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LEGAL AUTHORITY AND MONASTIC INSTITUTIONS IN LATE ANTIQUE EGYPT

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TABLE OF CONTENTS

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Introduction

This dissertation examines legal pluralism in late Byzantine and early Islamic Egypt in order to understand how previous imperial forms persist in the post-conquest landscape, as well as how legal practice changed in the face of new authoritative norms like Christian scripture and the practice of arbitration by church officials. In particular, I study the legal role played by the fifth- to eighth-century Coptic church in perpetuating the Roman imperial legal regime through arbitration and the production of legal documents by clerics. Whereas other scholars have read this phenomenon as indicating that secular administrators ceded their authority to religious officials,[1] I instead argue that these Christian leaders were positioning themselves in a cooperative relationship to state power throughout the period of Byzantine and Islamic rule. I demonstrate that a plurality of legal norms existed during this time, with Christian communities practicing law through the institutions of arbitration and the production of documents by private notaries, including clerics. My work on the continued social prestige of Roman law in post-Byzantine Egypt shows how strong legal pluralism[2] can function during a time of regime change.

My dissertation examines legal pluralism in Coptic Egypt during the fifth to eighth centuries, a time-frame that includes the beginning of Islamic rule in Egypt. The long survival of aspects of the Roman imperial legal regime for more than two hundred years in Islamic Egypt shows an unintended and unanticipated consequence of the Roman approach to governance: it produced symbols of authority and procedural norms that outlived the regime itself, perpetuated by religious actors and private individuals through arbitration and the production of legal

[1] Schiller (1971) and Mikhail (2014).
[2] Given that there is no evidence of the caliphate explicitly granting the Coptic community this privilege, the phenomenon constitutes an example of strong pluralism, to borrow John Griffiths's terminology. See Griffiths (1986), esp. p. 5.

instruments. Throughout this period, the following pattern emerges: certain cultural archetypes, in this case legal ones, rise to preeminence, lending legitimacy and authority to iterated types of social action. Roman legal forms can persist as archetypal even when the nexus of social and political power that endowed them with efficacy has faded, in part because the Sasanians or Islamic conquerors are perhaps unable or unwilling to address the ongoing need for social order by offering an effective substitute. My study of Coptic legal documents charts the chronological overlap between varied systems of state and non-state social authority in Egypt, such that the temporality of their efficacy defies any attempt to establish a simple chronology of conquest and defeat.

This dissertation engages with recent works in fields including regime change in antiquity, legal pluralism in the Roman Empire, and early Islamic rule in Egypt. One particularly impressive study of regime change and the transition between the Ptolemaic and Roman fiscal and legal institutions in Egypt is Andrew Monson's *From the Ptolemies to the Romans*, which studies the imposition of a fiscal regime that favored residents of metropoleis with large, efficient estates over the Ptolemaic elite of administrative and temple personnel.[3] Monson argues that the imposition of a flat tax on land rather than variable rates adjusted annually favored this sort of wealthy, gymnasial, elite since improvements on land and economies of scale became profitable under the flat tax on land and the temple and administrative posts were less remunerative as a result of Roman confiscations. Clifford Ando has written recently about legal pluralism in the Roman Empire more broadly,[4] and Georgy Kantor has researched legal pluralism and personnel who provided knowledge of local law in the province of Asia Minor.[5]

[3] Monson (2012).
[4] Ando (2011), esp. pp. 19-36, (2015), and (2016).
[5] Kantor (2009), (2012a), (2012b), (2013), and (2014).

José Luis Alonso[6] and Joseph Meleze-Modrzejewski[7] have studied the same topic in the province of Egypt in particular and Ari Bryen has examined provincial conceptions of imperial criminal courts using martyr acts.[8] Petra Sijpesteijn and Maged Mikhail have both produced impressive studies of the early Islamic administration in Egypt and relations between the Coptic Christian communities and the Arab military and administrative personnel.[9] Taken together, these studies have expanded our understanding of the mechanisms through which the Roman Empire incorporated the legal systems of previous regimes and the process by which the political and administrative regime of the Umayyad and Abbasid Caliphates came about.

In light of these recent works of scholarship on topics closely related to my dissertation, I would like to state briefly the specific contribution that I hope that my dissertation can make to the historical study of the topics of regime change, legal pluralism, and minority legal communities within larger empires. In contrast to more diachronic projects that study the evolution of the Coptic Christian community over time, my dissertation is a primarily synchronic project, which examines the continuing influence of Roman law in Late Antique Egypt. As a project of this type, it serves three major functions within the larger study of legal pluralism in the face of conquest. Firstly, the dissertation follows formal transformations in the institutional setting of dispute resolution, including a move from adjudication to arbitration, and the retention of procedure and practices from Roman law as way of signaling legitimacy. I demonstrate that arbitration works in cooperation with adjudication, not necessarily in competition with it. Secondly, by focusing on the Coptic Christian community, my research examines the ways in which religious officers and institutions were implicated in that shift and the relocation of social

[6] Alonso (2013).
[7] Meleze-Modrzejewski (1988), (1990), and (1995).
[8] Bryen (2014).
[9] Sijpesteijn (2013) and Mikhail (2014).

authority to non-state actors. Other scholars have noted this shift in the locus of authority, but my dissertation uncovers the ways in which these clerics were still negotiating their relationship with the imperial state in their roles as legal actors. Thirdly, the preceding points lead me to the question of how this shift benefited church officers and Christian institutions. Legal practice in this period was marked by the inclusion of Christian elements within a legal system that nonetheless retained the frame of Roman law to signal its continued legitimacy, however arbitration allowed Christian institutions to carve out a sphere of legal influence in cooperation with the imperial (Byzantine or Arab) state. In particular, Coptic wills were heavily inflected with Christian norms that allowed for marked changes in inheritance practices. The influence of Christian norms and institutions is clear in the text of these documentary papyri and literary accounts, and the legal system can incorporate this plurality of norms in part because it has moved into this less formal institutional setting.

Contribution

> On every level of life, the institutions that had seemed capable of receiving the awesome charge of permanence and divinity in classical times either declined or exploded. Men were left with nothing to fall back on than other men.[10]

Since Peter Brown's seminal work on the Late Antique holy man,[11] it has been customary to regard such figures as individuals who filled the void left by the withdrawal of Roman political and religious institutions by satisfying the public function of a patron and mediator. Brown sees this privileged role as stemming from the personal authority of the holy man and his status as a stranger within the community. This general consensus holds in spite of cogent

[10] Brown (1971), p. 99.
[11] Brown (1971).

reassessments by Ariel Lopez and James Goehring,[12] each of whom takes issue with Brown's characterization of Egyptian holy men as inward-looking and isolated, closed off from village economic and political life. Lopez has convincingly demonstrated that, in contrast with more inward-looking monks like Anthony, Shenoute of Atripe played an active role in society as a rural patron and prosecutor of pagans.[13] Furthermore, Goehring has argued using the papyrological evidence of tax receipts that the "urban ascetic" Pachomian monastery was well integrated within the legal and social fabric of village life in Roman Egypt.[14]

However, literary evidence and legal documents suggest that, even as these monks and holy men played a prominent role in their surrounding communities, they often aligned themselves with preexisting Roman institutions, especially the larger legal culture of the Eastern Mediterranean, in order to reinforce the authority and legitimacy of their actions. Even in contexts where the Roman political administration had receded dramatically in importance, these figures were not able to insert themselves into the void left by the collapse of the imperial bureaucracy and administer justice and mediate disputes as they saw fit. Rather, Roman legal discourse permeated the Egyptian culture of dispute settlement, even among monks.

The discrepancy between Brown's depiction of the Late Antique holy men and the same figure as depicted in the literary and documentary sources of Coptic Egypt is just one example where current scholarship underestimates how Roman legal culture and rhetoric shaped legal practice and defined the language of legitimate legal dealings in the Late Antique period. A reexamination of these Coptic sources with emphasis on their legal and political force is

[12] Lopez (2013) and Goehring (1996 and 1997).
[13] Lopez (2013).
[14] Goehring (1996).

necessary to conceptualize properly both the rupture and continuity of legal language and practice in Egyptian Christian communities during the Late Antique period.

This dissertation exists in conversation with earlier scholarship on the cultural prestige of Roman power in the high and late empire. This prestige manifested in many forms, the most obvious of which is the content of statutes and norms expressed in Roman laws and legal documents, which then continued to appear in contexts not connected directly with the imperial administration, including the documents that I am examining. However, Clifford Ando has also demonstrated that, in the case of the *Tabula Contrebiensis* (where Roman procedural law was clearly imposed on a provincial case judged according to local norms) and the requirement that transcripts be made of interrogations of criminals in the province of Asia, non-Roman populations explicitly adopted Roman procedural law and technologies of memory production.[15] Furthermore, in the Christian context, Ando has confirmed both that Christian councils mimicked Roman assemblies in their protocols and parliamentary rules and that third-century martyr acts imitated Roman records of judicial proceedings as a way of authenticating and validating their historical memory.[16] Beyond the legal sphere, the cultural prestige of Roman power can be seen in the habit of provincial officials of imitating the dress of Roman officials or the ceremonials of imperial offices. In short, "The trappings of Roman power and the conduct of Roman officialdom thus came to occupy an archetypal position in the high imperial imaginary."[17] In examining Late Antique Coptic literary and documentary evidence, my dissertation continues to follow this cultural phenomenon, for example in the manifestation of Roman political ideology and memory production in hagiography when their authors insisted

[15] Ando (2012), pp. 89-91.
[16] Ando (2000), pp.128-129 and (2012), pp. 133-134.
[17] Ando (2012) pp. 228-229.

that only Roman-styled officials had the authority to carry out an execution or that a written testimony be recorded from pagans when they were questioned by local magistrates.

The incredibly rich corpus of Coptic legal documents[18] from seventh and eighth century Jeme published by W.E. Crum and W.C. Till has received little scholarly attention in comparison with similarly complex documents written in Greek from earlier periods. These documents display remarkable continuity in notarial practice over several hundred years as the structure of many types of contracts and the content of their clauses remain the same as it was under Roman rule. However, the institutional elements of the monastic legal culture introduced important changes as well, such as threats of excommunication in penalty clauses and elsewhere in the document, mentions of the possibility of future litigation before bishops and other church officials in security clauses, and emphasis on religious titles among witnesses to the document. My dissertation not only analyzes these changes where they occur, but also explores what they reveal about the institutional context of the monastery and the interaction of monastic legal culture with the larger Eastern Mediterranean legal culture that preceded it and coexisted with it.

Other Coptic legal documents from this period will be of further interest from the perspective of theology and legal theory. Some legal documents, testaments in particular, make liberal use of direct citations of scriptural passages and mention of figures from the Christian Bible. These changes provide an excellent case study for the impact of Christianity on law and legal practice, which has already been studied from a more general perspective using codified imperial legislation, Western hagiographies, and late Roman laws of inheritance.[19] Additionally, some legal documents display intertextual links with hagiography and other Christian literature produced in this period, as scholars have already noted concerning the famous "child donation

[18] Crum (1912) and Till (1954 and 1964).
[19] MacCormack (1997) and James (2003).

documents."[20] My dissertation explores these citations and intertextual connections in order to understand how an explicitly Christian ideology of legal authority was constructed in documents that at the same time also established their legitimacy through the forms and language of Roman law. This ideology also had extra-legal implications, as Christian bishops and monastic leaders attempted to reshape aspects of family and society that had previously been protected under Roman law, including public cult, divorce, and sexual relations. Their efforts were a part of a multivariate relationship between Christian ideologies of law, society, citizenship, and family, which in turn produced new sources of social authority within the Christian community and transformed related political and economic structures in society at large. Furthermore, several documents, especially reports of proceedings before community leaders over the course of an arbitration, raise legal theoretical issues such as standards of evidence and the standing of a particular party. I explore how well the conceptions of standards of evidence and standing articulated in these documents accords with earlier Roman law positions on these topics in order to better characterize the institutional interplay between these Christian legal institutions and earlier ideas of Roman law, as well as the sources of normativity and law in the Late Antique period.

My dissertation also explores lines of inquiry similar to those of Ari Bryen's and Benjamin Kelly's social histories of Roman Egypt on the basis of petitions surviving from that period. Kelly in particular dismisses the Late Antique period based on the comparative scarcity of petitions from this period and concludes that "the documentation is thin, and hence totally inadequate for doing any kind of meaningful social history of adjudication."[21] While Kelly is correct that very few petitions survive from the fifth century onwards, he does not account for

[20] Papaconstantinou (2002 a&b).
[21] Kelly (2011) p. 24.

the possibility of reconstructing a social history of *arbitration* on the basis of *dialysis* documents recording a settlement between two parties, which became increasingly common in this period, even as petitions disappeared.[22] These documents are in some ways similar to petitions because they record the history of a dispute in language that provides an account of previous litigation and conflict over the issue at hand and offers insight into their political and institutional context. However, these documents must still be interpreted with care because they are not necessarily accurate due to the distortion of the competing parties of the dispute and the presence of stock formulae common in this type of document.[23] In fact, because these documents would have been enforced partly by the social pressure of the community and religious leaders who served as arbiters, they form fertile ground for the use of sociological theories of small groups and social control, which Kelly also utilized effectively in his study of Roman petitions. I also examine the culture of legal document production, storage, and adjudication within the monastic institutions using this sociological methodology, in order to explore how legal interactions may have reinforced group identity and social hierarchies within these institutions.

My examination of Late Antique legal documents and monastic legal institutions also contributes to the larger scholarly conversation about the institutional landscape of the late ancient Mediterranean. Other regions may have had different practices for the production and storage of legal documents, or even a heavier reliance on witnesses rather than documentation. These regions can provide studies based on other types of sources, such as Julia Hillner's investigation of corporal punishment in the Western monastic context through the literary

[22] See Gagos and van Minnen (1994), esp. pp. 23-46, for an introduction to this document type and the larger trend of an increasing documentation of arbitrations in Late Antique Egypt.
[23] See Bryen (2012) pp. 56-65 for the ways in which the mediated language of petitions composed by a scribe does not detract from their ability to provide insight into contemporary political and institutional landscapes.

evidence of monastic rules of conduct.[24] Nevertheless, my dissertation provides important comparative evidence from a region where a richness of legal documents survives that is not present in other parts of the Mediterranean. This documentation allows me to draw conclusions about the interplay between this monastic legal culture with an explicitly Christian ideology and sources of authority and the Roman legal culture with its particular language and forms that conveyed legitimacy. More specifically, my dissertation explores examples of excommunication as a punitive measure and adjudication by bishops and other church officials, which are only possible to discuss in the most general of terms for other regions on the basis of literary sources like the correspondence of bishops. This ability to speak to the larger questions of the novel institutional landscape of the Late Antique Mediterranean should allow my dissertation to contribute not only to Coptic Studies, but also to the larger scholarship on the legal, social, and institutional history of this period.

A Note on the Selection Criteria of Evidence Used in My Dissertation

Finally, I would like to provide a note about my selection of evidence and its geographical range. The title of my dissertation mentions Late Antique Egypt, but an analysis or survey of all legal documents from 5th to 8th Century Egypt is impossible for a single dissertation to complete. Therefore, I focus my attention on documents that can be linked to Egyptian clergy and coenobitic monasteries, either through their provenance or contents. Coptic legal documents known to have been excavated or looted from monasteries primarily come from the Nile river

[24] Hillner (2009). Hillner explains how these monastic rules draw on earlier Roman political and legal ideology of the *paterfamilias* and his ability to punish his children, and in doing so place abbots in a familial relationship of authority over subordinate monks.

valley, with the most prolific being the Hermopolite Monastery of Apollo and the Monasteries of Phoibammon and Epiphanius near Jeme.[25] Hagiographies and other literary sources are attributed to a wider variety of monasteries, but most of these still fall in or near the Nile river valley. Documents that can be linked to monasteries or ecclesiastical institutions through their contents include those that mention a monk, priest, or monastery official as a scribe, arbitrator, or witness and those that involve economic dealings with a monk or monastery. Coptic testaments and donation documents are especially important in my fourth chapter, as these documents were written down by monastic scribes and the monasteries were their beneficiaries, sometimes in a way that is contrary to the normal rules of succession. Testators and donors often left substantial donations of real property to monasteries, which in turn increased the economic influence of these institutions as landlords and property holders.

The exception to this focus on documents associated with monasteries and clergy through their provenance and contents is *dialysis* agreements and records of arbitration proceedings.[26] These documents are comparatively rare, so restricting myself to a particular subset of them could lead to conclusions skewed by too small a sample size. Gagos and van Minnen tabulated 41 *dialysis* agreements from the Late Antique period written in Greek from a variety of geographic settings, and 25 of these fall within my time period of the 5th-8th Century.[27] These 25 documents are more in line with the political *milieu* of Late Antique Egypt, because some of the 16 documents prior to the 5th Century were settled through petition to the prefect, while all of the later 25 documents were settled through arbitration, when the settlement is recorded. In addition, over the course of my research I have found 32 Coptic *dialysis* agreements from the time period

[25] This town is the Upper Egyptian site of the discovery of many Coptic legal documents. Tresmegistos Places ID 1341, with the alternative name of Mnemoneia.
[26] See Chapter 2, pp. 67-69 of this volume, for an introduction to this type of document.
[27] Gagos and van Minnen (1994) pp. 121-127.

under consideration that involve arbitration and settlements. Even as I examine *dialysis* documents that are not linked to monasteries, those documents that will be most relevant to the themes of my dissertation will be those that mention monks or clergy as parties to the dispute, arbitrators, scribes, or witnesses.

