

RANON KATZOFF

On Jews in the
Roman World

*Texts and Studies in
Ancient Judaism*

Mohr Siebeck

Texts and Studies in Ancient Judaism

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179



Ranon Katzoff

On Jews in the Roman World

Collected Studies

Mohr Siebeck

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Carissimae uxori

Charlotte

שלי ושלכם שלה הוא.

Preface

The present volume presents to the reader a selection of studies having to do with Jews in the Roman world, broadly defined. Texts in Greek and Latin are confronted with rabbinic texts and vice versa, and, it is hoped, help elucidate each other. For the most part, these studies are not the product of large projects, but rather of chance observations, followed through. Common to them, however, is that for the most part they deal with Jews in liminal situations. Jews are confronted with non-Jewish, mainly Roman, laws, places, government, and modes of thought; and in these studies they are shown to be rather loyal to their Jewish traditions. This is not to deny the results of others' studies arguing that Jews were assimilated, or at least integrated into the Roman world, but it does call for moderation of the broad general conclusions that have been drawn from them. The proverbial elephant examined in its parts naturally comes to mind.

The questions on law may be approached in more than one way. One is to search the remains of popular Jewish culture for evidence on the degree to which rabbinic law really prevailed in the Jewish communities of antiquity. Another is to sift through rabbinic law for traces of foreign law. Section One is devoted to the first approach, through study of Judaeae Desert documents, mainly those of Babatha; Section Two is devoted to the second approach. In Section Three there are studies of Jews in the city of Rome, going and coming to Rome, and those who left Rome. Section Four contains a miscellany of studies on Jews confronted, or not, with non-Jewish life.

The studies are reproduced here as they originally appeared in print, with only minor changes of form. As a result, there is some repetition of general points, for which I beg the reader's indulgence. In the few instances where content was added, it is usually enclosed in square brackets.

Nunc transeamus ad obligationes.

Most specifically, I thank Dr. Henning Ziebritzki and Mohr Siebeck Publishers for urging me to republish these studies, and for patiently extending the deadlines for submission. Thanks are due to the publisher's editorial staff, and to their eagle-eyed copy editors, and especially to my editor Dr. Claus-Jürgen Thornton. Thanks are due as well to Joshua Kulp for the translation to English of articles written originally in Hebrew. To Bar Ilan University, its

Department of Classical Studies and Department of General History, and their faculty and students, I owe a great debt of gratitude for encouraging me to engage in this line of research. The Classics Department, in particular, has been my academic home since we came to Israel on *aliya* in 1971. I can hardly imagine a more friendly and supportive atmosphere than that which I enjoyed in the department (despite its minimal physical facilities). The Bar Ilan University Library has been extraordinarily helpful in investing in the books and journals required for this research, and especially in building what was, at least, the best papyrological and Roman law collection in Israel, as has its Interlibrary Loan department been in promptly obtaining what the library lacked. The Institute for Advanced Study in Princeton, The University of Michigan, and Yale University graciously welcomed my wife and me when we were on sabbatical leaves. The Memorial Foundation for Jewish Culture, the Israel Science Foundation, the Institute of Jewish Law of the Hebrew University of Jerusalem, in Israel, and, in the United States, the National Endowment for the Humanities generously supported my research.

It was as an undergraduate at Bar Ilan University for two years, 1956/57 and 1957/58, that I first found an academic setting which combined both critical study and commitment to halakhic Judaism. It was there that the trajectory of my academic professional life was set. I was fortunate to have been excited by outstanding teachers there, such as Eliezer Shimshon Rosenthal, Yitzhak Gilat, and Moshe Ber; later Carl Roebuck at Northwestern University; Rabbis Chaim David Regensberg and Eliezer Berkovits at the Hebrew Theological College in Skokie, Illinois; Gilbert Highet and A. Arthur Schiller at Columbia University; Saul Lieberman in his home in New York, and earlier Yochanan Muffs and רבֵּלְחָם" Bezalel Porten at Camp Ramah. Later, Professors Alfredo Mordecai Rabello drew me in to the study of Jewish and Roman law, and Naphtali Lewis to that of the Babatha papyri. I owe a great debt of gratitude to my parents, Louis and Adina Katzoff, ז"ל, and to our children – Shifra and her husband David Zori, Binyamin and his wife Ayelet (née Hendler), Nomi and her husband Elchanan Adler, and Efrat and her husband Binyamin Koslowsky – and grandchildren – Sechiya, Yair, Rachel, Oz, Hillel, and Shemaia Zori; Ariel, Renana, Talia, and Eitan Katzoff; Yael, Hodaya, Na'ama, and Gilad Adler; Noam, Matan, Adi, Hadas, and Tamar Koslowsky – who have been a constant source of delight, even as we mourn the loss of our grandson, Yonatan Aryeh Adler, in a tragic accident. Most of all, I am grateful to my wife, Charlotte (née Pearlberg), whose love, wisdom and encouragement have been my mainstay throughout our marriage of over a half-century. To her this book is dedicated.

