

II, 36 *Letter from the Court to the Community of Dhū Jibla in Defense of Maḍmūn*

Aden. {ca. 1135}

JNUL 4° 577.2/15

A badly torn page, with both beginning and end missing, the paper is woolly and very brittle. It is written in a fine square script, like that of a Torah scroll scribe.¹ The writer left a broad margin, more than 2 cm wide, on the right. He used a colon to indicate switches from Arabic to Hebrew (line 7) and also left a blank space at the end of the line (26) from Hebrew to Arabic. Nevertheless, even this meticulous scribe is inconsistent in his orthography. [...] In line 30 he seems to have omitted a whole line; see comments.

Copied on the verso are two liturgical poems, written in different styles but apparently by the same person, Abraham Ben Yijū—one rather hurried, the other more careful. Written above the second is the incipit in Arabic, “and his too is (this) *ma’ānū* for Sukkā.” Since ‘Sukkā’ (rather than ‘Sukkōt’) as the name of the festival is typically Yemenite, the poems were presumably written in Yemen.² {It is not clear why and how the page came into the hands of Ben Yijū, who was undoubtedly, to my mind, the writer of the poems on the verso. Perhaps the *recto* is a copy of the original letter, sent to Dhū Jibla; and the copy was left in Aden and filed among the court’s records or kept by Maḍmūn, who later gave it to his confidant Ben Yijū, but the question needs further study. This suggests that Ben Yijū might have brought II, 35 to Egypt as well.}

This fragment is undoubtedly connected with II, 35 {see the introduction to that document for the date}, since the same people are involved: ‘Iwāḍ, Yeshū‘ā and Ḥasan, the sons of Jacob ha-Kohen (line 20; see II, 35, lines 19–20), who were suing Maḍmūn on the basis of their father’s will (lines 5–7).

The letter was written at a later stage of the negotiations between the brothers and Maḍmūn than the letter from the Jews of Dhū Jibla, II, 35; indeed, we find here that the brothers had already appeared before the Adenese rabbinical court (line 8). The first part of the letter, most of which has been lost, was an account in Arabic of the deliberations before the court (lines 1–7). In the second part, written almost entirely in Hebrew, the writers denounce the brothers in the sharpest terms, citing various sources, and declaring that they should be fined heavily

¹ {The writing resembles that of Samuel b. Moses b. Eleazar, who signed II, 71 and wrote III, 11 below.

² The poems are continuations of the poems in II, 28–29*v*.

for having insulted such an important person as Maḍmūn. However, it is clear from this letter that the Adenese court had no authority to fine the brothers and that it could at most recommend that the Dhū Jibla community leaders draw the appropriate conclusions from the deliberations in Aden.

As to Maḍmūn, this letter yields some interesting information. He was ‘appointed’ by the *rāshē gālūyōt* (line 10), that is, the exilarchs in Baghdad—in the plural, for there is no doubt that Maḍmūn sent gifts when a new exilarch took office, being rewarded with a renewal of his commission. The phrase *rāshē gālūyōt* may also indicate that, besides the exilarch in Baghdad, there was an exilarch in Yemen, namely, the ‘Persian’ cousin of the Baghdadi exilarch whose appearance in Yemen is the subject of IV, 4–5; see also II, 71*v*, margin, line 4 (see 539, n. 51).

The phrase *rāshē ha-yeshūvōt* in lines 10–11 is undoubtedly referring to the Heads of the yeshivas in both Baghdad and Egypt.³ We have already learned of Maḍmūn’s relations with Maṣlīḥ, the Head of the ‘Palestinian Academy,’ in II, 33, line 14; II, 34, side f, lines 15–16; and also II, 33, side g, lines 5–12. Based on these sources, it would seem that the Jews of Yemen looked for spiritual leadership mainly to the yeshiva in Egypt, which was the successor to the Yeshiva of Eretz Israel; however, they certainly had not broken off their ancient contacts with the Babylonian yeshivas.⁴

What kind of ‘appointment’ had Maḍmūn received from the above authorities?⁵ In addition to Maḍmūn’s position in the Jewish community, the writer(s) of our letter stress, in lines 11–12, that he was invested with the trust of the ‘rulers who are overseas and those who are in the desert,’ doubtless referring to the agreements of the representative of merchants in Aden with the various rulers controlling the trade routes, both on the way to India and on land, along the southern Arabian coast, perhaps also the Ḥijāz route.⁶

³ See Goitein, *Yemenites*, 40 (an error occurred there in naming the Heads of the Babylonian Yeshiva), 79–80.)

