

# “Because He/She Did Not Know Letters”: Remarks on a First Millennium C.E. Legal Expression

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Yochanan Muffs' *Studies in the Aramaic Legal Papyri from Elephantine* (Leiden, 1969) and a good number of the essays in the volume of his collected essays *Love & Joy* (New York, 1992) deal with the interplay of law and language. For Muffs a word or phrase carries with it meaning and relevance, has both a past and a present. The present study deals with this very interplay in a phrase found in a variety of contracts from the first millennium C.E. and for this reason is dedicated to his honor.

The papyri in the Babatha archive from Naḥal Ḥever contain many interesting features that inform us about the conditions of daily life among the Jews who resided on the other side of the Dead Sea.<sup>1</sup> An item that has not been discussed, so far as I know, is that of literacy. It is quite clear that there were a large number of Jews and Nabateans who were literate in their respective languages. This is based on the assumption, albeit tenuous, that the ability to write one's name as a witness to a document was also a sign that one could read the document. Three of the men who were involved in what transpired in these documents not only signed their names but also wrote all or part of an Aramaic subscription to a Greek text (P. Yadin 17, 18, 20). Babatha's second husband Yehudah b. Elazar (who had the strange nickname Khethousion), not only could sign his name but also wrote some of the Aramaic subscriptions to the documents. He wrote the *ketubba* for their marriage, which was the second marriage for both of them. They were surely married by 125 C.E. since Yehudah served as her guardian (*epitropos*) in P. Yadin 14 and 15, “a function normally performed by a woman's husband.”<sup>2</sup> He did not, however, sign for her. This was done by one Eleazar son of Eleazar, and it is expressed in the following manner: *Eleázaros Eleázarou égrapsa hupèr autēs erotetheis dià tò autēs mē e*·*idēna*·*i grámmata*, “I, Eleazer son of Eleazar, wrote for her by request, because of her being illiterate.”<sup>3</sup> Babatha's being illiterate should not come

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1. N. Lewis and J. C. Greenfield, *The Documents from the Bar-Kokhba Period in the Cave of Letters, Greek Papyri* (Jerusalem, 1989). The texts in this volume are referred to as P. Yadin. The subscriptions to the text were first read by Y. Yadin.

2. So Lewis, *ibid.*, 58. It should be noted that the “guardian” of a woman was normally called *kúrios*, “lord.” This is preserved in the Aramaic text where the term <sup>2</sup>*dwn*, obviously borrowed from Hebrew, is used.

3. Literally, “because she did not know letters.” In other texts the preferred word is *agrámmatos*, “illiterate.” My colleague, Dr. Hannah M. Cotton, will publish a fragment of a contemporary text from Naḥal Ṣe'elim in which the term *cheirochrestōs* is used for a scribe; “Another Fragment of the Declaration

as a surprise since one would be quite sore put to find at that time many literate women in that part of the world. True, Julia Crispina who figures in other texts in this collection could sign her name and was probably quite literate.<sup>4</sup> But Julia was in all likelihood a wealthy Roman citizen, and she functioned as an *episkopos* in those texts.<sup>5</sup> What did Eleazer son of Eleazer write in her name? His is the second Greek hand, preserved only in the outer text, in which Babatha is quoted as stating that she has given her deposition through her guardian Yehudah. In an Aramaic subscription Yehudah, in turn, declared that Babatha had deposed the above before him: *bqmy hšdt bbth kkl dy ʿl ktb* (l. 37).<sup>6</sup>

The illiteracy phrase that is used in this text is familiar from a full spate of documents from Egypt ranging from the Ptolemaic through the Byzantine periods, and was not at all limited to women, but is also often used of men (*grámmata mē eidótos*). The phrase was discussed by H. C. Youtie in a series of studies and by others, too.<sup>7</sup> It does not occur in either Greek or Aramaic in any of the other texts from Naḥal Ḥever or Wadi Murabba<sup>c</sup>at, but there is evidence in some texts that men signed for other men and women.<sup>8</sup>

of Landed Property from the Province of Arabia," *Zeitschrift für Papyrologie und Epigraphik* 99 (1993), 115ff. This term, previously known only from Byzantine material, is used for a scribe who signs for "unlettered" individuals. The scribe, writing in Greek, was a Nabatean, but the text is too fragmentary to provide other information.