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Abbreviations

Considering that of such readers who will dip into this book most will be specialists either in Classical Studies or in Rabbinics, but not in both, I have attempted to keep to a minimum the abbreviations conventional in publications directed to specialists of a single discipline. Nonetheless, for primary sources the following are used:

- b. Talmud Bavli
- C. Codex Justiniani
- Dig.* Digesta Justiniani
- m. Mishnah
- t. Tosefta
- y. Talmud Yerushalmi

References to papyri follow the *Checklist of Greek, Latin, Demotic and Coptic Papyri, Ostraca, and Tablets*, now readily available at <http://papyri.info/docs/checklist>.

Acknowledgements

- 1 “*Papyrus Yadin 18: Legal Commentary*,” in Naphtali Lewis, Ranon Katzoff, and Jonas Greenfield, “*Papyrus Yadin 18*,” *Israel Exploration Journal* 37 (1987) 229–50, at 236–47. Reprinted by permission of the Israel Exploration Society.
- 2 “*Papyrus Yadin 18 Again: A Rejoinder*,” *Jewish Quarterly Review* 82 (1991) 171–76. © Herbert D. Katz Center for Advanced Judaic Studies, University of Pennsylvania.
- 3 “An Interpretation of *P.Yadin 19: A Jewish Gift after Death*,” in Adam Bülow-Jacobsen, ed., *Proceedings of the 20th International Congress of Papyrologists, Copenhagen, 23–29 August, 1992* (Copenhagen 1994) 562–65. Reprinted by permission of Rudolf Habelt Verlag.
- 4 “*P.Yadin 21 and Rabbinic Law on Widows’ Rights*,” *Jewish Quarterly Review* 97 (2007) 545–75. © Herbert D. Katz Center for Advanced Judaic Studies, University of Pennsylvania.
- 5 “Polygamy in *P.Yadin?*,” *Zeitschrift für Papyrologie und Epigraphik* 109 (1995) 128–32. Reprinted by permission of Rudolf Habelt Verlag.
- 6 “On *P.Yadin 17*.” Previously unpublished.
- 7 “On *P.Yadin 37 = P.Hever 65*,” in Ranon Katzoff and David Schaps, eds., *Law in the Documents of the Judaean Desert* (Leiden 2005) 133–44.
- 8 “Age at Marriage of Jewish Girls During the Talmudic Period,” in Mordechai A. Friedman, ed., *Marriage and the Family in Halakha and Jewish Thought = Te’udah 13* (1997) 9–18 (Hebrew).
- 9 “Week and Sabbath in Judaean Desert Documents,” with Bertram M. Schreiber in *Scripta Classica Israelica* 17 (1998) 102–14. Reprinted by permission of The Israel Society for the Promotion of Classical Studies.
- 10 “Tuesday in the Judaean Desert.” Previously unpublished.
- 11 “Review of Cotton and Yardeni, *Aramaic, Hebrew and Greek Documents from Nahal Hever* (Discoveries in the Judaean Desert XXVII),” *Scripta Classica Israelica* 19 (2000) 316–27. Reprinted by permission of The Israel Society for the Promotion of Classical Studies.
- 12 “Children of Intermarriage: Roman and Jewish Conceptions,” in Catherine Hezser, ed., *Rabbinic Law in its Roman and Near Eastern Context* (Texts and Studies in Ancient Judaism 97) (Tübingen 2003) 277–86.
- 13 “*Donatio ante nuptias* and Jewish Dowry Additions,” in Naphtali Lewis, ed., *Papyrology* (Yale Classical Studies 28) (Cambridge 1985) 231–44. Reprinted by permission of Cambridge University Press.
- 14 “Oral Establishment of Dowry in Jewish and Roman Law: *D’Varim Naniknim Ba’Amira and Dotis Dictio*,” in John Cairns and Olivia Robinson, eds., *Critical Studies in Ancient Law, Comparative Law & Legal History: Essays in Honour of Alan Watson* (Oxford and Portland 2001) 157–71. © Ranon Katzoff. A similar version appeared in Lawrence H. Schiffman, ed., *Semitic Papyrology in Context: A Climate of Creativity*.