Previous Scholarship

As with most subjects related to Coptic documentary papyri, Coptic legal papyrology has received very little attention, relative to the scope of the surviving documents. One of the most prominent American scholars of Coptic legal document was Arthur Schiller of Columbia University Law School, who was active in the early to middle twentieth century. In 1932, Schiller published editions, translations, and commentary on a series of significant Coptic legal documents in a volume, *Ten Coptic legal texts and Coptic law*, which is still consulted today. He also published a series of articles in the 1960's on "The Budge Papyrus of Columbia University," a fascinating document that records speeches in a hearing concerning a property dispute before a panel of arbiters in 7th Century Edfu. Schiller's articles dealt with the historical and textual aspects of this important document, but passed over many factors that make it interesting from a legal theoretical perspective, such as the fact that advocates for each side offered contrasting frameworks for standards of evidence, one rooted in the traditions and notarial practices of Roman law and the other based on a more explicitly Christian worldview and incorporating citations of scripture. More recently, Tonio Sebastian Richter has examined this document for evidence regarding scribal training in Coptic communities.[28] However, my dissertation is unique

[28] Richter (2017).

in addressing the topics of standards of evidence, standing, and invocation of Christian norms from this text in a substantial way.

More recent scholarship on Coptic legal papyrology has created very useful technical tools, but does not address the questions of the reception of Roman law in Coptic documents or the institutional relations studied in my dissertation. Hans Förster's *Wörterbuch der griechischen Wörter in den koptischen dokumentarischen Texten* (2002) is an invaluable resource in studying Coptic legal texts because it has allowed me to link legal terms found in these texts readily to those found in earlier Greek legal documents and it also provides extensive citations for other documents in which a particular term appears. For the non-Greek words in these documents, Richter's extended chapter on "Verba Collecta: Glossar zum Rechtswortshatz koptischer Rechtsurkunden"[29] in his monograph *Rechtssemantik und forensische Rhetorik* (2002) has proven to be an essential aid. This glossary helped me to grasp the specific legal significance of more commonplace Coptic words in any given category of legal text. Richter's work also lays to rest a long-debated question that I am glad not to have to deal with in my dissertation because of my lack of training in Demotic, namely the extent of the continuity between Demotic and Coptic legal documents. Richter concluded that, while some of the basic vocabulary of these documents show signs of continuity, the substantive law and technical terms of Coptic legal documents show far more alignment with Greek notarial practice and the Roman law tradition than with Demotic legal documents. Several collections of Coptic legal documents have also been published recently or compiled into a more readily consultable form and have yet to receive extensive comment from legal historians, most notably M.R.M. Hasitzka's three volume *Koptisches Sammelbuch*. In addition to these editions and technical tools that have

[29] Richter (2008) pp. 166-374.

already been published, even more ambitious resources are being developed for Coptic Studies, including Stephen Emmel's edition of Shenoute's writings, the online *Coptic Scriptorium* project led by Caroline Schroeder and Amir Zeldes, and the *Database and Dictionary of Greek Loanwords in Coptic* coordinated by Sebastian Richter. The existence of these new tools and editions makes this an exciting time to return to long-neglected or unexplored questions of late antique legal and economic history.

The recent scholarly treatments of the reception of Roman law in Coptic legal documents and the citation of scripture in these documents have been extremely cursory. Artur Steinwenter's 1957 article "Nomos in den koptischen Rechtsurkunden" attempts to explain and categorize the use of the word "ⲛⲟⲙⲟⲥ" in some Coptic legal documents, but this nine-page chapter leaves many aspects of this important topic untouched or underexplored. Similarly, Richter's twelve-page chapter[30] on "Transtextualität und wiederholte Rede" provides a list of different types of intertextuality and citation in Coptic literary documents, but while Richter makes many interesting and novel connections in this chapter, his examination of these examples provides almost nothing in the way of analysis, and he largely relies on Steinwenter's conclusions in his treatment of Roman law in Coptic legal documents.

Other scholars have done noteworthy work on Late Antique society that provide important contextualization for my dissertation, especially in the area of Late Antique law and the economics and society of Christian Egypt. Caroline Humfress has published several excellent studies of legal practice in Late Antiquity. Her book and articles draw on standard legal sources like the Digest, but she also uses sermons, hagiography, and other non-legal Christian texts to reconstruct aspects of Roman procedural law.[31] Humfress's significant monograph, *Orthodoxy*

[30] Richter (2008) pp. 142-154.
[31] Humfress (2007), (2011), and (2013).

and the Courts in Late Antiquity (2007), examines the legal education of late antique *rhetores* and then traces how their familiarity with Roman law influenced the formation of canon law in this period, especially legal proceedings for prosecuting heretics. While Humfress focuses on forensic culture in Late Antiquity, others have written about the notarial culture of Egypt. Traianos Gagos and Peter van Minnen produced an excellent case study of a single extensive *dialysis* agreement from 6th Century Aphrodito, *Settling a Dispute: Towards a Legal Anthropology of Late Antique Egypt* (1994). They provide some interesting discussion of the larger notarial culture of Late Antique Egypt, but this discussion is limited since the volume's main objective is to provide an edition and commentary of the *dialysis* agreement. Johannes Diethart and Klaas Worp have also produced a detailed analysis and tabulation of notaries' names, titles, and subscriptions, along with a valuable book of plates depicting their signatures, published as *Notarunterschriften im Byzantinischen Ägypten* (1986). Very recently, Jennifer Cromwell published *Recording Village Life: A Coptic Scribe in Early Islamic Egypt* (2017), which studies the oeuvre and career of one 8th century Coptic scribe, Aristophanes of Jeme. Cromwell's careful study was very helpful to me in completing my dissertation, especially her sections on monastic document production and storage.[32]

Further recent work on the economic and social history of Late Antique Egypt will provide context for the legal and institutional developments that I discuss in my dissertation. In his influential 1985 article "Les Grands Domaines, la cité et l'état en Égypte Byzantine," Jean Gascou explores the institutional relationship between the emperor's court in Constantinople and the large estates in Egypt, especially in the realms of administration and economics. Gascou demonstrates that the imperial court gave these estates extensive authority to administer

[32] Cromwell (2017) pp. 60-66.

surrounding communities in exchange for tax revenue, even in areas such as imprisonment and enforcement of law. Todd Hickey builds on Gascou's work using the extensive papyrological records of the Apion Estate in *Wine, Wealth, and the State in Late Antique Egypt, The House of Apion at Oxyrhynchus* (2012). Hickey examined the internal economics of this estate, and he determined that it was quite risk adverse and that the owners prioritized their relationship with the imperial court at Constantinople above all else. Constantine Zuckerman provided an important account of the 5th Century Byzantine taxation system and the local administration of Aphrodito in *Du village à l'Empire: autour du Registre fiscal d'Aphroditô* (2004). Still other scholars have produced important studies on the development of Christianity in Late Antiquity. Ariel Lopez examines the 5th Century abbot Shenoute as a public figure very much involved in the social and political life of the surrounding Egyptian community in *Shenoute of Atripe and the Uses of Poverty: Rural Patronage, Religious Conflict and Monasticism in Late Antique Egypt* (2013). This study is an essential conversation partner with my first chapter, both because Shenoute's actions and writings are often invoked in later Coptic legal writings and Shenoute's active role in the larger Egyptian community is important to consider in my discussion of monastic legal culture and the institutional relationship between the Coptic Church and Roman legal culture.

Methodology

The dissertation proceeds, first and foremost, by a close reading of Greek and Coptic monastic legal documents in their original languages. These documents include contracts, testaments, records of arbitrations, and proceedings before arbitral and judicial authorities. I also

analyze contemporary literary sources for the evidence that they contain about attitudes towards law in Coptic communities and about aspects of contemporary procedural law that do not survive in the legal documents themselves. Finally, I use methods imported from the sociology of social control to study how these legal processes within monasteries solidified group identities and reinforced social hierarchies within these communities.[33]

An analysis of the formulae of Greek and Coptic contracts and testaments, with particular attention to changes and continuities in language and clauses over time, allows me to trace the ideological significance of certain formulae and terminology. The default ordering and content of clauses in traditional early Byzantine Greek contracts have been documented by scholars such as Anneliese Biedenkopf-Ziehner, T. S. Richter and Florence Lemaire.[34] Therefore, changes in these clauses over time should be readily recognizable through comparison with the wording of earlier documents. The aggregation of many examples of phenomena like threats of excommunication in penalty clauses and references to judgments by bishops in security clauses gives insight into the nature of legal ideology, discipline, and authority within these Coptic Christian institutions.

My examination of less formulaic legal documents, such as the *dialysis* documents, which settle conflicts through a legally binding arbitration, also relies on a close reading across a large corpus of texts. With these more complex documents, I focus more on the content and language of their narratives, rather than a linguistic analysis of their formulae. This process provides both unique pieces of evidence that will illuminate a particular topic, like treatment of standards of evidence in this period, and data points that I will then aggregate in order to discuss larger institutional trends. As an example of the latter process, these documents sometimes

[33] Harrinton and Fine (2001), Kelly (2011), and Chriss (2013). See also, pp. 156-159, this volume.
[34] Biedenkopf-Ziehner (2001), Richter (2010), and Lemaire (2010).

provide a history of litigation and contestation of the dispute prior to the settlement, and these accounts when compared reveal information about procedural law and legal document production in this period. Furthermore, the names and titles of individuals chosen as arbiters in these documents further clarifies the authority that allowed individuals from particular backgrounds or positions to exert social control in settling these disputes. The names and titles of witnesses, arbiters, and scribes helps to identify the individuals involved in dispute resolution and their position within these communities.[35]

The dissertation also examines contemporary Coptic and Greek literary sources, such as hagiography and martyrology. These sources are the secondary focus of the dissertation, after Greek and Coptic monastic legal documents; nevertheless, they provide examples of legal terminology used in literary sources and depict reflections of actual practice. Examples of how hagiographers depicted the actions of holy men and monastic leaders in the legal setting allows for insight into their conception of authority and legitimacy in the contemporary legal landscape. Additionally, literary sources can also give important clues about the nature of procedural law that is not preserved in legal documents, as Clifford Ando and Caroline Humfress have demonstrated in many instances within their scholarship.[36] An examination of contemporary hagiographies, sermons, and other evidence may reveal more information about the process of drawing up legal documents and adjudicating disputes within the monastic institutional context.

This dissertation also follows the example of other recent ancient historians who have made use of the sociological literature on small groups and social control. In his monograph *Petition, Litigation, and Social Control in Roman Egypt*, Benjamin Kelly draws on methods from sociology to demonstrate how legal proceedings reinforced hierarchies and maintained group

[35] See pp. 106-107, this volume.
[36] See especially Ando (2000) and Humfress (2007).

solidarities, especially in family, employment, and patronal relationships. My analysis of the hagiographical and papyrological material will show a similar process at work in Late Antique Egypt, where the language of Roman law conveyed authority on holy men as judges, and interactions with monastic legal institutions reinforced group solidarities in the Coptic Church. In relying on monastic institutions to create legal documents, both individuals within the community and members of the monastery themselves reaffirmed their affiliation with that local monastery, on which they subsequently depended to guarantee their rights to property or donations protected in documents drawn up by that monastery's personnel. When individuals turned to monastic or ecclesiastical administrators as judges or arbiters in legal disputes, they also affirmed the hierarchy internal to these institutions and their own place within this social hierarchy.

Chapter Outline

In my first chapter, I revise Brown's thesis,[37] which argues that holy men mediated disputes on the basis of their personal asceticism and separation from the community, using both literary accounts of saints' lives and surviving documentary papyri like letters, petitions to clergy, and arbitration records. This combination of literary and non-literary evidence allows me to understand dispute resolution on the levels of both discourse and practice, addressing both the discourse that authors of hagiography constructed around the role of clergy in arbitrating disputes, as well as how those roles were actually performed. Both of these types of evidence indicate that the judicial authority of these holy men was modeled after imperial predecessors and that Roman archetypes shaped popular conceptions of law in these communities.

[37] Brown (1971).

My second chapter further examines evidence of clerical and monastic involvement in dispute resolution, focusing on *dialysis* agreements and other sources related to arbitration. In contrast to earlier scholarship, which construed this arbitration by clergy as a replacement for adjudication by secular magistrates, this chapter examines the procedure of these arbitrations in order to understand how arbiters framed their actions in a cooperative relationship with imperial courts and modeled themselves after them procedurally. At the same time, arbitration was also a useful mechanism for religious officials or religious institutions and their donors to resolve disputes internally, while still preserving the option of litigating the settlement in the formal court setting in case of violation.

In my third chapter, I focus on Coptic legal documents from seventh and eighth century Egypt in order to follow the use of arbitration as the predominant means of dispute resolution in Coptic Christian communities during this period. I examine the dossier of the Bishop Abraham of Hermonthis for evidence of the extensive coordination of arbitration by his chancery in the early seventh century. I also study Coptic *dialysis* agreements in order to demonstrate both their heavy formal alignment with the Greek arbitration agreements that preceded them and their strong reliance on Christian officials, sacred spaces, and oaths, which cemented the social influence that allowed them to function. Using incredibly rich records of the proceedings of two arbitrations, I demonstrate how legal argumentation from this period retained conceptual and structural features of Roman law while importing elements from Christian theology and other sources of legal norms. Disputants argued, for instance, about whether rules for acceptable evidence should be derived from the Roman tradition or from scriptural standards.

In my fourth chapter, I study Coptic wills and donation documents that cite scripture extensively, as well as internal ecclesiastical documents modeled after Roman legal document

forms. These two bodies of texts are juxtaposed in part because one group forms a symmetrical contrast to the other: just as scripture is used to reinforce Roman legal formulae in testaments in para-ecclesiastical contexts, so too Roman legal forms were used to perform administrative functions within ecclesiastical contexts that did not need to be documented as a contract. These two groups of documents are also useful because they allow me to draw on documentary papyri to develop a sociological understanding of the way in which legal institutions served to reinforce group identity and social control in both monasteries and their surrounding communities. Furthermore, this chapter explores the extent to which the monastic legal context encouraged actors to articulate and reinforce Christian ideologies. One of the conclusions that arises from my close reading of these papyri is that the formal qualities and economic impact of these testaments was affected by the involvement of religious officers throughout this process, as scribes and notaries who drew up these donation documents and later as arbiters of disputes arising from them. Furthermore, this trend represents a striking development in these religious institutions. The transition into a legal culture dominated by religious personnel allowed for the insertion of Christian norms into these documents and changes in property relations brought about by theological concerns, even as these religious actors often worked in coordination with or adopted the language and forms of the imperial legal regime, whether past or present.

Chapter 1

Roman Law in the Discourse and Practice of 5th and 6th Century Egyptian Christianity

> …this lawless transgressor, Ammonius, drank a sea of wine in the night season, toward morning, and descended upon me in those hours with the son of Penson and his servant. They left me no resemblance of myself, neither foot nor hand being without some disfigurement. I beseech you moreover to let me…[1]

A scholar familiar with the recent historiography on law and society in Roman Egypt might read this text and assume that it is a translation of an excerpt from a first or second century petition to an imperial official with the power to pass judgment enforceable under Roman law, such as the prefect. Indeed, it would fit in easily with the 135 petitions translated in the second appendix of Ari Bryen's monograph on *Violence in Roman Egypt.* It contains familiar rhetoric used to describe a defendant who is violent and intoxicated, who as a "lawless transgressor" is a threat to the proper functioning of the imperial order. The plaintiff describes his own physical injuries that resulted from this violence, creating a narrative similar to what Bryen characterized as "a discourse of wounded bodies, and in particular, bodies with wounds that were publicly visible."[2] This is precisely the sort of language that plays to the ideology of Roman rule that it is responsive to such accusations of injustice and to claims based on the abstract rights held by its citizens.

However, this is not a translation of a first century Greek papyrus addressed to the prefect of Egypt. Rather, it is a Coptic ostracon addressed to an ecclesiastic, dated to the

[1] O.Mich.Copt 4 lines 12-23 Worrell (1942) translation.
[2] Bryen (2013) p. 120.

seventh century on the basis of paleography. This was a period when Roman imperial control of Egypt was extremely tenuous for a few decades, then completely destroyed by Persian and later Islamic conquerors. The petition is prefaced by florid, stereotypically Christian language incorporating tropes familiar from the epistolary books of the New Testament, which I will return to when I examine this letter more closely, later in this chapter. Nevertheless, despite the deterioration of the Byzantine imperial administration in this period and the sharp decline in petitions submitted to imperial officials in the period between 400 and 700,[3] this letter still exhibits language similar to that used in earlier petitions and even mimics the form of this earlier type of legal document on a basic level. Moreover, this is merely one of many examples of the language and forms of Roman law appearing in unexpected ways in the literary and documentary sources of Late Antique Egypt.