4. P. Yadin 20, l. 43. She appears again in P. Yadin 25, but does not have to sign. See Lewis' remarks (see above, n. 1) on pp. 92, 111.

5. The exact function of the *episkopos* in its secular use is not clear, but see J. C. Greenfield-M. Stone, "Two Notes on the Aramaic Levi Document," in H. W. Attridge et al., eds., *Of Scribes and Scholars. Studies . . . presented to John Strugnell* (Lanham, 1990), 153-61, esp. 160-61. See too the discussion of *episkopos* by M. Sartre, *Bostra, Des origines à l'Islam* (Paris, 1985), 81-82. For an attempted identification, see *JQR* 72 (1992), 361-81.

6. For this line see Lewis-Greenfield (above n. 1), 139. I wish to take the occasion to correct a reading in the Aramaic subscription to P. Yadin 15. It should read *hšdt*, "testified, deposed," rather than *hšrt*, "affirmed." Yehudah b. Elazar's handwriting distinguished between the two letters. If this interpretation is correct, we have here an early example of the use of the verb *šhd/shd* in the *haphel/aphel* as known from later Palestinian Aramaic; see M. Sokoloff, *A Dictionary of Jewish Palestinian Aramaic of the Byzantine Period* (Ramat Gan, 1990), 570.

7. H. C. Youtie, "Agrámmatos, An aspect of Greek Society in Egypt," *Harvard Studies in Classical Philology* 70 (1971), 161-76; "Hupographeús: The Social Impact of Illiteracy in Graeco-Roman Egypt," *ZPE* 17 (1975), 201-21; "Because They Do Not Know Letters," *ZPE* 19 (1975), 101-8. In the first of these articles Youtie noted that a person who could sign in Demotic, but not in Greek, was often considered illiterate. See also W. V. Harris, *Ancient Literacy* (Cambridge, 1989), 140-43 for further literature, Harris (142) noted that an illiteracy statement occurs in about 1500 texts from Egypt. The question of female literacy has been the subject of quite a few studies recently, but a discussion of this matter goes beyond the scope of this article.

8. This was first established by Y. Yadin, *IEJ* 12 (1962), 252-54. It is not stated explicitly that they were "illiterate" but that another person did it *mmrh*, "by his/her order." In the so-called "Kefar Bebayu Conveyance," first published by J. T. Milik, *RB* 61 (1954), 189-90, we read in ll. 16-17: *štwm [br]t šm<sup>c</sup>wn ʿl npšh ktb/ ʿl ʿzr br mt<sup>c</sup> mmrh*, "Shalom daughter of Shimeon testifies for herself, Elazar son of Mtt<sup>c</sup> wrote by her order." See K. Beyer, *Die aramäische Texte vom Toten Meer* (Göttingen, 1984), 320-21; J. Naveh, *On Sherd and Papyrus* (Jerusalem, 1991), 98-100 [in Hebrew]. As Naveh has shown, the correct reading of the place name is *bryw*, to be pronounced in all likelihood Baro. The wife's agreement to the sale was needed in this document, and it was thus recorded. For men signing for men see P. Mur. 18. In "A Note on Murabba<sup>c</sup>at 29," *IEJ* 34 (1984), 49-50, P. Sijpesteijn has shown that a person testified that he had signed in his own hand. See Yadin (above) for P. Mur. 24, cols. C and D, and

The statement that a person signed for someone else who did not know how to write is found elsewhere in the Near East in material written in Palmyrene and Syriac. A Palmyrene inscription, from the tomb of Malkū was published by H. Ingholt thirty years ago, but has not received the attention that it deserves.<sup>9</sup> It dates from 214 C.E. The usual purpose of the Palmyrene tomb inscriptions was to provide information concerning the ownership of the tombs and the distribution of parts of the tombs, and to establish legal rights. The inscriptions often report the concession of part of the tomb to someone who was not a member of the family. This was expressed by a variety of verbs, the two most familiar being *rhq/rhq*, "conceded," and *ʔhbr*, "attached."<sup>10</sup> Among the other verbs that are found are *šwtp*, "took as partner," *b<sup>c</sup>d*, "conceded," and the rare *lwt*, "added, joined."<sup>11</sup> They are usually dated, and the date may be at the beginning or the end of the inscription. The feature that makes this particular inscription stand out is the fact that it is not merely a statement of foundation or concession but is actually written in the form of a *šētar*, a legal document with the date at the beginning of the text, an operative statement, and two witnesses at its conclusion. After the date we read the statement of Julios Aurelios Yediʿbel, who is called Mezabbana (*dy mtqr<sup>2</sup> mʔbn<sup>2</sup>*), son of Julios Aurelios Aninos:

*ʔšʔlt ktb ydy lywlyws br ʔwrylyws ʕgylw br ʔprhʔ br ʔry zdbbwł bdył dy l<sup>2</sup> yd<sup>c</sup> spr dmwd<sup>2</sup> hw lywlyws ʔwrylyws ʔgrp<sup>2</sup> . . . dy lwt lh brbw<sup>c</sup>t<sup>2</sup> . . .*

I have lent my hand to Julios son of Aurelios 'Ogeilo, son of Afrahat, freedman of Zab-dibol, since he does not know how to write, that he acknowledges to Julios Aurelios Agrippa . . . that he "joined" him to the "room" . . .<sup>12</sup>

The text goes on to outline briefly the limitations of this concession. It partakes further of the nature of a *šētar* in that a clause limiting the rights of Julios Aurelios Agrippa begins with the words *wl<sup>2</sup> yh<sup>2</sup> šlyt<sup>2</sup> . . .*, "and he will not have the right . . .," reminiscent of the *ul išallaʔ* formula found in Neo-Babylonian documents and other texts.<sup>13</sup> Since we may safely assume that Julios Aurelios

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for P. Yadin 54, ll. 28–30. For the continued use of this formula in later periods and for illiteracy among those who signed documents from the Talmudic to the medieval period, see M. A. Friedman, *Jewish Marriage in Palestine* (Tel Aviv, 1980), 1:485–89.

9. H. Ingholt, "Palmyrene Inscription from the Tomb of Malkū," *MUSJ* 38 (1962), 99–119; F. Rosenthal, ed., *Aramaic Handbook* (Wiesbaden, 1967), 1:41–42; M. Gawlikowski, *Monuments funéraires de Palmyre* (Warsaw, 1970), 209. Ingholt, 109, discussed the aspect of illiteracy.

10. Gawlikowski, *ibid.*, 173–76, with a reference to a study by I. Schiffmann in *Palestinski Sbornik* 11 (1964), 16–24.

11. As Ingholt, "Palmyrene Inscription," 111–12, noted *lwt*, which seems to occur only in this inscription, is related to Syriac *ʔalwet*; Brockelmann, *Lexicon Syriacum*<sup>2</sup>, 362, "coniunxit, etc." The verb *b<sup>c</sup>d*, which is also rare, seems to be an Arabism, the equivalent of Aramaic *rhq/rhq*.

12. The meaning of *rbw<sup>c</sup>t<sup>2</sup>* is not certain. Ingholt, "Palmyrene Inscription," proposed "couch, cubicle, rectangular room"; in the glossary of Rosenthal, ed., *Aramaic Handbook*, the translation offered is "recess." Gawlikowski, *Monuments funéraires*, translated "qui lui a cédé un quart (?)," but *lwt lh b . . .* means that he "joined" him to something and "un quart de" isn't satisfactory.

13. For *šlt* see E. Y. Kutscher, *Hebrew and Aramaic Studies* (Jerusalem, 1977), 43; Y. Muffs, *Studies in the Aramaic Legal Papyri from Elephantine* (Leiden, 1969), 41, n. 2; 176–78; J. C. Greenfield, "The Genesis Apocryphon—Observations on Some Words and Phrases," in G. B. Sarfatti, ed., *Studies in Hebrew and Semitic Languages* (Ramat-Gan, 1980), xxxii–ix.

Yedi<sup>c</sup>bel did not carve the inscription, we must conclude that this is the copy of a written document. There is only one other published Palmyrene text that partakes of some of the features of a *šētar*.<sup>14</sup> The statement of illiteracy parts company with the usual formula in that it is found at the beginning of the document rather than as a *hupographé* or subscription.