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- 15 “Sperber’s Dictionary of Greek and Latin Legal Terms in Rabbinic Literature – A Review-Essay,” *Journal for the Study of Judaism* 20 (1989) 195–206.
 - 16 “Rabbinic Jews in Rome,” in David Golinkin, Moshe Benovitz, Mordechai Akiva Friedman, Menachem Schmelzer, and Daniel Sperber, eds., *Torah Lishma: Essays in Jewish Studies in Honor of Professor Shamma Friedman* (Jerusalem 2007) 344–57, under the title “The Laws of Rabbi Eliezer in Ancient Rome” (Hebrew).
 - 17 “On Fasting on the Sabbath,” *Sinai* 119 (1997) 185–86 (Hebrew).
 - 18 “New Christians and Old Fellowships (*Havurot*): I Corinthians 7:12–14,” in Zion Ukashy, Sigalit Rosmarin, and Israel Rozenson, eds., *יהודי מהקררים*, eds., *במשעולי עבר יהודי מהקררים*, eds., *Along the Paths of Jewish History: Research and Reminiscences in Honor of Dr. Zvi Gastwirth* (Jerusalem 2006) 143–53 (Hebrew).
 - 19 “Porta Capena, or the Jew at the Gate of Rome,” in Adam Ferziger, ed., *The Paths of Daniel: Studies in Judaism and Jewish Culture Presented to Rabbi Professor Daniel Sperber* (Ramat Gan 2017) 77*–99*. Reprinted by permission of Bar Ilan University Press.
 - 20 “Rabbi Yehoshua ben Levi in Akko.” Previously unpublished.
 - 21 “Jonathan and Late Sparta,” *American Journal of Philology* 106 (1985) 485–89. Reprinted by permission of The Johns Hopkins University Press.
 - 22 “Greek and Jewish Marriage Formulas,” in Ranon Katzoff with Yaacov Petroff and David Schaps, eds., *Classical Studies in Honor of David Sohlberg* (Ramat Gan 1996) 223–34. Reprinted by permission of Bar Ilan University Press.
 - 23 “Philo and Hillel on Violation of Betrothal in Alexandria,” in Isaiah M. Gafni, Aharon Oppenheimer, and Daniel R. Schwartz, eds., *The Jews in the Hellenistic-Roman World. Studies in Memory of Menachem Stern* (Jerusalem 1996) 39*–57*. Reprinted by permission of the Zalman Shazar Center.
 - 24 “Roman Edicts and *Ta’anit* 29A,” *Classical Philology* 88 (1993) 141–44. © Ranon Katzoff.
 - 25 “The Defensor in Exodus Rabba 37.2,” Part B of Daniel Sperber and Ranon Katzoff, “On the Office of Defensor in Palestine and Egypt During the Third Century C.E.,” in Shamma Friedman, ed., *Saul Lieberman Memorial Volume* (New York and Jerusalem 1993) 1*–11*.
 - 26 “*Suffragium* in Exodus Rabba 37.2,” *Classical Philology* 81 (1986) 235–40. © Ranon Katzoff.
 - 27 “*Unetaneh Tokef*.” Previously unpublished.

Section One

Documents from the Judaean Desert

Introduction

The Babatha Papyri and Other Judaean Desert Documents

In the 1950s, after the chance discovery of the Dead Sea Scrolls near Qumran, and the great flurry of interest and activity about them, Bedouins scoured the Judaean Desert, on both sides of the border then between Israel and Jordan, looking for more written materials from antiquity, hoping to profit from their sale. Documents from Nahal Murabba'at that reached the Jordanian antiquities authorities caused a particular sensation. Among a large number of documents, some literary pieces on parchment, but mostly private documents on papyrus, mainly from the first and second centuries of this era, in Hebrew, Aramaic, and Greek, were also several letters signed by no other than "Shimon ben Kosiba, Prince of Israel," better known as Bar Kokhba, the legendary leader of the Jewish revolt against Rome in the 130s CE.¹ By 1959 reports that Bedouins were raiding Israeli sites, among them caves in Nahal Tse'elim (Arabic: Wadi Seiyal), and delivering ancient Jewish documents to Jordanian authorities, were causing concern in Israel. Imposing on the Israel Defense Forces the task of patrolling the desert border so intensively as to prevent these incursions was not practical. The decision, then, was taken at the highest level – Prime Minister David Ben-Gurion was actively involved – to organize a major effort to explore all the caves in the region. Four leading archaeologists were recruited for the expedition and the region was divided among them. Yigael Yadin, the last of the archaeologists to be assigned a sector, received inter alia the northern bank of Nahal Hever, about five kilometers southwest of En-Gedi, which sector was considered the least promising – Yohanan Aharoni, Yadin's chief rival, had already chosen for himself the most promising, the northern bank of Nahal Tse'elim.²