The purpose of this chapter is to trace how the social prestige of Roman legal forms and practices continued to express itself in the ways in which Christian clergy and monastics resolved disputes and interacted with secular magistrates in Egypt during the fifth and sixth centuries A.D. The continued prominence of these forms will be noteworthy especially in the period after the Council of Chalcedon and the subsequent enforcement of its doctrinal position. This enforcement caused significant theological conflict between many communities in Egypt and the political institutions of the imperial court and its provincial administration.

First, the chapter will trace the continued use of Roman law and practices in a corpus of hagiography written in reaction to the enforcement of the council of Chalcedon

[3] Kelly (2011) pp. 23-24.

that otherwise exhibits strong antipathy towards the imperial court and administration.[4] This examination will establish that, at the level of discourse, even those religious texts composed in monasteries that were most hostile to Justinian or the imperial religious hierarchy continued to acknowledge the legitimacy of Roman practices for recording legal agreements, punishing capital offenders, and conducting and recording legal proceedings. Second, the chapter will examine the documentary evidence for the involvement of clergy and monks in petitions and arbitration in this period. Through connecting this evidence with existing studies of petitioning in Roman Egypt, I will demonstrate how Egyptian clergy inserted themselves into the legal institutions of Late Antique Egypt, while still respecting the logic of those institutions and the ability of imperial subjects to express themselves through these legal processes.

Coptic hagiography provides a promising corpus for understanding how Christian writers discussed law in the fifth and sixth centuries and examining how this discourse embraced the terms of Roman law through the depicted words and actions of holy men. Egyptian Christians wrote Coptic hagiography from the fourth century well into the Islamic Period, with one of the latest texts dating to the thirteenth century.[5] However, Coptic saints' lives concentrate on two periods in particular, in terms of the date of the life of the saint that they depict. The first group depicts saints who lived during the early to middle fourth Century, and includes the famous *Life of Antony* and many martyr acts depicting gruesome and dramatic persecution of Christians under the emperor Diocletian.[6] These works represent the largest concentration of Egyptian hagiography and

[4] For a general introduction to this corpus, see Johnson (1986) pp. 216-234.
[5] See Zaborowski (2005).
[6] For examples of these texts, see Reymond and Barns (1973).

several of them were circulated in Greek across the Mediterranean.[7] The second large concentration of Coptic hagiography depicts ascetic monks and bishops from the Anti-Chalcedonian, Miaphysite, revival in the fifth and sixth centuries; these texts were less frequently translated into Greek and appear to have circulated mainly in Egypt, Nubia, and Ethiopia, but not in the wider Mediterranean.[8] This chapter will concentrate on this latter group of hagiographies for two reasons: first, the number of them that survive allows one to examine a representative, but still reasonably varied, selection from this corpus. Second, the fact that the authors of these biographies would have been in political conflict with the imperial court and administration makes the regard for the forms of Roman law in their discourse all the more worthy of discussion.

The use of hagiography in addition to documentary papyri to study the legal history of Late Antique Egypt also conveys several methodological advantages. Hagiographies, when viewed alongside papyrological evidence, can sometimes by comparison seem imprecise in their language and content. For example, in some cases it can be difficult to tell whether the issue discussed is a civil, criminal, or administrative suit, as in the excerpt from Moses of Abydos below. Furthermore, historians of Late Antique Egypt have pointed out that a high degree of skepticism is warranted when examining issues like ecclesiastical institutions or social relations between Christians and pagans that are central to these texts, due to the highly polemical nature of many of these writings.[9]

[7] Van Minnen (2006) p. 66.
[8] Van Minnen (2006) p. 66.
[9] See, for example, Bagnall (1993) pp. 7-8.

However, hagiographies also offer unique opportunities to the extent that they provide an external perspective on the law and system of justice itself. In light of this concern, legal papyri tend to be somewhat limited because they are composed within a particular institutional framework in order to be as effective as possible within that framework. Therefore, they would almost never challenge that framework or threaten to enforce a judicial decision themselves. Additionally, when working with papyrus documents like petitions to magistrates, modern scholars often do not know whether the petition was successful or whether the presiding magistrate accepted the arguments of the plaintiff. This in turn makes it difficult to determine how social considerations like the class, ethnicity, or religious persuasion of the plaintiff might affect the magistrate's decision. In the example of Moses of Abydos below, it is clear that religious networks affected judicial decisions in ways that were not at all related to the facts or legal arguments in the case at hand.

In addition, for the corpus of hagiography that this chapter examines, studying saints' lives has the important advantage that these texts are explicit about where the particular monk or bishop fell in the conflict between the Chalcedonian and Miaphysite factions in Egypt, which was one of the most important divisions in Egyptian Christianity in the fifth through seventh centuries.[10] As Ewa Wipszycka has noted, papyri and inscriptions do not state with which side of the doctrinal division a bishop or cleric was affiliated; only narrative sources reveal this sort of information and provide the context

[10] See Mikhail (2014) pp. xii-xiii for the use of terms Chalcedonian, Monophysite, Miaphysite, Copt, Melkite, and Dyophysite, including as polemical epithets. I follow Mikhail in using the terms "anti-Chalcedonian" and "Miaphysite" to refer to "the Christians of Egypt who rejected the formulations of the Council of Chalcedon and adhered to the Alexandrian hierarchy that recognized patriarchs Dioskoros I and Theodosios I as orthodox."

that reveals how monasteries aligned themselves.[11] Therefore, consulting hagiographical texts provides the best evidentiary opportunity to detect whether anti-Chalcedonian monks arbitrated disputes or petitioned magistrates in a way different from their Chalcedonian rivals. This analysis in turn will allow us to determine whether this doctrinal difference resulted in a different degree of loyalism to the Byzantine Empire and a difference in the use of imperial practices and symbols of legal and political authority.

The first excerpt under consideration from a Coptic hagiography comes from the *Life of Moses of Abydos*, a late sixth century text. Like several of the texts examined in this section, the *Life of Moses* features a sixth century setting and the distinguishing theme of the prosecution of pagans. The text shares identifying anecdotes with other text of this anti-Chalcedonian milieu, such as an account of Justinian's apostasy from the Chalcedonian position through the counsel of Coptic saints in Constantinople.[12] Moses is linked to the prominent Miaphysite monastic Shenoute through the facts of his life and by explicit connections that the author of the hagiography narrates. Moses himself was a near-contemporary to Shenoute. His monastery at Abydos was relatively close to Atripe in the Thebaid. Furthermore, the text links him with Shenoute conceptually in the area of idol destruction as it states that Shenoute predicted Moses' birth shortly before the former's death and prophesied concerning his future accomplishments as a monastic leader and prosecutor of pagans.[13]

[11] Wipszycka (2007) p. 344.
[12] Moussa (2003) p. 72.
[13] Moussa (2003) p. 68.

While the majority of the *Life of Moses* describes the holy man leading a monastic community and engaging in physical and spiritual combat with pagans and demons, one episode is particularly relevant to the topic of law in this period. In this episode, Moses petitions secular magistrates on behalf of members of his community. Monastic involvement in the petitioning process is historically plausible, given the importance of private petitions in the Roman legal system, and the latter portion of this chapter will demonstrate that it did in fact occur on the basis of documentary papyri recording monks and clergy engaging in the petitioning process. The hagiography describes the following situation:

> ⲡⲱⲁⲭⲉ ⲉⲩⲛⲏⲩ ⲱⲁⲡⲉⲛ ⲉⲓⲱⲧ ⲁⲡⲁ ⲙⲱⲩⲥⲏⲥ ⲉ̄ⲃⲟⲗ ⲏⲙ ⲙⲁ ⲛⲓⲙⲃⲉ ⲥⲉⲛⲱⲱⲛⲉ ⲉⲩⲱⲟⲃⲉ ⲁⲩⲱ ⲛⲉⲱⲁⲩⲕ ⲧⲟⲟⲩ ⲥⲛ̄ⲟⲩⲣⲁⲱⲉ ⲭⲉⲛⲉⲣⲡⲟⲩⲁ ⲡⲟⲩⲁⲙⲁⲧⲉ ⲙⲡⲥⲱⲃ ⲛⲧⲁⲩⲉⲓ̄ ⲉⲧⲃⲏⲏⲧϥ ⲉⲧⲟⲩⲭⲓ̄ ⲇⲉ ⲟⲛ ⲙⲙⲟⲟⲩ ⲛ̄ⲑⲟⲛⲥ̄ ⲥⲓⲧⲛ ⲛⲁⲣⲭⲱⲛ ⲛⲉⲱⲁϥ ⲥⲥⲁⲓ ⲱⲁⲣⲟⲟⲩ ⲉⲧⲃⲏⲏⲧⲟⲩ ⲁⲩⲱ ⲛⲉⲱⲁⲩⲣⲁ̄ⲓⲕⲟⲩ ⲙ̄ⲙⲟⲩ ⲥⲙ̄ⲡⲧⲣⲉⲩⲭⲓ̄ ⲛⲛⲉϥⲥⲥⲁⲓ̄ ⲉⲃⲟⲗ ⲭⲉ ⲛⲉⲩⲭⲓ̄ ⲙ̄ⲙⲟϥ ⲡⲉ ⲥⲱⲥ ⲡⲣⲟⲫⲏⲧⲏⲥ
>
> They were travelling to our father Abba Moses from every place because of various sicknesses and they would return joyfully because each one received that for which he had come. As for the people who suffered injustice at the hands of the rulers (ϭⲟⲛⲥ ⲥⲓⲧⲛ ⲛⲁⲣⲭⲱⲛ), he used to write (ⲛⲱⲁϥⲥⲥⲁⲓ) concerning them and [the rulers] would forgive them as soon as they received his letters (ⲛⲛⲉϥⲥⲥⲁⲓ), because they regarded him as a prophet (ⲡⲣⲟⲫⲏⲧⲏⲥ).[14]

This passage suggests that Moses would petition the magistrates on behalf of the wronged and that the magistrates would grant his request, either through genuine religious conviction, as the text here suggests, or because they recognized his cultural capital. The text emphasizes the medium of the letter or petition by the polyptoton of repeating the verb and noun forms of ⲥⲥⲁⲓ in close proximity. The mention of force, ϭⲟⲛⲥ, meaning constraint or violence, βία in Greek, suggests that this complaint may

[14] *Life of Moses of Abydos*. Moussa (2003) translation p. 87.

have been the same sort of petition concerning violence that has been studied by Ari Bryen,[15] but one could easily imagine holy men playing a similar role on behalf of the downtrodden in the case of a complaint against a magistrate.

Significantly, Ariel Lopez argues that in Shenoute's writings, ϭⲟⲛⲥ comes to mean essentially "social injustice," or ἀδικία in Greek, as it appears to describe oppression of the poor by the rich almost exclusively.[16] Lopez notes how the theme of social injustice came to dominate petitions of this period: "By the sixth century, it seems, every crime had become a crime of the rich and powerful against the weak and poor- 'violence' in Shenoute's language. Social contrasts and inequality come to be portrayed in dramatic terms and form the background of every petition."[17] This accords with Bryen's study of the language of petitions concerning acts of violence, as he finds that the trope of a rich and powerful attacker becomes more prominent in Late Antique petitions.[18] Whether the *Life of Moses* adopted this language directly from Shenoute's writings or from its more general historical context, the fact that it expressed itself using the language of a petition shows how it absorbed the language of Roman law even as it depicted Moses trying to carve out influence for himself within the Roman legal system. It is important not to understate the need for increasing the prominence of one's petition; one admittedly much earlier papyrus states that a prefect on an administrative tour of the city of Arsinoe received 1804 petitions in just two days.[19] Any means of having one's petition heard more quickly or guaranteeing that it was responded to would have been

[15] Bryen (2013).
[16] Lopez (2013) pp. 35 and 157.
[17] Lopez (2013) p. 35.
[18] Bryen (2013) p. 96.
[19] Hobson (1993) p. 214.

immensely valuable. The support of a man like Moses might have been tremendously useful in the petitioning process. Mark Moussa argues that the fact that the magistrates considered Moses to be a "prophet," ⲡⲣⲟⲫⲏⲧⲏⲥ, serves to create a further conceptual link between him and Shenoute, who is given the same title in his own *Life*.[20] Moses' cultural clout may also designate a shift in this process, through which those who were connected to influential Christian figures may have gained a level of influence and access that was previously only available to the political elite.

The hagiographer's depiction of Moses as petitioning secular magistrates, both in writing and in person, is striking given the ways in which this text criticizes these magistrates and explicitly connects them with the Chalcedonian position on other occasions. Early in the *Life,* Apa Shenoute laments the fact that pagans were able to sacrifice and openly practice their cult on the mountain of Abydos. The text claims that they were able to do this because the local officials were corrupt:

> ⲉⲡⲉⲓⲇⲏ ⲛⲁⲣⲭⲱⲛ ⲉⲧⲁⲣⲭⲉⲓ ⲙ̄ⲡⲕⲁⲓⲣⲟⲥ ⲉⲧⲙ̄ⲙⲁⲩ ϩⲉⲛ ⲙⲁⲓⲭⲣⲏⲙⲁ̄ ⲛⲉ ⲉⲧⲃⲉ ⲡⲁⲓ ⲛⲉⲩⲱⲃⲱ ⲙ̄ⲙ̄ⲟⲟⲩ ⲉⲣⲟⲟⲩ ⲡⲉ· ϩⲓⲧⲛ̄ⲁⲓⲁ ⲫⲟⲣⲙⲏ̄ ⲇⲉ ⲁⲩⲁⲣⲭⲉⲓ ⲙ̄ⲡⲁⲣⲣⲏⲥⲓⲁϫⲉ [ⲙ̄]ⲙⲟⲟⲩ ⲛⲟⲓ ⲛ̄ϩⲉ[ⲗ]ⲗⲏⲛ.
>
> Since the governors (ⲛⲁⲣⲭⲱⲛ) ruling (ⲉⲧⲁⲣⲭⲉⲓ) at that time were greedy (ⲙⲁⲓⲭⲣⲏⲙⲁ̄), they turned a blind eye at them, and because of the cash, the pagans had begun to speak openly (ⲙ̄ⲡⲁⲣⲣⲏⲥⲓⲁϫⲉ).[21]

The word that the text uses to refer to these magistrates, ⲛⲁⲣⲭⲱⲛ, is so generic that it is impossible to know whether it is referring to the same magistrates here as in the passages where Shenoute petitions the authorities. However, this same distrust of secular

[20] Moussa (2003) p. 72. A similar episode also occurs earlier in the *Life of Moses*. There, a fugitive came to Moses for help and, when soldiers came to arrest him, Moses traveled in person to the magistrates (ⲛⲁⲣⲭⲱⲛ) who then showed mercy on the fugitive because they considered Moses to be a prophet (ϩⲱⲥ ⲡⲣⲟⲫⲏⲧⲏⲥ). See Amélineau (1895) p. 705 for this episode.
[21] Uljas (2012) pp. 9 and 12.

magistrates because of their alleged corruption and tolerance of pagan worship also appears in the *Panegyric of Macarius*, indicating that the integrity of the magistrates who were charged with prosecuting pagans was generally called into question in literature of this milieu. Furthermore, the magistrates were also explicitly depicted as aligning themselves with the Chalcedonian position. For example, in one episode a noble Egyptian traveled to the imperial court, allied himself with the adherents of the synod of Chalcedon, and was granted a magistracy overseeing Thebais.[22] However, in accordance with a prophecy by Apa Moses, God soon removed the nobleman from his lofty appointment and also took away his riches, casting him down into poverty.[23] While one should not extrapolate from this episode that all magistrates aligned themselves with the Chalcedonian position, the hagiography depicts adopting this position as a way to curry favor with the imperial court and secure advancement in the local administration, at least in the short run. Despite the alleged corruption of secular magistrates and their potential association with the Chalcedonian position through their connection with the imperial administration, the hagiography nevertheless depicts written petition using vocabulary already familiar from earlier Roman petitions as the legitimate way for the holy man to interact with these magistrates, rather than open rebellion or an attempt to take justice into his own hands. The Roman legal practice of the written petition and the principle of the restriction of certain state powers and adjudication to the hands of certain imperial magistrates were still endorsed in this text despite its hostility towards the doctrinal position of the imperial administration.

[22] Uljas (2012) p. 24.
[23] Uljas (2012) p. 24.

The late fourth/early fifth century fragmentary *Life of Aaron* depicts a situation that is in some aspects similar to that shown in the *Life of Moses of Abydos*, but in other ways it depicts something closer to arbitration outside of the formal juridical institutions. This text was composed in a monastic context in the region of Philae and Aswan, which is consistent with the setting of other *Vitae* used in this paper from the monasteries of Upper Egypt.[24] In fact, as Tim Vivian explains, Philae and Aswan were at the outmost frontiers of monastic activity in Roman Egypt: "The *Acts of the Martyrs* indicates that the emperors Diocletian and Maximilian 'established governors from Alexandria to Philae.' And no further… Not only was Philae at the very border of Egypt, even outside of it, it stood on the border of the *oikoumene,* the known world."[25] The fact that the vocabulary and presence of Roman law is strongly felt in this instance then, provides further evidence of its entrenchment in the monastic context in Upper Egypt, even in the frontier regions. The probable early fifth century date of composition and the absence of any anti-Chalcedonian rhetoric in this hagiography make it likely that it was not a part of the anti-Chalcedonian revival literary milieu shared by the other hagiographies examined in this chapter. However, an important link can still be drawn between the depiction of a holy man involved in an arbitration in this text and holy men engaged in similar activity in documentary papyri. Furthermore, the emphasis on the Roman legal practice of using written legal instruments is shared by this text and the passage from the anti-Chalcedonian *Life of Longinus*, examined below.

