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FEMALE AGENCY BY THE DEAD SEA: EVIDENCE FROM THE BABATHA AND SALOME KOMAÏSE ARCHIVES

Philip F. Esler

ABSTRACT

The Babatha archive contains thirty-five legal papyri dating from 94 to 132 CE. They belonged to a Judean woman Babatha, from Maoza on the south-eastern shore of the Dead Sea, where date cultivation was a valuable cash crop. The Salome Komaïse archive, also concerning a family of date farmers until the kingdom became the Roman province of Arabia in 106. These papyri provide a rich array of evidence relating to the life of Babatha, Salome Komaïse and her mother Salome Grapte, and of other women, Judean and Nabatean, in this context. Particularly noteworthy is that women possessed considerable wealth, in cash and real property, and regularly acted as business-women, including by loans to their husbands. The papyri also reveal seizure of assets and frequent recourse to litigation by these women in defence of their rights. Although this was a patrilineal and patrilocal culture, the papyri provide striking examples of potent female agency, as women deployed and protected their wealth by every legal means.

FRAMING THE DISCUSSION

The Recent Scholarly Assertion of Female Agency in the Biblical World

One of the most significant results of biblical interpretation in recent decades, much of it feminist in inspiration and execution, has been the affirmation of female agency, in numerous forms, in the texts themselves and in the ancient Near Eastern and Greco-Roman contexts in which they appeared. This has involved the careful reassessment of texts that were probably all written by men, where the main actors are predominantly male,¹ and where the social context was patrilineal and patrilocal, and the close attention to archaeological and epigraphic remains. Both close narrative criticism and greater attention to the social setting using comparative perspectives from anthropology and archaeological data have greatly assisted this re-interpretation of ancient Mediterranean women. Much of the stimulus for this changing understanding has come from feminist questions and agendas. In the 1970s and 1980s, Lynn Cohick has observed, “female scholars and women’s studies shook the academy. The call went out to repopulate the ancient landscape with women.”² Two early works that proved highly influential were Phyllis Trible’s 1973 article, “Depatriarchalizing in Biblical Interpretation,”³ and Phyllis A.

¹ But for a register of all the women in the biblical texts, see *Women in Scripture: A Dictionary of Named and Unnamed Women in the Hebrew Bible, the Apocryphal/Deuterocanonical Books, and the New Testament* (eds. Carol Meyers, with Toni Craven and Ross S. Kraemer; Boston: Houghton Mifflin, 2000).

² Lynn H. Cohick, “Women in the Jewish, Greco-Roman, and Early Christian World,” *The State of New Testament Studies: A Survey of Recent Research* (eds. Scot McKnight and Nijay Gupta; Grand Rapids: Baker Academic, 2019, forthcoming), ??-??, ?.

³ Phyllis Trible, “Depatriarchalizing in Biblical Interpretation,” *Journal of the American Academy of Religion* 41 (1973): 30-48.

Bird's 1974 essay, "Images of Women in the Old Testament."⁴ Susan Ackerman has observed that Tribble's work prompted literary and narrational analyses, whereas Bird's encouraged historical research informed by anthropological ideas and archaeological findings.⁵ Cohick also regards these as the two major ways of approaching the subject of women in the ancient world.⁶

Subsequent landmarks in the literary vein included Phyllis Tribble's *Texts of Terror* (1984) and Elisabeth Schüssler Fiorenza's *In Memory of Her* (1984), which is not to deny the profound historical sensitivity of these scholars.⁷ A major monument of this scholarship is represented by the eleven volumes of the *Feminist Companion to the Bible*, published under the leadership of Athalya Brenner-Idan, from 1993 to 1997. The historical approach, working with material remains, found an early exemplar in Bernadette Brooten's *Women Leaders in the Ancient Synagogue*, a study of nineteen inscriptions

⁴ Phyllis A. Bird, "Images of Women in the Old Testament," *Religion and Sexism: Images of Women in the Jewish and Christian Traditions* (ed. Rosemary Radford Ruether; New York: Simon & Schuster, 1974), 41-88

⁵ Susan Ackerman, "Women in Ancient Israel and the Hebrew Bible," *Oxford Research Encyclopedia of Religion*, 2016; p. 21
(<https://oxfordre.com/religion/view/10.1093/acrefore/9780199340378.001.0001/acrefore-9780199340378-e-45>).

⁶ Cohick, "Women," ??.

⁷ See Phyllis Tribble, *Texts of Terror: Literary Feminist Readings of Biblical Narratives* (Philadelphia: Fortress: 1984) and Elisabeth Schüssler Fiorenza's *In Memory of Her: A Feminist Theological Reconstruction of Christian Origins* (New York: Crossroad, 1984).

from the Roman and Byzantine periods.⁸ Tal Ilan's 1995 monograph, *Jewish Women in Greco-Roman Palestine*, analysed all the important corpora of literary works, while paying close attention to the archaeological and epigraphic evidence.⁹ Another valuable perspective within this approach is the re-investigation of Greek and Roman women to obtain a more complete understanding of their role in society and their agency than was previously the case. Thus in 2002 Judith Grubb Evans published *Women and the Law in the Roman Empire*, focusing on Roman law relating to women, divorce and widowhood, but also taking into account Egyptian and Dead Sea papyri on such issues.¹⁰ Lynn H. Cohick's 2009 work *Women in the World of the Earliest Christians* is a richly informative coverage of Roman, Greek, Judean and Christ-following women in the New Testament period. While acknowledging that ancient texts and sources are not merely "open windows into a past era," Cohick rightly notes that "the historical approach does hold that actual deeds and events can be recovered from sources," especially where one attends to the "synergy between text and artifact, document and inscription, story and statue."¹¹ My own approach to the Dead Sea legal documents is close to this line of historical interpretation informed by social-

⁸ Bernadette Broton, *Women Leaders in the Ancient Synagogue: Inscriptional Evidence and Background Issues* (BJS; Atlanta: Scholars Press, 1982).

⁹ Tal Ilan, *Jewish Women in Greco-Roman Palestine: An Inquiry into Image and Status* (Texts and Studies in Ancient Judaism, 33; Tübingen: Mohr Siebeck, 1995).

¹⁰ Judith Grubb Evans, *Women and the Law in the Roman Empire: A Sourcebook on Marriage, Divorce and Widowhood* (Routledge: London and New York, 2002).

¹¹ Lynn H. Cohick, *Women in the World of the Earliest Christians: Illuminating Ancient Ways of Life* (Grand Rapids, MI: Baker Academic, 2009), 26.

scientific insights and archaeological and epigraphical remains that runs from Phyllis Bird right up to the present.

Nearly all of the scholarship mentioned above has shed new light on female agency. In relation to the Hebrew Bible and Septuagint, for example, we have women with vital roles in household and agricultural settings that far transcend the “private,” male-dominated lives we once supposed them to lead;¹² women who play central roles in the cultic practices of Israel (Deborah; Hannah);¹³ women whose insight prompts them to act decisively to ward off catastrophe from themselves and others (Tamar in Genesis 38; Abigail; Naomi and Ruth);¹⁴ women who play a role in national politics (Bathsheba; Esther); and even heroic women who show initiative and courage and achieve their goals by physical trickery, intrigue and even extreme physical violence (Lot’s daughters; Jael; Judith).¹⁵ In relation to the ancient contexts of the

¹² Carol Meyers, *Rediscovering Eve: Ancient Israelite Women in Context* (New York and Oxford: Oxford University Press, 2013), Susan Ackerman, “Women in Ancient Israel and the Hebrew Bible

¹³ Carol Meyers, *Households and Holiness: The Religious Culture of Israelite Women* (Minneapolis: Fortress, 2005).

¹⁴ See Susan Ackerman, *Warrior, Dancer, Seductress, Queen: Women in Judges and Biblical Israel* (ABRL 17. New York: Doubleday, 1998); Philip F. Esler, “Judah and Tamar”, *Sex, Wives, and Warriors: Reading Biblical Narrative With Its Ancient Audience* (Eugene, Or: Cascade Books, 2011), 79-110, and “Abigail: A Woman of Wisdom and Decisive Action,” In *Character and Characterization in Samuel-Kings* (eds. Keith Bodner and Benjamin J. M. Johnson; London: Bloomsbury T & T Clark, 2019), 169-184.

¹⁵ See Sandra Ladick Collins, (2013) *Weapons Upon Her Body: The Female Heroic in the Hebrew Bible* (Minneapolis: Fortress, 2013). For a study of agency in Judith, see Philip F.

biblical texts, to cite only a few works, Bernadette Brooten has shown women in leadership roles in Judean/Jewish synagogues and Fiorenza has argued for a far more ample role for women during the earliest phase of the Christ-movement, while Tal Ilan, Judith Evans Grubb and Lynn Cohick have reassessed the lives of Roman, Greek and Judean women and broadened the understanding of the extent to which they acted to take responsibility for themselves and others, far transcending the closeted private realms to which they have been traditionally relegated.

It must be acknowledged that the scholarship just discussed also embraces a wide range of genres, with biblical narratives at one end of the spectrum, probably already written by men and certainly from a male standpoint not particularly interested in women, and, at the other end, documentary sources actually concerning women in real life situations. My interest in this article is solely with the latter type of source. I have elsewhere propounded in some detail the methodology that I consider appropriate to such material as “archival ethnography.”¹⁶ That methodology informs my approach throughout this article and I will occasionally refer to it below.

The Babatha and Salome Komäise Archives

Esler, “‘By the Hand of a Woman:’ Culture, Story and Theology in the Book of Judith,” *Social Scientific Models for Interpreting the Bible: Essays by the Context Group in Honor of Bruce J. Malina* (ed. John J. Pilch; Leiden: E J Brill, 2001), 4-101.