A survey of the Nahal Hever cliffs by helicopter led to the conclusion that on the northern bank there was only one cave worth exploring, and even that

¹ These were published as P. [Pierre] Benoit, O.P., J. T. [Józef T.] Milik, and R. [Roland] de Vaux, O.P., eds., *Les grottes de Murabba'at* (Discoveries in the Judaean Desert 2) (Oxford 1960).

² A lively account of the background of the expedition and of the personal rivalries involved is provided in the admiring biography of Yadin by Neil Asher Silberman, *A Prophet from Amongst You: The Life of Yigael Yadin; Soldier, Scholar, and Mythmaker of Modern Israel* (Reading, Mass., 1993) 247ff. and *passim*.

cave had already been explored several years earlier by Aharoni. The exploration of the cave, understandably begun with little enthusiasm, suddenly became interesting, when on the first full day of work a volunteer discovered in a deep recess of the cave several baskets full of human skulls and other bones, along with other objects such as clothing. Several days later another worker made a find that turned out to be sensational – deep in a crevice were a large number of household objects, dishes, pots and pans, some of high quality, and a pouch containing a packet of papyri. Yadin took the packet home with him at the end of the two-week expedition. There he examined the contents by himself and discovered that these were more letters of Simon Bar Kokhba. About a dozen were written in Aramaic, two in Hebrew, and two in Greek. They were addressed mostly to one Yehonatan ben Bayan, who appears to have been in command of Bar Kokhba's forces in En-Gedi. It became apparent that the almost inaccessible cave must have served in antiquity as the hideaway from the Romans for people from En-Gedi, including the commander, Yehonatan. Confiding in only a handful of trusted associates, he arranged for Joseph Aviram, Secretary of the Israel Exploration Society, to organize a gala event in the meeting hall of the official residence of the president of the State of Israel at which the findings would be revealed to the public. There, after the other three heads of the expedition presented their pedestrian, to say the least, findings, Yadin showed spectacular slides of the fine wares found in his cave, climaxing with slides of the Bar Kokhba letters, which, turning to President Yitzhak Ben-Zvi, he presented as “despatches (פקודות) written or dictated by the last president of Israel eighteen hundred years ago.” It must be admitted that per se the content of the letters is somewhat disappointing. They deal with small matters peevishly, and regularly threaten dire punishment, reflecting Bar Kokhba's desperate straits as the revolt he led was coming to its tragic end. Furthermore, none of the letters is an autograph of Bar Kokhba. Nevertheless, the event generated great enthusiasm in the public (along with noticeable envy in the academic community) and assured further funding and Israel Defense Forces support for a second expedition to the same caves in 1961.

The most noteworthy finds of the second expedition, found in fact on its first day, were hidden in a crevice under a rock – a basketful of women's utensils, including some very fine kitchenware, and two pouches containing papyri. The pouch found deepest in the crevice contained six Hebrew and Aramaic documents apparently belonging to one Eliezer son of Samuel and having to do with leases and sub-leases of crown land, written during the first to third years of Bar Kokhba. These are of great interest for the study of land administration under Bar Kokhba, but will not be addressed further here.

The other pouch contained an extraordinary find which became known as the Babatha archive, that is, papers belonging to a Jewish woman of the early second-century CE in Provincia Arabia, named Babatha. The “archive” com-

prises some 35 legal documents written on papyrus variously in Greek (26), Nabataean (6), and Aramaic (3), ranging in date from 93/94 to 132 CE, and is the largest group of interrelated documents of this sort to have been found in the Judaean Desert. The documents, whose designations in the Tov-Pfann list of texts from the Judaean Desert are 5/6Hev 1–35, are generally known as *P.Yadin* (less commonly *P.Babatha*) or as the “Babatha Archive.” (The numbering has been retained in the publication of the papyri; the italic figures in parentheses in the following pages refer to these designations.) The documents record private transactions, and the fulfillment (or demands for the fulfillment) of the rights and obligations created by those transactions. All of these relate in one way or another to Babatha or her close relatives, and present an unusual opportunity to reconstruct some of the events in the life of a Jewish person of the second century CE whose relationship to religion and law was not that of professionals.