The arbitration episode involves a dispute over a debt that a poor man owed to a rich man. The poor man comes to Aaron saying:

[24] Vivian (1993) p. 54.
[25] Vivian (1993), p. 55.

> There is a certain rich man in my city to whom I owe ten obeli, and I cannot get the money to pay him. I have begged him, "Be patient with me and I will repay you." But he would not agree to this and has seized me for what I owe him. He wants to take from me my vineyard which I inherited from my parents and from which I make a small profit, enough for my poor children and me to live on. I am paying him the interest I owe him. I beg you, your Holiness, to send a message to him to ease up on me, for someone from his household told me, "He's going to press you for the principal and haul you into court so he can take away your vineyard." (ⲭⲛⲁⲧ ⲁⲛⲁⲅⲕⲏ ⲉⲣⲟⲕ ⲉⲧⲃⲉ ⲡⲕⲁⲓⲫⲁⲗⲓⲟⲛ (=κεφάλαιον) ⲭⲛⲁⲧⲣⲕϩⲱⲱ[26] ⲛⲅⲁⲡⲟⲧⲁⲥⲥⲉ (=ἀποτάσσω) ⲙⲡⲉⲕⲙⲁ ⲛ ⲉⲗⲟⲟⲗⲉ) But I believe if you were to send a message he would not refuse of listen to you.[27]

The poor man initially asks Aaron to petition the rich man on his behalf, asking him twice to "send a message," a form of intervention similar to that practiced by Moses of Abydos. He does not request or anticipate the sort of in-person arbitration and resolution that eventually occurs in this case. Although Aaron would not have petitioned directly to a magistrate, but to the rich man himself, it is the threat of legal action that makes the poor man's request so urgent in the first place. Thus the poor man has an expectation that Aaron as a holy man would play a similar role to that of Moses as a protector of the poor and downtrodden from oppression through the legal system.

However, the case shifts when the rich man comes to Aaron in person, having been struck blind shortly after the poor man left him to go to Aaron. The case then becomes an in-person arbitration between the rich man and the poor man, an arbitration which Aaron decides. While this case lacks the sort of explicit statement that both parties would abide by the decision of the arbiter that one would normally expect as part of the process, this constraint is effectively imposed by the fact that the rich man risks lifelong blindness if he does not reconcile himself with the poor man. The episode continues:

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[26] "Will require thy capital", Crum (1939) p. 740.
[27] *Histories of the Monks of Upper Egypt*. Vivian (1993) translation, p.126.

> The holy man said to him, "If you show mercy to the poor man, Christ himself will heal you." The rich man called one of those who had come with him, and he took the loan agreement from him and gave it to the righteous man Abba Aaron. (ⲁⲩⲙⲟⲩⲧⲉ ϵ ⲟⲩⲁ ⲛⲛϵⲧⲙⲟⲟⲱϵ ⲛⲙⲙⲁⲩ ⲁⲩⲭⲓ ⲙⲡϵⲕⲣⲁⲙⲙⲁⲧⲟⲛ (=γραμματεῖον) ⲛⲧⲟⲟⲧⲩ ⲁⲩⲧⲁⲁⲩ ⲙⲡⲇⲓⲕⲁⲓⲟⲥ ⲁⲡⲁ ⲍⲁⲣⲟⲛ) The holy man Abba Aaron said to him "[If you give wages to the poor man]/in this world, God will give you your wages in the world to come."[28]

Aaron then made the sign of the cross over his eyes and instructed him to wash his face in faith. The rich man was healed immediately:

> The rich man rose and prostrated himself before the holy man Abba Aaron, giving thanks both to God and to Abba Aaron because he could see. The holy one gave the loan agreement to the poor man (ⲁⲩ† ⲙⲡϵⲕⲣⲁⲙⲙⲁⲧⲟⲛ ⲙⲡⲣⲱⲙϵ ⲛ ⲍⲏⲕϵ) and commanded him saying, "You too are to be merciful to your neighbor, as mercy has been shown to you. … Do not be like that worthless servant whose master forgave a debt of many talents. He went and squeezed his fellow-servant for the little bit he owed him. No, be like the wise servant who doubled his talent."[29]

This in-person resolution of a dispute over a debt resembles the sort of in-person arbitration that scholars believe was a fairly common means of informal dispute resolution under Roman rule. However, the episode emphasizes certain formal elements of the Roman legal system that parallel Christian episodes, such as the parable of the unforgiving servant[30] that was cited explicitly in this text, do not mention. These elements consist primarily in the emphasis on the loan document, ⲕⲣⲁⲙⲙⲁⲧⲟⲛ in the Coptic, which means bond, document, or contract.[31] This document is mentioned twice in the text, and its transfer from the rich man to Aaron then to the poor man is significant to the resolution of the dispute. Until this document was in the poor man's possession, there

[28] Vivian (1993) p. 128.
[29] Vivian (1993) pp. 128-129
[30] Matthew 18:21-35.
[31] See Förster (2002) pp. 153-154, which shows that this word is often used in Coptic documentary papyri to refer to the legal document that was being created.

is no guarantee that the rich man would not take the dispute up again in a formal legal setting and confiscate the poor man's vineyard. Thus this sort of in person Christian arbitration was not seen as a replacement for the formal legal structures of the courts, as the transfer of the legal document was still necessary to ensure that the resolution of the dispute would be stable and lasting. The word of the holy man by himself could not bind the two parties; Apa Aaron also needed to ensure that the obligation had been erased within the realm of Egyptian notarial practice. This depiction constitutes an interesting parallel to the fact, demonstrated in my second chapter, that mediation by monks and clergy were recorded in *dialysis* documents that could then be used in future legal action in the event of nonperformance.

An episode from the fifth century *Life of Longinus* confirms the continued emphasis on the Roman legal practice of creating written legal instruments in Miaphysite monasteries after the Council of Chalcedon. This text belongs firmly within the anti-Chalcedonian literary context, as demonstrated by the protracted conflict between the prefect Acacius and the monks of the Enaton Monastery, led by Longinus, over whether the monastery would subscribe to the Tome of Leo. In fact, this biography goes further in criticizing imperial administrators than other hagiographies because, after several chapters of conflict between the Chalcedonians and anti-Chalcedonians, it depicts the citizens of Alexandria storming the *praetorium* and burning the prefect in the middle of the city "because it was a judgement of God's justice, pronounced through the mouth of Apa Longinus the Great and the brothers who were with him."[32] However, this action was only viewed as acceptable after the conflict had been determined to be a divergence

[32] Vivian (1993) p. 29.

between the ordinances of the supreme ruler (αὐτοκράτωρ) and the Almighty (παντοκράτωρ).[33] These episodes completely reject the political authority of the imperial court and administration on the basis of doctrinal differences. However, in the episode below, the hagiography still seems to take quite seriously the implications of written legal documents in Roman legal practice.

The episode revolves around Longinus' performing a miracle to recover a legal document lost by a grief-stricken family. The background of the miracle is most relevant to the purposes of this chapter:

> I will also recount another wonder that God did through his servants. There was a man from the surrounding countryside there who had a noble son whom he had raised to adulthood from a child. There was a woman named Flavia who entrusted a document (ⲁⲥⲥⲟⲓⲗⲉ ⲙⲟⲩⲕⲣⲁⲙⲁⲧⲓⲟⲛ) to the parents of that youth, which they gave to their son to protect (ⲉⲧⲣⲉϥⲥⲕⲉⲡⲁⲍⲉ= σκεπάζω). When the youth died suddenly, his parents did not know where the document was. That woman, Flaviana,[34] went to recover her deposit (ⲧⲉⲥⲡⲁⲣⲁⲑⲏⲕⲏ= παραθήκη), that is, the document (ⲡⲉⲕⲣⲁⲙⲙⲁⲧⲓⲟⲛ) that she had entrusted to them. When they were at a loss regarding it and could not find it because they did not know where the young man had put it, with great anger she threatened that she would make them her slaves if they did not restore her document to her.[35]

The account that the biography provides makes it difficult to know exactly what legal relationship existed between Flavia and the parents of the deceased boy. The vocabulary used suggests that it may have been a deposit held in trust, since the text uses the Coptic verb ⲁⲥⲥⲟⲓⲗⲉ, which means "to deposit or entrust," and later the Greek loanword ⲡⲁⲣⲁⲑⲏⲕⲏ, which is a "deposit." It is unlikely that she would have had any lawful way to enslave the parents, though it is possible that they may have been subject to penalties for

[33] Vivian (1993) p. 26.
[34] This inconsistency in Flavia's name occurs in the *editio princeps*. See Orlandi (1975) pp. 54-56.
[35] Orlandi (1975) p. 14.

losing the legal document held in trust. More likely, Flavia, who is described as the "wife of a rich man" later in the text, threatened extra-legal recriminations in reaction to the fact that she has lost an important legal document deposited with them. The parents are so distressed by Flavia's threats that they left their son unburied and traveled to Apa Longinus, whom they begged to reveal where their son had hidden the document. Apa Longinus returns with the parents to their house, raises their son from the dead so that they can ask him where he put the document and other questions. After answering these questions, the boy "lay down again", presumably once again dead. This episode is somewhat bizarre, but nonetheless it conveys the very great value placed on properly composed legal instruments that were enforceable in Roman courts, even in a text that otherwise displays political hostility towards imperial administrators. Furthermore, the use of the comparatively rare loanword παραθήκη[36] may indicate that the author was familiar with Byzantine Greek legal documents himself. In a text that excoriates other official pieces of writing such as a letter from the emperor or the Tome of Leo as godless (ⲁⲧⲛⲟⲩⲧⲉ) and abominable (ⲉⲧϫⲁϩⲙ),[37] written legal instruments were still accorded great prestige and importance.

An evocative example of an Egyptian holy man aligning himself with Roman law principles of restricting adjudication of capital crimes to designated secular magistrates comes from the *Life of Shenoute*. Shenoute's monastic federation became a center of Miaphysite monasticism in the aftermath of the Council of Chalcedon. While the core of his *Life* may have been composed by his successor Besa, most scholars agree that it was augmented over time by encomia pronounced on the anniversary of his death, with the

[36] Förster (2002) does not record any uses of this word in published Coptic documentary texts.
[37] Vivian (1993) p. 25.

text reaching its most extended form in the seventh century.[38] This text exists in multiple forms, with surviving whole manuscripts or fragments in Sahidic and Bohairic Coptic, Arabic, Syriac, and Ethiopic. Due to my own linguistic limitations, this chapter cites the Bohairic Coptic text. This Bohairic *Life* was most likely an abridged version of a longer text, an Arabic translation of which survives, which included more conflict between Shenoute and local (possibly Chalcedonian) clergy and the patriarchs of Alexandria.[39] The Arabic translation also depicts Shenoute prosecuting pagans more aggressively, and the text appears to have been addressed to the community of Shenoute's monastic federation in particular.[40]

While the majority of Shenoute's *Life* is concerned with his monastic foundation, personal asceticism, and ministry to the poor, there is one episode that provides insight into the conception of law in Late Antique monasteries. It involves a man who came to Shenoute after murdering a traveler in order to rob him of his gold pouch. He found that the pouch contained only a single gold coin and came to Shenoute, terrified concerning the fate of his soul. Before he is allowed to explain his circumstances, Shenoute stipulates the following condition: "If you will obey me in what I shall say to you, you will see me; if you will not obey me, you will not look upon my face." The man said, "I will obey you, my lord and father, in all that you command me."[41] This promise is significant because of its formal similarity to the sorts of agreements involved in arbitration. Before the arbitration, the parties involved would make a binding promise to obey the arbiter's

[38] Lopez (2013) pp. 135-137.
[39] Lubomierski (2008) p. 94. But see Bell (1983) pp. 4-5.
[40] Lubomierski (2008) p. 94.
[41] *Life of Shenoute* sections 15-16. Bell (1983) translation p. 46. Liepoldt and Crum (1896) p. 15.

ruling.[42] Similarly, here Shenoute asks the murderer to promise to follow the course of action that he stipulates in order to secure forgiveness of his sin from God and salvation for his soul. With this framework in place, Shenoute instructs him to do the following:

> Do not stay here, but get up quickly and go into the city of Smin, where you will find the duke (ⲁⲟⲩⲍ). He has come south down the river and is being greeted by his people. Some thieves who robbed an eminent man of the city of Smin will be handed over to him and he will be incensed with them. You too must go and join the thieves, and they will say to the duke: "He is here with us." The duke will ask you: "Is this true?" Say to him: "It is true," and he will therefore kill you with the others. You will then enter into the eternal life of God. The man left immediately and did just as the holy [Apa Shenoute] had told him, and the duke cut off his head with the rest of the thieves. In this way the mercy of God came upon him, just as my father told us.[43]

At least four significant observations arise from this passage. First, even though this hagiography as a whole is firmly within the Anti-Chalcedonian literary setting, the holy man does not do what one might expect on the basis of Peter Brown's argument[44] and pass judgment himself on the murderer. Rather, Shenoute seems to deny his own ability to enforce any sort of penalty on the killer, despite his status as a holy man. This is consistent with the evidence from the papyri and imperial codifications concerning the episcopal courts, which were unable to enforce their legal decisions but instead had to rely on secular magistrates. In fact, as Leslie Dossey notes, "Emperors jealously reserved the use of force to secular (preferably imperial) officials… Constantine's successors tried to prevent bishops from even judging the criminal and civil suits that were likely to

[42] Gagos and van Minnen (1994) pp. 30-46.
[43] Bell (1983) p. 47.
[44] Brown (1971). In this seminal article, Brown argues that holy men filled the void left by the withdrawal of Roman political and religious institutions by satisfying the public function of a patron and mediator. Brown sees this privileged role as stemming from the personal authority of the holy man and his status as a stranger within the community.

involve corporal punishment."[45] Beyond imperial policy on this matter, this passage suggests that even in hagiography holy men espoused the same principle; the ideology of imperial legislation permeated other rhetorical contexts. Shenoute does not punish the man himself or order one of his followers to do it. Instead, he relies on the court of a secular magistrate, in this case a military commander, whom the text refers to as a ⲁⲟⲩⲍ and is most likely the *dux Thebaidis*.

Second, while this resolution may satisfy the requirements for divine justice, it may have been contrary to the objectives of the Roman political authorities. The murderer's conviction depends on two separate instances of false testimony (that of the thieves in Smin and of the murderer himself), which cause him to be executed for a crime that he did not commit. From this perspective, the episode could be viewed as an instance of the holy man coopting the Roman system of legal adjudication and enforcement. To the extent that the imperial magistrate is concerned with uniform and fair enforcement of law and the holy man with divine justice, the two figures are at cross-purposes in this instance. Third, this coopting of the Roman legal system is accomplished in part through miraculous intervention. Shenoute is able to predict the trial in Smin before it happens and the thieves lie about the murderer being complicit in their crime. This suggests that God was seen as approving of this method of enforcing divine justice and coopted the Roman legal system for his own purposes. Fourth, the immediately preceding point brings to mind the Christological elements of this episode. Within Christian thought, Jesus' execution represents the ultimate coopting of the Roman legal system for divine purposes. In this episode, the murderer is also executed with thieves as Jesus was, and he

[45] Dossey (2001) pp. 98-99.

in some sense takes on the sin of another as he is executed for a crime that he did not commit in order to restore the ultimate balance of divine justice. Taken as a whole, therefore, this episode illustrates how at times the Roman government and Christian figures had very different concerns when approaching questions of justice and that the secular authorities were seen as enforcing divine justice, even if they did not have an explicit awareness of doing so. Despite the subversive elements of this episode, however, the hagiography does conform to the ideology of Roman law that imperial magistrates have the only legitimate claim on adjudicating and enforcing legal decisions, at least in this sort of capital criminal case.

The early 6th Century *Panegyric on Macarius, Bishop of Tkow* contains the strongest anti-Chalcedonian polemics of the texts that I cite in this chapter, and thus this depiction of holy men represented the greatest threat to imperial political authority. Macarius was a contemporary of Shenoute, and Tkow, or Antaeopolis, was not far from Shenoute's monastery.[46] Furthermore, the *Panegyric*, firmly rooted in its anti-Chalcedonian context of literary production, creates a conceptual link between the two figures as it depicts Shenoute receiving a vision that designated Macarius as the champion of orthodoxy who would fight in the then-elderly Shenoute's place on behalf of the Coptic-speaking church at the Council of Chalcedon.[47] As part of a larger description of temple destruction and the extirpation of paganism, one episode in this text describes a particularly heinous group of pagans performing child sacrifice. Some unnamed secular authorities apprehended these pagans:

> One day they waylaid them performing these lawless acts (ϵⲩϵⲓⲣϵ ⲛⲧϵⲓⲁⲛⲟⲙⲓⲁ) by slaying the little children and pouring out their blood

[46] Lopez (2013) p. 109.
[47] Johnson (1991), Volume V pp. 1492-1494.

