

# The Complete Babatha: More Questions than Answers

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The Babatha 'archive' consists of thirty-five papyrus documents. Twenty-six of them, written in Greek and dating from 110 to 132 CE, were published in 1989.<sup>1</sup> The other nine, written in the regional vernaculars, Aramaic and Nabatean-Aramaic, became known in stages: first there were Yadin's notes, to which he made reference in several of his books and articles; next, two — Nos. 7 and 10 — were given preliminary publication in 1994 and 1996; and early in 2002 all were published collectively as part of a large volume containing all the Semitic-language documents found in the 'Cave of Letters' in Naḥal Ḥever.<sup>2</sup>

Let us now begin by recalling that the papyri of this 'archive' were found, neatly rolled up and tied, partly still in and partly spilled out of a leather purse. It seems fairly obvious from the circumstances of the find that these were documents that Babatha decided to take with her when she fled her home in Maḥoza to seek refuge in Judaea. She must have had a reason for keeping each of these particular papers with her. Each, one would suppose, was of some importance, direct or indirect, to her personal or business interests. That supposition is self-evidently valid, from the internal evidence, with respect to the Greek documents: in most of them Babatha is personally involved; as for the rest, No. 5 appears to involve her first husband, Nos. 18-20 relate to the marriage and property of her stepdaughter (who presumably fled to the cave with her, but we have no direct evidence as to that), and Nos. 28-30 are three copies, in Greek translation, of a Roman legal formula relevant to one of Babatha's lawsuits.

It seemed reasonable to expect that her documents in the vernaculars would prove to be similarly related to her interests, and further, that the documents that are earlier in date than those written in Greek would fill in some lacunas in the Babatha story — such as, for example, revealing how and when her father acquired some of the properties that were later hers. To the contrary, it now turns out that most of them show no direct connection with Babatha, and some of them show no discernible connection at all.

In some instances, as we expected, the connection is obvious. In No. 7, drawn up in 120 CE, Shim'on, Babatha's father, makes provision for the disposal of his estate after his death. It is all to go to his wife, with the further provision that 'it shall be the established right of Babatha, our daughter, that if she is widowed and will have no husband, that she may reside in the *horreum* which is a part of this gift ... all the days that she shall remain a widow without a husband; but she shall not have the legal right to bring

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<sup>1</sup> *Judean Desert Studies. The Documents from the Bar-Kokhba Period in the Cave of Letters. Greek Papyri*, edited by Naphtali Lewis, Jerusalem, 1989. The bodies of the documents are in Greek, but in most instances the parties and the witnesses sign in Aramaic or Nabatean-Aramaic.

<sup>2</sup> *Ibid. Hebrew, Aramaic and Nabatean-Aramaic Papyri*, edited by Yigael Yadin, Jonas C. Greenfield, Ada Yardeni, Baruch A. Levine, et al., Jerusalem 2002.

into that house a husband'. It would be an exercise in futility, I think, to try to find in the quoted passage an implication that Babatha was at that time, 120 CE, already married; she may or may not have been. To argue that she must then have been married because she is not characterized otherwise — or vice versa — is merely to beg the question. All that we can say with assurance is that a *terminus ante quem* is deducible from *P.Yadin* 12, which records the appointment of guardians for Babatha's orphan son some time in the first half of 124 CE. This in turn places her marriage not later than some time in 123 CE, but a firm *terminus post quem* still eludes us.

