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COPTIC PAPYRI AND JURISTIC PAPYROLOGY

1. REICHSRECHT AND VOLKSRECHT IN THE COPTIC LEGAL DOCUMENTS

AT THE WARSAW 2013 MEETING, Coptic juristic papyrology was made a topic of a plenary session at an international congress of papyrology for the first time after Artur Steinwenter's talk on the importance of papyrology for Coptic diplomatics in Munich eighty years ago.¹ Although the reporting period of this paper cannot be extended to the last 80 years, it might still be useful for wider papyrological audience to take a 'run-up' and to remember how Coptic juristic papyrology developed and on what evidence it is based, before moving on to what it has become today.

A few years ago – wrote Charles Wycliffe Goodwin in 1859 – somebody discovered an old wooden chest in the ruins of an ancient monastery near Thebes in Egypt. The chest contained a number of papyrus rolls, and a few skins of leather inscribed with mysterious letters. ... Having been submitted to competent decipherers, they proved to contain, not as the reader perhaps is inclined to anticipate, Confessions of a Convent, Memoirs

¹ A. STEINWENTER. 'Die Bedeutung der Papyrologie für die koptische Urkundenlehre', *PapCongr.* III, pp. 302-313.

of a Monk, or any such romantic matters, but a number of deeds of gift, wills, and contracts, dating apparently from the eighth or ninth centuries of our era, one only of them written in Greek, and the rest in Coptic. As legal documents of such an age, and derived from such a quarter, are rarities in their way, we propose to give some account of them.²

Deeds rather than more romantic matters – this is the reason why the earliest publication on Coptic documentary papyri is owed to a juridical journal, and the first modern readers of any Coptic non-literary text were English lawyers.³ It was thirty years later, shortly after the rise of Greek papyrology, when Coptic documents entered the ‘big stage’ of the developing discipline later called juristic papyrology. In his seminal work on *Reichsrecht* and *Volkrecht* in the Eastern provinces of the Roman empire,⁴ Ludwig Mitteis occasionally referred to Coptic legal documents from Western Thebes whose discovery, as we saw, preceded the large papyrus finds in the Fayyum by decades. Since Mitteis 1891, Coptic documents would be discussed by historians of law in terms of *Reichsrecht* and *Volksrecht* over the next century.⁵ In 1953, Mitteis’ pupil Leopold Wenger wrote in his opus magnum on the sources of Roman law:

The importance of the Coptic legal documents lies especially in their relation to the Greek-Byzantine texts as is reflected in their formulas and

² C. W. GOODWIN, ‘Curiosities of Law. Conveyancing among the Copts of the eighth century’, *The Law Magazine and Law Review, or Quarterly Journal of Jurisprudence* 6 (1858/59), pp. 237–248, esp. 237–238.

³ GOODWIN, a pioneering scholar of hieroglyphic, hieratic and Coptic Egyptian, was a lawyer by profession himself (cf. W. R. DAWSON, E. P. UPHILL, & M. L. BIERBRIER, *Who Was Who in Egyptology*, London 1995 [3rd ed.], p. 171). In his article he introduced the formulary of the Coptic *tabellio* documents and gave translations of two Coptic child donation documents (the now so-called *P. KRU* 81 and 91), a Coptic gift of land (*P. KRU* 108), and of the Greek will of bishop Abraham of Hermonthis (*P. Lond.* 1 77); on which cf. now Esther GAREL’s ground-breaking PhD thesis, *Les testaments des supérieurs du monastère de Saint-Phoibammôn à Thèbes (VII^e siècle)*.

⁴ L. MITTEIS, *Reichsrecht und Volksrecht in den östlichen Provinzen des römischen Kaiserreiches*, Leipzig 1891.

⁵ It could be illuminating to look at how far the idea of 19th- and 20th-century historians of law was shaped by the notion of Germanic tribal laws and their resistance and assimilation to Roman law in medieval and Early modern European history.

clauses even at a time when the contact to the Byzantines was interrupted due to the Arab conquest. The legal history of Egypt confronts us with the difficult question whether the national renaissance triggered a renaissance also of national law, and how far this can be deduced from the texts.⁶

And still 40 years later, in 1993, Walter Selb posed the same question in his synthesizing work on antique laws in the Mediterranean: 'Is there a direct linkage between the Coptic and the Demotic law?'⁷

The complexity of this question rests to some extent in the two involved layers of meaning, the linguistic and the juridical one. Already Louis Boulard's in-depth study of 1913 on the law of sale according to Coptic contracts (mostly from Jême)⁸ left no doubts about the overall dependence of the Coptic legal templates, formulas and terminology on Byzantine Greek models. Doubts did however remain about whether, and to what extent legal norms and legal practice belonging to an Egyptian *Volksrecht* could have survived and been transferred via their original translation from demotic Egyptian into Greek, and afterwards back from Greek into the Egyptian, by then Coptic, vernacular.