Yadin published detailed descriptions of the documents in the Babatha archive in 1962³ and most extensively in 1971 – as the “home-front” chapter in the emotionally nationalist account of the finds relating to the Bar Kokhba revolt⁴ – but only three, Greek documents (15, 27, and 28) were published promptly.⁵ These three, relating to the legal proceedings concerning the guardianship of Babatha’s young son, aroused considerable interest among historians of Roman law in the provinces.⁶ The texts in their entirety were pub-

³ Yigael Yadin, “Expedition D – The Cave of Letters,” *Israel Exploration Journal* 12 (1962) 227–57.

⁴ Yigael Yadin, *Bar Kokhba: The Rediscovery of the Legendary Hero of the Second Jewish Revolt against Rome* (Jerusalem/New York 1971) 222–53.

⁵ H. J. [Hans Jakob] Polotsky, “The Greek Papyri from the Cave of the Letters,” *Israel Exploration Journal* 12 (1962) 258–62. Polotsky, a renowned Egyptologist, had been entrusted by Yadin with all the Greek documents, but soon withdrew from the project because of ill health.

⁶ E.g. Edoardo Volterra, “Nuovi documenti per la conoscenza del diritto vigente nelle provincie romane (a proposito di una recente pubblicazione),” *Iura: Rivista internazionale di diritto romano e antico* 14 (1963) 29–69; Erwin Seidl, “Juristische Papyruskunde. 16 (1964–1967),” *Studia et Documenta Historiae Iuris* 33 (1967) 550–52; Joseph Modrzejewski, “Chronique,” *Revue historique de droit français et étranger* 46 (1968) 159; Maxime Lemosse, “Le Procès de Babatha,” *The Irish Jurist* 3 (1968) 363–73; Arnaldo Biscardi, “Nuove testimonianze di un papiro arabo-giudaico per la storia del processo provinciale romano,” *Studi in onore di G. Scherillo* I (Milan 1972) 111–52; Hans Julius Wolff, “Le droit provincial dans la province romaine d’Arabie,” *Revue internationale des droits de l’antiquité* 23 (1976) 271–90; Naphtali Lewis, “Two Greek Documents from Provincia Arabia,” *Illinois Classical Studies* 3 (1978) 100–14; Hans Julius Wolff, “Römisches Provinzialrecht in der Provinz Arabia (Rechtspolitik als Instrument der Beherrschung),” *Aufstieg und Niedergang der römischen Welt* II.13 (Berlin/New York 1980) 763–806. On the other hand, the delay in publishing the rest of the documents provoked harsh criticism, e.g. Glen W. Bowersock, “Palestine: Ancient History and Modern Politics,” *Grand Street* 4.1 (1984) 130–41. The explanation for the delay is to be found in that Yadin was, on the

lished only after Yadin's death, the Greek by Naphtali Lewis (5, 11–35),⁷ and the Nabataean and Aramaic documents (1–4, 6–10) by Yadin et al.⁸

Babatha's name may be derived from the Aramaic word for pupil of the eye, presumably meaning someone especially precious. In one document (16) it is consistently spelled 'Babtha,' indicating that the middle syllable was not stressed in pronunciation. Her father was Simon son of Menahem, her mother Miriam daughter of Joseph son of Menashe (7.3, 24). Babatha is regularly identified as a Maozene, that is of Mahoza, the port (Aramaic מַחֲזָא), in the district of Zoara at the southern end of the Dead Sea, in the Roman province of Arabia. Her family had been in Mahoza at least since 99 CE, when her father bought a palm-grove there (3). By 120 she may have been married (7.24–25 in which provision is made for a widow's residence for Babatha, if necessary), to Jesus son of Jesus son of Joseph Zaboudos, also of Mahoza. If one of the eight skeletons of women aged 15–30 found in the cave is that of Babatha, then she would have been aged sixteen or probably younger at the time of her marriage.

By the first half of 124 she had a son, Jesus, apparently quite young since he was still a minor eight years later, and her husband was dead. The city council of Petra, the metropolis of the region – presumably acting by delegation from the provincial governor, in whose jurisdiction this matter would have been (Gaius, *Institutes* 1.183, 185) – assigned the orphan two guardians, one Jewish, one Nabataean (12). These invested the boy's capital and returned to Babatha an allowance for his support at the rate of one-half percent per month, half the usual interest rate. In 124 and 125, in an attempt to "fight City Hall," Babatha petitioned the Roman provincial governor about this low rate and offered to triple that return if the boy's property would be entrusted to her, secured by her own property (13–15). She apparently did not receive relief from the governor, for in 132 the guardians were still giving the allowance at the original rate (27), and her pouch contained three blank

one hand, very eager to publish the documents himself, and so did not relinquish them to anyone else; yet, on the other hand, could not turn down other projects such as the excavation of Masada, the publication of the then newly acquired Temple Scroll, and entry into Israeli politics, becoming deputy prime minister.

