

43. LETTER OF THE JEWISH CHIEF JUDGE OF EGYPT

TO A COMMUNITY IN THE NILE DELTA.

(ca. 1017)

Jewish settlements have been found in Egypt since the time of the kings of Judea (seventh century B.C.). But there were constantly ups and downs, and when the Geniza finds prove that many towns and villages in Egypt had Jewish inhabitants during the High Middle Ages, the question arises whether these communities represented sediments of pre-Islamic settlements or were the result of migrations that took place in Islamic times or both.¹ In countless cases the foreign origin of persons is indicated expressly; in others it can be concluded from circumstantial evidence. There are, however, a number of pieces in the Geniza, especially from the tenth and early eleventh centuries and referring to small localities that let the communities concerned appear as being of pre-Islamic stock. For these pieces are written in a peculiar, idiomatic Hebrew, as it was developed in Palestine during the Byzantine period. To be sure, this Hebrew was not spoken but used in writing. (It could serve, though, as a lingua franca between Jews whose mother tongues were Greek and Aramaic respectively).

An excellent example of the unique type of Hebrew living on in some small places in Egypt is a huge power of attorney given by a woman to her brother in Malīj, a little town in the Nile Delta, in spring, 1047.² Many other pieces proving that Hebrew was well cultivated in that obscure locality are extant in the Geniza.³

Even more significant is the long letter addressed to Malīj around 1017 which is translated here. For it clearly was written at a time when the Jewish community of the place had no spiritual leader, a situation certainly due to al-Hākīm's persecution of Christians and Jews, which at that time had not yet been completely terminated. The knowledge of Hebrew required to understand that elaborate letter was very considerable; but it had a definite practical purpose; thus the writer, who was familiar with the place, knew that quite a number of people there were good Hebraists.

The text translated is the first of six drafts, namely, four letters and two liturgical poems, all written on a huge piece of paper, by Ephraim b. Shemaria, then Jewish chief judge in Fustat. A clerk would copy the letters for the persons to whom they were addressed and the poems for the cantors who would wish to recite them. The time of our text is determined by the reference to the head of the Jerusalem yeshiva as "prince", nāsī, meaning a scion of the royal house of David, a claim made only by Josiah b. Aaron, in office at latest until 1018, see n. 33.

The subject of the letter was a miscarriage ^{of} justice characteristic for a time of upheaval, when highhanded persons tried to use the general insecurity to their own advantage. A debtor had settled his affairs before the chief judge in Fustat with the legal representative of the creditor, who lived in Malīj. He had conceded his debt - but not to the extent of the claim of the creditor - and had to go to Malīj and give there "the oath of the debtor who concedes part of the debt". This was Jewish law. The creditor, however, disclaimed now the power of attorney given by him, went to a Muslim court, which

granted him the right to pronounce an oath on his side, which was given, of course, in the synagogue before the Jewish community. But, according to Jewish law, this was illegal, for a "claim can be established only by proof (not by oath)".

The sum of 6 1/2 gold pieces lost by the complainant seems to be a trifle for such an elaborate action on the side of the judge. But the matter itself was grave on three counts: the local people acted against a decision made by the court in Fustat; the action itself was illegal; and, above all, a Muslim court was approached, which was regarded as blameworthy at any time, and was particularly hateful in a period of persecution. Besides, 6 1/2 dinars represented a large sum for village people. In the deathbed declaration from Malīj referred to in n. 3, one half of a house was worth 6 dinars, and that half was divided by the testator between a grandson and a grand⁽daughter.

Rhymed prose was used by writers of all denominations to give weight and dignity to both official and private correspondence. One stroke (/) indicates where a rhyme occurs and two (//) where a new rhyme begins.

MS Theodore Reinach, sec. I.⁴

Render in your gates right judgments that make for peace.⁵

Preamble (mostly rhymed)

To the champions of justice / the scrupulous examiners / who
thoroughly investigate and fight untruth. // The students of the
Law⁶ / who are eager to observe it, // constituted as a court, /
eliciting true witness, / and assembling good men / for impeccable
consulation^t // ...⁷
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Well being, / absence of illness, / fullness of blessings, /
and sustained success // ...⁸ satisfaction and a good name - all
this to our illustrious friends, the holy congregation of Malīj,
their experts, scholars, and cantor^S, their leaders and officials and
to the rest of the community - may their Rock⁹ and Creator make them
strong and prosperous and protect them.

Accept unending greetings and expressions of yearning from us,
the Court, instituted in the capital of Egypt¹⁰ by the high court
(of Jerusalem) and also from a section of the inconspicuous community,¹¹
who wish you well and are happy when you are flourishing and safe.
May God make you secure from your neighbors, as he has promised:
"I will give peace in the land and you shall lie down untroubled by
anyone."¹² Amen, so may it be.

May God grant you grace and favor, as he has done with us. For
he shepherded us in his mercy and kept us alive in his compassion.
He has not forsaken and not abandoned us. May it be his will to always
support ^{us in} his loving kindness.¹³

A Miscarriage of Justice.

The purpose of our writing is a reminder concerning the affair
of M. so-and-so, son of R. so-and-so.¹⁴ He came to us complaining
bitterly and crying like a mourner telling us an unheard-of story.
He produced a court record issued by us and signed by respectable,
trustworthy elders, saying: "This is clear evidence that the affairs
between me and my creditor¹⁵ were settled. But when I came to the
town of Malīj, M. Isaac, son of so-and-so sued me, dragging me also to a
Muslim court, and by deceit took from me 6 1/2 gold pieces. In his power

of attorney to so-and-so he had acknowledged receipt before you, but there he denied it and gave an oath by the Torah.

Now, my elders, I request your honor to have a testimony about the action taken before you issued for me by Muslim notaries and also to write to the head (of the yeshiva of Jerusalem) and inform him about the matter."

When we heard his complaint, we calmed him down with encouraging words and assured him that he could rely on you. But we were upset and wondered how our elder¹⁶ could have acted in such a way, in particular since we remember that Merav¹⁷ Isaac ha-Kohen, the scholar, was present here and he, too, testified that our friend M. Isaac had appointed so-and-so as attorney against our brother so-and-so.¹⁸

A Sermon on Justice.

We were astounded that such a thing could happen,¹⁹ / that justice was perverted, / and law disregarded. / This should never occur / in the nation, "that looks forth like the dawn."²⁰

Dear and noble friends, the gravity of the administration of justice is now^t unknown to you. The Creator of the peoples has so ordered us and our masters have interpreted his words thus: Why are we under the obligation to institute judges and courts? Because it is written: "You shall appoint judges and clerks in all your towns."²¹ And why is an Israelite not permitted to apply to a gentile court? Because it is written: "These are the laws you shall set before them", before them, and not before gentiles."²²

When two persons appear before a judge, God's presence is there, as it is written: "The two parties to the dispute shall appear before the Lord."²³ And so used rabbi Akiba to say to persons coming to him for judgment: "Know, before whom you are standing. (You do not stand before Akiba, the son of Joseph, but) before Him who spoke and the world came into being, as it is written: "The two parties etc."²⁴ It is also written: "You shall not be afraid of anyone, for the judgment is God's,"²⁵ on which rabbi Joshua b. Qarha comments in the Jerusalemite Talmud thus ...²⁶

Action to be Taken.

Now, my dear elders, if the facts are as reported to us, you have not acted properly. You should have carefully examined the case of this complainant, as you were obliged to do in accordance with the scripture. "You shall investigate and inquire."²⁷ Thank God, you are more than one "assembly"²⁸ and among you are cantors, scholars, and prudent persons; therefore it was up to you "to judge" and to "protect", as it is written: "The assembly shall judge ... and the assembly shall protect."²⁹ The assembly must both judge and protect.³⁰

And now, esteemed friends, your honor is at stake. Also, do not lose sight of your Creator and remember to fear him. Examine this case anew and act in accordance with the tradition of your pious ancestors. Remember that the court record validated by us is true and just,³¹ and when this M. Jacob, son of so-and-so, denies now the power of attorney given to him, this is not correct because he confirmed it in our presence. "May this be no cause of stumbling or pangs of conscience."³²

Up till now we have made no deposition in a Muslim court, so there should be no disgrace for Israel, nor have we written to our prince,³³ may his Rock protect him, for we hope that you will deal with this matter discreetly, as it behooves you for the sake of your honor and in order to be saved from your Creator. So-and-so did not want to go back to you, for he was afraid also of other matters, for he maintained that he was damaged there. It is not right that such things should occur, for a great command in the Torah says "Love him (the stranger, for he is like you)".³⁴

In short, this M. Jacob parted from us³⁵ having been given the right to demand from so-and-so an oath, as mentioned in the court record. You, prudent elders, help them and decide the matter between them, while we must pray for you to your Rock that he will not forsake you - and always be your help, as it is written: "For the Lord will not forsake his people etc."³⁶ Your reward may be double³⁷ / and your enemies in trouble /.

May there be peace upon us³⁸ and peace upon you, and may you be ornated (with the fulfillment of God's commandments)³⁹

May this be so.

Render in your gates right judgments that make for peace.⁴⁰

Notes

1. This question is discussed by N. Golb, The Topography of the Jews of Medieval Egypt, JNES 24 (1965), 251-270; to be continued. See also E. Ashtor^u, The Number of the Jews in Mediaeval Egypt, JJS 18 (1967), 9-42.
2. TS 24.73, ed. S. Assaf. Yeshalayim^{zu} (Jerusalem, 1953), pp. 114-117. It is signed by seven local people.
3. E. g., TS 8.11, a letter, and TS 8 J 7, f. 7, a deathbed declaration. The declaration itself is in Arabic, the language used by the dying woman. These two pieces are also in excellent script (which cannot be said of TS 24.73, see preceding note).
4. Ed. M. Schwab and M. Lambert, REJ 70 (1920), 46-52. The edition^{ors were} ~~was~~ fine Hebraists, but the historical situation was not known at their time as well as it is today. Therefore their French translation is occasionally entirely amiss. No reference is made here to such mishaps.
5. Zechariah 8:16.
6. Read hōgē ayumma.
7. Another nine similar rhymes follow.
8. Another five such wishes.
9. God.
10. A poetical by-name, shafrīr (see Jeremiah 43:10), is used. "Court" means judge, see Med. Soc., II, p. 314.
11. The persecutions of al-Hākim had not yet completely ceased wherefore the Jews of the capital avoided to convene any plenary assembly.
12. Leviticus 26:6, also an allusion to the persecution of al-Hākim.

13. A clear indication that the community of Fustat had not fared too badly during the times of peril.
14. In drafts names were either omitted or written incompletely in order to avoid the possibility that the draft should be used as a finished document. While copying, the clerk would fill in the names.
15. Text: hēh, not necessarily to be understood as abbreviated from hmlwh (ha-malweh), but to be read hallah, literally, "my that one".
16. Although no particular leader was mentioned in the preamble, the letter was probably sent to one specific person or "elders" should be emended, as the editors did.
17. A title formed through the abbreviation marenu we-rabbenu "our master and teacher", and ^{usually} ~~nominally~~ prefacing the names of scholars.
18. This Isaac was a scholar from Malīj who happened to be in Fustat and certified that the creditor who also happened to be called Isaac, had appointed the person concerned as his representative.
19. Here the writer resumes rhymes.
20. Song of Songs 6:10, taken as referring to Israel.
21. Deuteronomy 16:18. Bab. Talmud, Sanhedrin 7b, and parallel sources are alluded here, where the appointment of unqualified judges is likened to idolatry, a grave sin.
22. Exodus 21:1, as interpreted in Bab. Talmud, Gittin 88b, where it is said, however, that Jews should not apply to gentile courts even if their laws are identical with those of Israel. For a similar attitude of the Church see Med. Soc., II, p. 312.
23. Deuteronomy 19:17.
24. Pal. Talmud, Sanhedrin I, 1 (fol. 18a). The writer relied on the clerk for completing the quotation.

25. Deuteronomy 1:17.
26. Here follows the whole diatribe from the Pal. Talmud, ibid., f. 18b.
27. Deut. 13:15 (Trans. 13:14).
28. Meaning "ten adult males". Bab. Talmud, Sanhedrin, 2a. See n. 30, below.
29. Numbers 35:24 and 25.
30. Bab. Talmud, Sanhedrin, 2a.
31. Read wšdq for yš^cq, which is a patent misprint.
32. I Samuel 25:31.
33. The writer calls the incumbent head of the yeshiva of Jerusalem "prince", nāsī, for he, Joshiah b. Aaron, was of the family of Ben Meir, who claimed to be descended from the ancient nāsīs, or patriarchs of Palestine. See Mann, I, p. 66.
34. Leviticus 19:34.
35. Aramaic mi-qadmanā. The editors read mi-qarmanā and took Karmana as a place name which is entirely out of question. Jacob was the attorney of Isaac, the creditor.
36. I Samuel 12:22.
- ~~37.~~
- 7
38. The usual formula concluding a request from a legal authority: may God give you a reward twice as great as the trouble taken in reaching the legal decision. I have nowhere read the rhyme added here.
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39. Absolutely uncommon. To be explained by the still dire situation of Jews and Christians during the aftermath of al-Hākim's persecution.

39.

~~48~~ An allusion to Bab. Talmud Sabbath, 133a: "ornate yourself by proper fulfillment of God's commandments."

40. Repeated from the superscription. Also entirely unusual.