¹⁶ Philip F. Esler, *Babatha’s Orchard: The Yadin Papyri and An Ancient Jewish Family Tale Retold* (Oxford: Oxford University Press, 2017), 1-27.

Within this framework of scholarly discussion, the particular aim of this article is to continue this exploration and assertion of female agency in the biblical world by examining two particular bodies of material: the Babatha archive of thirty-five legal papyri dating from 94 to 132 CE and the Salome Komaïse archive of six papyri dated from 29 January 125 to 7 August 131 CE. The documents constituting the Babatha archive were discovered in 1961 in a cave in Nahal Hever, near En-Gedi on the western side of the Dead Sea, where they had been very carefully hidden (in a void, covered by a stone), probably by the woman Babatha. Along with other Judean fugitives from the Romans at the end of Bar Kokhba revolt, Babatha had taken refuge in the cave in 135 CE. These papyri are generally referred to as P. Yadin 1-35 because Yigael Yadin led the team that discovered them.¹⁷ No other family archive of this size has been found from the Dead Sea region, or Palestine, from the ancient period. Babatha came from Maoza on the south-eastern shore of the Dead Sea (initially in the Kingdom of Nabatea but from 106 CE within the Roman Province of Arabia), but her second husband had strong links with En-Gedi (in the Roman Province of Judea) as well as Maoza. Maoza was only a few kilometers from the border with Judea. Twenty-six of the documents were written in Greek, which became the dominant language

¹⁷ See Yigael Yadin, *The Finds from the Bar Kokhba Period in the Cave of Letters* (Jerusalem: The Israel Exploration Society, 1963). Important additional details are found in Yigael Yadin (1962) 'The Expedition to the Judean Desert, 1961: Expedition D — The Cave of the Letters', *Israel Exploration Journal* 12 (1962): 227-257.

after the Roman annexation, and were published in 1989.¹⁸ Nine of them were written in Aramaic, Nabatean or Judean, and were published in 2002.¹⁹ A much smaller archive, of six papyri, belonging (loosely speaking) to the woman Salome Komaïse, also from Maoza, five in Greek and one in Aramaic,²⁰ was probably also hidden in the same cave where Babatha hid her archive.²¹ The small number of the documents in this archive and their subject matter mean this archive has less to contribute to a discussion of female

¹⁸ Naphtali Lewis, *The Documents from the Bar Kochba Period in the Cave of Letters: Greek Papyri and Aramaic and Nabatean Signatures and Subscriptions* (Jerusalem: Israel Exploration Society, The Hebrew University of Jerusalem and the Shrine of the Book, 1989).

¹⁹ Yigael Yadin, Jonas C. Greenfield, Ada Yardeni and Baruch A. Levine, eds., *The Documents from the Bar Kochba Period in the Cave of Letters: Hebrew, Aramaic and Nabatean-Aramaic Papyri* (Judean Desert Studies. Jerusalem: Israel Exploration Society, Institute of Archaeology, Hebrew University and Shrine of the Book, Israel Museum, 2002).

²⁰ Hannah Cotton and Ada Yardeni (1997) *Discoveries in the Judean Desert* (Volume 27. Aramaic, Hebrew and Greek Documentary Texts from Nahal Hever and Other Sites: With an Appendix Containing Alleged Qumran Texts [The Seiyâl Collection I]: Desert. Oxford: The Clarendon Press), 60-64 (an Aramaic papyrus) and 158-237 (Greek papyri). A much briefer description of this archive (including Greek texts and translations but not the Aramaic papyrus, No. 12 in Cotton and Yardeni, *The Seiyâl Collection*) also appeared in Hannah M. Cotton, "The Archive of Salome Komaïse Daughter of Levi: Another Archive from the 'Cave of Letters,'" *Zeitschrift für Papyrologie und Epigraphik* 105 (1995): 171-208.

²¹ The Bedouin tribesmen who found most of the archive claimed to have done so in a cave in Wadi Seiyal. The discovery of one document from the archive in the cave in Wadi Hever (No. VI) indicated that that was the findspot for the whole archive – see Cotton and Yardeni, *Documentary Texts*, 1-4 and Cotton, "The Archive," 171.

agency than the papyri of Babatha's archive but it is a valuable source nonetheless.²²

The Disclosure of Social Worlds in Legal Documents

This article is not the first time that legal material from the biblical world has been scrutinised for evidence of female agency. For example, research has been conducted into women in the legal traditions found in the Book of the Covenant (Exod 20:23-23:19) and Deuteronomy.²³ Yet although legal material in the Hebrew Bible is not necessarily identical with law as it was actually practised in Israel and elsewhere, there is evidence for recognizably Judean law among the Dead Sea legal papyri of the first and second centuries CE. Once Nabatea became a Roman province in 106 CE, the usual Roman approach to law in the provinces—to recognise other legal systems in Roman courts—was applied. This policy of “legal pluralism” was first explained by

²² The documents consist of: a tax or rent receipt from 29 January 125 CE (no. 60 in Cotton and Yardeni, *Documentary Texts*); the conclusion to a land declaration by Salome's brother in the census of 127 (no. 61); a second land declaration in the same census by Salome's first husband (no. 62); a deed of renunciation by Salome Komaïse to land owned by her deceased father and brother in favor of her mother (no. 63); a deed of gift of a date grove and half a courtyard from Salome's mother to Salome (no. 64); and, lastly, Salome's marriage contract to her second husband dated 7 August 131 (no. 65).

²³ See Carolyn Pressler, *The View of Women Found in the Deuteronomic Family Laws* (New York: de Gruyter, 1993) and Cheryl B. Anderson, *Women, Ideology, and Violence: Critical Theory and the Construction of Gender in the Book of the Covenant and the Deuteronomic Law* (London: T & T Clark 2005).

Ludwig Mitteis in 1891.²⁴ As a result, after 106 CE legal documents from towns within the new province, like Maoza (from which most of the documents mentioned in this article originated), were likely to reflect, and did in fact reflect, a play of Roman, Greek, Nabatean and Judean law, as Giles Rowling has comprehensively shown.²⁵ Rowling has demonstrated, for example, the use and recognition of Judean law in the province in areas such as marriage and divorce, the guardianship of women and children.²⁶ When Babatha married her second husband, for example, her wedding contract (written in Judean Aramaic) was expressed to be “[according to the la]w of Moses and the Judeans” (P. Yadin 10, line 5).²⁷ While a full discussion of the use of the Mosaic law in this period falls outside the scope of this article, a recent essay by Seth Schwartz highlights the key issues and much of the scholarship.²⁸

Biblical texts and actual legal documents involving Judeans did not differ merely in the extent to which Mosaic law was, or was understood to be, authoritative. In addition, discerning connections between the text and its social setting is much easier for the latter than for the former. We must always

²⁴ Ludwig Mitteis, *Reichsrecht und Volksrecht in den östlichen Provinzen des römischen Kaiserreichs, mit Beiträgen zur Kenntnis des griechischen Rechts und der spätrömischen Rechtentwicklung* (Leipzig: Teubner, 1891).

²⁵ See Giles I. O. Rowling, “Law in Roman Arabia 106-132 CE,” a doctoral thesis accepted by Macquarie University, Sydney, 2019.

²⁶ Rowling, *Law in Roman Arabia*, 163-186.

²⁷ See Yadin *et al.*, *Documents*, 126 (Aramaic text) and 127 (translation).

²⁸ Seth Schwartz, “Law in Jewish Society in the Second Temple Period,” *The Cambridge Companion to Judaism and Law* (ed. Christine Hayes, Cambridge: CUP, 2017), 48-75.

make allowance for the influence of authorial communicative aims, Yahwist beliefs and even literary genre in the way biblical legal provisions are presented. These factors mean that reading the social context out of these texts is a complicated matter (although it should not be written off on that account as impossible, or as some form of illicit “allegorizing”). These complicating factors do not, however, beset the legal documents in the Babatha and Salome Komaïse archives. Where they represented agreements, it was in the interests of all parties to them to ensure their factual accuracy. Where they were prepared for litigation, while they were certainly partial (where such partiality is itself socially revealing), they still needed to be accurate enough to ensure that they would hold up under hostile examination by the other side before the presiding judge. In every case, contractual or litigious, moreover, these documents represented a significant opportunity or challenge in the parties’ lives, since otherwise scribes (and those visible in the earliest documents in the Babatha archive in particular were very competent lawyers)²⁹ would not have been instructed (and paid) to draft them.

Legal documents, in fact, allow unique (although not fully transparent) access onto the social world from which they come. Behind every legal contract and instance of litigation there are people in a particular social context coming into contact, either positively (in the former case) or negatively (in the latter). Every such legal interaction tells a story, or, especially in the case of matters litigated in a court, provides evidence of a powerful human drama that opens

²⁹ See Esler, *Babatha’s Orchard*, especially 176-220 in relation to the drafting of P. Yadin 4.

up the social context to historical scrutiny in an unparalleled manner for reasons well explained by Gerd Theissen:

Among the unusual and singular events about which we have some knowledge, however, conflicts play a special role. Here the various customs of social groups collide with one another. In such circumstances the unusual actually sheds light on the ordinary, the dramatic conflict reveals the banal. If ever we can derive information about the social background of our historical traditions, it is through the analysis of such conflicts.³⁰

In spite of this, the documents of the Babatha and Salome Komaïse archives have attracted very little sustained attention in relation to the social realities in Nabatea/Arabia and Judea in the four decades before the Bar Kokhba Revolt. Apart from numerous observations on social matters to be found in the three editions,³¹ they have been examined mainly for their legal dimensions,³²

³⁰ Gerd Theissen, *The Social Setting of Pauline Christianity: Essays on Corinth*. ET by John H. Schütz (Studies of the New Testament and Its World. Edinburgh: T & T Clark, 1982), 121.