Two jurists and historians of law, Wenger's pupil Artur Steinwenter and his younger American colleague A. Arthur Schiller, took even the burden of learning Coptic, in order to trace the issue *ad fontes*. The slightly different words in which they put their field of research is indicative of their different approach to the material law of the Coptic texts: Arthur Schiller called it *Coptic law*,⁹ thereby conceptualizing the contents of Coptic deeds

⁶ L. WENGER, *Die Quellen des römischen Rechts*, Wien 1953, p. 318: 'Die Bedeutung der koptischen Rechtsurkunden liegt vor allem in ihrem Verhältnis zu den griechisch-byzantinischen Texten, wie es sich in den Formeln und Klauseln auch dann noch zeigt, als die arabische Eroberung den Kontakt mit Byzanz abgebrochen hatte. Die Rechtsgeschichte Ägyptens stellt dabei die schwierige Frage, ob und wieweit durch die nationale Renaissance auch eine solche des nationalen Rechts sich ergeben habe und aus diesen Texten zu erschließen sei.'

⁷ W. SELB *Antike Rechte im Mittelmeerraum*, Köln – Weimar – Wien 1993, p. 127: 'Gibt es einen unmittelbaren Anschluß des koptischen an das demotische Recht?'

⁸ L. BOULARD, 'La vente dans les actes coptes,' [in:] *Études d'histoire juridique offertes à Paul Frédéric Girard II*, Paris 1913, pp. 1–94.

⁹ A. A. SCHILLER, 'Coptic law', *The Juridical Review* 43 (1934), pp. 211–240.

as being shaped by distinct legal convictions based on inherited Egyptian legal practice:¹⁰

A period of three hundred years separates the last demotic document from the first Coptic legal text, but there is no reason to believe that Egyptian legal principles perished in this period. Customary law or documents in Greek carried on the rules.

Artur Steinwenter, on the other hand, called the same kind of thing *The law of Coptic documents*,¹¹ thus indicating a set of legal convictions less continuously transmitted and less homogenous in their origins, but rather accumulated over time and significantly affected by cultural contact. Although eagerly looking for distinguishable traces of *inherited* law himself, he did not expect to find some, unless as an exception to the rule:¹²

Posing the question for the value of Coptic sources for our knowledge of material law, ... we face the problem of separating inherited and adopted (Hellenistic up to Byzantine) law. Is the law indirectly deducible from them nothing but provincial or imperial *Roman* law, applicable in the jurisdiction of the time after Justinian's legislation in the Eastern empire, or do we find traits of an autonomous legal culture?

In more recent times, continuity was pursued at the linguistic level. German Demotist Erich Lüddeckens 1972 and Gonne van den Berg Onstwedder 1996 compiled clauses and phrases of *Demotic* legal documents which they supposed to pop up again in *Coptic* formularies and phraseology more than five hundred years later.¹³ Having examined the

¹⁰ SCHILLER, 'Coptic law,' (cit. n. 9), p. 212.

¹¹ A. STEINWENTER, *Das Recht der koptischen Urkunden* [= *HdA* x 4.2], München 1955.

¹² STEINWENTER, *Das Recht* (cit. n. 11), p. 57: 'Wenn wir ... die Frage nach dem Wert der koptischen Quellen für die Erkenntnis des materiellen Rechtes stellen, so tritt damit das Problem der Sonderung enchorischen und rezipierten (hellenistischen-byzantinischen) Rechtsgutes in den Vordergrund. Ist das aus den Urkunden mittelbar zu erschließende Recht nichts anderes als Provinzial- oder Reichsrecht, das zur Zeit der justinianischen Gesetzgebung in Ost-Rom gegolten hat, oder finden wir auch hier Kennzeichen einer selbständigen Rechtskultur?'

¹³ E. LÜDDECKENS, 'Demotische und koptische Urkundenformeln', *Enchoria* 2 (1972),

validity of their proposals systematically,¹⁴ I came to the result that any conclusive evidence for surviving phrases (or even entire clauses) is simply lacking, even though some occasional terms at the lexical level – nouns, verbs or very short syntagmata – of the earlier Egyptian legal idiom were still used in the Coptic deeds.¹⁵

The ‘Byzantine turn’ in papyrology over the last decades brought Coptic documents and their closeness to Byzantine formularies to the awareness of a wider academic audience. In 2001, historian of law Bernhard Stolte described the relation between Byzantine Greek and Coptic legal documents like two (linguistically) different carriers of one (legal) load.¹⁶ ‘As far as I can see, it is quite possible to see these documents as witnesses of one and the same legal system and to treat the question of their language as a purely accidental feature’. Scholars such as Herwig Maehler, Jakub Urbanik and Joëlle Beaucamp investigated legal practice in the light of imperial law and developed a nuanced view about the success of imperial law in Byzantine Egypt.¹⁷ Beaucamp concluded: ‘Ultimately, the impact of imperial legislation on Egypt during the sixth and seventh century appears to have been more or less significant, depending on the legal field concerned, and to have varied according to social status.’¹⁸

pp. 21–31; G. VAN DEN BERG-ONSTWEDDER, ‘The use of Demotic phrases from legal texts of the Ptolemaic Period in Coptic legal texts’, *BSAC* 35 (1996), pp. 101–116.