No. 10 is the *ketubba* of Babatha's second marriage.<sup>3</sup> Her new husband was Judah son of Elazar Khthousion. The date of the document is lost, and all we can say, on present evidence, toward pinning down that date is that it must fall after the first half of 124 (*P.Yadin* 12, cited just above) and some time before mid-October of 125 CE, the date of *P.Yadin* 14 and 15, in which Judah acts as her transactional *epitropos*, a function normally performed by a woman's husband if she had one. (The only document that calls her his wife *ipsissimis verbis* is *P.Yadin* 17, of 21 February 128 CE.) Of particular interest to us in piecing together a picture of Babatha's life and affairs is the clause in this *ketubba* where Judah says (lines 15-18), 'If I should go to my eternal home before you, you will reside and (continue to) be provided for from my "house" and from my properties until the time that my heirs will agree to give you the silver of your *ketubba* ... [And all properties that I possess and that I will acquire are guaranteed and pledged to payment of your *ketubba*']<sup>4</sup> In *P.Yadin* 21-22 Babatha on 11 September 130 sells the crop of date orchards of Judah 'which I distraint (κατέχω) in lieu of my dowry and the debt owed me'.<sup>5</sup> In *P.Yadin* 23-25, beginning two months thereafter and running to eight months later, the children of Judah's late brother bring suit against Babatha to recover 'a date orchard ... which you hold in your possession by force'. With the publication of No. 10 we learn that, in taking possession of Judah's orchards pending her receipt of the above-indicated moneys, Babatha was not only exercising her rights under Jewish law<sup>6</sup> but was able to rely on the express provision to that effect that Judah, apparently according to standard practice, wrote into her *ketubba*.

No. 3, of 97/8 CE, records the purchase by one Shim'on (father's name lost), presumably Babatha's father, of a date orchard in Galgala. In the census of 127 CE Babatha registered a date orchard in Galgala among her properties (*P.Yadin* 16). It seems reasonable to conclude that she kept No. 3 because it was the proof of her title to that property. So far so good, but there is a complication which, while it does not invalidate the title, needs to be noted and, if possible, explained. In No. 2, written one month (less a day) before No. 3, a different purchaser buys essentially the same property from the same seller. As the editors observe (p. 202), 'If the earlier sale fell through subsequent of the

<sup>3</sup> See the Appendix to this article.

<sup>4</sup> The restoration of the last-quoted clause is securely 'based on known formulae in comparable sections of marriage contracts' (p. 130).

<sup>5</sup> 'The debt owed me' is a reference to the 300 denarii that Judah borrowed from Babatha in *P.Yadin* 17 (128 CE).

<sup>6</sup> For a detailed study of this subject see Joseph Rivlin, *Inheritance and Wills in Jewish Law*, Ramat Gan 1999. I owe this reference to Ranon Katzoff, who also sent me a summary of the relevant tanaïtic sources.

signing of *P. Yadin* 2, why was the papyrus not marked, or defaced in some way to indicate that it was invalid?... There is also the consideration that invalid documents were often discarded. Why attempt to preserve them?' That states the problem clearly and succinctly; and the editors suggest, as one possible explanation, that in the month intervening between Nos. 2 and 3 'someone surfaced ... who had a prior lien against [the] property ... and blocked the earlier sale' (p. 203). I have no competence to assess or comment on that explanation, which they relate to Nabatean practice, but it strikes me as being inordinately 'iffy'. It does not explain, for one thing, why No. 2 was preserved at the time of the re-sale to Babatha's father, or why Babatha continued to preserve it among her papers. Perhaps a reconstruction of events along the following lines may account for Babatha's retention of No. 2 in her 'archive'. The buyer in No. 2 paid 112 sela's for the property. For some reason<sup>7</sup> the sale was not consummated. Along came Babatha's father, willing to pay 168 sela's for the same parcel (with, it seems, somewhat enlarged surface area). To protect him against a counterclaim based on the earlier purchase, the seller handed over No. 2 into his possession. In that situation one's first impulse would surely be to destroy the earlier document. But Babatha's father cannily did better than that by retaining it among his business papers he forestalled any claim by the earlier buyer or his heirs that the contract of sale proving their ownership had been (accidentally) lost or (with malice prepense) destroyed.

In No. 6 (119 CE) Babatha's second husband, Judah son of Elazar Khthousion, leases out a parcel of land belonging to him in Galgala. In the remaining four Semitic-language documents we encounter individuals who appear also in some of the Greek documents, in most instances as witnesses; but those coincidences hardly constitute links explaining Babatha's interest in preserving the documents. Thus:

In No. 1, of 93/4 CE, Muqimu son of 'Awat-'Ilahi borrows 150 sela's from his wife. (*P. Yadin* 17 records a similar transaction between Babatha and her husband.) The 'Abdu son of Muqimu who witnessed *P. Yadin* 16 (127 CE) may have been the son of the contracting parties of No. 1.