³¹ Yadin *et al.*, *Documents*; Lewis, *Documents*; and Cotton and Yardeni, *Documentary Texts*.

³² See *Law in the Documents of the Judean Desert* (eds. Ranon Katsoff and David Schaps; Leiden: Brill, 2005); Jacobine G. Oudshoorn, *The Relationship between Roman and Local Law in the Babatha and Salome Komaïse Archives: General Analysis and Three Case Studies on Law of Succession, Guardianship and Marriage* (Studies on the Texts of the Desert of Judah, 69; Leiden: Brill, 2007); Kimberley Czajkowski, *Localized Law: The Babatha and Salome Komaïse Archives* (Oxford: Oxford University Press, 2017); and Rowling, *Law*. Professor Hannah Cotton has written numerous important articles on legal aspects of the

hitherto largely by very able humanities scholars who, however, generally lack experience of legal practice. While I acknowledge that it is necessary to have a firm grip on the legal issues they throw up, my preferred interest in relation to these papyri is to use them as evidence on issues such as social structures and relations, values and identities in the late first and early second centuries CE.³³ In addition, as well as these documents deserving investigation primarily on their own account, exploring them in this way also provides a means of approaching the original meaning of some New Testament texts.³⁴

One preliminary legal issue of some importance requires mentioning at the outset. The first four documents of the Babatha archive date from 94 CE (P. Yadin 1) and 99 CE (P. Yadin 2, 3 and 4). They were written in the Kingdom of Nabatea, in Nabatean Aramaic, and represent Nabatean law (a sophisticated legal system). The remaining thirty-one documents date from 110 to 132 CE and were all written after Nabatea had become a Roman

Dead Sea legal papyri of which here is a sample: "A Cancelled Marriage Contract from the Judaean Desert (XHev/Se Gr. 2)," *Journal of Roman Studies* 84 (1994): 64-86, Plates I-II; "Land Tenure in the Documents from the Nabataean Kingdom and the Roman Province of Arabia," *ZPE* 119 (1997): 255-265; and with Jonas C. Greenfield, "Babatha's Property and the Law of Succession in the Babatha Archive," *ZPE* 104 (1994): 211-224 and "Babatha's *Patria*: Mahoza, Mahoz 'Eglatain, and Zo'ar," *ZPE* 107 (1995): 126-134.

³³ See Philip F. Esler, *Babatha's Orchard: The Yadin Papyri and An Ancient Jewish Family Tale Retold* (Oxford: Oxford University Press, 2017).

³⁴ See Richard Bauckham's pioneering analysis of these and other sources to shed light on Joanna in Luke 8:3 (*Gospel Women: Studies of the Named Women in the Gospels* [Grand Rapids, MI: William B. Eerdmans, 2002], 121-135) and Philip F. Esler, "Reading Matthew by the Dead Sea: Matthew 8:5-13 in Light of P. Yadin 11," *HTS Theological Studies* 70 (2014).

province. The six documents of the Salome archive all date from the period of the Roman province of Arabia. As noted above, Ludwig Mitteis argued in 1891, and recent research confirms his view,³⁵ that the Roman practice upon establishing a province was to introduce Roman law for some purposes but to permit the continuation of indigenous law for many others. P. Yadin 1-35 and the Salome Komaïse papyri actually embody, in various ways, Nabatean, Judean, Greek and Roman legal principles and practices that I will refer to briefly below where they become relevant.

In the section that follows I will set out the foundation for female agency as revealed in the documents of the Babatha and Salome Komaïse archives: the fact that some of the women mentioned possessed very considerable financial resources. In the next two sections I will explain how they exercised these resources, firstly, by functioning as business-women and, in effect, bankers and, secondly, by seizing assets that had been mortgaged in their favour as security for money owed to them and by initiating litigation when they perceived their personal, familial or financial interests were threatened. In the penultimate section I will consider how the application of the Roman law relating to the guardianship of women (*tutela mulierum*) in the Province of Arabia impacted on female agency. After that, I will offer a brief conclusion.

³⁵ Ludwig Mitteis, *Reichsrecht und Volksrecht*. Recent applications include Rowling, *Law*, and Georgy Kantor, *Roman Law and Local Law in Asia Minor (133 BC–AD212)*. Unpublished D. Phil Thesis (Oxford, 2008).

THE BASIS OF FEMALE AGENCY: WOMEN AS POSSESSORS OF CAPITAL

The Unusual Agricultural Context

The primary agricultural activity in Maoza appears to have been the production of dates from palm-trees growing in fields that were irrigated with water flowing from the mountains to the east, probably along the River Zered.³⁶ Dates were also grown at En-Gedi.³⁷ Dates were a valuable cash crop and villagers who owned date plantations could earn significant amounts of money (as we will see, however, they could also suffer serious losses). In this regard, they were probably atypical of most of the Nabatean and Judean peasantry, who lived by subsistence farming.

The Role of Dowries in this Context

Even though Nabatea (from 106 CE, the Roman Province of Arabia) was a patrilineal society, some of this money found its way to women in the form of dowries and gifts (especially around the time of their marriage) by which fathers and mothers sought to make provision for their daughters, given that their sons would inherit the residue of the family estate. Dowries have

³⁶ On the location of Maoza and the source of its water, see Esler, *Babatha's Orchard*, 67-69.

³⁷ On date cultivation in the region, see Esler, *Babatha's Orchard*, 69-74.

inevitably attracted the attention of anthropologists.³⁸ At one level dowries were a form of compensation for a man's taking a woman as his wife. As Michael Satlow has observed, both the Aramaic and Judean wedding contracts from the Dead Sea region indicate the purpose of the dowry (at least as far as the husband was concerned): "The husband's use of the dowry is intended to compensate him for feeding and clothing her and their children."³⁹ Things were rather different from the woman's perspective. Dowries were one means of ameliorating the effect of a patrilineal inheritance system for the benefit of women. Dowries were meant to be held by the husband to be made available to the wife in the event that he died or divorced her. They were essential to the financial security of the women concerned, unless they possessed other property. Anthropologists have discovered that in social systems where dowries are customary, the bride's father aims to link his daughter and their family to a particularly worthy son-in-law. This means looking for a groom from a family of matching wealth and status.⁴⁰

Limitations to the Benefits of Dowries for Women

³⁸ See Jack Goody and S. J. Tambiah, *Bridewealth and Dowry*. Cambridge Studies in Social Anthropology, 7 (Cambridge: CUP, 1973) and Siwan Anderson, "The Economics of Dowry and Brideprice," *Journal of Economic Perspectives* 21 (2007):151-174. See Esler, *Babatha's Orchard*, 91-93, for a discussion of dowries.

³⁹Michael L. Satlow, *Jewish Marriage in Antiquity*. Princeton, NJ: Princeton University Press, 2001), 209.

⁴⁰ See Jack Goody in Goody and Tambiah, *Bridewealth and Dowry*, 17-18 and Esler, *Babatha's Orchard*, 92.

While dowries were very useful, there were, however, limitations to the benefits they offered women. There is evidence that a woman was allowed to lend some or all of her dowry to her husband for specific purposes unconnected with the maintenance of the wife and their children under both Nabatean and Judean law, since we find 'Amat-'Isi in P. Yadin 1 and Babatha, as evidenced by P. Yadin 21, line 11, doing precisely that. Wives may well have come under considerable pressure to agree to such arrangements. This perhaps explains why P. Yadin 1 indicates that a Nabatean woman had to agree expressly to the use of her dowry in a loan made to her husband, since lines 46-52 are precisely such a provision. Yet every case where a husband wanted to borrow from his wife was likely to have been unique, since it depended on the relationships and attitudes of the husband and wife, and of his family and her family. If her father or brothers were alive, they would probably have counselled the wife against letting her husband borrow her dowry. As Michael Satlow has noted, "The second-to-last thing that a woman and her family wanted to see was her husband going broke having (illegally) squandered her dowry."⁴¹ While the "squandering" may actually have been legal, the woman's father or brother(s) would not relish having to support a woman (possibly with children) from their own resources when they already done so when she married. One of the papyri from the Judean *politeuma* of Herakleopolis, P. Polit. Iud. 4, is a petition of a man named Philotas against one Lysimachus who had agreed an engagement between his daughter, Nikaia, and Philotas, including an agreed dowry, and then married her off to

⁴¹ Satlow, *Jewish Marriage*, 205.

someone else before Philotas had issued the bill of divorce that was customary (i. e. under Judean law: Deut 24:1, 3).⁴² One possible explanation for this behaviour is that Lysimachus had discovered that Philotas needed the dowry for purposes other than the upkeep of his daughter—given that no father acting rationally was likely agree to pay a dowry that was likely to disappear the moment the husband received it, especially when the institution of dowry usually brought together families of similar wealth and status.