¹⁴ T. S. RICHTER, *Rechtssemantik und forensische Rhetorik* [= *Kanobos* 3], Leipzig 2002, [= *Philippika. Marburger altertumskundliche Abhandlungen* 20, 2nd ed.], Wiesbaden 2008, pp. 37–57.

¹⁵ RICHTER, *Rechtssemantik* (cit. n. 14), pp. 58–61.

¹⁶ B. STOLTE, ‘Fiducia cum creditore contracta in early Byzantine law?’, *Subseciva Groningana* 7 (2001), p. 38, quoted from R. BAGNALL, ‘Greek and Coptic in Late Antique Egypt’, [in:] IDEM, *Everyday Writing in the Graeco-Roman East* [= *Sather Classical Lectures* 69], Berkeley – Los Angeles – London, p. 155.

¹⁷ H. MAEHLER, ‘Greek, Egyptian and Roman Law’, *JJurP* 35 (2005), pp. 121–140; J. URBANIK, ‘Tapia’s banquet hall and Eulogios’s cell: Transfer of ownership as a security in some Late Byzantine papyri’, [in:] P. DU PLESSIS (ed.), *New Frontiers: Law and Society in the Roman World*, Edinburgh 2013, pp. 151–174; Joëlle BEAUCAMP, ‘Byzantine Egypt and imperial law’, [in:] R. S. BAGNALL (ed.), *Egypt in the Byzantine World, 300–700*, Cambridge 2007, pp. 270–287.

¹⁸ BEAUCAMP, ‘Byzantine Egypt’ (cit. n. 17), p. 287.

In the last decades of the 20th century, history of law witnessed a shift of conventional methods and issues in the wake of the *Historische Rechtsschule* towards larger issues in social history; from positive law, its receptions and application, towards legal practice, or ‘legal anthropology’ in terms of Gagos and van Minnen.¹⁹ This shift affected and changed also the interest in Coptic legal documents. It is not longer the question alone, on what sources of law Coptic documents were drawing, that interests us, but also issues such as: How did these documents work for the people who produced and used them, within their social networks? What significance and function had the use of the vernacular language in the domain of legal records? How relates the emergence of Coptic legal documents to the usage of Greek, and how its decline to the usage of Arabic, sociolinguistically? And how relates all of this to contemporary changes in society, economy and law?

2. AN OVERVIEW OF THE CORPUS

Edited Coptic legal documents sum up to a total of about 1.700 items. Many of them were available in editions and/or translation as early as in 1912, mostly due to the efforts of the admirable Walter Crum.²⁰ By the end of the sixties of the twentieth century, the great bulk of the texts still known to us had already been edited. Legal documents from the Theban area, the largest subcorpus, were completely translated into German by Walter Till.²¹ This swift success was partly owed to a priority selection

¹⁹ T. GAGOS & P. VAN MINNEN, *Settling a Dispute. Toward a Legal Anthropology of Late Antique Egypt*, Ann Arbor 1994.

²⁰ W. E. CRUM, *Coptic Ostraca from the Collections of the Egypt Exploration Fund, the Cairo Museum and others*, London 1902; IDEM, *Catalogue of the Coptic Manuscripts in the British Museum*, London 1905; IDEM, *Catalogue of the Coptic Manuscripts in the Collection of the John Rylands Library Manchester*, Manchester 1909; H. I. BELL & W. E. CRUM, *Greek Papyri in the British Museum IV. The Aphrodito Papyri*. London 1910; W. E. CRUM & G. STEINDORFF, *Koptische Rechtsurkunden des achten Jahrhunderts aus Djême (Theben)*, Leipzig 1912.

²¹ W. C. TILL, *Erbrechtliche Untersuchungen auf Grund der koptischen Urkunden* [= *SÖAW, Phil.-hist. Kl.*, 229/2], Wien 1954; IDEM, *Datierung und Prosopographie der koptischen Urkunden aus Theben* [= *SÖAW, phil.-hist. Kl.*, 240/1], Wien 1962; IDEM, *Die koptischen Rechtsurkunden aus Theben* [= *SÖAW, phil.-hist. Kl.*, 244/3], Wien 1964.

made by the early editors. Walter Till who had a strong preference for legal documents over all other kinds of Coptic documentary text, provided a systematic translation of several types of legal texts²² with the explicit aim to make them available to historians of law.