⁷ Naphtali Lewis, ed., *The Documents from the Bar Kokhba Period in the Cave of Letters: Greek Papyri, Aramaic and Nabatean Signatures and Subscriptions*, ed. Yigael Yadin and Jonas C. Greenfield (Jerusalem 1989). Important reviews include Glen W. Bowersock, "The Babatha Papyri, Masada, and Rome," *Journal of Roman Archaeology* 4 (1991) 336–44; Martin Goodman, "Babatha's Story," *Journal of Roman Studies* 81 (1991) 169–75; Benjamin Isaac, "The Babatha Archive: A Review Article," *Israel Exploration Journal* 42 (1992) 62–65; Hillel I. Newman, "Old and New in the Documentary Papyri from the Bar Kokhba Period," *Scripta Classica Israelica* 23 (2004) 239–54.

⁸ Yigael Yadin, Jonas C. Greenfield, Ada Yardeni, and Baruch Levine, eds., *The Documents from the Bar Kokhba Period in the Cave of Letters: Hebrew, Aramaic and Nabatean-Aramaic Papyri* (Jerusalem 2002).

copies of the Roman judicial formula used to sue guardians for malfeasance (28–30). Perhaps, had the case been governed by Jewish law, which of course the Petra city council could not be expected to apply, Babatha herself might have been awarded the guardianship;⁹ and the procedure she proposed, and seems to have been rejected, does appear as an accepted practice in Roman juristic sources, but only about a century later.¹⁰ The experience would not have endeared the Roman judicial administration to Babatha.

In 127 Babatha declared for a provincial census her ownership of four palm-groves in Mahoza, listing yields and taxes of each (16). Though we are not told directly how these groves came into her possession, at least one appears to have belonged to her father and was presumably given to Babatha as a gift before he gave his remaining property to his wife (3, 7).

By February 128 (17), and possibly as early as October 125 (14, 15), Babatha was remarried, to Judah son of Eleazar Khthousion son of Judah. His official residence was in En-Gedi, where his family lived and he owned a home, but he lived in fact in Mahoza, where he also owned property. Judah was previously married to Miriam daughter of Beianos of En-Gedi, perhaps the sister of the Bar Kokhba commander mentioned above. Contrary to the view of several modern scholars that Judah's marriages were polygamous, nothing in the documents indicates that he was still married to Miriam when he married Babatha.¹¹ The Aramaic document recording Judah and Babatha's marriage (10) matches the traditional ketubbah, as it would have been at that time, known from the Mishnah and other contemporary sources.¹² In February 128 Babatha deposited with her husband 300 denarii, perhaps a loan without a fixed term as some scholars would have it, but more likely in my view a deposit for safekeeping (17).¹³

In April of that year Judah gave his daughter from his previous marriage, Shelamzion, in marriage to Judah Cimber son of Ananias son of Somalos, of

⁹ The point is made by Hannah Cotton, "The Guardianship of Jesus Son of Babatha: Roman and Local Law in the Province of Arabia," *Journal of Roman Studies* 83 (1993) 94–108. However, see infra note 22. Her further inference that it "must be that the existence of a coherent and operative system of Jewish law at the time is thereby called into question" (101), does not flow logically from it.

¹⁰ Tiziana J. Chiussi, "Babatha vs. the Guardians of Her Son: A Struggle for Trusteeship – Legal and Practical Aspects of P.Yadin 12–15, 27," in Ranon Katzoff and David Schaps, eds., *Law in the Documents of the Judaean Desert* (Leiden 2005) 105–32.

¹¹ Ranon Katzoff, "Polygamy in P.Yadin?," *Zeitschrift für Papyrologie und Epigraphik* 109 (1995) 128–32, reproduced below, pp. 72–78. Contra: Naphtali Lewis, "Judah's Bigamy," *Zeitschrift für Papyrologie und Epigraphik* 116 (1997) 152.