In almost all cases the women had a mortgage or lien against their husband's property to secure the return of the dowry. Thus, 'Amat-'Isi had security under the terms of P. Yadin 1 and Babatha by the terms of her wedding contract to her second husband, P. Yadin 10. Yet while the security thus offered was good in principle, Babatha's experience of seizing her late husband's date orchards to sell the dates therefrom to defray his debts to her (P. Yadin 21 and 22), only to be sued by his surviving relatives (P. Yadin 23-26), shows how difficult successfully enforcing the security might be. Yet the very act of a woman, like Babatha, distraining property to restore her dowry and/or litigating in connection with such actions represents a considerable exercise of female agency. A dowry therefore meant either a significant financial resource, and hence agency, if a widowed or divorced wife successfully retrieved it (as was surely often the case), or an interesting if challenging arena for the exercise of agency if she had to take action, by legal suit of distraint of property, to obtain

⁴² James M. S. Cowey and Klaus Maresch, eds., *Urkunden des Politeuma der Juden von Herakleopolis (144/3 – 133/2 v. Chr.) (P. Polit. Iud.): Papyri aus den Sammlungen von Heidelberg, Köln, München und Wien* (Wiesbaden: Westdeutscher Verlag, 2001), 56-71.

it from her husband or his estate. We must now consider the size of the dowries mentioned in the Babatha and Salome Komaïse archives.

The Value of Dowries

The dowries provided for these women could be large. P. Yadin 1 from 94 CE is the contract whereby the Nabatean woman, 'Amat-'Isi, lent her husband 150 *sela*'s in silver, a sum equivalent to 600 *denarii*, while offering him credit for another 150 *sela*'s, or 600 *denarii*.⁴³ This money came from her dowry (line 18) and, since the document does not indicate that the arrangement exhausted her dowry, it could well have been larger. Thus she had a dowry of at least 1,200 *denarii*. Under the terms of her marriage to her second husband, drafted "according to the law of Moses and the Judeans" (P. Yadin 10, line 5),⁴⁴ Babatha received a dowry of 400 *denarii*. P. Yadin 18 is the wedding document (which expressly applies Greek law to the raising of any children; lines 16 and 51) of Shelamzion, the daughter of Babatha's second husband, from 5 April 128 CE. Under its terms she received a dowry worth 200 *denarii* from her father, to which her husband agreed a further 300 *denarii*.⁴⁵

Women as Owners of Date-Palm Plantations

⁴³ See the translation in Esler, *Babatha's Orchard*, 235-238.

⁴⁴ For the text (in Aramaic Judean) and translation, see Yadin *et al.*, *Documents*, 126-127.

⁴⁵ For the text (in Greek) and translation, see Lewis, *Documents*, 77-81.

Yet dowries were not the only financial resources available to the women of the Babatha archive. We know that Babatha not only had a dowry of 400 *denarii* in relation to her second marriage, but she also had a further 300 *denarii*, which she lent to her second husband in 121 CE as recorded in P. Yadin 18.⁴⁶ One source of cash for women was from the sale of the crops from farming lands that they owned, a subject to which we now turn.

Babatha was also a wealthy woman in relation to real estate, as we know from the registration of her property she provided to the Roman authorities during the census of the Province of Arabia in 127 CE (P. Yadin 16).⁴⁷ She lists four date-palm plantations and the quantities of dates and barley they produce. The plantations are identified by name and two abutters (as eventually required by Roman law,⁴⁸ and possibly at this time, even though in the Nabatean contracts for the sale of land, such as P. Yadin 2 and 3, four abutters were specified). The first two properties are called Algiphiamma, an Aramaic expression (‘*al gif yamma*) meaning “by the sea.” These almost certainly represent a plantation purchased by Shim’on, her father, in 99 CE, because of the similarity in the principal abutters—the sea, a road and the imperial, previously royal, estate—which we know from P. Yadin 3 lay to the north, east and south respectively, although here divided into two properties

⁴⁶ See Lewis, *Documents*, 71-74.

⁴⁷ See Lewis, *Documents*, 65-70.

⁴⁸ Justinian, *Digest*, 50.15.4.

bearing the same name.⁴⁹ At some stage, either before or after the partition, Shim'on must have given this property to this daughter, perhaps along with the other two plantations.⁵⁰ A highly probable occasion would have been on the occasion of her first marriage;⁵¹ the date of the marriage is unknown, but perhaps occurred around 115-120 CE.⁵²

In 120 CE Shim'on, pursuant to the provisions of P. Yadin 7,⁵³ gave his wife, Miriam, all that he possessed in Maoza, "(consisting) of houses and courtyards, (both) lower (stories) and upper (stories) and household utensils, and date palms and their yield, and palm orchards, both ground and trees, in entirety." He then listed the properties concerned: four palm-groves (described using *abutters*) and their rights to regular supplies of water; date palms scattered throughout Maoza and irrigation ditches; and his courtyards and houses in Maoza. In 99 CE the date plantation that Shim'on purchased in Maoza (pursuant to the terms of P. Yadin 3)⁵⁴ had cost him 168 *se'a's*, equivalent to 672 *denarii*. While this may have been a bigger plantation than the four he gave his wife some twenty years later, their total value was probably somewhere in the value of 1,000 to 1,500 *denarii*.

⁴⁹ The story of the highly unusual circumstances in which Shim'on came to purchase the date-plantation is told in Esler, *Babatha's Orchard*.

⁵⁰ Alternatively, one or other of her two husbands could have given these to her.

⁵¹ As suggested by Hannah M. Cotton and Jonas C. Greenfield, "Babatha's Property and the Law of Succession in the Babatha Archive," *ZPE* 104 (1994), 211-224, at 217.

⁵² I argue below that her son was about to turn fourteen in 132 CE.

⁵³ See Yadin *et al.*, *Documents*, 81-88 for the text (in Judean Aramaic) and translation.

⁵⁴ For a translation of the text, see Esler, *Babatha's Orchard*, 247-251.

A mere eleven days after settling a dowry on Shelamzion, her father (Judah, Babatha's second husband) also entered into a deed pursuant to which he gave her title to all his property in En-gedi, with half to be transferred to her immediately and half on his death. This is P. Yadin 19, of 16 April 128.⁵⁵ This property consisted of a courtyard with a residential building having various rooms. The value of this real property is not stated, but clearly it could have been sold or mortgaged by Shelamzion if she wished. Her husband, Judah Cimber, was resident in En-Gedi and presumably owned his own dwelling, or perhaps lived with this father if he was still alive; in any event, given the fact that he substantially augmented Babatha's dowry, he must have been in a position to house her. This means that she had the value of the courtyard and building in En-Gedi to use as she wished.

One final example is the Nabatean woman 'Abi-'adan. In mid-winter 99 CE she sold a date-palm plantation she owned in Maoza, which lay between the shore of the Dead Sea to the north and property owned by the Nabatean king to the south, to one Archelaus (a Nabatean *strategus*, or provincial governor) for 112 *sela's*, or 448 *denarii*. The sale is recorded in P. Yadin 2.⁵⁶ No residential structures are mentioned in the deed, so she must have lived somewhere else in Maoza. Accordingly, this sale produced a considerable sum of cash (in silver coinage) that she could use for other purposes. A month later, after this transaction had been rescinded for reasons I have explained

⁵⁵ See Lewis, *Documents*, 83-87.

⁵⁶ For a translation of the text, see Esler, *Babatha's Orchard*, 241-245.

elsewhere,⁵⁷ she sold the property, but now enlarged by the addition of an extra portion, to Shim'on, Babatha's father, for a price increased by 50% to 168 *sela's*, or 672 *denarii*, pursuant to a deed of sale that is P. Yadin 3 (mentioned above). This gave her even greater liquidity for other uses.

Evidence in the archive of Salome Komaïse reveals another woman from Maoza around the time of the census of 127 CE who also owned orchards, namely, Salome Grapte, Salome's mother. The brother of Salome Komaïse registered property in the census in April 127 (though the details have not survived).⁵⁸ Later in 127, by which time this brother and her father had died, Salome executed in favour of her mother a deed of renunciation, mentioned above, regarding properties left by both the brother and the father, both of whom had died by that time.⁵⁹ The brother's properties (almost certainly including interests in a date-palm plantation or plantations) would have been itemised in the missing part of Document 61. It is reasonable to assume from this evidence that Salome Grapte was quite a wealthy woman. She was wealthy enough, indeed, that two years later she was able to give her daughter a date grove and half a courtyard, the latter including half of the rooms and the upper-storeys therein.⁶⁰ Not surprisingly, therefore, Richard Bauckham, who has also considered these documents in relation to women's wealth, is of the view "that in these two wealthy Jewish families (sc. of

⁵⁷ Esler, *Babatha's Orchard*, 135-149.

⁵⁸ This is Document 61 in Cotton and Yardeni, *Documentary Texts*, 174-180.

⁵⁹ This is Document 63 in Cotton and Yardeni, *Documentary Texts*, 195-202.

⁶⁰ This is Document 64 in Cotton and Yardeni, *Documentary Texts*, 203-223.

Babatha and Salome Komaïse) the women owned considerable real estate, acquired from fathers, mothers, and husbands ...”⁶¹ Although perhaps not directly relevant to the argument here, in the Roman census of 127 CE a man called Sammous, son of Shim'on, the husband of Salome Komaïse, also registered property in Maoza that consisted of half shares in several properties devoted to the cultivation of dates, barley and grapes.⁶² The fact that considerable property was held by both Salome's natal and affinal families probably reflects the circumstance, mentioned previously, that in social systems where dowries are provided, the two families are usually roughly equal in wealth and status.

From the generation earlier we also know of the Nabatean woman Abi-'adan who, in 99 CE, sold Shim'on the date orchard (which he later gave Babatha) for 168 *sela's*, equivalent to 672 *denarii* (P. Yadin 3). This deed also mentions another property-owning woman as abutter on the western boundary, in the form of the “the houses of Taha, daughter of 'Abad-Haretat.” As already noted, in 94 CE another Nabataean woman, 'Amat-'Isi, lent the large sum of 150 *sela's* to her husband from her dowry, and agreed to double this loan if requested (P. Yadin 1). She was thus considerably richer than Babatha a generation later, but Babatha still had considerable assets.