⁴ See Assaf, “Contacts,” 390. {See also Goitein, “Jews of Yemen” (= Goitein, *Yemenites*, 53–74).

⁵ On this point, see Goitein, *Yemenites*, 39–40.

⁶ Cf. Goitein, *ibid.*, 79: “That is to say, Maḍmūn concluded agreements with the rulers and pirates in whose domains the merchant ships for which he was responsible had to pass; he also negotiated with the tribal chiefs in Southern Arabia, in whose territory the caravans in which Jews rode had to travel.” For the use of the Ḥijāz route, see above, 205, n. 3.}

Our letter is also of interest as evidence of the scholarship of the Yemenite Jews one generation before they were to receive Maimonides' *Epistle to Yemen*. One must remember, however, that since Aden was on an important trade route, Jews from all lands were found there.

Translation

[...] (3) [...] that you had a document or (4) [...] (5) [...] they did not say, we (are acting) in accordance with our father's will and demanding {alt. tr.: [This is] what they said: in accordance with our father's will, we demand}⁸ our right, [and indeed they did not] (6) produce a handwritten statement⁹ testifying to what was [due] them, nor a document with witnesses,¹⁰ and they did not have a w[ill]¹¹ (7) proper, as wills should be. *And it came to pass, when we saw all that was written in your letter*¹² (8) and read it to them¹³ [and h]eard all their words, we were amazed and much distressed, (9) and we said, *How has such evil been don[e], to spread slander [and] idle, evil words (10) and abuse with their li[ps] one who is appointed by the exilarchs and the heads of (11) the yeshivas over all¹⁴ of Israel and invested with the trust of the rulers who are overseas (12) and those who are in the desert.*

It is hereby our opinion and we state, in truth,¹⁵ that these men (13) must be fined, each and every one of them, a fine to be paid to our lord Maḏmūn, Prince of (14) the Congregations,¹⁶ because he is a distinguished person. The penalty imposed for embarrassing another depends entirely on the offender and the person affronted,¹⁷ and

⁷ Because of their fragmentary nature lines 1, 2 and 4 have not been translated.

⁸ {Arabic [...] *mā qālū nahmā 'alā waṣīyat abūnā muṭālibin*.

⁹ Arabic *khaff*. That is, a statement in Maḏmūn's hand.

¹⁰ I.e., signed by witnesses.

¹¹ The arguments that the brothers presented to the Jewish community in Dhū Jibla (see above, II, 35, lines 23–26) had, accordingly, not been proved before the Adenese court.

¹² Possibly II, 35.

¹³ The above-mentioned brothers. {For reading the letter aloud in court, see page 213, n. 6.}

¹⁴ Arabic *jamī'um*. This sole Arabic word, in a text written entirely in Hebrew, presents an interesting problem for the psychology of language. {The word 'alā (= 'over') is also Arabic. The whole expression 'over all of Israel' is thus written in Judeo-Arabic.}

¹⁵ The unusual Hebrew expression used here, *b'omnām* [cf. the more common *be'emet*], does not appear in Ben-Yehuda, *Dictionary*, 268.

¹⁶ {Hebrew *sar ha-qehillōt*, In II, 35, lines 17–18, he is called *sar ha-sarīm we-rōsh ha-qehillōt*, 'Prince of Princes, Head of the Congregations.}'

¹⁷ M. Bāvā Qāmā 8:1.