Legal documents, as all Coptic (and of course all other) documentary papyri, are unevenly scattered in space and time, and it is difficult to know to what extent their local and chronological distribution is random, or how far it reflects historical sociolinguistic realities. In terms of provenance, we have four finding spots of some significance throughout Middle and Upper Egypt: the Fayyum region,²³ the area of Hermupolis,²⁴ Aphrodite,²⁵ and the Theban²⁶ area. Places in the North of the Fayyum²⁷ as well as in the South of Thebes²⁸ are scarcely attested, if at all. Three of these main finding spots yielded much more Greek than Coptic documents. Only in the Theban area, documentary texts written in Coptic significantly outnumber those written in Greek.

Legal writing was a late achievement in the functional evolution of the Coptic written language. As will be dealt with in more detail below, the earliest known Coptic documents of legal force date to the second third of the 6th century, almost three centuries after the implementation and spread of the Coptic writing system in Egypt. Only a small number

²² W. C. TILL, 'Koptische Schutzbriefe', *MDAIK* 8 (1938), pp. 71–146; IDEM, 'Die koptischen Eheverträge', [in:] *FS Josef Bick*, Wien 1948, pp. 627–638; IDEM, 'Die koptischen Arbeitsverträge', *EOS* 48/1 (1948 = *Symbolae Raphaeli Taubenschlag dedicatae*), pp. 273–329; IDEM, *Die koptischen Rechtsurkunden der Papyrussammlung der österreichischen Nationalbibliothek*. CPR IV. Wien 1958; IDEM, 'Die koptischen Bürgschaftsurkunden'. *BSAC* 14 (1958), pp. 165–226.

²³ *Ca.* 110 items especially from Arsinoë/Medinet el-Fayyûm and Herakleopolis Magna/Ehna.

²⁴ *Ca.* 350 items especially from Hermopolis/Ashmunein, Antinou and the monastery of Bawît.

²⁵ *Ca.* 250 items especially from Kômê Aphrodito/ Kôm Ishqâw and Dêr el-Bala'iza.

²⁶ *Ca.* 980 items especially from Djême/Medinet Habu and the monastery of Phoibamôn/Dêr el-Bahrî.

²⁷ The Delta southwards up to Memphis yields *ca.* 15 items (especially from Saqqara)

²⁸ Southern Upper Egypt and the cataract region yields *ca.* 20 items especially from Syênê/*Assuan* and Elephantine; Lower Nubia yields some further 20 legal documents.

of documents can confidently be dated to the first half of the 7th century, this is to say, to the last pre-conquest decades. Our corpus strongly gravitates towards the later 7th and the 8th centuries. From the later 9th century up to the ultimate disappearance of Coptic from the documentary record in the course of the 11th century, we have only a few specimens of Coptic legal writing, about 20 items, which look conspicuously different from earlier Coptic deeds (*cf.* below, pp. 418–419).

The most significant increase of the corpus as Crum, Till, Steinwenter and Schiller knew it, happened at its chronological margins. The historical evolvement of coptophone deeds in the later 6th century as well as their gradual abandonment after the 8th century is much better tangible to us than it was to them and still twenty years ago.

A few words shall be said on the contents of Coptic legal texts. A part of Coptic legal documents relates to *public law*, such as tax assessments from different places, tax guarantees (*eggyêtiké homologia*) mainly from Aphrodito, and tax receipts as well as letters of safe conduct especially on Theban ostraca. They all date from the early Islamic period. Being addressed to, or framed by, individuals or communities right at the bottom level of society – the population of villages, provincial towns and monasteries of Egypt – they served to manage communication of these people with the local instances of tax administration. We have no other official Coptic documents related to another level, or kind of administration from post-conquest times, and not any official Coptic document related to any kind of administration from pre-conquest times. Thus it seems that in administrative clerical work, the Coptic option was delimited chronologically to some decades from the late 7th to the first third of the 8th century, and functionally restricted to the lowest level of tax administration.

The major part of Coptic legal documents relates to private law. Almost exclusively representing types of text known to us already from the Byzantine Greek record, they mostly are even named by Greek designations.²⁹ As types, formularies, and names of documents were bor-

²⁹ We find *e.g.*, sales (*prásis, oné*), donations (*doreastikón*), wills (*diathéke*), settlements of dispute (*diálysis*), sales on delivery (*aspháleia*), loans (called *aspháleia, asphalés, asphalésteron*), leases of buildings, parts of buildings, and devices for simple use (*místhosis*, Coptic *sakhne*), leases of arable land for usufructus (*místhosis, epitropé*), long term (hereditary) leases (*emphy-*

rowed from Greek, also the professional titles borne by the Coptic notaries are almost invariably those already borne by their Greek-writing colleagues at the same time or a few generations earlier.³⁰

3. RECENT ACHIEVEMENTS AND CURRENT ISSUES IN COPTIC JURISTIC PAPYROLOGY

A focus of recent research was put on issues such as chronology, palaeography, scribal work and attitudes, and the historical setting of Coptic deeds, so that our idea of the original admittance of the Egyptian vernacular to, and its development in the production of legal documents refined considerably over the last two decades. A starting point were Leslie MacCoull's and Jean-Luc Fournet's works on Dioskoros of Aphrodito which inspired a re-discovery of the poet and notary as a *bilingual* scribe. The Coptic share of Dioskoros' still partly unedited archives sheds much light on the milieu where, and the way how, Coptic originally became a option for Byzantine *tabelliones*.

In 2000, Anthony Alcock's and Pieter Sijpestein's edition of P. Michigan 6898, a Coptic cession of land,³¹ triggered a debate on its connection to Dioskoros' archives, its dating, and the dating of a number of documents prosopographically related to it,³² notably the Papiri Vaticani Copti Doresse which had previously been dated to the mid-6th century.

teutiké homología), contracts of employment (e.g. *sympônon*, Coptic *lebeke*), receipts (*entá-gion*, *apódeixis*).

³⁰ *Grammateus*: Fayyûm (7th/8th c.), Djême (7th c.); *Grapheus*: Ashmunein (7th/8th c.), Bâwît (9th c.), Dêr el-Balâ'izah (8th c.); *Logographos*: Djême (8th c.); *Nomikos*: Aphrodito (7th/8th c.), Antinou (7th c.), Ashmunein (6th/7th c.), Apollônos katô/Edfû (8th c.); *Notarios*: Ashmunein (7th c.), Dêr el-Balâ'izah (8th c.), Fayyûm (8th c.); *Symboulaiographos*: Aphrodito (8th c.); *Tabellio*: Aphrodito (6th c.), an exception in this regard being the title $\epsilon\alpha\zeta$ NTIME 'village scribe': Ashmunein (7th c.); Djême (8th c.); In many cases scribes identified themselves just by name without any title.

³¹ A. ALCOCK & P. J. SIJPESTEIJN (†), 'Early 7th century Coptic contract from Aphrodito (P. Mich. inv. 6898)', *Enchoria* 26 (2000), pp. 1–19.

³² Leslie S. B. MACCOULL, 'P. Mich. inv. 6898 revisited: a sixth-century Coptic contract from Aphrodito', *ZPE* 141 (2002), pp. 199–203.

In 2004, the year of the second edition of Roger Bagnall's und Klaas Worp's *Chronological systems of Byzantine Egypt*, the same authors revisited these documents and suggested new dates to shortly before and even after the Arab conquest for P. Mich. inv. 6898 and the Papiri Vaticani Copti Doresse, thus almost a century later.³³ The new dates were adopted by Hans Förster and Fritz Mitthof, the editors of *P. Vaticano Copto Doresse I*, a sale of a threshing waggon,³⁴ and by Leslie MacCoull, a former proponent of the early chronology.³⁵ Another groundbreaking paper was delivered by Jean-Luc Fournet in 2007,³⁶ who compiled, and significantly furthered the available information about the earliest known legal documents drawn up in Coptic: three edited Coptic legal texts of the Dioskoros archive – *P. Lond.* v 1709 (dated to 566 or 567), *P. Cair. Masp.* III 67176 *r*^o + joining fragments and its double, *P. Cair. Masp.* III 67353 *r*^o (both dated to 569) – and the unedited P. Berlin 11349 for which he proposed a date to 549/550. These four texts are formal documents relating to arbitration, but they are not notarial documents, as already Bagnall and Worp had noticed: '(they) should perhaps not be equated to formal Greek notarial documents, as none of them contains the notarial subscription that a *tabellio* document would present'.³⁷ Before Bagnall and Worp, the *Papiri Vaticani Copti Doresse*, fully-fledged notarial deeds drawn up to testify the transfer of property and meant to be produced at court, seemed to stand at the beginning of legal writing in Coptic: a scenario of birth in full beauty like Aphrodite. On the basis of the revised chronology, Jean-Luc Fournet and Roger Bagnall in his Sather lecture³⁸ outlined a less

³³ R. S. BAGNALL & K. A. WORP, 'Dating the Coptic legal documents from Aphrodite', *ZPE* 148 (2004), pp. 247–252.

³⁴ H. FÖRSTER & F. MITTHOF, 'Ein koptischer Kaufvertrag über Anteile an einem Wagen. Edition von *P. Vat. Copt. Doresse I*', *Aegyptus* 84 (2004), pp. 217–242.

³⁵ LESLIE S. B. MACCOULL, 'More on documentary Coptic at Aphrodito'. *CdÉ* 82 (2007), 381–389; EADEM, *Coptic Legal Documents. Law as Vernacular Text and Experience in late Antique Egypt* [= *Medieval and Renaissance Texts and Studies* 377], Turnhout 2009, pp. 18–28.

³⁶ Published only in 2010: J. L. FOURNET, 'Sur les premiers documents juridiques coptes', *Études coptes XI. 13^{ième} journée d'études (Marseille, 7–9 juin 2007)*, Paris 2010, pp. 125–137.

³⁷ BAGNALL & WORP, 'Dating the Coptic legal documents' (cit. n. 32), p. 248.

³⁸ BAGNALL, 'Greek and Coptic in Late Antique Egypt' (cit. n. 15), pp. 75–94, 152–155.

mythological, but more plausible scenario of the emergence of Coptic as a language of legal texts. They argued for the gradual transition of legal functions from Greek to Coptic starting at less delicate, and less official cases such as arbitration, and moving from there on to more serious, and more official cases, such as the transfer of property.

Having said that, the issue arises when the next step forward, the use of Coptic for *notarial* documents, was taken? In 2012, Hans Förster, Jean-Luc Fournet and I edited a Coptic *misthosis* document from Aphrodito, probably from the archives of Dioskoros, which was drawn up by a man who left his name, Georgios, and his professional title, *tabellio*, in a formal completion note.³⁹ Should its suggested dating to the 580ies stand, this lease would be the earliest known Coptic *notarial* document, as we proposed in the article.

As mentioned above, the main bulk of the Coptic legal documents dates to the post-conquest 7th century and to the 8th century. Stolte suggested to take ‘the question of [the Greek or Coptic] language [of the documents] as a purely accidental feature’. This is certainly a valid approach in a comparative perspective on the content of the documents alone. In a historical and socio-linguistic perspective however, language choice is hardly an accidental feature, although Greek and Coptic did never coexist *on a par*. In *pre-conquest Egypt*, Greek was an unmarked, ‘natural’ choice in the field of deed production, and it maintained this role also when Coptic, pushed by factors which we don’t fully understand as yet,⁴⁰ had entered this field as an innovative choice. *After the Arab conquest* however, apparently a shift towards Coptic happened in this field. While Greek was retained in administrative paperwork up to the end of the 8th

³⁹ H. FÖRSTER, J. L. FOURNET & T. S. RICHTER, ‘Une *misthosis* copte d’Aphrodité (P. Lond. inv. 2849): le plus ancien acte notarié en copte?’, *APF* 58 (2012), pp. 344–359.

⁴⁰ Cf. Leslie S.B. MACCOLL, ‘Why do we have Coptic documentary papyri before AD 641?’, [in:] Nathalie BOSSON & Anne BOUD’HORS (eds.), *Actes du 8^{ème} congrès international d’études coptes, Paris, 28 juin – 3 juillet 2004* [= *OLA* 163], Leuven – Paris – Dudley, Ma. 2007, vol. 11, 751–758, EADEM, *Coptic Legal Documents* (cit. n. 35), pp. XXIII–XXIX, and EADEM, ‘Niches in an ecosystem: The choice of Coptic for legal instruments in Late Antique Egypt’, *AnalPap.* 25 (2013), pp. 257–276; BAGNALL, ‘Greek and Coptic in Late Antique Egypt’ (cf. cit. n. 38).

century besides Arabic (and unrivalled by Coptic), it dropped out from the production of private legal documents as early as in the second half on the 7th century and broke off in the early 8th century.⁴¹

There are two general questions (among others) about the post-conquest Coptic legal corpus. First, how did Coptic legal documents work, linguistically and juridically, within an increasingly Arabised legal administration, where Byzantine private law was not longer favored? – There are no doubts that they did work, as can be seen from the private documents themselves, notably 7th- and 8th-century *dialysis* documents with their narratives on previous quarrels, trials, and settlements, as well as from administrative documents, such as the early 8th-century Greek and Arabic letters of the governor Qurra ibn Sharik in Al-Fustat to Basil the pagarch of Aphrodito. The only issue dealt with by the Arab governor besides the exhaustively treated tax and levying matters is the legal protection of individual subjects who had appealed to the governor. As already Artur Steinwenter had noticed, ‘if Copts appealed directly to the governor, then he would hand back their complain to the pagarch who was commissioned, like by an imperial rescript, to help the complainants to enforce their rights, *si preces veritate nituntur*.’⁴²

A second interesting issue, not unrelated to the first one, is the question what the continuation of Byzantine legal deeds, even though clothed ‘in Coptic dress’ as somebody put it, tells us about the early Islamic society and economy. In a recently published article,⁴³ Arietta Papaconstantin-

⁴¹ As to the best of my knowledge, the last dated specimens are the two leases *P. Ross. Georg.* III 56 (from year 707) and *P. Apoll. Anô* 57 from the following year. But one has to be careful, given the lack of reliable datings for many Coptic and Greek documents of this time.

⁴² STEINWENTER, *Das Recht* (cit. n. 11), p. 53: ‘Wenn sich ein Kopte unmittelbar an den Statthalter wandte, so verwies ihn dieser an den Pagarchen, der, wie in einem kaiserlichen Reskript, beauftragt wurde, dem Beschwerdeführer Recht zu verschaffen, *si preces veritate nituntur*.’ The relevant phrase rendered into legal Latin by Steinwenter runs in the Arabic documents like this: ‘if the account rests on truth and he produces evidence for it’ (*PAF* 1), cf. also *PAF* 2; *P. Cair. Arab.* III 154; *P. Cair. Arab.* III 155; *P. Heid. Arab.* I 10; *P. Heid. Arab.* I 11; *P. Qurra* 3; *P. Lond.* IV 1356.

⁴³ Arietta PAPACONSTANTINOÛ, ‘“What Remains behind”: Hellenism and *romanitas* in Christian Egypt after the Arab conquest’, [in:] *From Hellenism to Islam. Cultural and Linguistic Change in the Roman Near East*. Cambridge 2009, pp. 447–466.

tinou concluded about the scribes of the 8th-century Coptic documents from Jême: ‘they lived in a cut-off Christian world where the lost Christian empire seems to have retained its allure. They still inhabited its cities, referred to its laws, bore the names of its emperors, used its language as a sign of distinction and bestowed upon their new lords the honorific titles of their predecessors. Without overstating things, one might say that in mind and heart, Aristophanes⁴⁴ and his friends still lived in Byzantium – in the Byzantium their great-grandfathers had known.’⁴⁵ While Papaconstantinou talks about cultural values, I think her statement should hold true in social and economic terms as well. Unlike theological speculation that could be done, to some degree, in isolation, the formularies and contents of legal deeds are so tightly connected to social and economic premisses that they must be in accordance with them, or otherwise would not persist. What happens to such texts when a society is changing, this is what *late* Coptic legal documents can show us. This kind of documents belongs to the most neglected and accordingly still badly understood parts of the Coptic documentary corpus. A first big step was taken by Michael Green’s edition of the so-called Teshlot-archive from the Rijksmuseum van Oudheden at Leiden,⁴⁶ a family archive from Dahlut in the south of Ashmunein running from the 20s to the 60s of the 11th century. Over the last fifteen years, those and some further 10th-century legal documents have been edited and re-edited, so that about 20 items of this remarkable kind of text are known by now.⁴⁷

⁴⁴ Aristophanes son of John is one of most frequently attested, and most skilled scribes known from the 8th-century Theban legal documents. On this man and his work, cf. Jennifer CROMWELL ‘Aristophanes son of Johannes: An eighth-century bilingual scribe? A study of graphic bilingualism’, [in:] Arietta PAPACONSTANTINOÛ (ed.), *The Multilingual Experience in Egypt, from the Ptolemies to the ‘Abbāsids*, Farnham 2010, pp. 221–232.

⁴⁵ PAPACONSTANTINOÛ, “‘What Remains behind’” (cit. n. 42), p. 463.

⁴⁶ M. GREEN, ‘A private archive of Coptic letters and documents from Teshlot’, *Oudheidkundige Mededelingen uit het Rijksmuseum van Oudheden te Leiden* 64 (1983), pp. 61–122.

⁴⁷ T. S. RICHTER, ‘Spätkoptische Rechtsurkunden neu bearbeitet: BM Or. 4917(15) und P. Med. copto inv. 69.69,’ *JfurP* 29 (1999), pp. 85–92; IDEM, ‘Spätkoptische Rechtsurkunden neu bearbeitet (II): Die Rechtsurkunden des Teshlot-Archivs,’ *JfurP* 30 (2000), pp. 95–148; IDEM, ‘Spätkoptische Rechtsurkunden neu bearbeitet (III): P. Lond. Copt. I 487, Arabische Pacht in koptischem Gewand’, *JfurP* 33 (2003), pp. 213–230; Gesa SCHENKE, *P. Köln*

It seems that the 9th century was a turning point in the field of private legal practice and the production of private legal documents. The so-called Bâwît contracts, Coptic sales of cells between monks from the mid-9th century edited by Leslie MacCoull, and partly re-edited by Martin Krause,⁴⁸ are the last extant testimonies of a Byzantine *traditum* in legal formulary, phraseology and terminology. Dealing with internal transactions of property within the walls of this monastery, their validity might have been limited to the monastic community. Unlike what we guessed about the 8th-century Coptic Jême documents, the Byzantine splendor of the Bâwît contracts might not have been meant to have any legal force in a public court, but rather, to impress by the solemnity of their archaistic attitude.

Coptic legal documents from the later 9th century onwards look entirely different. Amazingly brief, frighteningly short of clauses, displaying templates and terminology partly patterned on Arabic deeds, these texts might be utterly disappointing for historians of law accustomed to the wordiness and niceties of Byzantine deeds.⁴⁹ Again we are confronted with the question how these texts could work in their social framework. Written at a time when the Arabic legal administration was based on a fully-fledged learned Islamic law and when sharply defined formal requirements about enforceable deeds were established, Coptic documents must have been entirely worthless from the point of view of the courts. In fact, contemporary fellow-Christians, who did not even speak Arabic themselves, could occasionally decide to frame their contracts

xI 466: 'Übereignung eines Bäckerei-Anteils. Ein neuer Text aus dem Teschlot Archiv'; G. SCHMELZ, & T. S. RICHTER, 'Der spätkoptische Arbeitsvertrag P. Heid. kopt. inv. 451', *JfurP* 40 (2010), pp. 185–203.

⁴⁸ Leslie S. B. MACCOULL, 'The Bawit contracts: text and translations,' *BASP* 31 (1994), pp. 141–158; M. KRAUSE, 'Die koptischen Kaufurkunden von Klosterzellen des Apollo-Klosters von Bawit aus abbasidischer Zeit', [in:] *P. Clackson*, pp. 159–169.

⁴⁹ Cf. as an example the late Coptic lease document *P. Lond. Copt.* I 487, dated to AH 287 = AD 900 (ed. RICHTER, 'Spätkoptische Rechtsurkunden [111]' [cit. n. 47]): '† In the name of God! I {I}, Anup, am writing to Phakew: After you asked me, I gave you a plot of land on lease (*al-qabâla*) without surveying (*al-misâba*) underneath the canal which brings water from the «Dike of the (*al-amîr*)» northwards. I, Anup, I assent, in this year 287. Papostolos; a lease (*al-qabâla*).

in Arabic and in accordance with the requirements of Islamic law (including the requirement of two muslims being among the witnesses), as is evidenced by 9th-century Arabic deeds of sale and 10th-century Arabic marriage contracts.⁵⁰ The answer to the question for function might thus be different from the answers to that question asked about the 7th- and 8th-century Coptic legal documents from Thebes and about the 9th-century Bâwît contracts.

4. OUTLOOK

Eventually, I want to address a desideratum. There is one spot on the map of Coptic juristic papyrology that has been neglected for decades: the Ashmunein region (except the Bâwît monastery, i.e., the town itself and its environs). If proof were needed, one could point to the most recent big achievement of Coptic juristic papyrology, Leslie MacCoull's textbook of Coptic legal documents⁵¹ which contains translations of seven Aphrodito papyri and forty-four Theban documents. Ashmunein yields the highest amount of Coptic legal documents next to the Theban area, many of them edited long ago, many of them unedited by now, and it provides a particularly wide range of different types of text. While the Coptic corpora from Aphrodito and Thebes span over roughly 200 years, the Coptic material from Ashmunein extends over more than 400 years from the 7th to the 11th century. And, another difference to the Theban dossier, the Ashmunein material is complemented by large corpora of 6th and 7th century Greek papyri, and by post-conquest Arabic papyri and papers.⁵² Thus for Hermopolis more than for any site elsewhere in Egypt, a diachronic

⁵⁰ P. Mich. inv. 5634, l. 14–15 & inv. 5635, ll. 13–14 (9th c.): Framer assented to the document, 'after it was read to him in Arabic and explained to him in the foreign language [*thus in Coptic*]' (examples by courtesy of Andreas Kaplony); Nabia ABBOTT, 'Arabic marriage contracts among Copts'. *Zeitschrift der Deutschen Morgenländischen Gesellschaft* 95 (1941), pp. 59–81.

⁵¹ MACCOULL, *Coptic Legal Documents* (cit. n. 40).

⁵² A study of the Ashmunein region according to Arabic material from Umayyad to Tulunid times has recently been delivered by Marie LEGENDRE, *Pouvoir et territoire: L'administration islamique en Moyenne-Égypte (642–868)*, PhD thesis, Leiden 2012

and, so to speak, ‘holistic’ approach to legal practice across historical, linguistic, and religious boundaries would seem to be feasible.

The study of Coptic legal documents produced rich yields over the last years, and has appreciably furthered our knowledge of the society and legal administration of Byzantine and early Islamic Egypt. But there is still a lot of work left to be done. To develop a nuanced picture of the history of law and legal practice in Egypt from the later 6th to the 11th-century Egypt is a future task, which to tackle, Greek, Coptic, and Arabic papyrologists have to join their forces: *Amicitia papyrologorum*, as Jean-Luc Fournet put it, is our watchword and order of the day.

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