These data indicate that there were many women around the Dead Sea, at least in Maoza and En-Gedi, where date cultivation was practised, who had

⁶¹ Bauckham, *Gospel Women*, 124.

⁶² This is Document 62 in Cotton and Yardeni, *Documentary Texts*, 181-194.

very considerable sums of cash to deploy in various ways. This was a fundamental aspect of the agency they enjoyed. It was not the only one, because they also had status as wives (and, in some cases at least, mothers) and could wield power in their families, while also enjoying various measures of legal protection under the Nabatean, Judean and Roman law.

Nevertheless, the money was highly significant and we will see below how they could use it in commercial and even quasi-banking transactions. The second area of agency, their role in litigation, also considered below, was a zone of intersection between their wealth and the rights they possessed under the relevant legal systems operative in this world.

Were the Women of Maoza Atypically Wealthy?

Yet two objections could be made to this data in relation to female agency. The first objection is that this was an atypical group of peasants in that they cultivated a valuable cash crop. The second is that perhaps Babatha and Salome Grapte were uncharacteristically wealthy members of this group. Let us consider these objections in turn.

As to the first objection, one must acknowledge that the people engaged in date farming in Maoza, which was entirely dependent on irrigation water flowing down from the elevated country to the east, were very likely to have been richer than subsistence farmers. Dates were a valuable cash crop and

we know that sometimes they grew barley between the trees.⁶³ The inhabitants of En-Gedi must have been in a similar position because they grew dates and valuable balsam trees. Jericho was also a site for date cultivation. Although we do not have precise knowledge on the location of Maoza and are thus not able to estimate its population by its size, the documents of the Babatha and Salome Komaïse archives provide evidence for a considerable population of Nabateans and Judeans, probably in the hundreds if not the low thousands. The evidence lies in the number of people named in the documents as parties, owners of neighbouring properties, witnesses and scribes.

The scholarly context for this subject is the recent discussion about wealth levels in the early Roman empire. In 2004 Steve Friesen published what he called a “poverty scale” that differentiated seven levels in the Roman empire.⁶⁴ Level 1 comprised the imperial elites and Level 7 people living below a subsistence level. Level 4 referred to people who had moderate surpluses, but he did not include farmers. Although he was mainly concerned with urban contexts, he included some farming families in Level 5 (people living at stable near subsistence) and Level 6 (people living at subsistence level but often in difficulty). He attracted a response from Peter Oakes, and

⁶³ Babatha declared dates and barley from three of her date orchards in the census of 127 CE (P. Yadin 16; discussed in Esler, *Babatha's Orchard*, 72-73).

⁶⁴ Steven J. Friesen, (2004) 'Poverty in Pauline Studies: Beyond the So-Called New Consensus', *JSNT* 26 (2004): 323-361.

Bruce Longenecker later offered a modified scale.⁶⁵ Longenecker argued that Friesen had focused too much on poverty and sought to rework Levels 4, 5 and 6. In particular, he suggested that Level 4 “looks to be a significantly elongated category of wealth.”⁶⁶ Level 4 appears to be closest to the situation of the date farming families of Maoza.⁶⁷ Looked at in this way, it is reasonable to suggest that, while this group of farmers may have represented a small proportion of the total farming population, they were still recognizably part of the total economic spectrum of their time. Others who were less wealthy than them would have been aware of their existence and perhaps wished that they too could move into that form of farming. Similarly, the expressions of female agency visible among the date cultivators of Maoza (and elsewhere) would have been known beyond their community as potential modes of womanhood.

The second objection is that perhaps Babatha and Salome Grapte were unusually wealthy. Most of the people referred to in the documents of the Babatha and Salome Komaïse archives, in particular as abutters of properties that are mentioned, were men. But a significant proportion of them were women. The easiest way to demonstrate this is with respect to P. Yadin 7. This was a deed of gift executed on 13 July 120 whereby Shim'on (Babatha's father) gave his wife, Miriam, contingent upon his death, all of his property in

⁶⁵ Peter Oakes, Peter (2004) ‘Constructing Poverty Scales for Graeco-Roman Society: A Response to Steven Friesen’s “Poverty in Pauline Studies”’, *JSNT* 26 (2004): 367-371 and Bruce Longenecker, *Remember the Poor: Paul, Poverty and the Greco-Roman World* (Grand Rapids, MI: William B. Eerdmans, 2010).

⁶⁶ Longenecker, *Remember the Poor*, 54-55.

⁶⁷ See Esler, *Babatha's Orchard*, 80-82.

Maoza, which consisted of four irrigated date orchards, houses and courtyards.⁶⁸ Each of the four orchards is identified, as was standard Nabatean practice, with respect to the neighbours or natural or human features on the four boundaries. In relation to the sixteen boundaries of Shim'on's orchards in scope, nine owners of the properties are named: sometimes the same people feature as owners of properties along different boundaries, or the desert or the river forms the boundary. Five of these owners are collective, that is, "the heirs of X" or "the heirs X son of Y," all of them bearing Judean names, and four are individuals, three men (all with Nabatean names) and one woman (Yohanah, daughter of Makkuta, a Judean). Therefore, as a result of Shim'on's gift, among this group of properties there were eight owners (collective or individual) who were male and two who were female (both individual), Yohanah and Miriam. This produces the rough estimate of 20% of owners being women, which meant there must have been scores, if not hundreds, of women in Maoza in 120 CE who owned lucrative date orchards. So Babatha was unlikely to have been in any way unusual when, six years after this, she registered a number of date orchards in the Roman census.⁶⁹ This evidence suggests that there is no reason to believe that Babatha and Salome Grapte were atypically wealthy among this group of farmers.

FEMALE AGENCY IN BUSINESS

⁶⁸ For the text and discussion, see Yadin *et al.*, *Documents*, 73-108.

⁶⁹ P. Yadin 16 (Lewis, *Documents*, 16-70).

'Amat-'Isi: A Nabatean Businesswoman

We begin with the woman in the oldest document in the Babatha archive, 'Amat-'Isi, whom we have met above in relation to P. Yadin 1 (from 94 CE), where it is recorded that she lent her husband 150 *sela*'s in silver, a sum equivalent to 600 *denarii*, while also making available to him credit for another 150 *sela*'s, or 600 *denarii*, in the event he needed it. A notable feature of this deed is that not only does 'Amat-'Isi's husband, Muqimu, borrow the money from her, but repayment is guaranteed by another man, one 'Abad-'Amanu. Analysis of the text suggests that Muqimu and 'Abad-'Amanu were business partners who needed the money to lease a date-palm plantation for an initial term of two years for 150 *sela*'s.⁷⁰ Clearly they either did not have this money themselves or, if they did, found in 'Amat-'Isi a willing lender. She operated like a banker, providing them with the working capital they required. This was no casual family affair, however, but a professionally organised business arrangement, in which her interests were protected. Nabatean law provided 'Amat-'Isi with her first line of protection: by its law a wife could lend from her dowry, to her husband certainly, as here, and perhaps to others, but only if she had expressly agreed to doing so. Such express agreement is found in lines 46-52 of P. Yadin 1. The highly detailed provisions of the deed provided her with other protection. Under its terms she received interest at the customary interest rate (line 17); around thirty years later it is likely that the going interest rate was 9%.⁷¹ The loan was also secured by a mortgage over

⁷⁰ See the discussion in Esler, *Babatha's Orchard*, 94-108.

⁷¹ For an argument in support of this rate, see Esler, "Reading Matthew by Dead Sea." Also see the discussion further below.

all of Muqimu's property (line 19) and by 'Abad-'Amanu's guarantee (line 35). She could also elect repayment of at least some of the amount in advance (lines 39-40). 'Amat-'Isi exercised considerable power in agreeing to advance this money to her husband and in requiring the terms of the loan just mentioned. Perhaps it was also 'Amat-'Isi who insisted that 'Abad-'Amanu guarantee the total sum.

There is reason to believe that this business venture did not, however, produce the profit that the parties expected and, in fact, ended quite badly. The evidence for this consists in the dramatic rescission by Archelaus, the son of 'Abad-'Amanu, of his purchase from 'Abi-'adan of the date-palm plantation mentioned above in 99 CE, less than one month after that purchase. The likely explanation for this strange turn of events is that the loan had blown out to 300 *sela*'s (1,200 *denarii*) plus interest by 99 CE and that the sudden death of 'Abad-'Amanu led to 'Amat-'Isi's requiring Archelaus to honour his father's guarantee over the loan (meaning Archelaus needed to get back the purchase price for the plantation) pursuant to the law of universal succession (whereby children inherit their parents' debts as well as assets).⁷² As far as the agency of 'Amat-'Isi is concerned, her boldness in making a Nabatean provincial governor honour his father's debt is worth noting. Perhaps this expression of female agency drew on residual egalitarian traditions stemming from the nomadic origins of her people. As Fredrik Barth has demonstrated in his work on the anthropology of nomadism, the fact that the different families in a nomadic group must continually agree on the

⁷² So Esler, *Babatha's Orchard*, 135-149.

location of their next encampment, with a dissentient family simply heading off somewhere else, encourages an egalitarian outlook strongly resistant to hierarchical authority.⁷³ Literary accounts by Diodorus Siculus (19.94.2; 2.48.1-5) attest to the nomadic origins of the Nabateans, while recent archaeological research indicates the presence of a nomadic element in Nabatea into the first and second centuries CE.⁷⁴ Ongoing interactions between sedentary and nomadic elements in a given population are very common; each group needs the other.⁷⁵ In this context, it would not be surprising if 'Amat-'Isi was less impressed by Archelaus' position in the Nabatean political and social hierarchy than she might have been were it not for her nomadic heritage.