everything (15) is defined in terms of his dignity,¹⁸ taking the most stringent view.¹⁹ Since our sages have said²⁰ that for distinguished persons one increases the limits of compensation for humiliation. (16) And this is what they said—may their memory be for a blessing! A certain person insulted R. Judah b. Hanīnā; the case was brought before (17) R. Simeon b. Lakish, and he fined him a pound of gold.²¹ Now, had they paid him²² many times that amount, (18) it would have been to no avail, until they appeased him, for thus said our sages—may their memory be for a blessing! 'Our Rabbis taught: Even if he were to give (19) him all the riches in the world, he would not be forgiven until he asked him (for pardon), for Scripture says: "Therefore, restore (20) the man's wife, since he is a prophet," etc.²³ And (this is) to inform you // that// there is an obligation upon 'Iwād, 'Yeshū'ā and Hasan (21) ha-Kohanim, sons of the late²⁴ Jacob ha-Kohen—may he rest in Eden!—(to pay) our lord Maḏmūn, Prince of the Congregations, upon each (22) and every o[n]e of them, one pound²⁵ of gold, for what they have done and opened their mouths wide (23) and written in their letters indecent things, suspicion and complaints and slander and things (24) that are not proper, and behaved brazenly. For that reason they are liable to fines. And they (the sages) have further said: (25) 'Whoever is liable to a fine is also liable to excommunication,²⁶ and whoever is liable to excommunication

¹⁸ Ibid., Mishnah 6.

¹⁹ See BT Bāvā Qāmā 91a. The writer is referring to the fact that while the first opinion given in the Mishnah is relatively lenient, the law was finally ruled in accordance with the more stringent view of R. Akiva.

²⁰ The Aramaic phrase used here (*dekā-āmre rabbānān*) is standard when introducing a quotation from Talmudic literature, but the sentence that follows is cited from medieval Halakhic literature. {The text referred to, is the quotation in the next line; Goitein, however, missed the connection, since he had not deciphered the first phrase in that line. But cf. the text of the Palestinian Talmud that introduces the quotation below: "One who offends an elder must compensate him fully for humiliation."}

²¹ PT Bāvā Qāmā 8:8 {6c}. However, Prof. Saul Lieberman pointed out that the writer was most probably quoting not directly from that source but from the code of R. Isaac Alfasi, who quotes the text in his elaboration of M. Bāvā Qāmā 8:6. Some support for that conjecture may be derived from the fact that our text seems to lean toward Babylonian rather than Palestinian Aramaic (*qāmē* = 'before' rather than *qōmē*). Around the same time, a Yemenite author wrote a commentary on Alfasi's code for Tractate Ḥullin; see Assaf, "Contacts," 391. {This has been published: Alfasi Ḥullin (Qafih).

²² 'Him' = Maḏmūn.}

²³ M. Bāvā Qāmā 8:7, quoting Genesis 20:7. {As the introductory phrase *tenō rabbānān* suggests, the writer may have intended the parallel *baraita* in BT Bāvā Qāmā 92a, which in some versions is similarly worded.}

²⁴ Hebrew *hayy*; see above 394, n. 31.

²⁵ *Ratlā*, instead of the Aramaic *litra* of the Jerusalem Talmud (line 17 above). This is not Arabic, but Aramaic {the writer intended to write Aramaic, even though he used the Arabic form *ratl*}.

²⁶ There is no such text in Talmudic literature, nor is a similar ruling stated in halakhah. Prof. Lieberman, however, directs my attention to Alfasi ad M. Bāvā Qāmā 8:1:

is liable to flogging²⁷ (26) And whoever has been excommunicated and dies under excommunication—his coffin shall be stoned.²⁸

(27) See, gentlemen, what an evil tongue has caused, for there is no sin more grievous (28) than that. And slander is the cause of affliction, as they said:²⁹ 'It was taught: R. Eliezer [!] b. Parta (29) says: Come and see how great is the power of an evil tongue! Whence do we know (its power)? From the spies, for if one who (30) slanders³⁰ his fellow man, all t[he more so...] [...] upon him (31) [...]

"It is the custom of the two Academies (i.e., of Sura and Pumbeditha in Babylon) that, although fines cannot be collected in Babylon, the offender is excommunicated until he appeases the complainant." That is to say, whoever fails to appease the complainant and does not pay the appropriate fine is excommunicated. {See next note.}

²⁷ This ruling is also not to be found in Talmudic literature. {See Hai Gaon's responsum concerning a person who insults a Torah scholar, cited in *Kaṣṣor wa-Ferah*, 44: "For he is liable to excommunication and flogging and a fine, to the extent that he can endure."}

²⁸ Based on M. 'Eduyot 5:6, worded slightly differently.