¹² Yigael Yadin, Jonas C. Greenfield, and Ada Yardeni, "Babatha's Ketubba," *Israel Exploration Journal* 44 (1994) 75–101, and in the commentary to P.Yadin 10; Mordechai A. Friedman, "Babatha's 'Ketubba': Some Preliminary Observations," *Israel Exploration Journal* 46 (1996) 55–76.

¹³ Ranon Katzoff, "On P.Yadin 17," reproduced below, pp. 79–86.

En-Gedi (18).¹⁴ Eleven days later he gave her his house in En-Gedi as a gift, half to take effect after his death (19).¹⁵ Two years later Judah, Babatha's husband, was already dead when representatives of the orphans of his deceased brother Jesus conceded to Shelamzion rights to that house (20). That Shelamzion's documents were found among the papers of her step-mother Babatha would be consistent with Shelamzion being a minor and may indicate a notable measure of trust between the two women.

Babatha, now twice widowed at the probable age of 25 or less, took possession of at least three palm-groves owned by Judah in satisfaction of obligations under their marriage contract (10) or loan (17). In September 130 Babatha disposed of the produce of these groves by selling the crop before the harvest (21–22). This is explicitly permitted a widow in Jewish law, and just as explicitly forbidden in Roman law. An escape clause allowed the buyer, in case title was challenged, to rescind the deal and take a cash payment for the labor of date-picking instead. There is reason to think that just that happened. Once again Babatha was frustrated in her financial dealings because of the failure of Roman authorities to apply Jewish law even though she was Jewish and not a Roman citizen.¹⁶

Two months later she was summoned to the court of the Roman provincial governor in Petra by the guardians of Judah's nephews to answer their claim to, presumably, these same groves (23). A plausible reconstruction of these events would be as follows: The estate of Eleazar Kthousion, the father of Judah, Babatha's second husband, was never completely divided between Judah and his brother Jesus in their lifetimes, but held more or less in common, and after their deaths representatives of the orphans of each of the brothers came to a settlement in June 130. The orphans of Jesus relinquished rights to the house in En-Gedi (20); Shelamzion the daughter of Judah relinquished rights to groves in Mahoza, in a document which would naturally not be present in this archive. The question remained whether priority should have been given to the claims of Babatha, as Judah's widow, or to those of Jesus' orphans. At the same time Babatha was embroiled in a suit with

¹⁴ Naphtali Lewis, Ranon Katzoff, and Jonas Greenfield, "Papyrus Yadin 18," *Israel Exploration Journal* 37 (1987) 229–50, partially reproduced below, pp. 18–31; A[braham] Wasserstein, "A Marriage Contract from the Province of Arabia Nova: Notes on Papyrus Yadin 18," *Jewish Quarterly Review* 80 (1989) 93–130; Ranon Katzoff, "Papyrus Yadin 18 Again: A Rejoinder," *Jewish Quarterly Review* 82 (1991) 171–76, reproduced below, pp. 32–37; Naphtali Lewis, "The World of P.Yadin," *Bulletin of the American Society of Papyrologists* 28 (1991) 35–41.

¹⁵ Ranon Katzoff, "An Interpretation of P.Yadin 19: A Jewish Gift after Death," in Adam Bülow-Jacobsen, ed., *Proceedings of the 20th International Congress of Papyrologists, Copenhagen, 23–29 August, 1992* (Copenhagen 1994) 562–65, reproduced below, pp. 38–43.

¹⁶ Ranon Katzoff, "P.Yadin 21 and Rabbinic Law on Widows' Rights," *Jewish Quarterly Review* 97.4 (2007) 545–75, reproduced below, pp. 44–71.

Miriam, Judah's first wife, over household goods of their late husband (26). The outcome of neither litigation is known.

The documentation of these conflicts at law has led reviewers, such as Martin Goodman, to complain of Babatha's "enthusiasm for litigious confrontation."¹⁷ It should be noted, however, that in the latter two of the three suits recorded in the archive, it was not Babatha but her opponents who initiated the litigation. In the first suit, the facts of the payments by the guardians to her son as she presents them certainly raise the suspicion of corruption on the part of the council-appointed guardians. A picture, then, of a very young widow of whom various parties try to take unfair advantage is equally plausible.

That Babatha herself was Jewish need not be doubted, even though her name is unprecedented.¹⁸ All her known relatives, including her parents, Simon son of Menahem and Miriam daughter of Yehoseph son of Menashe, bear characteristically Jewish names; her son is called "Jesus, a Jew" in an official document (12). She and her papers ended up in a cave with extreme Jewish nationalists. Nonetheless, the relation of Babatha and her society to the Judaism known from rabbinic literature has been the subject of controversy. More on this below.