> upon the altar of their god, Kothos. They seized some of them and handed them over to the tribunal. They interrogated them orally, and they confessed the truth without torture (ⲁⲩⲫⲱⲡⲉ ⲛⲍⲟⲉⲓⲛⲉ ⲉⲃⲟⲗ ⲛⲍⲏⲧⲟⲩ ⲁⲩⲧⲁⲁⲩ ⲉⲧⲉⲡⲣⲉⲧⲁⲛⲓⲁ̄. ⲁⲩⲉⲍⲉⲧⲁⲍⲉ ⲙⲙⲟⲟⲩ ⲍⲙⲡⲱⲁⲭⲉ. ⲁⲩⲍⲟⲙⲟⲗⲟⲅⲓ ϫⲱⲣⲓⲥ ⲃⲁⲥⲁⲛⲟⲥ), saying "We call to the children of the Christians and deceive them and give them something to eat. And we take them to hidden places and pour their blood upon the altar and take out their intestines and stretch their sinews for our harps and we sing to our gods on them. But we burn the rest of their bodies and reduce them to ashes. And everywhere where we realize there is treasure, we take a little of their ashes and put them upon it. And we sing on our harps with the little children's intestines for strings. The treasure comes to light at once, and we take what we want." And those men gave a large sum of money to those who had seized them in order to be set free, for the leaders of that district were money-lovers (ⲁⲩ† ⲛⲍⲉⲛⲛⲟϭ ⲛϫⲣⲏⲙⲁ ⲱⲁⲛⲧⲟⲩⲛⲟⲩⲍⲙ: ⲉⲡⲉⲓⲇⲏ ⲍⲛⲙⲁⲓϫⲣⲏⲙⲁⲛⲉ ⲛⲁⲣϫⲱⲛ ⲧⲏⲣⲟⲩ ⲙⲡⲧⲁⲱ ⲉⲧⲙⲙⲁⲩ).[48]

The language of this passage is obviously designed to inspire outrage in the audience and indicates a wider hostility against pagans within the Christian community. The alleged corruption of the magistrates also makes them unable to enforce justice, either secular or divine, within the community, and it is very similar to the episode from the *Life of Moses of Abydos*. Beyond the surface of the narrative, the Coptic text mirrors the language of petitions in civil and administrative law. The text states that the pagans were performing "lawless acts," ⲛⲧⲉⲓⲁⲛⲟⲙⲓⲁ. Throughout the Roman period, even in documents that do not otherwise display an extensive knowledge of Roman law, alleged offenders are described as ἄνομος or "lawless" in cases of civil law, especially those seeking compensation for injury. Similarly, the charge that the magistrates were money-lovers, ⲍⲛⲙⲁⲓϫⲣⲏⲙⲁⲛⲉ ⲛⲁⲣϫⲱⲛ, is consistent with the sort of language used in administrative law when petitioning an authority higher than the local magistrate.

[48] *A Panegyric on Macarius, Bishop of Tkow.* Johnson (1980) translation, pp. 22-23.

Furthermore, it is curious that the text uses the conceit of the first person testimony collected "without torture," even though such a testimony would hardly be necessary in reality. The pagans could simply pay off the magistrates and go about their infanticidal business; officially recording a testimony would be contrary to their purposes. However, from a literary point of view, recording the testimony, which was all the more secure because it was extracted without torture, creates the content for the petition, which is already bracketed by the appropriate conventional language. In adopting this form, the *Panegyric* reveals ideological similarities to Shenoute's writings. Lopez argues that Shenoute's "*Discourses* and *Letters* can be considered a long, single-minded, and ultimately successful petition" as they attempted, through appeals to the emperor and his representatives, to denounce the oppression of the poor by the rich.[49] Furthermore, Shenoute characterized his enemies using the same terms as the *Panegyric*: "*Anomia*, that is, lawlessness, is what defines his enemies in Panopolis."[50] This rhetoric forms what Lopez characterizes as Shenoute's "loyal opposition," that is, ultimate loyalty to the emperor and his laws but a strident opponent of the injustice perpetuated by the local elite and the "corrupt, deficient enforcement of the law that makes his intervention necessary."[51] The *Panegyric*'s adoption of a similar language and structure may hint at a similar objective, but the text's strong anti-Chalcedonian polemic makes it difficult to determine with certainty. However, even if the *Panegyric* no longer espouses loyalty to the emperor himself, the language and ideology of Roman law still permeates the text in its discussion of law and justice.

[49] Lopez (2013) p. 35.
[50] Lopez (2013) p. 40.
[51] Lopez (2013) pp. 40 and 159.

This literary form may serve to justify what follows. Macarius goes with some of his disciples to confront the pagans, the pagans chain him up within their temple and are preparing to sacrifice him when God delivers him and destroys the temple through the agency of Besa, Shenoute's successor at Atripe. Macarius and Besa enter the adjacent village together, investing Macarius' actions with God's divine deliverance and with the symbolic sanction of Shenoute's legacy through the physical presence of his successor. Macarius confronts the leader of the pagan community:

> At this point, a demon entered a man. He went into the village with the man crying out: "Do not let any pagan remain in the village, for, behold, Macarius of Tkow and Besa, the disciple of Father Shenoute, have come." And when my father met Homer, their high priest, on the road, he knew that he was their leader for whom they had sent. My father said to him: "Why did you not come to the celebration of our slaughter, when we were about to be slain for your god, Kothos?" He said "You, an old man, are not worthy to be made a libation to our god." At once, my father made a sign to the brothers: "Seize him!" But that unclean priest cried out, saying: "Great god, Kothos, commander-in-chief of the air, the brother of Apollo, save me! I am your high priest." My father said to him: "I shall burn you alive and also your god Kothos." And when we went into the village, the multitude of the orthodox came out ahead (of us), singing psalms. Then he gave the command, and a fire was kindled. He threw Homer, the high priest, into it alive, along with the idols that he had found in his house.[52]

Here, the holy man takes both components of the legal process, adjudication and enforcement, into his own hands. The reader is prepared for this potentially shocking conclusion by the imitation of the form of a written court transcript used to describe the earlier events, especially the pagans' gruesome confession. The presentation of their testimony as if they had gone through some sort of formal legal process helps to justify what in fact seems to have been a summary execution. A holy man assuming this role would have done so in direct competition with Roman secular magistrates. Even if the

[52] *A Panegyric on Macarius, Bishop of Tkow.* Johnson (1980) translation, pp. 28-29.

magistrates were not themselves corrupt, as is alleged, they might have been hesitant to prosecute pagans who were prominent members of the community, especially if they were merely engaged in regular pagan worship rather than something as dramatic as child sacrifice.[53] In their efforts to suppress pagan worship more aggressively, using the language and forms of legal institutions as this text does, the holy men would have represented a pressing threat to the secular order. There was clearly some place for arbitration before holy men, possibly even adjudication if state magistrates still served as the enforcers of the law, but when a holy man assumed the position of judge and executioner he could expect at best uneasy toleration on the part of secular rulers, at worst outright conflict and retaliation. Nevertheless, despite this potential *political* conflict, the holy man still made claims to legitimacy and justice through the language and forms of Roman legal discourse.

It is possible to make some suggestions about actual practice from the literary texts studied in this chapter. For example, it is likely that some monks petitioned magistrates on behalf of the downtrodden and others conducted arbitration "in the shadow of the law," assuring the proper transfer of legal documents to prevent subsequent litigation. The next section of the chapter, which examines the documentary evidence for these activities, will provide further support for their existence as actual practice. However, the consequential theme that emerges in this first section is the presence of the language and institutions of Roman law in these texts as a matter of intellectual history and what it reveals about the fifth and sixth century Coptic

[53] David Frankfurter has provided convincing arguments as to why hagiographies in general, and this text in particular, cannot be used as accurate sources for the specific practices of non-Christian cult in Late Antiquity: see Frankfurter (2006) pp. 17-22.

monasteries of the Thebaid. Lopez argues that Shenoute is unique as a monk in Egypt in terms of the political and economic role that he played in his community; however these texts depict other monks and minor bishops acting in similarly proactive ways in the legal system of their communities, at times explicitly linking them with Shenoute, especially in the area of idol and temple destruction.

That said, this common veneration of Shenoute is not sufficient to explain the prevalence of the language and institutions of Roman law in these texts. The strong presence of Roman legal discourse within these accounts reveals that these monastic communities conceptualized or commemorated these actions not as a new form of divine justice, divorced from the legal structures that preceded it, but instead justified this behavior in the terms of Roman law and made it acceptable to the Roman legal discourse. Even when the authors may have separated themselves from Roman political institutions, as in the case of the *Panegyric of Macarius*, they still retained the vocabulary and structures of Roman law as a discourse that conferred legitimacy and delineated just action.

♦ ♦ ♦

The practice attested in documentary sources indicates that the depiction of the involvement of holy men in the legal systems of their community in Late Antiquity described in the hagiographical texts just discussed is historically plausible. Papyri and ostraca reveal that monks and clergy submitted and received petitions on behalf of lay Christians and served as mediators in fifth and sixth century Egypt. In the period after Christianity was legalized, holy men served as mediators or informally petitioned secular magistrates using their social prestige as spiritual authorities in the community, though

they did so using the language and forms of Roman law. In subsequent years, the increased use of *dialysis* documents, which officially recorded arbitration decisions, provided a way for the social prestige of clergy to be translated into a recorded *dictum* enforceable under Roman law.[54] Furthermore, beginning in the fifth century, there is evidence of petitions addressed to bishops themselves, rather than requests for them to petition a secular official, and these petitions took on forms similar to those submitted to authorized Roman judges in earlier periods.[55]

Beginning in the fourth century, surviving epistles written to monks in Egypt reveal that they petitioned secular officials for the release of imprisoned members of their community, in short, exactly the sort of activity in which Apa Moses engaged. One of the earliest examples of this type of letter was composed by an individual who identified himself as "Κάορ πάπας" in 346 from the village of Hermoupolis in the Fayum. AnneMarie Luijendijk has examined this letter and concurs with Gustav Adolf Deissmann that this Kaor was most likely a priest, as opposed to other individuals who used the title "πάπα" and were bishops.[56] Kaor petitioned Abinnaeus, the *praepositus,* to pardon a member of his congregation, Paulus, who has fled his military duties as a soldier. The text reads as follows:

> τῷ δεσπότῃ μου καὶ ἀγαπητῷ ἀδελφῷ Ἀβιννέῳ πραιπ(οσίτῳ) Κάορ πάπας Ἑρμοῦ πόλεως χαίρειν. ἀσπάζωμαι [l. ἀσπάζομαι] τὰ πεδία [l. παιδία] σου πολλά. γινώσκιν [l. γινώσκειν] σε θέλω, κύριε, π[ε]ρ[ὶ] Παύλω [l. Παύλου] τοῦ στρατιοτη [l. στρατιώτου] περὶ τῆς φυγῆς συνχώρησε αὐτοῦ [l. αὐτῷ] τουτω [l. τοῦτο] τὸ ἄβαξ [l. ἄπαξ] ἐπειδὴ ἀσχολῶ ἐλθῖν [l. ἐλθεῖν] πρὸς σὲν αὐτὲ [l. αὐταὶ] ἡμερέ [l. ἡμεραί]. καὶ πάλειν [l. πάλιν] ἄμ

[54] This unique type of document will be examined in greater depth, across its history of use from the fifth through eighth centuries, in Chapters 2 and 3.
[55] See Bryen (2013) p. 315 n. 55, with reference to SB IV 7449, examined below.
[56] Luijendijk (2008) p. 97 n. 53. For a more general discussion of the titles Abba, Apa, and Papas in Byzantine Egypt, see Derda and Wipszycka (1994).

> [l. ἄν] μὴ παύσεται ἔρχεται εἰς τὰς χεῖράς σου ἀλλω [l. ἄλλο] ἅβαξ [l. ἅπαξ]. ἐρρῶσθαί σε εὔχομαι πολλοῖς χρόνοις, κύριέ μου ἄδελφε.
>
> To my master and beloved brother Abinnaeus, *praepositus*, Kaor, priest of Hermopolis, greeting. I send many salutations to your children. I wish you to know, lord, about Paulus the soldier, about his flight, pardon him this once, since I am not at leisure to come to you today. And again, if he does not stop, he will come into your hands another time. I pray for your welfare for many years, my lord brother.[57]

Despite the many spelling mistakes in this letter, suggesting a low level of literacy or education on the part of Kaor, John Winter notes that Kaor writes to Abinnaeus on terms of equality.[58] Furthermore, the familiar tone of this letter may indicate that Kaor had some confidence that his request would be granted, even without employing formal or sycophantic language. This letter is particularly valuable, not only due to its comparatively early date, but also because it provides the epistle between the holy man and the secular official, rather than the original request of the congregant to the monk or clergyman, of which there are more surviving examples. As a result, it demonstrates the kind of language and argument that a priest might use to convince a Roman magistrate to grant his request on the basis of his spiritual authority and charisma.

The contents of the letter indicate that Paulos was most likely a member of Kaor's congregation, since he is familiar with him and his character and takes it upon himself to intercede on his behalf. Furthermore, the fact that Kaor greets Abinnaeus' children and expresses friendly good wishes for his health suggests that he may have had a pastoral relationship with Abbinaeus as well. This kind of relationship need not have existed in order for the petition to be successful; Abinnaeus may have acquiesced to Kaor's request on the basis of his spiritual authority and standing in the community, as

[57] P.Lond. II 417. Winter (1933) p. 152 translation.
[58] Winter (1933) p. 152.

the magistrates in the *Life of Moses* are depicted as doing. Kaor's apology that he was unable to make this petition to Abbinaeus in person may indicate that priests could intercede more effectively with magistrates on behalf of their congregants face to face, or that some sort of court proceeding was to take place that day and Kaor could not be there to testify or petition on behalf of Paulos. The crime of desertion, φυγή, obviously was a serious offence for a soldier in the Roman military, so Kaor's somewhat flippant comment that Paulos will "come into your hands another time" if he deserts again is puzzling. It is possible that this condensed phrase serves as some kind of guarantee, that Kaor will not petition on Paulos' behalf in the future or that his community will not harbor him if Paulos flees to them. Despite some uncertainty about the exact import of some of the clauses of this letter, the text as a whole demonstrates that by the mid-fourth century clergy had begun to build personal relationships and social prestige with well-placed Roman officials that allowed them to serve as effective petitioners on behalf of their congregants.

The letter cited above is the only piece of correspondence concerning the priest Koar that has been identified. However, a larger collection of letters, possibly found in Lycopolis, have been linked to the late fourth century anchoritic monk Apa John.[59] Six Greek and nine Coptic epistles have been securely identified as letters addressed to John, with another eleven texts that were probably addressed to him.[60] Constantine Zuckerman has identified him with John of Lycopolis, known from hagiographical accounts.[61] While Zuckerman's argument is plausible, this identification is not certain, and Apa John need

[59] On this dossier, see van Minnen (1994), Zuckerman (1995), Choat (2007), and Gonis (2008).
[60] Choat and Gardiner (2006) p. 157, notes 3 and 4.
[61] Zuckerman (1995) p. 191.

not have been so famous a figure as John of Lycopolis to wield influence with the secular officials of his community.[62] Nevertheless, the range of officials that John was asked to petition is impressive, including a tax collector (ἐξάκτωρ), tribune, both the acting and retired *praepositus*, and *praeses* (ἡγεμών).[63] Zuckerman concludes from the cases referred to John: "To be able to intervene systematically in praesidal justice, one's personal sanctity needed to be translated into strong political clout."[64] This channel from a Christian villager to Apa John to an imperial official does not represent an incidental appeal that a priest happened to make on behalf of his congregant. The number of requests and the diverse body of secular magistrates petitioned suggests that John was able to build up personal influence and connections on a variety of levels of the imperial hierarchy and that these connections became known in his community.

A close reading of several of Apa John's letters will provide more information about how he served as a petitioner to Roman magistrates on behalf of Egyptian Christians. One of John's letters involves a recruit requesting to be excused from military service, which was probably written in the fourth century shortly after 381.[65] The letter reads as follows:

> τῷ δεσ̣πότι [l. δεσπότῃ] μου ἀγ̣απητος [l. ἀγαπητῷ] Ἄπα ʾΙ(*)ωανης̣ [. l. ʾΙωάννῃ]. εὐχαριστῶ τῷ Θεῷ καὶ τῷ περὶ σοῦ βοηθήσον<τί> μ̣α̣ι [l. μοι] ὑπὸ σοῦ καὶ ὑπὸ τοῦ Θεοῦ· π̣α̣σας̣ [l. πᾶσαι] γὰρ ψυχης̣ [l. ψυχαί] ἐζωσων [l. ἔζων] σαι [l. σοι] διὰ τὴν εὐσέβιαν̣ [l. εὐσέβειαν] <πρὸς> τὸν π̣α̣ν̣τοκρατωρ [l. παντοκράτορα]. νῦν οὖν βοήθησόν μαι [l. μοι]· γράψον̣ εις [l. μίαν] ἐπιστολη [l. ἐπιστολὴν] πρὸς Ψοις [l. Ψόϊδα] ἀπὸ Ταετῷ ἀπὸ τριβουνου [l. τριβούνων], ἵνα ἀπολύομαι [l. ἀπολύωμαι] ἐαν [l. εἰ] μὴ

[62] Kotsifou (2014) characterizes Rapp (1999) and Vivian (2005) as providing contrary arguments to Zuckerman for identification with John of Hermopolis. In fact, while both Rapp and Vivian call him "John of Hermopolis," neither provides any sort of reason for this choice, and they may do so simply because John's letters are found in the *Papyri from Hermopolis* volume.
[63] Zuckerman (1995) p. 190.
[64] Zuckerman (1995) p. 193.
[65] Zuckerman (1995) p. 187.