The statement of illiteracy is found in two Syriac texts. The first is the well known Deed of Sale from Dura-Europos (P. Dura 28) first published by C. C. Torrey almost fifty years ago.<sup>15</sup> This document, written in Edessa and dated to 243 C.E., records the sale of her "hand-maiden" (<sup>2</sup>*mt*<sup>2</sup>) by Marcia Aurelia Mat-Tar<sup>c</sup>ata (*mtr*<sup>c</sup>*t*<sup>2</sup>), wife of Aurelius Ḥafsay son of Shamashyabh, an Edessene serving in the Roman garrison.<sup>16</sup> The text begins with an acknowledgment by Marcia Aurelia Mat-Tar<sup>c</sup>ata that she has sold her slave and received her money. This is phrased with the word *mwdyn*<sup>2</sup>, "I acknowledge/declare." This word occurs again in the subscription (ll. 20–23) where the husband states:

*mwdn*<sup>2</sup> <sup>2</sup>*wrls* *ḥpsy* *br* *šmšyhb* <sup>2</sup>*dysy*<sup>2</sup> *mn* *pylys* *dtr*<sup>c</sup>*šr*<sup>2</sup> *dkbt* *ḥlp* <sup>2</sup>*wrly*<sup>2</sup> *mtr*<sup>c</sup>*t*<sup>2</sup> <sup>2</sup>*ntty* *bršm*<sup>2</sup>  
*dspr*<sup>2</sup> *p* *hkm*<sup>2</sup> *dzbnt* <sup>2</sup>*mt*<sup>2</sup> *hd*<sup>2</sup> *dylh* *wqbli* *dmyh* <sup>2</sup>*yk* *dl*<sup>c</sup>*yl* *ktyb*

I Aurelius Ḥafsay son of Shamashyabh, an Edessene of the Twelfth Tribe, acknowledge that I have signed in place of Aurelia Mat-Tar<sup>c</sup>ata, my wife, in the subscription, because she is illiterate, that she has sold this her slave-girl and has received the price thereof according to what is written above.

On the verso there is first the declaration <sup>2</sup>*wrly*<sup>2</sup> *mtr*<sup>c</sup>*t*<sup>2</sup> *brt* *šmny* *mzbnnyt*<sup>2</sup> <sup>c</sup>*l* *npšh* *šhd*<sup>2</sup>, "Aurelia Mat-Tar<sup>c</sup>ata daughter of Shamnay, the seller, testifies for herself" (ll. 1,5) which is followed by the husband's declaration <sup>2</sup>*wrls* *ḥpsy* *br* *šmšyhb* *ḥmt* <sup>c</sup>*l* *štr*<sup>2</sup> *hn*<sup>2</sup>, "I, Aurelius Ḥafsay son of Shamashyabh, have sealed this document" (l. 2). This is a seeming contradiction in the text, for on the recto the husband declares that he has signed for his wife, while on the verso, we have in a different hand the repeated statement (ll. 1,5) that Aurelia Mat-Tar<sup>c</sup>ata witnessed the transactions. These two statements have, however, diverse functions. The first is an operative declaration in which the receipt of the price is acknowledged, while the second records the presence of Aurelia Mat-Tar<sup>c</sup>ata at the sale.<sup>17</sup> At Dura-Europos there are four Greek documents in which a statement of illiteracy is found. One is for a male (P. Dura 26), and the other three are for females (P. Dura 29, 30, 32). Rather than the formula "because they do not know letters" used for Babatha, they

14. This was published by J. Cantineau, "Textes funéraires palmyréniens," *RB* 39 (1930), 548, no. 14; Gawlikowski, *Monuments funéraires*, no. 14. The Palmyrene fragment discussed by C. B. Welles in *Dura-Europos Report V, I: The Parchments and Papyri* (New Haven, 1959), 414 (see pl. 68, 2), may be part of a letter rather than a contract.

15. For bibliography see H. J. W. Drijvers, *Old Syriac (Edesseean) Inscriptions* (Leiden, 1972), 54–57. Drijvers follows the readings of J. A. Goldstein, "The Syriac Bill of Sale from Dura-Europos," *JNES* 25 (1966), 1–16.

16. Goldstein, "Syriac Bill," 3, has noted that the name Mat-Tar<sup>c</sup>ata (*mtr*<sup>c</sup>*t*<sup>2</sup>) = Amath-Tar<sup>c</sup>ata, "handmaiden of Atargatis."

17. Goldstein, "Syriac Bill," 15, has offered the plausible suggestion that Mat-Tar<sup>c</sup>ata copied a signature prepared for her by Marcus Aurelius Belshu, the "superintendent of sacred and civic archives." He also explains the repetition of Mat-Tar<sup>c</sup>ata's signature as providing a name to go along with the fifth knot on the verso.

are simply called "illiterate." In contrast to Mat-Tar<sup>c</sup>ata and Babatha one may quote the case of Aurelia Thaisous, known from P. Oxy. xii 1467, who describes herself as a literate person (*eidōs grāmata*) and acted without a guardian by virtue of the fact that she had three children (the *ius trivium liberorum*).<sup>18</sup>

The second example is found in a text recently published in a provisional manner by J. Teixidor, dated 240 C.E.<sup>19</sup> It comes from a group of texts, primarily in Greek, from the Middle Euphrates area.<sup>20</sup> The document is rather complex, and its interpretation is not always clear; but for the needs of this article I follow Teixidor.<sup>21</sup> The purpose of the document is to empower Worod son of Nisharyahab who had served as guarantor for Bageshu son of Shamash<sup>c</sup>aqab for a debt owed to one Sha<sup>c</sup>idu, and then had to pay that debt, to collect from that Bageshu. The document records all the details of Bageshu's debt and of Worod's payment. Here, too, in the inner text, l. 3, and in the outer text, l. 7, the description by Bageshu son of Abgar, agent of Sha<sup>c</sup>idu, of what transpired begins with the word *mwdn*<sup>2</sup>. The word is repeated in l. 20 where another declaration is made. As in the first Syriac text the subscription has the following statement: *mwdn*<sup>2</sup> *ḥš*<sup>2</sup> *br mty mn krk*<sup>2</sup> *ḥdt*<sup>2</sup> *dkbt ḥlp bgšw br*<sup>2</sup> *bgr dspr*<sup>2</sup> *l*<sup>2</sup> *yd*<sup>c</sup> . . . , "I, Hasha son of Matthai of New Karka, acknowledge that I have signed in place of Bageshu son of Abgar because he is illiterate . . ." (ll. 26–27). As in the previous document the witnesses sign on the verso, with the first and fifth the same person, while Hasha son of Matthai signs second and declares *ḥtmt*<sup>2</sup> *l*<sup>2</sup> *štr*<sup>2</sup> *hn*<sup>2</sup>, "I have sealed this document."

The phrases *dspr*<sup>2</sup> *l*<sup>2</sup> *ḥkm*<sup>2</sup> and *dy*<sup>2</sup> *l*<sup>2</sup> *yd*<sup>c</sup> *spr* may appear at first sight to be translations from the usual Greek "because they do not know letters" formula. I believe that it can be shown that the Aramaic phrase is based, however, on an older usage. First it is worth noting that *spr* has the general meaning of "letters" here, rather than "book, inscription, message" or the like, as in Dan. 1:4: *lēlammē-dām sēper ulēšōn kašdīm*, "to teach them the script and language of the Chaldeans." The same use is found in the Syriac Aḥiqar, when Aḥiqar says *wkd rb*<sup>2</sup> *bry*<sup>2</sup> *lph spr*<sup>2</sup> *whkmt*<sup>2</sup>, "when my son (Nadan) grew up I taught him letters and wisdom."<sup>22</sup> This is also the usage in the Syriac version of Acts 4:13: *dēlā yād*<sup>c</sup> *in sefrā wē-hedyōḥē*<sup>2</sup> *ēnōn*, "that they are illiterate and plain people." For the technical usage in the texts discussed above Isa. 29:11–12 is instructive:

*wattēhī lākem ḥāzūt hakkol kēdibrē hasseper hehātūm*<sup>2</sup> *āšer yittēnū*<sup>2</sup> *ōtō*<sup>2</sup> *el-yōdēa*<sup>c</sup> *sēper*<sup>2</sup> *lē-mōr qērā*<sup>2</sup> *na*<sup>2</sup>-*zeh wē-āmar*<sup>2</sup> *lō*<sup>2</sup> *ūkal kī ḥātūm hū wēnittan hasseper*<sup>c</sup> *al*<sup>2</sup> *āšer lō*<sup>2</sup> *yāda*<sup>c</sup> *sēper*<sup>2</sup> *lē-mōr qērā*<sup>2</sup> *wē-āmar*<sup>2</sup> *lō*<sup>2</sup> *yāda*<sup>c</sup> *īf sēper*

18. Quoted by Youtie in "Hupographeus" (above n. 7). It is dated to 263 C.E.

19. J. Teixidor, "Deux documents syriaques du III<sup>e</sup> siècle après J.-C., provenant du Moyen Euphrate," *CRAI*, 1990, 144–66. The second of these documents is now published in full by J. Teixidor, "Un document syriaque de fermage," *Semitica* 41–42 (1993), 195–208.

20. D. Feissel et Jean Gascou, "Documents d'archives romains inédits du Moyen Euphrate (III<sup>e</sup> siècle après J.-C.)," *CRAI*, 1989, 535–61.

21. Some of the words and phrases in ll. 22–25 are far from clear.

22. F. C. Conybeare, J. Rendel Harris, A. S. Lewis, *The Story of Aḥiqar*, 2nd ed., (Cambridge, 1913), Syriac p. 38, l. 10. See also, Payne-Smith, *Thesaurus*, 2708, *sefrā*, "litterae." Note too *wtynwq llmdw spr*, TB *Shab.* 150a.

So that all prophecy has been to you like the words of a sealed document. If it is handed to one who can read and he is asked to read it he will say, "I can't, because it is sealed"; and if the document is handed to one who cannot read and he is asked to read it, he will say, "I can't read" (NJPS).

It is clear that the phrase  $l\bar{o}^{\nu} y\bar{a}d\bar{a}^c s\bar{e}p\bar{e}r$  means "he does not know letters," i.e., he cannot read.<sup>23</sup>

There are various other matters in these texts on which one could also comment, but I wish to limit myself here to one phrase that occurs in the texts quoted above. This is the use of the *aph<sup>el</sup>* participle of the verb  $y\bar{d}^{\nu}/y\bar{d}y$ :  $mwd^{\nu} hw$  in the Palmyrene text and  $mwdyn^{\nu}/mwdn^{\nu}$  in the first Syriac text.<sup>24</sup> In the second text it is found in ll. 7, 20, and 26. Goldstein in his study of the Dura-Europos text saw that it was the equivalent of the *homologia*, and compared this use of  $mwdyn^{\nu}$  with  $q^{\nu} mwdn^{\nu}$  in the formulary of Rav Hai Gaon.<sup>25</sup> There are essentially two uses that can be noted in these texts. The first is in the operative part of the Syriac texts, where it is a proper "subjective homology," that is, the declaration is quoted directly "without any verb of saying in the third person". The same phrase is found in the Aramaic subscription to three documents in the Babatha archive, written by three different hands with very slight variations:  $mwdy^{\nu}nh$  (P. Yadin 17.40);  $mdy^{\nu}nh$  (P. Yadin 18.70);  $md^{\nu}nh$  (P. Yadin 20.40).<sup>26</sup> Although these phrases are found in the subscription, they served to verify the content of the Greek text. The second usage is found in the Palmyrene text and in the subscriptions to the Syriac texts, and is a declaration about the actual writer (Palmyrene) or signer (Syriac) of the text. It is similar to the statement about Babatha's illiteracy.

23. In Lachish letter 3:8-9:  $l^{\nu} yd^{\nu}th. qr^{\nu} spr$  also refers to literacy, but  $s\bar{e}p\bar{e}r$  here may refer to a written message.

24. Noted by Ingholt, "Palmyrene Inscription," 110-11, who also referred to  $mwdy^{\nu}$  in Cantineau, "Textes funéraires," no. 14:3 (above, n. 14). In this text it is a woman who "declares" in the presence of her husband that she has transferred property.

25. Goldstein, "Syriac Bill," 8-9.

26. This tradition continued in the  $\bar{s}\bar{e}l\bar{a}r\bar{o}t$  written by Jews in various countries.