Babatha's Loans to Her Second Husband

We find in Babatha another woman from this context who lent money to her husband, sometimes for personal reasons and sometimes, perhaps, for

⁷³ Fredrik Barth, *Nomads of Southern Persia* (Oslo: Universitetsforlaget, 1964), 25-26.

⁷⁴ Steven A. Rosen (2007) "The Nabateans as Pastoral Nomads: An Archaeological Perspective," in *The World of the Nabataeans: Volume 2 of the International Conference The World of the Herods and the Nabataeans held at the British Museum, 17-19 April 2001* (ed. Konstantinos D. Politis. Stuttgart: Franz Steiner Verlag, 2007), 345-372.

⁷⁵ Such is the case with the Pathans in the Swat region of Pakistan (Fredrik Barth, "Ecologic Relationships of Ethnic Groups in Swat, North Pakistan," *American Anthropologist* 58 [1956]: 1079-1089) and the Baggara people of western Sudan (Barbara Michael (1997) "Female Heads of Patriarchal Households: The Baggara," *Journal of Comparative Family Studies* 28 [1997]: 170-182).

commercial ones. Babatha was married twice. Her first husband was Jesus son of Jesus. Around 110 CE his father died, inducing his uncle to sign a deed indicating that he held a considerable body of assets on behalf of the younger Jesus (this is P. Yadin 5, a document in Greek). Babatha probably married Jesus around 115-120 CE, but unfortunately the wedding contract has not survived. Sometime in the period 123 to early 124 CE Jesus died,⁷⁶ leaving an infant son. Before October 125 CE Babatha remarried, her second husband being Judah Khthousion.⁷⁷ Their wedding contract is P. Yadin 10, written in Judean Aramaic. Judah had another wife, and children at that time, and they will appear below. Judah Khthousion appears to have been financially feckless and continually short of cash. In May 124 CE he borrowed sixty *denarii* for a year at 12% interest from the Thracian centurion of the Roman detachment in En-gedi. On 21 February 128, by which time he was married to Babatha, he borrowed 300 *denarii* from her pursuant to the document that is P. Yadin 17 (in Greek).⁷⁸ The fact that only six weeks later he provided a dowry to his daughter in the form of bridal adornment worth 200 *denarii* in silver induces a strong suspicion that he needed to borrow money from Babatha to have money for his daughter's dowry (the wedding contract is P. Yadin 18).⁷⁹ By 130 CE Judah Khthousion had died, being at that point in debt to Babatha for her dowry (400 *denarii* as noted above) and a debt,

⁷⁶ P. Yadin 12 (see below) concerns the appointment of guardians for his infant son in the first half of 124 CE.

⁷⁷ P. Yadin 14 (see below) is a summons dated 11 or 12 October 125 by Babatha with Judah Khthousion acted as her guardian *ad litem*, which indicates that they were married.

⁷⁸ For P. Yadin 17, see Lewis, *Documents*, 71-75.

⁷⁹ Lewis, *Documents*, 76-82.

presumably the 300 *denarii* he borrowed from her pursuant to P. Yadin 17. That these debts from Judah to Babatha were unpaid when he died emerges from P. Yadin 21 and 22 (dated 11 September 130), to which I will return below. So once again we see a wife who appears to be in a more powerful position financially than her husband, providing him with money for personal reasons (such as his daughter's dowry), but also perhaps to assist with his running of three date-palm plantations that he owned (which are mentioned in P. Yadin 21 and 22). Although Babatha extended him the loans, her position was protected: both her wedding contract (P. Yadin 10, lines 17-18) and her loan of 21 February 128 (P. Yadin 17, lines 30-39) contained provisions giving her a mortgage over his assets to secure repayment (see below), while P. Yadin 17 provided for repayment of twice the sum advanced in the event of default. It is evident that Babatha possessed considerable agency in respect of the use and protection of her financial assets.

'Abi-'adan's Loan to Her Husband

The final example of a husband indebted to his richer wife comes from P. Yadin 3 and 4, as I have argued elsewhere.⁸⁰ In brief, when Shim'on came to purchase from 'Abi-'adan the date-palm plantation by the Dead Sea that Archelaus had purchased one month previously in a transaction that he then needed to rescind, Shim'on requested that the property be enlarged by the inclusion of a smaller plot on its south-eastern side that belonged to her

⁸⁰ See Esler, *Babatha's Orchard*, 176-220.

husband Bar Lutay.⁸¹ This meant that Bar Lutay had to provide that plot to his wife in the form of a grant for her to amalgamate with her plantation so as to convey the entirety of the estate to Shim'on. The grant is referred to in P. Yadin 3 (lines 16 and 43) and the grant itself is P. Yadin 4, which has long been wrongly regarded as a guarantee involving unknown parties, even though the names of the two parties, 'Abi-'adan and Bar Lutay, are visible in lines 15 and 16 of P. Yadin 14, a clause in the document that confirms its character as a conveyance of title (in this case taking the form of a grant).⁸² The probable reason for Bar Lutay to agree to this grant to his wife was to satisfy, in whole or in part, a debt that he owed her, a debt (although not the actual amount) in silver that is mentioned in lines 14-15. Accordingly, we have a third instance of a wife with the financial wherewithal to provide working capital to her husband and also with the power, no doubt given her pursuant to a deed of loan entered into by her husband when he borrowed money from her, to require repayment against his assets.

Conclusion

To conclude this section, therefore, in the cases of 'Amat-'Isi, Babatha and 'Abi-'adan we observe three women from the Dead Sea littoral, two of them Nabatean and one Judean, who demonstrated very considerable agency both in relation to the provision of monetary loans to their husbands and in the

⁸¹ This is my suggested vocalization of the consonants of his name.

⁸² For my emended text of P. Yadin 4, see Esler, *Babatha's Orchard*, 229, with the translation on 252-253.

protection of those investments. In addition, however, we are able to reach the quite remarkable conclusion that, although both the Judean and Nabatean ethnic groups operated on the basis of a patrilineal culture, these women were, at least as far as cash was concerned, more in control of their financial destinies than their husbands.

FEMALE AGENCY IN LITIGATION

Babatha's Litigation against Her Son's Legal Guardians

Sometime in the first half of 124 CE, the council of Petra, then the capital of the Roman province of Arabia, appointed two guardians for Babatha's child, Jesus, the son of her first husband, also called Jesus, who had died, presumably not too long before. One of the two guardians, 'Abdodbas son of Illouthas, was Nabatean and the other, John son of Eglas, was Judean. The council minute of this appointment is P. Yadin 12.⁸³ It emerges from P. Yadin 15 (lines 5-6) that Jesus elder had bequeathed money and other property for his infant son and this money had to be managed to provide for his maintenance. Hence the appointment of the two guardians. We cannot be certain (although see below) upon whose initiative the council were requested to make this appointment, but it is most unlikely to have been Babatha.

In a striking demonstration of female agency, we find her in the second half of 124 CE, a mere four months or so after the appointment of the two guardians,

⁸³ See Lewis, *Documents*, 47-50.

filing a summons with the Roman governor of Arabia to complain that they have been providing insufficient money for his maintenance, only two *denarii* a month, and seeking an order that they provide more. Her summons is P. Yadin 13.⁸⁴ The editor also detects, for good reason, evidence in lines 17-19 of a further complaint by Babatha that her late husband's brother, Joseph, had not been providing anything from the family's substantial resources for the maintenance of her son. This further complaint raises the suspicion that it was this Joseph who requested the council in Petra to appoint the two guardians, thereby giving him "cover" for not supporting the child himself. Although, as a woman, Babatha used a guardian *ad litem* to commence proceedings (her second husband; lines 22-23), it is likely that she, and not her second husband, was the active party in bringing these proceedings. The evidence for this emerges in later litigation on this issue and is discussed further below.

Babatha was not, however, successful in obtaining the orders she sought in this summons. We know this because about a year later, on 11th or 12th October 125 she filed another summons (P. Yadin 14), supported by a detailed and well preserved deposition (P. Yadin 15), from which it is clear she was making the same complaint as in the previous year.⁸⁵ Yet the deposition gives us much more information about her motivations and concerns and the thought she had given to protecting her son's interests. For in it Babatha made a specific proposal. She noted (in line 7) that the guardians were only obtaining interest on her son's fund of half a denarius per

⁸⁴ See Lewis, *Documents*, 51-53.

⁸⁵ For P. Yadin 14 and P. Yadin 15, see Lewis, *Documents*, 54-57 and 58-64.

hundred per month (or 6% per annum), meaning that the total sum was 400 *denarii*, since we know from P. Yadin 13 (line 23) that they were paying her son two *denarii* a month. She then proposed that since she had property equal in value to her son's money (therefore, another 400 *denarii*), the two guardians should hand over her son's fund to her, secured by a mortgage over her property, and she would use the interest from both amounts for her son's benefit. She said this would come to a *denarius* and a half per hundred *denarii* (sc. per month), or six *denarii* a month, as compared with the two *denarii* his two guardians were providing him. She is thus clearly counting on being able to attract a 9% interest rate on the total investment, as opposed to the 6% her son's two guardians were providing. Her mother's love for her son is very visible at one point in her deposition. Just after she has stated that she could provide him with, in effect, six *denarii* per month, she adds, "by which my son might be raised in splendid fashion" (ὅθεν λαμπρῶς διασωθῇ [μου] ὁ υἱός; lines 26-27).