A play entitled "Babatha," based on the archive, by Miriam Keini, produced by Tom Levy, enjoyed a brief run at the Habima Israel National Theater in 1987, followed by considerable attention on Israel public television. The title character is portrayed as an anti-war feminist who exposes and rejects the male-chauvinist and militaristic nationalism of Bar Kokhba's lieutenants. Nothing in the documents supports this particular portrayal, aside from the presence of documents of Babatha and of Yehonatan ben Bayan in the same cave. The production and the interest in it do, however, illustrate the change during the previous quarter of a century in the attitude of Israeli society, particularly of intellectuals, towards nationalism and historical symbols, ably described by Yael Zerubavel.¹⁹

* * *

¹⁷ Goodman (supra note 7) 171. Goodman considers that this putative litigiousness made the life of the governor of the province miserable, an abuse of the Roman legal system. For apt criticism see Tal Ilan, "Babatha the Killer-Wife: Literature, Folk Religion and Documentary Papyri," in Klaus-Peter Adam, Friedrich Avemarie, and Nili Wazana, eds., *Law and Narrative in the Bible and in Neighbouring Ancient Cultures* (Tübingen 2012) 263–78, at 265. Ilan's suggestion that the reluctance of Judah's heirs to pay out the marriage settlement has to do with her being twice widowed, and thus a "killer-wife," receives support from the view of R. Moshe b. R. Yehudah of Narbonne (reported and disputed by Rabenu Asher, Ketubbot 4.3), who derived from the comment of the gemara, b.Ketubbot 43b, on m.Ketubbot 4.2, that in such a case the ketubbah was not collectible.

¹⁸ Doubt was raised by Goodman (supra note 7).

¹⁹ Yael Zerubavel, *Recovered Roots: Collective Memory and the Making of Israeli National Traditions* (Chicago/London 1995).

The most important issue arising from the Babatha archive is the nature of the Judaism of Babatha and her community, and in particular, since the documents are nearly all legal documents, their relationship to Jewish law as expressed by the Rabbis of that time. This turns out to be controversial. Over the last two thirds of a century or so there have been an increasing number of scholarly voices challenging the traditional notion that in antiquity the Rabbis led the Jewish community, at least in Eretz Israel, and that rabbinic literature represented the life and values of that community. The impetus for this challenge came largely from archaeology, where a great deal of prior assumptions and interpretation are required to make “the mute stones speak.”²⁰ The documentary papyri, being verbal, and, being legal documents presumably carefully written, held out the promise of unambiguous information. But even written documents require interpretation, and interpretation depends on what the interpreter knows and to what he is predisposed. Written documents, Plato has Socrates say, “seem to talk to you as though they were intelligent, but if you ask them anything about what they say, from a desire to be instructed, they go on telling you just the same thing forever.”²¹

The documents relating to the guardianship of Babatha’s son are a case in point. We wonder why Babatha herself was not appointed guardian. Was it the law which prevented Babatha, as a woman, from being appointed, and, if so, what law – Jewish, Roman, or some other? Alternatively, could it have been that the city council of Petra considered the issue honestly and concluded that – contrary to her reputation among many modern writers as a shrewd and experienced businesswoman – the young Babatha was not really up to managing her son’s affairs? Or was this a case of corruption – the city council giving an opportunity for two favored individuals to profit from the orphan’s property?²² (My experience in New York State half a century ago predisposes me to the last of these possibilities.)

²⁰ For a contextualizing account of the challenge see Steven Fine, *Art and Judaism in the Greco-Roman World: Toward a New Jewish Archaeology* (Cambridge 2005) 35–46.

²¹ *Phaedrus* 275d (trans. R. Hackforth).

²² Hannah Cotton (supra note 9) considers only the first of these questions, which law appears to have been applied. Professor Cotton contributed more than any other single scholar to the study of the Greek documents from the Judaean Desert, and the article cited has been very influential. Yet it seems not to have received the critical review it deserves. A critique could run along the following lines:

1. The argument – a) Jewish law would allow for the appointment as a guardian for minor orphan of either a man or a woman (the latter as a de facto guardian when the orphan was living with the woman); b) Roman law would allow the appointment only of a man; hence c) the appointment of men as guardians of Babatha’s son reflects Roman not Jewish law – is not a valid syllogism.

2. The premise that Jewish law would recognize a woman as de facto guardian is not true for Babatha’s time. While it should go without saying that concern for orphans is a constant theme both in the Bible and in rabbinic literature, this in itself does not make the

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