²⁹ Arabic *k.q.* = *ka-qawlihim* {better: *kamā qālū*}. The quote is from Tosefta, 'Arākhin 2:11 (ed. Zuckerman, 545), but with a different opening phrase. Prof. Saul Lieberman believes that the writer was not quoting directly from the Tosefta, since quotations from the Tosefta are quite rare even in *Midrash ha-Gadol*, the comprehensive Yemenite anthology, which was completed long after the date of the present document; it must have been quoted from some Midrash that used the Tosefta. {See Lieberman, *Tosefet Rishonim*, 2:172. As it turns out, Goitein and Lieberman believed that a whole line was missing in our text; see next note. However, as Goitein indeed observed, the opening phrase in the Tosefta is different, as is the continuation. The text cited here seems much closer to that of the parallel *baraita* in the BT 'Arākhin 15a (my thanks to the translator, David Louvish, who drew this to my attention), and the writer may well have omitted a few words here by way of *homoeoteleuton*; the missing text of the Talmud does not amount to a full line: "... slander of trees and stones is punished," etc.}

³⁰ One line has obviously been omitted here, and the text should be completed as follows: "one who slanders [trees and stones is punished, moreover severely and not lightly, all the more so one who slanders]," etc. The reason for the omission is easily discerned: the missing line began with the same words, *shēm ra'*, literally 'an evil report,' as line 30 and ended with the same word, *mōṣī'*, literally, 'brings,' as line 29. {This is a *homoeoteleuton*. Goitein's restoration is not the missing text of the Tosefta as we have it, but (see previous note) the conjectured text, with sufficient words to make up a whole missing line in the writer's hand.}

II, E. Hebrew Poems by Abraham Ben Yijū in Honor of Maḍmūn

II, 37 Praise of Maḍmūn, Defender of the Faithful and Especially of Ben Yijū

{Aden, ca. 1141}

TS 8 J 31, f. 1

This poem was published by Marmorstein, "Geschichte und Literatur," 603. As already noted by Bacher (*MGWJ*, 52 [1908], 245–47) {rather, Brody, "Notizen"} and Mann (*Jews*, 2:477), Marmorstein erred in identifying the time of composition of the poem and the personalities to whom it refers. Moreover, his edition is full of corrupt readings to a degree that renders it completely valueless.

Abraham b. Yijū, the subject of chap. 3, wrote this on a bifolium, folded so as to yield two leaves (four sides). He took greater care in penning this than he did in writing his letters. In the body of the poem he gives his full name as Abraham b. Peraḥya b. Natan b. Yijū *ha-ma'aravī* (= the Maghrebi). An accomplished exporter and industrialist, a respected elder and scholar of sorts, Ben Yijū was not a particularly gifted poet. Nevertheless, he wrote many poems, several of which have been preserved (II, 37–41, III, 29a), one of them in two copies (II, 38–39 {we also have additional manuscripts for the poem in III, 29a and for part of II, 40}). He obviously intended these verses to form a collection, or *dīwān*, of his poems, as can be seen by the way he folded the paper to form a booklet and by his writing *walahu aydān* (= also his) over II, 37, 38, 40, 41. He signs his name in an acrostic: ABRHM ḤZQ YJW; Abraham *ḥazaq* {'may he be strong!,' common in poets' signatures} Yijū.

No. II, 37 provides the official titles granted Maḍmūn: 'Head of the Congregations' (*rōsh ha-qehillōt*, vs. 17)¹ and 'Nagid of the Lord's People' (*negīd 'am yy*, line 6),² as well as the names of his three sons: Ḥalfon, Bundār and Japheth (vs. 49–52).

The most important information concerns the previously unknown presence of the Jewish Karaite sect in Yemen during this period (vs. 25–32).³ It seems that members of the local Jewish community did not actively participate in the dispute with the Karaites and left that task to

¹ {He is called *sar ha-sarīm we-rōsh ha-qehillōt* in II, 35, lines 17–18.

² For this title, see 2 Sam. 6:21, 2 Kings 20:5.

³ For evidence of Karaites in Yemen during this period, see page 76, n. 75.