One can only admire Babatha's boldness and initiative in coming up with this suggestion and in taking it to the governor. It may not, however, have been completely convincing. One answer to it would have been that there was nothing to stop Babatha from applying the interest on her own 400 *denarii* to her son's maintenance without an order of the court. On this view, all she was offering in addition was one *denarius* extra per month over what the guardians were providing if she got her hands on the fund and succeeded in securing a 9% return as opposed to a 6% return from them. In the event, indeed, it appears that Babatha failed in this audacious effort to assist her son and that

she lost the case. For seven years later, on 19th August 132 we find her having to issue a receipt to a guardian of her son for six *denarii* covering three months payment for this maintenance (P. Yadin 27).⁸⁶ This means she had failed in her bid to have her son's fund transferred to herself and that it continued to yield the same two *denarii* per month it had been yielding seven years earlier. It is possible, but highly unlikely, that there was another guardian to whom Babatha was also providing receipts that have not survived.

It is astonishing to note that we happen to know what Babatha thought about her losing this litigation. P. Yadin 28, 29 and 30 are papyri with a copy on each of the same Greek text, which is a formula from Roman law to be used in a proceeding against a guardian for improper performance of his duties. It is an adaptation of a formula found in the *Institutes* of Gaius (Book 4, 43), dated around 170 CE, which was aimed at a cause of action for wrongful retention of a deposit, and it seeks recompense up to a maximum of 2,500 *denarii*. Babatha must have had this document drafted with a view to her son commencing a suit against his guardians for breach of trust. Although the editor dates these three papyri to c. 125 CE, it seems far more likely that she intended, and was preparing, to assist her son to commence proceedings at the end of his guardianship. Roman guardianship for children was called *tutela impuberum* and it did, indeed, terminate upon the child reaching puberty. Given the difficulties of knowing for certain when puberty had been reached, however, some Roman jurists were of the view that puberty ended on the termination of the child's thirteenth year (Gaius, *Institutes* 1.196). If

⁸⁶ See Lewis, *Documents*, 116-117.

Babatha had this document drafted with a view to her son's turning fourteen, 132 CE is a likely date. So her loss in 125/126 CE did not deter Babatha from planning with her son to resume the fight against his guardians many years later when he was freed of their *tutela* over him. This was a very determined woman. Presumably, however, the commencement of the Bar Kokhba revolt in 132 CE, in which she (and perhaps also her son) were eventually caught up, deflected them from commencing the action they planned.

Babatha's Seizure of Her Second Husband's Date-Plantations

But that is not the end of the story as far as Babatha's propensity to exercise agency by her active pursuit of the legal remedies available to her was concerned. Babatha's second husband, Judah Khthousion, died between 16 April 128, when he gave his daughter property in En-Gedi (via P. Yadin 19), and 19 June 130, the date of P. Yadin 20 in which his orphan sons are mentioned. A likely date is early 130, in view of action Babatha took, no doubt as soon as possible after his death. Her problem was that Judah had died owing her both her dowry of 400 *denarii* (mentioned in P. Yadin 10) and a further debt of 300 *denarii* (pursuant to the loan recorded in P. Yadin 17). Both her *ketubba* and P. Yadin 17 provided security for her recovery of these debts. Lines 17-18 of P. Yadin 10, which is heavily reconstructed but reflects what is found in virtually every Judean wedding contract, provides a mortgage over all Judah's property, then held or acquired afterwards in the form: "And all properties that I possess and that I will acquire are guaranteed and

pledged to payment of your *ketubba*.”⁸⁷ P. Yadin 17 provided, in lines 34-37, that (in order to recover the debt) Babatha had “the right of execution upon Judah and all his possessions everywhere—both those which he possesses and those which he may validly acquire in addition.”⁸⁸ It is something of a surprise to learn that someone as addicted to debt as Judah Khthousion had died owning real estate, at least three date-palm plantations in Maoza (and perhaps other realty elsewhere). It is less of a surprise to find Babatha—being the strong person she was and armed with the clauses giving her security over his property just mentioned—distraining those three properties early in September 130, just as the date harvest was about to begin, so as to use that year’s crop to repay some of her debt. In essence (the legal details are not relevant here), pursuant to P. Yadin 21 and 22 she employed a man to harvest the dates and to pay a fixed amount of the harvest to her, while retaining the balance for himself.⁸⁹ The parties (no doubt including Babatha) devoted careful thought to the likely value of the dates, so that for the better quality dates Babatha expected to get at least 84 *denarii* worth (lines 13-20). It seems likely, therefore, that Babatha was expecting to receive less than one-seventh of the amount her husband owed her from that year’s harvest. Full recoupment was thus going to be a long and drawn out business even without any complications, and she soon encountered one. On 17 November 130 the guardian of the orphan sons of Judah Khthousion by his first wife commenced action against Babatha in respect of the date-palm orchards she had seized,

⁸⁷ Yadin *et al.*, *Documents*, 127.

⁸⁸ Lewis, *Documents*, 73.

⁸⁹ They are found, respectively, in Lewis, *Documents*, 94-97 and 98-101.

in the form of a summons (P. Yadin 23) and deposition (P. Yadin 24), in line with Roman civil procedure.⁹⁰ These are probably the same orchards as those referred to in P. Yadin 21 and 22, although that is not entirely clear.⁹¹ It does appear that Babatha was successful in relation to getting in the date crop in the winter of 130/131, since in July 131 an apparently elite Roman woman, Julia Crispina, initiated proceedings again on behalf of Judah's infant sons relating to properties that Babatha was alleged to possess illegally (P. Yadin 25). Looking more closely into the details of these proceedings (which included a clever manoeuvre by Babatha at one point to move the hearing to another town) is, however, beyond the scope of this article.

The Litigation between Babatha and Her Late Husband's Other Wife

We now come to a different case in which Babatha became involved, which reveals female agency in the context of co-wives—a personally and socially fraught situation for the two women, as is clearly evident as far back as the case of Hannah and Peninnah in 1 Samuel 1-2.⁹² As already noted, when Judah married Babatha he already had a wife, Miriam. She was probably living in En-Gedi. In his marriage-contract with Babatha, Judah had provided that “If I should to go my eternal home before you, you will reside and continue to be provided for from my house and my properties until that time

⁹⁰ See Lewis, *Documents*, 102-104 and 105-107.

⁹¹ See the discussion by Lewis, *Documents*, 107.

⁹² See Philip F. Esler, “Hannah, Peninnah and Elkanah (1 Samuel 1-2)”, in *Sex, Wives, and Warriors*, 111-140.

that my heirs will agree to give you the silver of your *ketubba*" (P. Yadin 10, lines 14-16).⁹³ In spite of this provision, Miriam had, in a legal document that has not survived but which Babatha mentions in P. Yadin 26, summoned Babatha not to go near the possessions of "my and your late husband" on the basis (a rather bold one in the circumstances) that Babatha had no claim against Judah's estate. At some time, presumably after this summons, Miriam had entered the house of Judah Khthousion and seized everything in it. In the document which is P. Yadin 26, dated 11th July 131, Babatha recites these background circumstances and summons Miriam before the governor for the matter to be heard. This conflict dramatically reveals female agency, while also illustrating the accuracy of Gerd Theissen's view, cited above, on how conflict functions to uncover underlying social issues. Two women, unfortunately linked as co-wives to the deceased Judah Khthousion, actively sought to protect their interests, both by taking decisive actions of self-help to recover property pursuant to rights vested in them by legal documents and by going to court for the further protection of those rights, even though they appeared in court with a guardian *ad litem*.

Conclusion

I will conclude the evidence with an intriguing sign of female agency within a family. P. Yadin 8 is a document from 122 CE, in Judean Aramaic, recording the purchase by a man named Yehoseph, son of Shim'on, from his brother

⁹³ Yadin *et al.*, *Documents*, 127; the editors' readings are heavily reconstructed but highly likely given the numerous comparators.

(whose name is missing) of two donkeys at a total price of 20 *denarii*. To find a document recording a transaction between two sons of Shim'on in a collection of legal documents belonging to a woman whose father was also Shim'on and who was not in the habit of retaining documents unconnected with her family renders it likely these were Babatha's brothers. For some reason, this relationship did not occur to, or was rejected by, the editors.⁹⁴ P. Yadin 9 mentions Yehoseph (there spelt Yoseph) son of Shim'on as a party and Yehudah son of Shim'on as a witness, so Yehudah may be the other party in P. Yadin 8.⁹⁵ It is interesting to see a sale between two brothers recorded in writing, but as there was a tax payable to Caesar, this may have been a legal requirement. The interesting question is why Babatha has the document in her possession. A possible, or even probable, explanation is that her brothers gave it to her for safe-keeping. Babatha's possession of the document appears to indicate some degree of mistrust between the two brothers, but mutual reliance on their trustworthy and, as we have seen above, eminently practical sister, to keep it safely in her possession—which indeed she did, even though she was finally caught up in the Bar Kokhba revolt.

WOMEN AND THEIR GUARDIANS

⁹⁴ Yadin *et al.* do not mention it (Documents, 109-117), nor does Lewis, *Documents*, 25 (which contains a family genealogy identifying Babatha as the only child of Shim'on and Miriam).

⁹⁵ On these identifications, see Esler, *Babatha's Orchard*, 26. Possibly Eleazar, also son of Shim'on, who is a witness to P. Yadin 8 is a third brother.