The fragmentary No. 4, of 98/9 CE, provides no information relevant to our purpose.

No. 8 of 122 CE, records the sale of a donkey by one brother to another. The fact that their father's name was Shim'on is hardly a ground for considering them to have been brothers of Babatha. Against that assumption is the fact that (1) the name Shim'on was far too common to provide absent a patronym, the basis for any such identification, and (2) a brother would have been the logical person to serve as her transactional *epitropos* after her husband and father died, but there is no sign anywhere in the Babatha 'archive' of a brother in that (or any other) capacity. There are, however, several familiar faces here. Yohanan son of Makkuta', the scribe of No 8. (and No. 6) serves as Babatha's *epitropos* in *P. Yadin* 22 (130 CE) and appears as a witness, signing

<sup>7</sup> Various possibilities may be thought of: for example, *pace* the (formulaic) statement that 'the entire price of these purchases has been received by me', the buyer may have been unable to raise the entire purchase price, and the contract had remained in the seller's hands pending his doing so.

in Nabatean, in three other of the Greek documents (*P.Yadin* 14, 16, 20; 125-130 CE).<sup>8</sup> Then there is 'Eli'ezer son of Ḥilqiyah, a witness here and in *P.Yadin* 18, 19 and 20 (128-131 CE), and 'El'azar son of Shim'on, a witness here and also in *P.Yadin* 23 (130 CE).

No. 9, of 122 CE, is a mere fragment of a document involving purchases. One of the witnesses, Yehuda son of Shim'on, is also a witness in *P.Yadin* 22, of 130 CE.

In No. 6 (119 CE, contents described above), 'Eli'ezer son of Ḥilqiyah is again a witness; another is Yehoseph son of Ḥananiah, who is a witness also in *P.Yadin* 14, 15, 17, 21 and 22 (125-130 CE).<sup>9</sup>

Details such as those just noted contribute to the picture we have of Maḥoza — a village where Jewish and Nabatean families lived in neighbourly amity — but they do nothing to help us understand why Babatha kept some of these documents among her personal and business papers.

### Appendix: Babatha's Two Marriages

M.A. Friedman's insistence (*IEJ* 46 [1996] 57-61) on his earlier-expressed view that Judah son of Elazar Khthousion, who wrote the *ketubba* *P.Yadin* 10, was not Babatha's second but her first husband, is an exercise in futility. His argument relies *imprimis* on a ruling by a third-century rabbi — a hundred years after Babatha — extending a privilege of *kohanim* to 'families of distinguished descent'. It surely requires a stretch of the imagination to include the illiterate countrywoman Babatha within that appellation. Affluence, which she obviously enjoyed does not *ipso facto* confer 'distinguished descent', or the social standing of 'an upper-class bride'. Nor can I find any warrant for Friedman's statement, 'In her own *ketubba*, Babatha may have been promised support "as a noble woman"'; cf. the edition p. 135. Friedman does, it should be noted, end his discussion by citing textual evidence hostile to his view.

All of the above is rendered otiose by two fixed dates in Babatha's Greek documents. In 124 CE she was a widow, with a son by her first husband, Jesus son of Jesus (*P.Yadin* 12). Four years later Judah son of Elazar Khthousion borrowed money from 'Babatha daughter of Simon, my own wife' (*P.Yadin* 17).

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<sup>8</sup> If the far-from-determinant traces of ink are correctly read and restored, he also appears in *P.Yadin* 5 (110 CE), seemingly in some business relationship with the family of Babatha's first husband.

<sup>9</sup> Judah Cimber, the bridegroom of *P.Yadin* 18 (128 CE), was the son of a — perhaps the same — Ḥananiah (Ἀνανίας)