ἀπ̣ο̣λυ̣θήσο̣μαι. ἤδη γὰρ ὁ υἱὸς Ψοῖς [l. Ψόϊδος] ἀπαίτησέ̣ [l. ἀπήτησέ] μαι [l. με] χρυσ(οῦ) νομ(ισμάτια) ζ καὶ τοῦ [l. αὐτοῦ] βοηθὸς ἄλλα̣ [l. ἄλλο] χρυ̣σ̣(οῦ) νομ(ισμάτιον) α̣· ἔλαβες γὰρ παρ᾽ ἐμοῦ ἵνα ἀπολύ̣ω̣μαι καὶ οὐκ ἀπόλυσόν [l. ἀπέλυσάν] μαι [l. με]. ἀξιῶ τὸν Θεὸν ἵνα ἢ ἀπόλυσόν μαι [l. με] ἢ παραδοτε [l. παράδος] μ̣οι το [l. τὰ] χρυσ(οῦ) νομ(ισμάτια) η. ἐγὼ γάρ εἰμι Ψόϊς Κυλλός [l. Κύλλου] ἀπὸ κώμης [Π]ώχεως [l. [Π]ούχεως] τ̣ο̣ῦ̣ Ἀνταιουπολείτου νο̣μ̣οῦ. νῦν οὖν μὴ ἀ̣μελήσῃς, δέ̣σ̣π̣ο̣τ̣α̣, διὰ τὸ̣ν̣ [Θ]εό̣[ν]. ἤδη γὰρ τὰ τ̣έκνα μου ἔδωκας ὑ̣ποθήκ̣α̣ς̣ [τ]ῷ̣ δανι̣[στ]ῃ̣ς [l. δανει[στ]ῇ] διὰ τὸ̣ χ̣ρ̣υσάφι̣ν̣. καὶ οὐτ̣έ̣πο[τ]ε [l. οὐδέπο|τε] στρατεύουμαι [l. στρατεύομαι] ἀνιανος [l. ἀνί<κ>ανος], ἐπί̣ [l. ἐπεί] ἐ̣σ̣τί̣ μ̣ο̣ι̣ [πλ]έα [ἀ]φορμὴ π̣αρὰ τακτυλος [l. δάκτυλον] καὶ οὐ πεπύ̣[ωτ]ε [l. πεπύ[ωτ]αι] οὐδὲ οὐ σφρ̣α̣γισμεν[ο]ς [l. <ἐ>σφραγισμέν[ο]ς]. ἀπόδο̣ς̣ τῷ̣ δεσ̣π̣ο̣τ̣ης [l. δεσπότῃ] ἀναχωρη̣[τῇ ᾽Ι]ω̣[άννῃ].

To my master, beloved Apa John. I give thanks to God and to whomever will help me with you, through you and through God, for all souls live through you on account of your godliness [towards] the Almighty. So now help me: write a letter to Psois from Taetos, the tribune, to release me – if I have not already been released. I ask this because Psois' son has already demanded seven gold solidi from me and his assistant another gold solidus. You received money from me so I might be released, but they have not released me. I ask God that you either get me released or return to me the eight gold solidi. I am Psois, son of Kyllos, from the village of Pochis in the Antaeopolite nome. Now, then, for God's sake do not neglect to do this, master, for you [*read* "I"] have already put up my children as collateral to the money lender for the gold and never serve in the army, being unfit for service. Because of my finger; I have a good reason for this; it has not festered, but it has not healed either. Deliver to my master, the anchorite John.[66]

This letter does not portray Apa John in a very flattering light, though it is hard to know whether John in fact acted dishonestly or negligently from this necessarily one-sided account. Like P.Lond. II 417 and other letters below, this epistle contains some of the type of phrases that are typical of Christian correspondence, such as expressions of thanks to God and promises to pray for the addressee and his spiritual or biological family. Psois may not have had much experience drafting letters, because the syntax is garbled and the text contains many errors in spelling. Psois has been imprisoned due to

[66] P.Herm. 7. Kotsifou (2014) p. 538 translation.

his failure to pay what was most likely a bribe to excuse him from military service due to an amputated finger, which he may have cut off himself to avoid conscription. Psois claims that he has put up his children as security for this bribe money, but that Apa John has not delivered it to the tribune's son as promised. This text is similar to the episode from the *Life of Moses* in that it stresses the written nature of John's petition to the tribune with the emphatic command "write a letter to Psois from Taetos, the tribune," or "γράψοῳ μίαν ἐπιστολὴν πρὸς Ψόϊδα ἀπὸ Ταετῷ ἀπὸ τριβούνων." The imperative γράψοῳ and the specification of the medium using the object ἐπιστολήν serves a similar purpose to the anaphora of ϲⲉⲁⲓ in the passage depicting Apa Moses petitioning magistrates. However, in this document, the anchoritic monk also seems to be working as an intermediary in passing the money from Psois to the tribune; in other words, his personal relationship with this official or spiritual authority makes him the preferred conduit for this petition and bribe for special treatment in the process of conscription.

Four other instances also survive of Apa John being asked to write petitions to magistrates for the release of prisoners, P.Ryl.Copt. 272, 273, 310, and 311. The terms used for the magistrates in these letters are ⲡⲁⲣⲭⲱⲛ (on three occasions), ⲉⲕⲥⲁⲕⲧⲱⲣ (ἐξακτωρ), and ⲏⲅⲉⲙⲟⲛ (prefect, on two separate occasions). John also wrote petitions on his own behalf or for his close monastic associates, as in P.Herm. 10. Unfortunately, this papyrus is too fragmentary to allow for any certainty about many facts of the case. It asks the recipient to petition a judge, "αἰτ]ήσῃς τὸν δικαστὴν ἀκοῦ[σαι ἡμῶν,"[67] about a false charge, "ψ̣ε̣υδοκατηγορίαν,"[68] that has been brought against John and his associates. The name of the addressee does not survive, it could have been an ecclesiastic of high rank, as

[67] P.Herm.10 lines 14-15.
[68] P.Herm.10 line 11.

the editor of the text suggests[69], or it could have been addressed to a magistrate in a position of authority or influence over the judge in question. The letter provides further confirmation that Apa John was bilingual, already indicated by the fact that he received letters in both Greek and Coptic, through the use of the Coptic masculine article in the phrase "ⲡⲓω]ά̣νης παναχωρητής̣."[70] The surviving portions of the letter also contain distinctively Christian language such as the "greetings in the Lord"[71] and phrases like "we are thankful to God and your benevolence. For you fight the fight on our behalf and [are] our aid."[72] Thus the correspondence of Apa John provides numerous examples of how a monk as early as the fourth century was asked to petition imperial officials by Christians. He appealed to magistrates using letters that combined a particularly Christian style with the content of petitions submitted to secular officials in previous periods.

Finally, one letter addressed to Apa John is particularly striking in its similarity to first-third century petitions. B. R. Rees initially dated this text to the fifth or sixth century, but Zuckerman has convincingly demonstrated that it in fact belongs to the fourth century and should be included in John's archive.[73] In the letter, a woman named Leuchis asks John to petition the tribune to remove soldiers billeted in her house. The text reads:

> τῷ κυρίῳ μου θεωσεβῆ [l. θεοσεβεῖ] Ἄπα Ἰωάνην [l. Ἰωάννῃ] Λεῦχις Μαλαμος [l. Μαλάμου]. ἡ χρηστωτητα [l. χρηστότης] σου κατέλαβεν πάντας τοὺς μὺ [l. μὴ] δυναμένους· καὶ ⳨αμὲ [l. ἐμὲ] φ̣θάσι [l. φθάσῃ] ἡ ἐ̣λ̣εημωσύ̣ην [l. ἐλεημοσύνην] σου, κύριε. μετὰ των [l. τὸν] Θεὸν τὴν ⳨ὴν βο̣ήθιαν [l. βοήθειαν] προσδωκῶ [l. προσδοκῶ], ἵνα ἀξιώ̣ϩ̣ις [l. ἀξιώσῃς] των [l. τὸν] τριβοῦνῳ̣ν [l. τρι|βοῦνον] ̣τῶν Γούνθων καὶ ἄρῃ αὐτὰς ἀπὸ τῆς

[69] Rees (1964) p. 19.
[70] P.Herm.10 line 2. "ἐν κ(υρί)ῳ χαίρειν"
[71] P.Herm.10 line 4. "εὐχαριστοῦμεν τῷ [Θεῷ καὶ τῇ φιλ]ᾳ̣νθρωπίᾳ σου· ὥσπερ γὰρ… ὑπὲρ ψυχῶν ἀγῶ-[να ἀγωνίζει κ]αὶ ἡμῶν βοηθός."
[72] P.Herm.10 lines 5-8.
[73] Zuckerman (1995) p. 188.

> οἰκίας μου, ἐπὶ [l. ἐπεὶ] χήρα γυνή εἰμι. κύριέ μου, διὰ των [l. τὸν] Θεὸν [l. Θεὸν] πύει [l. ποίει].
>
> To my lord the pious Apa John, Leuchis daughter of Malamos.
> Your goodness embraces all those without resources; and let your mercy extend to me too, lord. After God, I await your help, that you ask the tribune of the Goths to remove them from my house, since I am a widow woman. My lord, do it for God's sake.[74]

Bagnall and Cribiore have argued[75] that the phrase "ἄρῃ αὐτὰς ἀπὸ τῆς οἰκίας μου" refers to Gothic soldiers under the tribune's command who were billeted in Leuchis' house, rather than unnamed female interlopers as Rees originally suggested.[76] However, the most striking thing about this letter is the way in which it taps into the rhetoric of Christian charity in the same way that Benjamin Kelly has demonstrated earlier petitions exhibit the rhetoric of the "rule of law" discourse.[77] At its core, this rhetoric asserted that the legal order was rational and that magistrates (do or should) act in a consistent fashion based on rights emanating from sources of law.[78] Similarly, through phrases like "ἡ χρηστωτητα [l. χρηστότης] σου κατέλαβεν πάντας τοὺς μὺ [l. μὴ] δυναμένους," Leuchis taps into the Christian rhetoric that believers, especially those in pastoral roles, give aid to the destitute and powerless. This rhetoric was applied specifically with regard to holy men in passages of hagiography cited above. Furthermore, Leuchis emphasizes her status as a widow, "χήρα γυνή εἰμι," as a justification for why the soldiers should be removed from her house, which evokes injunctions in scripture and other Christian writings to care for widows and orphans.

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[74] P.Herm.17. Bagnall and Cribiore (2006) p. 204 translation.
[75] Bagnall and Cribiore (2006) p. 204.
[76] Rees (1964) pp. 29-30.
[77] Kelly (2011) p. 195.
[78] Kelly (2011) pp. 195-201.

Technically, there was no exception for widows from the compulsory service of quartering imperial soldiers under Roman law. Exemption from that service was reserved for high-ranking ex-prefects, ex-masters of the horse and foot, ex-counts, and ex-grand chamberlains in this period.[79] However, soldiers quartered in private homes were required to occupy only one third of the house at most and not to take any food, fuel, or bedding without the owner's consent,[80] so it is possible that, if these Gothic troops had violated those regulations, Leuchis would have grounds to evict them. If this was the case, then Leuchis used the rhetoric of Christianity to provide the sort of access to the tribune that would allow her to vindicate the rights that she held under Roman law. It is impossible to prove that this scenario in fact occurred. Nevertheless, the text itself shows that the rhetoric of Christian charity could be used to convince monks to attempt to influence officers within the imperial army in disputes between villagers and soldiers.

Monks and clergy intervened in other administrative affairs in addition to military regulations. Several letters also record petitions to intercede with imperial officials on matters of revenue collection. Moreover, these letters did not all originate from Christian villagers being taxed, but Christian officials and others responsible for collecting taxes also asked for clergy to intervene on their behalf. For example, O.Mich.Copt.6 records the following request from a man named Gideon to "Apa Elisha the priest": "We beseech your Paternity to entreat Azarias the shepherd and his wife and his sons to produce and pay their tax, eighteen artabas."[81] This ostracon has only been dated to the range of sixth

[79] *CTh* 4.8.3.
[80] *CTh* 4.8.5 and 4.9.1.
[81] O.Mich.Copt.6 lines 2-8. Worrell (1942) translation. "ϵⲛ̄ⲁⲣⲁⲕⲁ[ⲗϵ] ⲛⲧϵⲧⲛ̄ⲙⲛ̄ⲧϵⲓⲱⲧ ⲛ̄ⲧϵⲧⲛ†[ⲥⲟ] ⲛ̄ⲛⲁⲍⲁⲣⲓⲁⲥ ⲱⲱⲥ ⲙ̄ⲛ̄ ⲧ[ϭϥⲥⲓⲙϵ] ⲙ̄ⲛ̄ ⲛϵϥⲱⲏⲣϵ ⲛ̄ⲥⲟⲩϵⲍ[ⲁⲅϵ] ⲛ̄ⲥⲟⲩ† ⲛϵⲩⲁⲏⲙⲟⲥ[ⲓⲟⲛ] ⲙⲛ̄ⲧⲱⲙⲏⲛ ⲛ̄ⲣⲧⲟⲃ"

or seventh century, so the author Gideon may have been a low-level official charged with collecting taxes for Byzantine, Persian, or Muslim rulers. The urgency of the letter suggests that Gideon was personally responsible for those taxes that he did not collect, and it seems either that he was unable to call upon state coercion to collect this grain or that state soldiers would have been ineffective since the scofflaws were shepherds and thus highly mobile. In whichever case, Gideon turned to Apa Elisha in the hopes that his authority as a priest and relationship with Azarias would be effective in convincing the shepherd to pay his taxes. This sort of request has no precedent in petitions of the Roman period, apart from private correspondence between officials, but it is still worthwhile to note that clergy intervened on both sides of taxation cases or disputes.

