

**THE RESPONSA OF THE  
BABYLONIAN  
GEONIM AS A SOURCE  
OF JEWISH HISTORY: II**

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The responsa of the Babylonian Geonim as a source of Jewish history: II by Jacob Mann

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## THE RESPONSA OF THE BABYLONIAN GEONIM AS A SOURCE OF JEWISH HISTORY \*

BY JACOB MANN, Jews' College, London.

### II. THE POLITICAL STATUS OF THE JEWS.

AFTER having discussed the extent of the influence the Geonim had over the Jewries of the various countries of the diaspora, an attempt will be made in this chapter to describe the political status of the Jews. In the light of the material the Gaonic responsa furnish, we shall consider in particular the relation of the Jews to the secular authorities and to their non-Jewish neighbours, their attitude towards the non-Jewish courts, and finally their treatment of their slaves.

(a) It is generally assumed that with the advent of the Arabs to 'Irāk (637-43) the Jewish ecclesiastical authorities, the so-called Bêt-Din that existed in most of the Jewish communities of 'Irāk, and the members of which were appointed either by the Exilarch or by the Geonim, continued to have full autonomy and could act entirely in accordance with the Talmudic law. The Gaonic responsa, however, show that the Muslim conquerors encroached occasionally more or less upon the sphere of activity assigned to the Jewish courts or the Jewish communal leaders. The first innovation the Geonim had to make not long after the Arab conquest of 'Irāk was in all probability due to such an interference on the part of the Arab rulers. Sherira in his *Letter* (p. 35) states that the Geonim

\* See vols. VII, 457-90, VIII, 339-66, IX, 139-79.



against the ruling of the Bêt-Din. The case (ש"ת, No. 182, see *Einleit.*, 21 note) deals with a Jew that committed some transgression on the Sabbath for which he was to be flogged, and the fear is expressed that he might escape and try to obtain the protection of the non-Jewish court or of some influential Arab (ויתלה עצמו ביד גוי), see also נמו"מ, No. 146, and ה"פ, No. 135). This decree about a 'defiant' wife (מודרת) which was promulgated soon after the conquest of Babylon by 'Omar probably applied to this country only. We have the evidence of Maimonides that it was not accepted by the majority of the Jews.<sup>182</sup>

A question that very frequently occupied the Jewish communities as a whole was the assessment of taxation. Generally the whole community of a district was made responsible for the entire amount of taxes that was imposed upon it. After the conquest of 'Irāk and Syria by the Arabs under 'Omar, the Arab conqueror in organizing the new state fixed a poll-tax for all non-Muslims (جَزَاء), certain burdens in connexion with the quartering of Muhammedan soldiers,<sup>183</sup> and a graduated land tax (خَرَاج), see Aug. Müller, *ibid.*, I, 272). This organization of the state by 'Omar was probably adopted by the Arabs after their conquest of North Africa and Spain. As regards Babylon, Graetz assumes that the Exilarchs were responsible for the taxes which were collected from the Jews (V<sup>4</sup>, 131 and 435-6). But from the responsa it appears that the Arab authorities collected the taxes directly from

<sup>182</sup> ולא פשטו אותם המנהגים ברוב ישראל: ה' אישות, יד החוקה <sup>183</sup> ורבים ונדולים הולקים עליהם ברוב המקומות.

<sup>183</sup> Probably R. Natronai refers to this in a responsum in תש"ר, II, 20, 1. 12: ומותר להוציא למלך מאכל בשבת ובחג מפני הסכנה: based on Beṣah, 21 a. See also Aug. Müller, *ibid.*, 274.

the Jews. The Gaon R. Sheshna of Sura (before 1000 Sel. = 689 C.E.) writes in a responsum that 'if the ruler or the tax-collector sends to the community and enjoins the pronouncing of a ban in his interest, and it is impossible to disobey on account of the compulsion, this tax that was imposed by means of the ban is not binding. But if they impose an oath, the community should refuse to administer the oath to the person concerned'.<sup>184</sup> This responsum shows that the authorities availed themselves of the coercion practised by the Bêt-Din for their own purpose, and thus in order to obtain a true estimate of a man's taxing-power, they ordered the Jewish courts or the communal leaders to announce a ban against or impose an oath upon a Jew for this purpose. The Gaon to whom this responsum is assigned was one of the earliest Geonim whose sphere of influence probably did not extend beyond Babylon and Persia, and we may therefore assume that the responsum refers to the conditions that existed in these countries alone. The Gaon's opinion is that the enforced oath should not be administered by the communal leaders and that the ban, though announced, would be rendered null and void, in order to counteract the extortions of the authorities. The tax-collectors mentioned in this responsum were certainly non-Jews. Had they been Jews appointed by the Exilarch, or by the communal leaders,

<sup>184</sup> ושלטון ובעל טכס שמשטרין בקהל להחרים בשביל צרכיו וחציו ואי אפשר שלא להחרים משום אונסא אוהו טכס שהחרים אינו כלום ואין לחוש לו אבל שבתעה שמשביע טלך או שלטון או בעל טכס אסור להשבע לו (ש"ה, No. 195; ה"ה, No. 121; חש"ר, I, 49, No. 13; י"ג, No. 26, and ט"ט, No. 26). Cp. also י"ג, No. 40. This R. Sheshna was certainly the Gaon and not the father of the Gaon 'Amram (856-74) of whose official capacity as a scholar to whom questions were addressed nothing is known (see also Weiss, י"ד, 9, note 15).



to collect the taxes, the Gaon would not have decided against them.<sup>185</sup> The whole tone of the responsum shows that the authorities were extortionate in their coercion of the Jewish community. In the same responsum is also mentioned the case of a Jew that was executed, and his property confiscated. Thereupon the authorities enjoined the Jewish communal leaders to announce a ban against anybody that concealed some money of the criminal in order to preserve it for his heirs, instead of handing it over to the authorities. In the time of R. Naḥshon of Sura (874–82) we learn that the taxes and impositions weighed heavily upon the Jews in Babylon. On a question, that came probably from some community abroad, whether the scholars should be asked by the community to contribute their share to the amount of the taxes due to the government, the Gaon answers that 'though the king and his councillors impose taxes without a limit and make the burden still heavier upon the community', yet the scholars should not be taxed.<sup>186</sup> Probably the Gaon reflects here the deplorable state the Jews of Babylon must have been in, especially during the period of the decline of the 'Abbasid dynasty after the death of Mutassim in 842 (see Aug. Müller, *ibid.*, I, 523 ff.).

In the communities outside Babylon, in Palestine, North Africa, Spain, and southern France, we learn from the responsa that fixed amounts were imposed upon whole communities, and the communal leaders had the task and

<sup>185</sup> Cp. גמ"ם, No. 10: when the community collected the taxes and one of the members declared that he possessed nothing, he was adjured.

<sup>186</sup> ג"ה, No. 537: . . . הכי חוינא שאע"ם שמשליבין הסלך ושריו ומיונות: בלי חק ומרדזיקן ומכבדין עול על הצבור אסור ליקח כון הרבנים . . . כלום.—About the great number of taxes that existed under the Abbasid caliphs, cp. Kremer, *l.c.*, I, 278, and II, 488 ff.



people used to avail themselves of such devices in order to escape the impositions of the governor. That such devices had to be used is sufficiently eloquent of the position of the Jews in those districts. The screw of taxation was made more and more tight, so that people were compelled to leave their places of residence. A similar case is reported in another responsum (תש"ר, II, 58, No. 7). Jews who had to flee from their town, settled in another place where they were taxed by the Jewish community. But now the members of their former community bring forward claims against them, because they had undertaken in common the responsibility for the taxes. In the responsum it is stated that the authorities would exact the amount assessed irrespective of the actual number of the members of the community.<sup>190</sup> In Palestine also, under the rule of the Egyptian dynasty of the Fātimids, the burden of taxation weighed heavily upon the Jews. In a letter to Ephraim b. Shemarya, head of the Palestinian synagogue of Fustât, the Jewish community of Jerusalem complain that they 'suffer the yoke of the non-Jews who put all burdens' upon them. Though there was a famine

כרי שלא תהא אשתו נתפשת תחתיו, ויש מבני אותה העיר שעושין בן . . . להכריח את עצמן מעוניש השלטון. This responsum belongs to the group of responsa sent to Kairowan in 991 c. e. (ג"ה), Nos. 345-50, see p. 179, note 1). It is interesting to note that the authorities did not confiscate this man's estate on his departure from the town. Further, the document of divorce, גט, seems to have had legal recognition in the eyes of the authorities, and the wife was allowed to take possession of her former husband's estate in lieu of her dowry (כהנובה), in precedence to the claims of the authorities.

שהגויים אנשים הם וכיון שברחו מקצתן מכבירין עול על הללו ישראל<sup>190</sup> שנתירו ונוטל מס כולו. This responsum is seemingly by R. Hai like the one preceding it. Müller, *Einleit.*, 34, note (last line) assigns it without any proof to R. Isaac the Tosafite.