבַן and *ušappi* are completely different, the only element in common being יָהַב and *nadanu*, both meaning “to give.”

Cussini has sought a closer parallel to the Aramaic formula is found in the Neo-Assyrian documents.³¹ Contrary to the Middle Assyrian practice, the Neo-Assyrian sales are generally formulated *ex latere emptoris*, but there are cases where the sale is formulated *ex latere venditoris*.³² According to Cussini, the Aramaic formulae would derive from the Neo-Assyrian *uppišma*

²⁷ See the discussion by Koschaker 1928: 28-29.

²⁸ Koschaker 1928: 29, after briefly discussing the possible root of *ušappi* and *uppu* concludes “Da nun *laqi*, wie ausgeführt, wahrscheinlich auf die Besitz-ergreifung geht, so bleibt für *uppu* nur die Beziehung auf den Eigentums-erwerb und wir werden daher den juristicem Sinn der beiden Verba wohl ungefähr treffen, wenn wir *ušappi* – *uppu* übersetzen: (der Verkäufer) hat übereignet – (das Feld) ist übereignet.”

²⁹ Postgate 1997: 162.

³⁰ *AHw* 3, 1459 s.v. (*w*)*apû(m)* gives for D “sichtbar mache, vorzeigen,” and for Š “deutlich machen, verwirklichen, hervorbringen, verherrlichen.”

³¹ Cussini 1992: 170.

³² See the examples listed by Postgate who notes that “as late as the early 8th century the formula could still be phrased from the point of view of the seller.” Postgate 1976: 13.

PN₁ (Seller) ... *ana* PN₂ (purchaser) *iddin*, “seller contracted... and gave to purchaser.”³³ This formula is one of the four variations of the Neo-Assyrian operative section listed by Postgate.³⁴ When trying to understand the precise meaning of the Neo-Assyrian formula, however, we face the same difficulties regarding one of its components as we did with the Middle-Assyrian formula. In this case, at least, there is agreement that *uppīšma* is the D stem from *epēšu* of which the basic meanings according to *CAD* are “to act,” “to be active,” and “to proceed.”³⁵

Considering that either the buyer or seller may be the subject of *uppīšma*, Johns explains the term as meaning “to make a bargain” or “come to terms.”³⁶ In the same direction, Postgate considers the *CAD* rendering of *epēšu*, “to conclude a sale agreement,”³⁷ though non-committal, the safest way to translate it, thus retaining the full reservoir of meaning.³⁸ *Uppīšma* has also been translated: “erwerben,” “to enter into a legal contract.”³⁹ in the formula *uppīšma* PN₁ (Seller) ... *ana* PN₂ (purchaser) *iddin*.⁴⁰

In the latest discussion on *epēšu*, K. Radner⁴¹ correctly criticizes the translation, “to conclude a sale agreement,” based on the appearance of *uppīšma* in documents other than sales, like pledges and leases. She also rejects the translation “erwerben,” since *epēšu* is attested with both the buyer and the seller as subjects. Radner proposes to translate the D stem of *epēšu*, “als zu gebendes Object behandeln.”⁴²

Returning to Cussini’s proposal to understand the Aramaic formula זבן ויהב as a derivation of the Neo-Assyrian *uppīšma* PN₁ (Seller) ... *ana* PN₂ (purchaser) *iddin*, we raise the same objection as we did with the Middle Assyrian equivalent. Both formulae share the use of “to give,” *nadanu* and יהב, but the semantic fields of *uppīšma* and זבן are not related.⁴³ Nevertheless, Cussini concludes that “the Aramaic formula maintains the double verb formulation and introduces זבן as a functional equivalent of Neo-Assyrian *uppūšu*. As far

³³ Cussini 1992: 73. “To contract” is also how Kwasman 1988: 1:7; 2:7; 3:13; 4:5; 5:1 *passim*; and Kwasman and Parpola 1991: 295 translate *uppīšma*. For other interpretations of *uppīšma*, see *infra*.

³⁴ Postgate 1976: 13-14, no.3. The other three being: 1. *uppīšma* PN₂ *issu pān* PN₁ *ilqui*; 2. PN₂ ... *issu pān utappīš issiqi* and 4. PN₁ *ana* PN₂ *utappīš ittīdīn*.

³⁵ *CAD* E, 191 s.v. *epēšu*. The whole article on *epēšu* covers pp. 191-235.

³⁶ Johns 1901: 296.

³⁷ *CAD* E, 231.

³⁸ Postgate 1976: 14.

³⁹ Postgate 1973: 29.

⁴⁰ Kohler and Ungnad 1913, supported by Koschaker 1928: 29; see also *AHw* 227 s.v. *epēšu*.

⁴¹ Radner 1997: 341.

⁴² Radner 1997: 342.

⁴³ See *infra*.

as the sale clause, the Elephantine sale contracts show continuity with Neo-Assyrian language.” The presence of functional equivalents, however, is not proof of linguistic dependence. We can expect that almost every culture will have a functional equivalent for such a basic component of the social life as “to sell,” but no dependence can be proven on this basis alone.

The use of זבן, with its semantic field of “weight” and “scales” by the Arameans, however, points to a clear semantic differentiation from the language of the Neo-Assyrian sale. In conclusion, neither the proposed Middle Assyrian nor the Neo-Assyrian formulae can be considered the origin of the Aramaic formula.

In the search for antecedents of the Aramaic formula in other languages, one can easily forget to consider that the formula might be originally Aramean with no debt to other legal traditions. The first component of the formula, the legal term זבן, is widely attested in the Aramaic realm.⁴⁴ In the Naḥal Ḥever contracts, זבן is attested in Peal active with the same meaning, “to buy”⁴⁵ and in active participle זבנה, meaning “purchasers.”⁴⁶ In the Murabbat documents it is attested in Pael זבנה לך בכסף (132 BCE),⁴⁷ and, also, in Pael active participle מזבנה, meaning “seller.”⁴⁸ The geographic distribution of זבן shows that the term was widely used in Judah and Samaria in the sale documents written in Aramaic.⁴⁹

The construction זבן ויהב, “I sold and gave,” is an organic complex of legal and linguistic elements to be found only in the Aramaic documents from Elephantine. It is safe to assume that for every element in the Aramaic formulary that cannot be accounted for in any other Aramaic context apart from Elephantine, we are experiencing the result of the interaction of the Aramaic formulary with a different legal tradition. This other tradition must not necessarily be the Egyptian legal tradition. We should not discard a Jewish –Judahite- influence on the Aramaic formulary.⁵⁰ The fact that the Egyptian *rdi*

⁴⁴ It is attested in Official Aramaic, Nabatean, Palmyrene, Hatran and Jewish Aramaic. See *DNWSI* s.v. זבן, p. 303-4.

⁴⁵ XHve/Se 8:3.

⁴⁶ XHve/Se 9:3, 4, 7, 16; 21:7; 50:6, 12, 23.

⁴⁷ P. Mur 23:5.

⁴⁸ P. Mur 25:6.

⁴⁹ זבן is also the term for “to sell,” and “to buy” in the Syriac slave’s sale from Dura-Europos (243 CE). See Goldstein 1966: 2, and the previous studies cited there.

⁵⁰ נתן, a synonym of ייהב, plays an important role as a legal term for transfer in the Hebrew Bible. The root נתן is attested 2066 times in the Hebrew Bible (2063 in Hebrew, 3 in Aramaic). For the legal meaning of נתן as donation see Genesis 13:15; 15:17; 24:7; as authority Genesis 39:4; 41:1; as exchange Genesis 47:16. The report of the purchase of the cave of Machpelah by Abraham as a burial place for Sarah (Genesis 23:1-20) is a good example of its use in the context of a sale. See Sarna 1970, 169; Porten 1993, 271. The Hebrew Bible also witnesses the use of ייהב with the general

“to give” is the typical word for transfer in every kind of Egyptian document, since Old Kingdom onwards, however, suggests also the possibility that the Aramean scribes felt compelled to add to their traditional one-word formula for “to sell,” *נתן*, their term for give, namely *יהב* / *נתן*, to reinforce the legal validity of the operation in the Egyptian context.

No matter the original legal tradition of *יהב* / *נתן* within this two-term transfer formula, it is safe to assume that we are dealing, in this case, neither with a hendiadys nor with two terms denoting different legal actions but with a formulaic addition intended to assure the legal validity of the transaction in a new context. Yaron classified formulaic additions into those having a purpose and those without it. The latter case involved what Yaron called “adiposis” or “fatty degeneration of the formula.”⁵¹ In this case, however, the addition is not a “fatty degeneration” but has the clear purpose of contextualizing the Aramaic legal formula in the Egyptian legal tradition.

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meaning of “to give” (for example, Deut. 1:13, 1 Sam. 14:41) but its use is not so widespread as *נתן*. *יהב* is attested only 48 times (28 in Hebrew, always used in Qal imperative. *Gesenius-Kautzsch Hebrew Grammar* §69 o,- and 20 in Aramaic).

⁵¹ Yaron 1958:18.

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- YARON, R. 1958. "On Defension Clauses of Some Oriental Deeds of Sale and Lease from Mesopotamia and Egypt." In: *Bibliotheca Orientalis* 15, pp. 15-22.

Wallace M. Foster, a physician who practiced in Detroit, Michigan. Dr. Foster owned the tablets for quite some time (Professor Carroll informs me that his wife recalls bringing the tablets to school for show-and-tell as a girl in the early 1950's). Dr. Foster, in turn, had been given the tablets by the widow of a medical associate who is believed to have acquired the tablets while working in the Middle East during the inter-war years.

I became aware of the tablets quite by chance. While attending a history conference in Minneapolis in 2002, I had the pleasure of meeting Dr. Carroll at a party hosted by one of the societies present at the conference. The subject of his tablets immediately came up when I discussed my work in Assyriology. I expressed interest in seeing the tablets and Dr. Carroll was eager to have them translated, but for both of us the matter was set aside. Recently, however, Dr. Carroll and his colleague, Dr. John Stafford, were able to produce excellent digital images of the tablets from which I could make the transliterations and translations below.¹ I would like to thank Dr. Carroll and Dr. Stafford for their work photographing the tablets, and I especially would like to thank Dr. Carroll for generously permitting me to publish his tablets. Finally, I would like to thank Dr. Gertrud Farber (Chicago) and Dr. Magnus Widdell (Liverpool) for reading and commenting on my transliterations and translations.

¹ Because these transliterations were made from photographs and not from the tablets themselves; all readings should be considered provisional until they can be collated against the originals.

Carroll 1

dimensions: 4.9 cm × 7.5

Umma (Šu-Suen 5)

<p>obv. 1. 12 guruš u₄-1-šè še-bala-a u₄-2-šè še má-a si-ga u₄-10-šé</p> <p>5. ki-su₇-gu₄-suḫúb-ta nibru^{ki}-šè [má gíd]-da u₄-2-šè má ba-al-la u₄-1-šè še bala-a šà nibru^{ki}</p> <p>rev. 10. ugula lú-^dšára gír lú-^dda-mu mu ús-sa ^dšu- ^dsu.en [lugal úri^{ki}-ma]-ke₄ [bàd mar-tu mu-ri]-iq</p> <p>15. [ti-id-ni]-im [mu]-dù</p> <p>seal: 1. lú-^dšára dub-[sar] dumu lugal-[inim-gi-na]</p>	<p>Twelve workmen: for one day carrying barley; for two days loading barley into the boat; for ten days from the threshing floor Gu-Suḫub [towing the boat] to Nippur; for two days unloading the boat; for one day carrying barley within Nippur.</p> <p>The overseer is Lu-Šara. The <i>gir</i>-official is Lu-Damu. The year after Šu-Suen [king of Ur] built the [western wall] called Muriq-[Tidn]im.</p> <p>Lu-Šara the scribe son of Lugal-[inim-gi-na].</p>
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Comments:

2. The verb bala in this line describes the act of moving grain into piles for measurement and distribution according to Civil 1994: 96, 108 n. 129.
5. See Civil 1994: 143. This threshing floor also appears in Schneider 1930: No. 376: 2.