Another letter, P.Lond.VI.1915, dated to the mid-fourth century from Cynopolis, records a petition on behalf of a man who has been driven into bankruptcy by excessive taxation. This situation is reminiscent of some of the hagiographical episodes discussed above, and the language of the letter contains many phrases characteristic of New Testament prose. The letter reads as follows:

> [-ca.?- ἀδελ]φ̣[ῷ] Π[αιηοῦτι Ἐριηοῦς ἐν] κ(υρί)ῳ χαίρειν. τ̣ο̣ῖ̣[ς ἐν . . .]ηφ̣θ̣ονει σ̣υμφορᾷ̣ παραπεσοῦσιν βοη[θεῖ]ν̣ π̣[α]ρ̣[α]γγέλεται (l. παραγγέλ<λ>εται) ἡμ̣ῖν ὁ θεῖος λόγος πᾶσι, μάλιστα τοῖς ἀδελφοῖς ἡμῶν. ἐπειδὴ οὖν ὁ ἀδελφὸς ἡμῶ Παμώνθεις περιστάσεσι <οὐ> τ̂ες [l. ταῖς] {ς} τυχούσαις παραπεσὼν ἔσχιστα [l. αἴσχιστα] πέπονθεν ὑπὸ ἀνθρώπων ἀνελεημόνων καὶ ἀθέων ὥσ[τ]ε̣ ὡς ἔπως [l. ἔπος] εἰπεῖν ἀναγκασθῆναι τῆς μακαρίας ἐλπίδος ἡμῶν ἀποστερηθῆναι, ὅθεν ἐδέησεν ἡμᾶς ἐπιθεῖνε [l. ἐπιθεῖναι] δι᾽ αὐτὰ ταῦτ̣α̣ τὰ γράμματα πρὸ̣ς τ̣ὴν ἀδελφώτητα [. l. ἀδελφότητα] ὑμῶν, δηλωσας [l. δηλώσαντας] τὴν τούτου πασιν [l. πᾶσαν] πρᾶξιν, ἵν[l. ἵν<α>] καὶ ὑμῖς [l. ὑμεῖς] γνωντες [l. γνοντες] συμ̣βάλλεσθε αὐτῷ μεμνημέ̣νοι [το]ῦ̣ μ̣α̣κ̣α̣ρ̣ίο̣υ̣ ἀ̣ποστό̣[λ]ου λέγοντες [l. λέγοντος] τοὺς ἀσθενο̣ῦ̣ν̣τ̣α̣ς μὴ παρορᾶν̣ [ο]ὐ̣ μό̣ν̣ο̣ν̣ [ἐ]ν̣ τῇ̣ πίστι [l. πίστει] ἀλλὰ κ̣α̣[ὶ ἐ]ν̣ ταῖς κομικαῖς [l. κο<σ>μικαῖς] π̣[ρ]άξεσι. οὗτ̣ος \γὰρ ὁ/ ἀδελφὸς ἡμῶν ἔτυχέν ποτε οἰνοπράτης καὶ ἐπὶ πόλλυ [l. πόλυ] ἐνοχληθεὶς ὑπὸ τῶν ἐν τῇ αὐτοῦ πατρίδι ἀρχωντω [. l. ἀρχόντω(ν)] ⟦παρα⟧ παρὰ τὴν δύναμιν αὐ[το]ῦ̣ εἰσπράτ̣ε̣σθαι [l. εἰσπράτ<τ>εσθαι] καὶ ἐκ τούτου ὄγ᾽κον

ἀργυρίου δαν[ει]σάμενος καὶ ταῦτα ἀπετηθεὶς [l. ἀπαιτηθεὶς] καὶ μὴ
δυνάμενος ἀπαντᾶν πρὸς τὰ χρεωστούμενα ἠναγκάσθη ὑπὸ τῶν δανιστω
[l. δανειστῶ(ν)] πάντα τὰ ἑαυτοῦ ἄχρι καὶ τῶν ἱματίων τῶν
τὴν ἀσχημοσύνην αὐτοῦ περισκεπασμένων πολῆσαι [l. πωλῆσαι]· καὶ
τούτων πραθέντων μόγις τὴν ἡμίσιαν̣ [l. ἡμίσειαν] τῶν ἀργυρίων
τεδύνηται [l. δεδύνηται] περινοῆσαι [l. περιποιῆσαι] τοῖς δανισταῖς [l.
δανεισταῖς], οἵτινες οἱ ἀνελεήμονες ἐκεῖνοι καὶ ἄθεοι ἀπέσπασαν τὰ πάν̣τα
τὰ ἑαυτοῦ τέκνα νήπια κομιδῆ. ὅθεν ἐπιτίνωμεν [l. ἐπιτείνομεν] πρὸς ὑμᾶς
ταυτηνὶ τὴν ἐπιστολήν, ἀξιοῦν̣τες ὑμ̣[ᾶς σ]υμβαλέσθαι αὐτῷ̣ εἰς ὃ ἐὰ̣[ν]
δ̣ύ̣νασ̣θ̣ε̣ [δοῦν]ε̣ [l. [δοῦν]αι] ἵν[α] π̣α̣ρ̣᾽ αὐτῷ̣[ν αὐ]τ̣ὰ̣ [ἀπολάβῃ]

[To the …] brother Paieous, Herieous, greeting in the Lord. To those who have fallen into… misfortune the word of God exhorts us to lend aid- to all, especially to our brothers. Since, therefore, our brother Pamonthis, having fallen into unusual reverses, has suffered most shamefully at the hands of pitiless and godless men so that he has been forced, so to speak, to be robbed of our blessed hope, he has, therefore, asked us to apply by this present letter to your brotherliness, setting forth his entire plight, in order that you too, knowing it, may help him, remembering the saying of the blessed Apostle not to neglect the weak, not only in the faith but also in the affairs of the world. For this brother of ours was formerly a wine dealer, and having been long troubled by the magistrates in his native place with tax exactions beyond his means, and having as a result borrowed a large sum of money, and being asked for this and being unable to meet his debts, he was compelled by the money lenders to sell all his possessions, even to the garments that covered his nakedness. And after selling these, with difficulty could he get together the half of the money to pay the money lenders, who, those pitiless and godless men, carried off all his children, mere infants. Wherefore we direct to you this letter, asking you to help him in so far as you can give, in order that he may recover them from them…[82]

This letter contains a situation similar to those in the passages from the *Lives of Aaron and Longinus* analyzed above. On the basis of Christian charity, Apa Paieous is asked by a third party to help Pamonthis who has literally lost the tunic off his back in assuming debts to satisfy an egregious tax burden. Here, Christians, or perhaps even clergy, who are part of Pamonthis' congregation and therefore familiar with his situation write to Paieous as a cleric who was known to have influence with the relevant

[82] P.Lond.VI.1915 (pp. 72-76). Winter (1933) p. 176 translation.

magistrates or money lenders. Thus, even though every priest or monk did not have the sort of spiritual authority or connections available to someone like Apa John, this letter shows a kind of network of appeals whereby a Christian in need could access such individuals through his own fellow congregants or clergy.

The request is couched in a Christian rhetoric that uses multiple allusions to and even direct citation of scripture. John Winter has noted many of these allusions, but he did not choose to comment on them.[83] After the salutation, the letters states that the word of God (ὁ θεῖος λόγος) exhorts believers to help those in need, especially members of the church, a sentiment that paraphrases such passages as Galatians 6:10 and I Timothy 5:8. The mention of "ὁ θεῖος λόγος" may serve to indicate a citation of scripture, even if an exact quotation is not given. The mention of "our blessed hope" (τῆς μακαρίας ἐλπίδος) is a direct allusion to scripture as the same phrase occurs in Titus 2:13, "τὴν μακαρίαν ἐλπίδα." The letter self-consciously acknowledges this quotation using the phrase "ὡς ἔπως [l. ἔπος] εἰπεῖν." This phrase may also serve as a concession that the phrase is not used in the same way in Titus, where the blessed hope is something that the Church waits in expectation for, rather than something that one is deprived of, as in Pamonthis' case. The letter provides one more scriptural citation before moving to the narrative of Pamonthis' plight. It advises Paieous to be mindful of the words of the blessed apostle ([το]ῦ μ̣ακ̣αρίο̣υ̣ ἀ̣ποστό̣[λ]ου λέγοντες) not to neglect the weak in spirit or in worldly affairs (ἀσθενο̣ῦ̣ν̣τ̣α̣ς̣ … [ἐ]ν̣ τῇ πίστι [l. πίστει] ἀλλὰ κ̣α̣[ὶ ἐ]ν̣ ταῖς κομικαῖς). This is a direct quotation of Romans 14:1, where Paul advises the church in Rome to welcome "the weak in faith" or "ἀσθενοῦντα τῇ πίστει." The authors of the letter mark the

[83] Winter (1933) p. 176 n. 2-4.

quotation by attributing it to Paul, "the blessed apostle," but they also extend it beyond its original scope by encompassing those weak in worldly affairs, as well as in spirit. These phrases pulled from scripture may have helped convince Paieous to intervene on Pamonthis' behalf, even if they were used in support of injunctions that are different from their original context.

The letter addressed to Apa Paieous is not the only instance of the use of biblical language or allusions in fourth century petition letters to clergy. In P.Ryl.Copt. 311, a fourth century letter that belongs to Apa John's archive, an impoverished villager asks John to petition the prefect (ⲙⲫⲏⲅⲉⲙⲱⲛ) on his behalf. The surviving opening portion of the letter explicitly invokes Jeremiah's weeping over Jerusalem and Christ's compassion for the blind: "ⲓⲉⲣ]ⲏⲙⲓⲁⲥ ⲣⲓⲙⲉ ⲉⲁⲑⲓⲏⲙ ⲁⲓ... ⲓⲥ̅ ⲱⲛⲍⲧⲏⲩ ⲉⲁⲃⲗⲗⲉⲩ ⲁⲩ ⲧⲉⲓⲉ ⲱⲛⲍⲧⲏⲕ ⲟⲛ ⲛⲟⲩⲩⲉⲙ ⲉⲁ."[84] This tendency to use scriptural rhetoric and citations grew even more common in legal instruments of the sixth-eighth centuries, especially testaments, a phenomenon that will be examined in my fourth chapter.

Personal letters appealing to a monk like Apa John to use his spiritual authority or personal connections to persuade a secular magistrate were a prevalent form of petition submitted to clergy in the fourth century. By the late fifth century, however, examples begin to appear of formal petitions submitted to bishops and other clergy that use the structure, language, and tropes of first through third century petitions much more extensively. These petitions are contemporaneous with the hagiographic texts discussed in the first part of this chapter, and this adoption of the forms of Roman legal documents in the religious setting accords with the respect for the language and forms of Roman law

[84] P.Ryl.Copt. 311 lines 4-6.

that was evident in the literary sources. The legal and ecclesiastical institutions that provided bishops with the authority to respond to these petitions effectively will be discussed in my third and fourth chapters. For the purposes of this chapter, I will note the formal similarities between two examples of this type of text and petitions from earlier periods of the practice of Roman law in Egypt. These similarities indicate that the forms of Roman legal practice attained a level of social prestige that contributed to their appropriation in different institutional contexts.

One of the most extensive early papyrological examples of a formal petition to a bishop is the late fifth century document addressed to Theodore, bishop of Oxyrhynchos, by Aurelia Nonna. The text reads as follows:

> τῷ ἁγιωτάτῳ καὶ [εὐσε]β(εστάτῳ) ἄπα Θεοδώρῳ ἐπισκ(όπῳ) τῆς λαμπρᾶς καὶ λαμ[προτ]άτης Ὀξυρυγχιτῶν πόλεως παρὰ Αὐρηλίας Νόννα[ς] ἀπὸ κώμ(ης) Σπανίας τοῦ Ὀξυρυγχ(ίτου) νομοῦ. Ἀλύπιος μονάζων ὁρμώμενος ἀπὸ τῆς ἡμετέρας κώμης ἀδελφιδοῦ[ς] ἡμέτερος τυγχάνων τὴν ἐμὴν θυγατέρα μικκη [l. μικκὴ<ν>] ἠθέλησεν δοῦναι Ἀπαείωνι συγγενεῖ πάλιν ἡμετέρῳ. τοῦτο δὲ ποιῆσαι ἐσπούδασαν <οἱ> ἡμέτερα πράγματα ἔχοντες καὶ μὴ θέλοντες, ταῦτά μοι ἀποκαταστῆσαι. ἐπὶ [l. ἐπεὶ] τοίνυν Θε . . ἥ μου θυγάτηρ ἐκείνῳ <οὐ(?)> βούλεται συνάπτεσθαι, π[αρὰ] τὸ σχῆμ[α] δὲ διαπραττόμενος ὁ μονάζων πληγάς μοι ἐπήγαγεν καὶ τὴν ἐσθῆτά μου διέρηξεν [l. διέρ<ρ>ηξεν] καὶ ἀχρίαν [l. ἀχρείαν] ἀπέδιξεν [l. ἀπέδειξεν], τούτου [χάρ]ιν παρακαλῶ σου τὴν ἁγιοσύνην [l. ἁγιωσύνην] κατελεῆσαί με καὶ κελεῦσαι αὐτὸν ἐνεχθῆναι καὶ τύπον με δέχεσθαι τὸν τῇ σῇ ἁγιοσύνῃ [l. ἁγιωσύνῃ] παριστάμενον, ἁγιώτατε ἐπίσκοπε κύριε. (hand 2) † Αὐρ[η]λί[α Νόννα ἐπιδ]έδωκα.
>
> To the most holy and most pious Apa Theodore, bishop of the illustrious and most illustrious city of the Oxyrhynchites, from Aurelia Nonna of the village of Spania of the Oxyrhynchite nome. Alypios, a monk, native of our village, who is our nephew, desired to give (in marriage) my little daughter to Apaion, also a relative of ours. And the administrators of our estate, who are unwilling to restore it to me, were eager to do this. Since therefore The[…], my daughter, (does not?) wish to marry him, and acting in defiance of his cloth, the monk beat me and tore my clothing and ruined it, therefore I beg your holiness to have compassion upon me and order him to be brought (before you), and for me to receive whatever decision

> you shall approve of, my lord, most holy bishop. I, Aurelia Nonna, have presented this petition.[85]

It is unclear from this letter whether or not Theodore was in a position of supervision over Alypios within the institutional hierarchy of the church. But even if he was, Georg Schmelz has argued that this is not a case of church discipline, but rather a secular case centering on a family dispute and alleged physical abuse.[86] This petition adopts the exact form of petitions submitted to judicial and military officers, with the addressee in the dative with his respective titles and place of residence, the name of the plaintiff in the genitive following the preposition παρά, the place of residence of the plaintiff, the *narratio* of the instance of violence, the precise request for the legal proceedings desired, and the signature of the plaintiff in the form "NN ἐπιδέδωκα." The formal similarities are so strong that Bryen included this petition in his appendix of translation of 135 petitions concerning violence,[87] though he acknowledges that there are questions in the scholarship about the exact nature of a bishop's jurisdiction.[88]

The narration portion of this petition contains elements that are familiar from petitions from earlier periods as well as markers of the new type of official who is addressed. The *narratio* certainly contains what Bryen calls the "discourse of wounded bodies."[89] Aurelia Nonna explains that Alypios harmed her physically and destroyed her property when trying to force the marriage of her daughter. She specifies that he beat her and tore her cloak, ruining it, "ὁ μονάζων πληγάς μοι ἐπήγαγεν καὶ τὴν ἐσθῆτά μου διέρηξεν [l. διέρ<ρ>ηξεν] καὶ ἀχρίαν [l. ἀχρείαν] ἀπέδιξεν [l. ἀπέδειξεν]." The mention

[85] SB IV 7449. Schmelz (2014) pp. 527-528 translation.
[86] Schmelz (2014) p. 527.
[87] Bryen (2013) pp. 277-278.
[88] Bryen (2013) p. 315 n. 55.
[89] Bryen (2013) p. 120.

of "πληγάς," or "blows" is quite common in petitions to officials that describe incidents of violence, and this term recurs frequently in the petitions that Bryen studies in his monograph. The mention of the torn cloak is also consistent with earlier petitions, and this material damage would serve to help cement the financial obligation that the defendant would owe to the plaintiff if the petition was successful. It is also possible to render the phrase "καὶ ἀχρίαν [l. ἀχρείαν] ἀπέδιξεν [l. ἀπέδειξεν]" as "making me appear helpless," as Bryen does in his translation of this document.[90] This is an interesting possibility, as it speaks unambiguously about Aurelia Nonna's status and how this incident has caused her to lose face in the community. However, I have preferred the translation "ruined it" for this clause, because I believe ἐσθῆτα to be the more likely antecedent for ἀχρείαν than an implied ἐγώ.

The assertion that Alypios "acted in defiance of his cloth, or "π[αρὰ] τὸ σχῆμ[α] δὲ διαπραττόμενος," was most likely intended to erode any natural sympathy Theodore might have toward someone with a monastic title by overtly calling Alypios' worthiness for that position into question. The need for this sort of attack arose in conjunction with the use of ecclesiastical and monastic titles as symbols of prestige on legal documents. As will be discussed in my second chapter,[91] starting in the fourth century it became increasingly common to note the titles of individuals within Christian institutions when they served as arbitrators in settlement agreements or even witnesses on standard contracts or loans. In a petition that otherwise mimicked the rhetoric of petitions to secular officials, the attack on Alypios' conduct *as a monk in particular* arose out of the new ecclesiastical institutional context and its effect on legal practice.

[90] Bryen (2013) p. 277.
[91] pp. 106-107 of this volume.