Women's Guardianship pursuant to Roman Law in the Province of Arabia

One issue requiring attention before concluding this article is that of the male guardians for women, some relatives and some probably not, who are mentioned in relation both to property transactions and litigation in the Babatha and Salome Komaïse archives. If women were in certain circumstances dependant on men in relation to such matters, to what extent was this a fetter on their own agency. What happened, for example, if the male guardians did not support their decisions? Fortunately, this subject has now received comprehensive treatment from Giles Rowling.⁹⁶

The Roman jurist Gaius noted (*Institutes* 1.144, 190 and 193) that while Roman women were in *tutela* (guardianship), the position was different among peregrines. From the documents that survive in Nabatean Aramaic before the annexation of the kingdom of Nabatea by Rome in 106 CE, namely, P. Yadin 1, 2, 3 and 4, it is clear that women did not require a tutor when engaging in commercial transactions such as loans and real property transactions. The agency of the two Nabatean women discussed above in relation to transactions in 94 and 99 CE ('Amat-'Isi and 'Abi-'adan) was entirely unaffected by notions of guardianship. Nor is there evidence of guardians for Nabatean women in the tomb inscriptions from Hegra. Moreover, the position seems to have been much the same in Judean law, since no provision of the

⁹⁶ Rowling, *Law*, 214-231.

Mishnah required women of full age, such as those mentioned above, to have a tutor or guardian validate their legal transactions.⁹⁷

It is virtually indisputable that the presence of guardians for women in the Babatha and Salome Komaïse archives is entirely due to the presence of Roman law in the province of Arabia from 106 CE onwards. Under Roman law, a woman who was a Roman citizen was subject to perpetual *tutela* that terminated when she died or acquired the *ius liberorum* by a grant or by birth of the appropriate number of (three) children (Gaius, *Institutes*, 1.144-145, 190, 194). The rationale of the law was to ensure that women who were entering into a transaction where they might suffer a detriment were subject to the *auctoritas* of an adult male *tutor*.⁹⁸ There is evidence for the Judean women of Maoza having *tutores* in commercial transactions and litigation whether, as *feminae peregrinae*, they were bound to or not.⁹⁹

The Limits on Women's Guardianship

Even as far as women who were Roman citizens were concerned, *tutela* had its limits. The *auctoritas* of a male tutor was only required in certain circumstances. A Roman woman did not require the *auctoritas* of a *tutor* to participate in legal transactions that were for her benefit. Accordingly, gifts of

⁹⁷ Rowling, *Law*, 214-215.

⁹⁸ Rowling, *Law*, 216-217 (citing, inter alia, *Tituli ex Corpore Ulpiani*, FIRA ii.319-301, at 11.27 and Gaius, *Institutes*, 3.176).

⁹⁹ Rowling, *Law*, 215.

land or other assets could be made to any woman (Roman or peregrine) in the Province of Arabia without any risk of the transaction being disallowed for lack of a guardian. For this reason, no guardian is mentioned in the deeds (all executed in Maoza) recording: Miriam's receipt of a gift of date orchards, courtyards and houses from her husband Shim'on (P. Yadin 7) dated 13 July 120;¹⁰⁰ Shelamzion's receipt of a gift of half a courtyard, with rooms and upper storeys, in En-Gedi from her father Judah (P. Yadin 19) dated 16 April 128;¹⁰¹ and, finally, Salome Komaïse's receipt of a date orchard and half a courtyard from her mother Salome Grapte (P. XHev/Se 64) dated 9 November 129 CE.¹⁰² By owning date palm orchards, women gained considerable financial independence, since they were able to sell the date harvest. This was because an adult woman could alienate *res nec mancipi*, which included all land outside of Italy (and the crops grown on such land) without the *auctoritas* of a *tutor* (Gaius, *Institutes*, 2.14a, 80).¹⁰³

When Babatha submitted her document for the registration of property in the Roman census in the Province of Arabia of 127 CE she mentioned that present with her was her guardian (*epitropos*), Judah the son of Eleazar (also known as Khthousion), her second husband (P. Yadin 20, line 15).¹⁰⁴ Yet no Roman law text required a census declaration to be made with the *auctoritas* of a *tutor* and the document did not amount to a transaction to her detriment.

¹⁰⁰ See Yadin, *Documents*, 75-108, at 80-81.

¹⁰¹ See Lewis, *Documents*, 83-87, at 84-85.

¹⁰² See Cotton and Yardeni, *Documentary Texts*, 203-223, at 210-213.

¹⁰³ Rowling, *Law*, 217.

¹⁰⁴ See Lewis, *Documents*, 65-70, at 66-67.

Rowling aptly suggests that the presence of Judah as an *epitropos* is not legally an insertion of *auctoritas* and “it is better to regard it as no more than a statement that he has accompanied her and written on her behalf,” since she is otherwise known to have been illiterate (P. Yadin 15, line 35).

As far as litigation was concerned, in Rome women who were Roman citizens could only be parties to legal proceedings of the usual type (*legis actio* or *iudicia legitima*) with the *auctoritas* of a *tutor*. But as far as proceedings outside of Rome, or those in which a peregrine was concerned, which were called *iudicia imperio continentia*, a woman who was a Roman citizen needed no guardian to become a party, still less did a foreign woman. Accordingly, in all of the litigation in which Babatha was involved, she needed no *tutor* to commence the proceedings. Thus, when on 11 or 12 October 125 Babatha summoned one of the guardians of her orphan son to the Roman governor’s court through her guardian (*epitropos*) for the purpose, Judah the son of Khthousion (her second husband; P. Yadin 14, lines 22-23), she was under no legal obligation to do so.¹⁰⁵ Nor was she under any obligation to make her deposition supporting this summons through Judah, although she did so (P. Yadin 15, lines 31-32).¹⁰⁶ The same applies with respect to her use of an *epitropos* in documents in the other litigation in which she was involved.¹⁰⁷

¹⁰⁵ See Lewis, *Documents*, 54-57, at 55-56.

¹⁰⁶ See Lewis, *Documents*, 58-64, at 60-61.

¹⁰⁷ Rowling, *Law*, 212.

One further issue concerning P. Yadin 15 merits attention. When Judah Khthousion married Babatha there was no provision in the marriage contract (P. Yadin 10) whereby he promised to maintain her son by her first husband. But the son had been left 400 *denarii* by his father and this was the amount entrusted to tutors to invest on his behalf, one of which trustees Babatha was suing only six months later. That Babatha, and not Judah Khthousion, was the driving force behind this litigation emerges at one point in her deposition when Babatha suggests an arrangement whereby she contributes some of her own money so that, as mentioned above, “my son may be raised in splendid style” (lines 26-27). This is a mother’s love speaking, loud and clear. She is the moving force behind this litigation, not her second husband.

In the Greek documents of the Babatha and Salome Komaïse archives, the word *epitropos* translates the Latin *tutor* both in relation to *tutores mulierum* and *tutores impuberum*. In some of the Aramaic subscriptions *epitropos* appears in an Aramaic transliteration. No document exists relating to the appointment of guardians for women and “it is likely that appointments were made informally by arrangement between the women and the persons who were to act as tutors.”¹⁰⁸ Very often the appointment was only for “the purpose of this transaction”, as in P. Yadin 14, line 22; P. Yadin 15, lines 31-32; P. Yadin 17, line 5, 23; P. Yadin 20, line 26 and so on. In such circumstances, it is unlikely a woman would rely on a man unwilling to do what she wanted.

¹⁰⁸ Rowling, *Laws*, 221.

Finally, in the Aramaic subscription to P. Yadin 15, however, Babatha's second husband describes himself as her *'adôn*, a Hebrew word meaning "lord." This may reflect an institution known from old Attic law, namely, that of the *kurios* or "lord" of a woman who could not hold property. But women in Nabatea and then the Province of Arabia could hold property, so it must have had some lesser meaning.¹⁰⁹ Accordingly, the presence of this word does not disturb the fact that rules on women's guardians in Roman law did very little to circumscribe the agency of the women of Maoza by the Dead Sea.

CONCLUSION

Males greatly outnumber females in the Hebrew Bible, the Septuagint and the New Testament. Most scholars regard these texts as the product of male scribal traditions and/or as authored by males. We know the social context was patrilineal and patrilocal. Many describe it as patriarchal. Accordingly, it is easy to assume that male agency was overwhelmingly dominant in this world.

Yet when we look at the only substantial family archive of legal documents to have survived from the Dead Sea region in the ancient period, those bequeathed us by Babatha daughter of Shim'on—and then only because of the extraordinary, but characteristic care she took in hiding them—and the much smaller archive of Salome Komaïse, a very different picture appears.

¹⁰⁹ For the lively discussion on just what it might mean, see Hannah M. Cotton, "The Guardian (ἐπίτροπος) of a Woman in the Documents of the Judaean Desert," *ZPE* 118 (1997): 267-274, 268-269; Oudshoorn, *Relationship*, 361-364; and Rowling, *Laws*, 216-218.

We find women who were quite well off, even though the unusual practice of date cultivation, producing a valuable cash crop, was central to this wealth. Although the heirs to real estate in the patrilineal system were males, we find men regularly borrowing from their wives, as if their wives' capacity to conserve cash was greater than their own. We find the legal rights of women well protected in legal documents. We find women more than willing to take action to distrain property that had been mortgaged in their favour. We find an astonishing readiness on the part of women to litigate in defence of their interests. We even find at least one woman whom two brothers needed to be the safe-keeper of a contract between them. In short, we find evidence of female agency everywhere we look. The patrilineal system provided very little obstacle to purposive action on their part.

As already noted, there is no other archive from this time and place like that of Babatha and it cannot be ignored. Because of the rich detail provided in its documents we know her better than any other Judean woman from antiquity and it is impossible not to be full of admiration for her character that they reveal. Yet we have no reason whatever to think that Babatha and the other women who figure in these two archives were atypical. Nor, finally, do we have any reason to imagine that we can seek to generalise about ancient Judean (or Nabatean) women without having the evidence from these archives firmly in the forefront of our attention.