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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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 Tråk (637-43) the Jewish ecclesiastical authorities, the so-called Bêt-Din that existed in most of the Jewish communities of Tråk, 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 Tråk 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.

R. Raaba of Pumbedita and Huna of Sura (both held office after 660 C.E.) instituted that a woman, who defied her husband and was thus rendered liable to the charge of being a מורדה (in the Talmudic phrase), should be divorced at once. The Talmudic practice was to defer the divorce for twelve months in order that meanwhile a reconciliation might be brought about between husband and wife (see Ketubot 64 a). Sherira himself explains in a responsum that the Geonim were forced to make this innovation because they saw 'that the daughters of Israel went and attached themselves to non-Jews in order to obtain a divorce through them from their husbands. These had in some cases to grant the divorce under compulsion'. 181 This statement probably means, as Weiss (""T", IV, 8-9 and note 14) has pointed out, that the Muslim authorities could force the Jews to grant divorce in such cases, and in order to prevent such enforced divorces, which according to the Talmudic law are null and void (גם מעושה), the Geonim ordained that in the case of מורדת the husband should at once divorce his wife by his own free will and was also bound to pay the amount of the Ketubah. The objections of Rabbinowitz (Graetz, Heb. ed., III, 131) against this assumption cannot hold good. The same phrase נתלה עצמו בנוים occurs also in another responsum of Sherira where it must also mean the protection afforded by a Muslim court or by some influential Arabs to a Jew

כשראו שבנות ישראל הולכות: 56a, No. 15: ח"נ מ", No. 140 ש"צ ששראל הולכות לווים ליטול מהן ניטין באונם מבעליהן ויש כוחבין ניטין באונם נוניתלות לנוים ליטול מהן ניטין באונם מבעליהן ויש כוחבין ניטין באונס ברי שלא: No. 91, No. 95, by Sherira. In מ", No. 89, the reason is: ברי שלא: או No. 91, No. 91, No. 92, המים שלא האונה אונה אונה אונה המסטחל לתרבות רעה שואניםו המקרש בישלם (בעשר בישלם). ווא בעתקרשו שיאניםו המקרש בשלטון שינרשה אישה וישנא וישאנה.

against the ruling of the Bêt-Din. The case (ח"ש, 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 (ממ"מ, see also ממ"מ, No. 146, and ממ"ח, 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. 182

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 'Irak and Syria by the Arabs under 'Omar, the Arab conqueror in organizing the new state fixed a poll-tax for all non-Muslims (المَوْتِيَّة); certain burdens in connexion with the quartering of Muhammedan soldiers,183 and a graduated land tax (خَرَاجَ), 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 (V4, 131 and 435-6). But from the responsa it appears that the Arab authorities collected the taxes directly from

ולא פשטו אותם המנהגים ברוב ישראל :44 , ה' אישות ,יד החזקה ייו ולא פשטו אותם המנהגים ברוב ישראל ...
. ורבים ונדולים חולקים עליהם ברוב המקומות

Probably R. Natronai refers to this in a responsum in תש"ר, II, 20, 1. 12: חמותר להוציא למלך מאכל בתבת ובחג מפני הסבנה, based on Besah, 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'.184 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 taxingpower, 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 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,

ושלטון וכעל טכם שמשגרין בקהל להחרים בשביל צרכיו וחפציו ואי אינו ראים ואלטון ובעל טכם שמשגרין בקהל להחרים משם אונו מכם שהחרים אינו כלום ואין אפשר שלא להחרים משם אונסא אותו מכם שהחרים אינו כלום ואין לחוש לו אבל שבתנה שמשביע מלך או שלטון או בעל מכם אסור להשבע לו אס. No. 195; פ"ח, No. 121; תש"ר, I, 49, No. 13; No. 26, and (3, No. 26). Cp. also '2, 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, פרו", Pri", 9, note 15).

to collect the taxes, the Gaon would not have decided against them.185 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. Nahshon 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. 186 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

¹⁸⁵ Cp. D"121, No. 10: when the community collected the taxes and one of the members declared that he possessed nothing, he was adjured.

the responsibility to assess each member of their community in accordance with his economic position. Thus the people of Tlemsen style their late communal leader 'the eye of the community and the first in every charitable affair as well as in the taxes and the impositions exacted from the community'.187 Often disputes arose in the communities as to who should contribute the most, whether the traders or the people who owned landed property, as we learn from responsa of French scholars, contemporaries of Sherira and Hai (see p"10), Nos. 165 and 205). In p"10), No. 165, it is also stated that the community had to collect an amount of money for bribing the officials not to expose them to extortion and oppression.188 That the extortions of the authorities in the district of Kairowan became intolerable in the time of Sherira and Hai we can gather from a responsum of theirs preserved in a", No. 346 (cp. Geon., II, 5). A Jew was much harassed in his place of residence by penal impositions, and he could not leave the town as his wife would be arrested instead and treated in a similar way. Accordingly people advised that Jew to write a bogus document of divorce to his wife, in order that she should be able to take possession of her husband's property as being her dowry, and her husband be at liberty to escape. 189 It is expressly stated that some of the towns-

ובן להשתוות בהשחרה שמשחידין לסלק האונס מעליתם *ינ'

ראובן היה מצמער הרבה מעונש השלמון וכשהיה יוצא מעירו תופשין ™! את אשתו במקומו וטצערין אותה. מהמת העונש יעצוהו מקצת בני ארם לכתוב גט פסול לאשתו ולאתפושה בל מקרקעי שיש לו בכתובתה ולצאת

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 (מש"ח, 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.190 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 Fuståt, 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 כן ... להבריה את עצמן מעונים השלטון. ... This responsum belongs to the group of responsa sent to Kairowan in 991 c. E. (ה"ו, 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, DI, 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 (מתובה), in precedence to the claims of the authorities.

שהנויים אנסים חם וכיון שברחו מקצתן מכבירין עול על הללו ישראל שהגויים אנסים חם וכיון שברחו מקצתן מכבירין עול על הללו ישראל 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.