The second petition to an ecclesiastic is a seventh century Coptic document written on an ostracon, which was cited at the start of this chapter. Unfortunately, neither the name nor the title of the addressee has survived. The text reads as follows:

> † ϣορ̄ⲡ ⲙⲉⲛ ϯⲡⲣⲟⲥⲕ/ ⲁⲩⲱ ϯⲱⲓⲛⲉ ⲉⲧⲉⲕⲁⲅⲁⲡⲏ ⲉⲧⲥⲙⲁⲙⲁⲧ [l. ⲥⲙⲁⲙⲁⲁⲧ] ⲧⲁⲓ ⲛ̄ⲧⲁⲛⲉⲓⲃⲉ ⲙⲙⲟⲥ ⲛ̄ⲑⲉ ⲉϣⲁⲣⲉ ⲡⲕⲁϩ ⲕⲱϣⲧ [l. ϭⲱϣⲧ] ⲉⲃⲟⲗ ϩⲛⲧⲥ ⲙ̄ⲡϩⲟⲟⲩ ⲡⲭⲟⲉⲓⲥ ⲡⲉⲧⲥⲟⲁⲛ [l. ⲥⲟⲟⲩⲛ] ⲭⲉ ⲁⲓⲟⲩⲱϣ ⲉⲥϩⲁⲓ ⲛⲧⲁⲡⲣⲟⲥⲕⲩ/ ⲛⲁⲕ ⲙ̄ⲡⲣⲱϣⲉ ⲛ̄ϩⲟⲛ/ ⲙ̄ⲛ̄ⲉ ⲛϩⲟⲛϩ̄ⲡ ⲕⲁⲁⲧ ⲙ̄ⲛ̄ ⲡⲛⲉⲓⲣⲁⲥⲙⲟⲥ ⲡⲗⲏⲛ ⲉⲥⲭⲉ ⲧⲛ̄ⲉⲓⲣⲉ ⲁⲛ ⲙ̄ⲡⲁⲓ ⲡ̄ⲛⲟⲩⲧⲉ ⲡⲉⲧⲥⲟⲟⲩⲛ ⲭⲉ ⲡⲉⲕⲣⲡⲙⲉⲩ [l. ⲙⲉⲉⲩⲉ] ⲗⲟ ⲁⲛ ϩⲙ ⲡⲉⲛϩⲏⲧ ⲛ ⲧⲉⲩⲱⲏ ⲁⲩⲱ ⲡⲉϩⲟⲟⲩ· ϯⲧⲁⲙⲟ ⲛ̄ ⲛ̄ⲧⲉⲕⲙⲛ̄ⲧⲙⲁⲓⲛⲟⲩⲧⲉ ⲭⲉ ⲁ ⲡⲉⲓ ⲡⲁⲣⲁⲃⲁⲧⲏⲥ ⲙ̄ⲡⲁⲣⲁⲛⲟⲥ [l. ⲡⲁⲣⲁⲛⲟⲙⲟⲥ] ⲭⲉ ⲁⲙⲙⲱⲛⲓⲟⲥ ⲥⲟⲩ ⲟⲩⲉⲓⲟⲙ̄ ⲛ̄ⲏⲣⲡ ⲙ̄ⲡϩⲓⲣⲟⲩϩⲉ ⲛⲧⲁⲧ ⲡⲉ ϩⲟⲟⲩ ⲁⲫⲉⲓ ⲉϩⲣⲁⲓ ⲉⲣⲟⲓ ⲛ̄ⲛⲉⲩ ⲛⲟⲟⲩⲉ ⲉⲧⲙ̄ⲙⲁⲁⲩ ⲙⲛ̄ ⲡⲱⲓⲛ ⲡⲉⲛⲥⲟⲛ ⲙⲛ̄ ⲡⲉϥϩⲙ̄ϩⲁⲗ ⲙ̄ⲡⲟⲩⲕⲱ ϩⲓⲕⲱⲛ ϩⲓⲱⲧ ⲟⲩⲧⲉ ⲟⲩⲣⲏⲧⲉ ⲟⲩⲧⲉ ϭⲭ [l. ϭⲓⲭ] ⲉⲙⲛ̄ⲧⲁϥ ⲗⲁⲩⲉ ⲛ̄ϩⲱⲃ. ϯⲡⲁⲣⲁⲕⲁⲗⲉⲓ ⲟⲩⲛ ⲛ̄. [ⲙⲟ]ⲧⲛ ⲉⲧⲣⲁ ⲡ. ..ⲙⲟ..
>
> First I do homage and I enquire after your blessed love which we have thirsted after as the earth looks toward the day. It is the Lord who knows I have wished to write and do homage to you often enough. Excitement and temptation have not left me. But, if we have not done this, it is God that knows that thought of you has not ceased in our heart by night and by day. I inform your Piety that this lawless transgressor, Ammonius, drank a sea of wine in the night season, toward morning, and descended upon me in those hours with the son of Penson and his servant. They left me no resemblance of myself, neither foot nor hand being without some disfigurement. I beseech you moreover to let me…[92]

This document obviously does not follow the structure of Roman-period petitions as closely as SB IV 7449. Part of this divergence likely stems from the fact that it was written in Coptic and was thus more likely to follow the conventions of Coptic epistles, which had been in circulation for centuries, while Coptic legal documents were just beginning to appear in this period.[93] For example, the petition opens with language characteristic of the salutation of Coptic correspondence: "ϯⲡⲣⲟⲥⲕ/ ⲁⲩⲱ ϯⲱⲓⲛⲉ ⲉⲧⲉⲕⲁⲅⲁⲡⲏ ⲉⲧⲥⲙⲁⲙⲁⲧ." Despite the mystery of the identity of the addressee, it is clear

[92] O.Mich.Copt.4. Worrell (1942) p. 226 translation.
[93] On the first Coptic legal documents, see Fournet (2010).

that a pastoral relationship existed between him and the author of the petition. The plaintiff references what appears to be an earlier confession of temptation that he is suffering, saying that the "disturbance" or "excitement" ("ⲡⲉⲟⲡⲉⲡ̄"), and the "temptation" or "trial" ("ⲡⲡⲉⲓⲣⲁⲥⲙⲟⲥ"), have not left him. Nevertheless, the plaintiff still asserts that he feels a strong spiritual connection to the addressee: "God knows that thought of you has not ceased in our heart by night and day" or "ⲛ̄ⲛⲟⲩⲧⲉ ⲡⲉⲧⲥⲟⲟⲩⲛ ϫⲉ ⲡⲉⲕⲣⲡⲙⲉⲩ ⲗⲟ ⲁⲛ ⲉⲙ ⲡⲉⲛⲉⲏⲧ ⲛ ⲧⲉⲩⲱⲏ ⲁⲩⲱ ⲡⲉⲉⲟⲟⲩ." This sort of rhetoric and content is fairly typical between two Coptic Christians where a pastoral relationship exists between them, but in this case it serves to introduce the narration of a petition.

The narrative of the assault carried out by Ammonius in O.Mich.Copt.4 contains several elements seen in petitions from earlier periods. Ammonius is described as a "lawless transgressor" or "ⲡⲁⲣⲁⲃⲁⲧⲏⲥ ⲙ̄ⲡⲁⲣⲁⲛⲟⲥ [l. ⲡⲁⲣⲁⲛⲟⲙⲟⲥ]." He has transgressed the normal bounds of civilized, Christian society and has thereby incurred an obligation to the plaintiff on the basis of his mistreatment of him. Furthermore, the author of the petition denigrates Ammonius's character by stating that he was very drunk when he attacked him, thereby asserting that Ammonius does not comport himself as a Christian should. Once more, the statement that Ammonius and his accomplices left the plaintiff "no resemblance of myself, neither foot nor hand being without some disfigurement" or "ⲙ̄ⲡⲟⲩⲕⲱ ⲉⲓⲕⲱⲛ ⲉⲓⲱⲧ ⲟⲩⲧⲉ ⲟⲩⲣⲏⲧⲉ ⲟⲩⲧⲉ ⲥϫ [l. ⲥⲓϫ] ⲉⲙⲛ̄ⲧⲁⲩ ⲗⲁⲩⲉ ⲛ̄ⲉⲱⲃ" taps into the "discourse of wounded bodies" that Ari Bryen has shown to have permeated the petitions of the Roman period. This petition may have the formal characteristics of a Coptic letter, but the narration of Ammonius' attack contains the obligation-creating rhetoric of a petition, with some Christian elements added.

This chapter has examined how Christian clerics were involved in the practice of law in fourth through sixth century Egypt in a way that laid the foundations for the monastic legal culture that would dominate law and Christian society in the seventh and eighth centuries. Even as new *loci* of power arose in society centering around the spiritual prestige and authority of monks and clergy, the social prestige of Roman law assured that its language and forms would still be necessary to delineate just action and confer legitimacy. This was the case at the level of discourse, as Coptic hagiographies, even those that exhibited great political hostility towards the imperial church and court, reaffirmed the legitimacy of Roman practices for recording legal agreements, punishing capital offenders, and conducting and recording legal proceedings. It was also the case at the level of practice, as letters show clerics petitioning secular authorities on behalf of their congregants, respecting the channels of Roman law even as they sought to create their own points of access into these channels. Later on, petitions to bishops and clergy took the form and narrative *topoi* of petitions from earlier periods, while at the same time appealing to new authority figures and concentrations of influence within the community. At the same time, both the literary and documentary evidence for the practice of law in this period contain distinctively Christian elements, as the rhetorical style and theological content of Christian scripture and other writings came to permeate the Egyptian context. These two trends of the continued social prestige of Roman law in Christian documents and self-understanding, and the gradual alteration of legal documents and institutions through the inclusion of Christian elements would continue as religious institutions became central to the practice of Roman law in Egypt.

Chapter 2

Arbitration and the Coptic Church in Late Antique Egypt

> Positive evidence of trials or of judgments in civil justice is wholly lacking from the beginning of the sixth century to the time of the Arab conquest.[1]
>
> But the people would turn to the respected members of their own communities - and not in their capacity as minor local officials, but as trusted co-religionists- for aid as arbiters or as mediators in settling their little disputes, their family and inheritance troubles, the enforcement of their petty agreements, their rights in the little plots of land they claimed to own or lease and about which they were quarreling.[2]

Arthur Schiller's 1971 article "The Courts are no More" contains one of the more striking arguments advanced in the past 50 years within the field of Late Antique legal history. In this article, Schiller contends that there is no evidence that any civil litigation took place in Egypt in the late Byzantine period from the early sixth century onwards, though he concedes that some criminal courts and processes of administrative appeal continued to function in this period. He posits that Coptic Christians instead turned to arbitration and mediation to settle cases that would have been taken to a civil court in an earlier period. Schiller's article has received substantial criticism,[3] and I also see evidence that undermines his claims, which I will lay out later in this chapter. However, the mere fact that a scholar as careful as Schiller would posit that civil litigation all but ceased points to a conspicuous shift in the documentation of legal disputes between the fifth and seventh centuries, during which period surviving petitions and records of

[1] Schiller (1971) p. 487.
[2] Schiller (1971) p. 502.
[3] Simon (1971).

civil litigation decreased dramatically, even as new forms of documents recording the results of arbitrations and negotiations arose.

One type of evidence that will be crucial for understanding the nature of arbitration in this period is *dialysis* or arbitration agreements from the fifth through eighth centuries. *Dialysis* agreements recorded the decision of an arbiter or panel of arbiters that both parties of a legal dispute had agreed on beforehand. They sometimes also included a history of prior conflict that preceded the decision to submit the dispute to arbitration as well as several clauses on the enforcement of the decision, including financial penalties. In the period following A.D. 400, examples of petitions from extant papyri decrease rapidly at the same time that *dialysis* agreements begin to appear.[4] Therefore, it may have become increasing common for the initial resolution of a dispute to occur before a panel of arbiters, rather than an imperial magistrate, in this period. In this chapter, I will explore the social relations and use of Roman private law that allowed these arbitrations to obtain. Individual examples of these agreements have received extensive scholarly attention,[5] but in this chapter and the following one, I examine the legal reasoning they instantiate in order to trace the networks of social authority and the continued prestige of Roman imperial power that permit this kind of legal instrument to function.[6]

Schiller was certainly right to point to the scarcity of evidence of the operation of imperial courts in this period. This pattern deserves to be explored as a historical question, as well as the underlying reasons that might have made law and state power less accessible in the

[4] Kelly (2011) pp. 23-24.
[5] Gagos and van Minnen (1994).
[6] This study is complicated by the distribution of evidence in this period, as the total number of papyri surviving from the fifth century is significantly less than the number in previous centuries; see Habermann (1998). Furthermore, Greek papyri from the fifth and sixth centuries tend to be concentrated in several prominent dossiers, such as that of Dioscorus at Aphrodito and the Apion family in Oxyrhynchos.

fifth century. However, the literary and documentary evidence from the fifth and sixth centuries illustrates that Byzantine state power continued to exist in this period. Indeed, many arbitrations emerged as settlements arrived at over the course of litigation or relied on the court system to enforce the terms of the arbitration agreement. Therefore, rather than conceiving of arbitration as a replacement for civil litigation, we will consider how arbitration modeled itself after the cultural archetypes of adjudication and positioned itself in relation to state power. This positioning was particularly important for monastic and ecclesiastical mediators, who existed in an extended social hierarchy that was useful for arbitration and also used arbitration for the advantage of their growing Christian institutions.

Scholars of fourth and fifth century imperial legislation concerning bishops and canon law will be disappointed to see a lack of documentation of these types of legal developments in the papyri. Evidence for formalized, state-sponsored legal institutions incorporating religious figures like the *episcopalis audientia* is extremely scarce in papyrus documents.[7] Instead, Christian institutions and officers seem to have worked through arbitration in order to play a role in dispute resolution separate from, yet complementary to, formal litigation. They also used arbitration to shield their activities from the exposure of a public court and to protect the interests of their donors. This arbitration developed into a robust system of dispute resolution that shows clear signs of the influence of both Christian ideas and the cultural archetypes of Roman legal practice.

This change in the documentary evidence of legal institutions and arbitration in the late Byzantine period is all the more striking because it represents a significant departure from the trends in the development of legal institutions during the first four centuries of Roman rule in

[7] Wipsyzcka (2007) p. 340.

Egypt. During that earlier period, Roman subjects in Egypt appear to have developed a preference for petitioning imperial officials and making use of courts sanctioned by the Roman imperial power, as the evidence of petitions to Roman officials and records of court proceedings before imperial officials acting as judges increased markedly. Concurrently, documentary evidence for local level courts, such as the *laocritai* courts based in Egyptian temples from the Ptolemaic period, and records of arbitration disappeared by the end of the reign of Augustus, in the early first century A.D.[8] Roman imperial administrators encouraged legal pluralism by hearing cases that involved legal documents and laws of local origin, especially since they envisaged their own role as providing fair, rational, and swift access to law in the province.[9] This, in turn, led to the widespread adoption of appealing to Roman legal institutions by the Egyptian population. However, as the Byzantine imperial bureaucracy weakened from the fifth century onwards, the documentation of arbitration proceedings increased and became more prominent. As a legal institution, arbitration did not have the same executory powers or ideological self-conception displayed by the Roman imperial courts in Egypt during earlier periods. Rather, these arbitrations and the documents that recorded them depended to a large extent on social ties within a close community and the public prestige of the arbiter within that society. At the same time, the *dialysis* documents that emerged from these proceedings were closer to contracts than court orders, and therefore depended on some degree of respect for imperial power, either as social fact or at the level of imagination, for their enforcement.

One locus of social influence and power on which these arbitrations could rely was religious, and monks and priests feature prominently in many of these arbitration documents as arbiters and witnesses. The first section of this chapter will provide an in-depth analysis of the

[8] Alonso (2013) pp. 351-356.
[9] Alonso (2013).

documentary papyri that demonstrate the involvement of individuals holding Christian religious offices in arbitration during the fifth through seventh centuries. This evidence proves that the literary depictions of arbitrations by holy men from the Coptic *Vitae* of Aaron, Pisentius, and Longinus examined in the first chapter had a firm basis in actual practice. Furthermore, the social prestige of properly executed Roman legal instruments emphasized in those literary episodes will be borne out in the papyrological evidence that depicts arbiters consulting written documents as the important evidentiary basis for their decisions. The fact that both parties in the arbitration chose to record the settlement in a complex legal document drawn up by a trained notary points to the continued high value placed on professionally drafted legal documents, even as evidence for the activity of imperial courts in Egypt declined significantly.

Bishops and other clergy in offices embedded within the community are attested as serving as arbiters as early as the fourth century. Evidence for their activities comes from familiar types of papyri like proceedings, petitions, and letters. These arbiters drew on their established position within their own communities in order to serve as mediators, in an extension of their pastoral role within the church. One of the earliest pieces of evidence for arbitration by church officials in Late Antique Egypt is P.Lips. I.43, a record of the proceedings of an arbitration before a bishop. It has been dated to the fourth century on the basis of paleography,[10] which places it earlier than the other documents examined in this chapter. However, the crucial information it provides about how these arbitration hearings proceeded will be useful in analyzing later *dialysis* agreements individually. The text reads as follows:

> Φαρμοῦθι ιη ἐν τῷ πυλῶνι τῆς κ[αθ]ολι-
> κῆς ἐκκλησίας τῆς ὑπὸ Πλουσιανὸν ἐπιδιμώ-
> τατον [l. ἐπιτιμώ|τατον] ἐπίσκοπον. διέτης [l. διαίτης] γενομένης μετα-
> ξὺ Θαήσιος ἀειπαρθ[ένο]υ καὶ τῶν κλη-

[10] But note that dating documents of this period on the basis of their handwriting is notoriously difficult. See Bagnall and Cribiore (2006) pp. 54-55 on dating Roman and Byzantine hands.

5ρο[ν]όμων Βησαρίωνος [τὸ διαιτ]ητικὸ[ν π]ροσ-
εδόθη ὑπὸ τοῦ α(ὐτοῦ) ἐπισκόπου Πλουσιανοῦ
διετήσαντος [l. διαιτήσαντος] παρ[όντων] Διοσκ[ο]ρ[ίδου] Ὑμνίω-
νος βουλ(ευτοῦ) καὶ Ε̣[. . . . . τοῦ] καὶ
[Ἡ]ρακλείου Εἰθ̣. . . .[. . . καὶ . . .] .ου
10[. . .]του διακό[ν]ου ὥστε ἢ τοὺς κληρο[νό]μους
[Βησ]αρίωνος π[α]ρενεγκεῖν μάρτυρας τ[οὺ]ς
ἐλλέγχοντας Θαῆσιν περὶ ἀφαιρέσε[ω]ς
βιβλίων χρε[ιστ]ια\νι/κ̣ῶν [l. χριστιανικῶν] ᾧς [γ]ενομένης ὑ[π᾽] ᾳὐ-
τῆς . καὶ ταῦτ[α] αὐτὴν εἰσενεγκεῖν
15ἢ αὐτὴν ὅρκο[ν διδ]όναι περὶ τοῦ μηδ[ε]μίαν
ἀφαίρησιν [l. ἀφαίρεσιν] πεποιῆσθαι καὶ [ο]ὕτω πάντα
τὰ ