
This volume contains eighteen studies by the late R. B. Serjeant, the earliest published in 1951, the latest in 1989. Some of them originally appeared in rather obscure publications, and Variorum has done a real service in issuing them in this convenient form. As usual in the Variorum series, the articles are photographic reprints of the originals, and the technical quality of the reproductions is excellent. The articles were chosen by the author, and most are followed by a few addenda that he wrote specially for this volume.

The first two articles deal with topics in the early history of Islam: "The Da'if and the Mustaq'af and the status accorded them in the Qur'ān" (1987), and "The Caliph 'Umar's letters to Abū Mūsā al-Ash'ari and Mu'āwiya" (1984). The remaining essays all relate in some way to southern Arabia. One of these is an edition of a short work dealing with Islamic law: "Forms of plea: a Ṣāfi'i manual from al-Ṣihr" (1955). Of the other fifteen, about ten are to some degree concerned with customary law, while the remainder cover a variety of topics, for instance: "Famine death without loss of honour in ancient Arabia and Yemeni Arhab" (1987), "Notices on the 'Frankish Chancr-e' (syphilis) in Yemen, Egypt and Persia" (1965), and "Omani naval activities off the Southern Arabian coast in the late 11th/17th century, from Yemeni chronicles" (1983).

No-one will ever again have the opportunities for studying traditional south Arabia that Serjeant enjoyed. From 1940 up to the revolution of 1967, he was able again and again to visit southern Yemen (the old Aden protectorates), sometimes for protracted periods; from 1964 on he was also able to visit the northern Yemen; and this is to say nothing of his trips to other parts of Arabia. He was interested in many aspects of the history and the traditional way of life of the peoples of southern Arabia, but perhaps most of all in the highly developed customary law of the Yemen. Soon after World War II he brought back to England a copy of an important medieval manuscript on customary law, the Kitāb al-adāb wa'l-lawāzīm fi aḥkām al-man'a, and for the next forty years he sprinkled his articles with declarations that he was in the course of editing this and other similar materials (some of them entrusted to him by the late Ettore Rossi). At the time of his death the work was still not complete; he left the materials to the Library of the University of Edinburgh.

Serjeant was not, unfortunately, the right man for the job. As the articles in this volume show, he lacked both the acuity and the patience necessary for the serious study of customary law. One of his most substantial contributions, "Two tribal law cases (documents) (Wāhidi Sultanate, South-West Arabia)" (1951) illustrates this clearly. It contains documents relating to two particular disputes, both of them more or less contemporaneous with Serjeant's visit to the Wāhidi sultanate. The first is about rights in a water-channel, the second between a man and his father-in-law, the man's wife having fled from her husband's home to her father's. For each dispute we have series of documents:

1. A document in which (among a good many other things) the governor (qā'im) of the area (Mayfa'ah) notes that the parties have handed over
hostages to him and undertakes to choose one or more judges (hakam pl. hukkâm) who are to settle the dispute.

2. The pleading of the plaintiff before the judge(s).
3. The pleading of the defendant before the judge(s).
4. The hakam’s judgment (but only for the second of the two disputes).

For those interested in such things, the documents are sheer joy, totally authentic and packed with the formulas and technical terms of customary law. They were produced, however, not for us, but for South Arabian tribesmen: they merely refer to a few points that it was desired to record at a certain stage of the litigation, and are in no sense a full exposition either of the disputes or of the relevant law. Furthermore, the documents are written largely in colloquial Arabic and need to be explained practically word by word. Serjeant gives the Arabic texts, English translations, extensive notes, and two glossaries, and this is by no means more than necessary.

To reach a reasonable understanding of a legal system of the kind that produced these documents demands months, even years, of careful work in the field. Serjeant’s notes, however, are mainly based on what was apparently no more than a few hours’ talk with the governor, his aide, some of the parties concerned, “and any Bā ‘Awdah tribesmen present”; and for the rest, almost exclusively on well-known published sources, above all the works of Carlo Landberg. The result is that we understand little about the two disputes and even less about the relevant law. In fact we know no more about the disputes than what can be gleaned from the documents themselves (all seven of which take up together less than five pages of large print). The dispute about the water-channel was evidently long and complex; in the course of it actions referred to as tajdir (“imposition of a ban”) and tawqif (“forcible stoppage of cultivation”) were taken; property was seized; two men were apparently killed, and it may be that there was also other bloodshed. With a little patience it surely would have been possible to get a coherent account of these events, but Serjeant did not do so.

The legal institutions that are referred to remain to an equal extent in the shadows. The first document in both series begins in the first person, the speaker being the governor (“There appeared before me in the court of Mayfa‘ah so-and-so and so-and-so . . .”), but quickly slips into the third person (e.g., “The governor is to select judges from among . . .”). Serjeant does not discuss this odd feature, though it is probably a highly significant one: it suggests that the dispute-settlement procedures which are detailed in the first document of each series are not the result of a decision by the governor, but rather the result of an agreement between the parties, with the governor merely acting as a facilitator. As mentioned, in both disputes both parties are recorded as having deposited hostages (qaddamū mahbūsin) with the governor at the outset of the proceedings. This is consistent with the notion that the governor had little power beyond what the parties were prepared to give him; but since Serjeant does not explain how the hostages come to be deposited, we cannot totally exclude the possibility that they were handed over by order of the governor (rather than, as seems far more probable, by agreement between the parties). What was the function of these hostages?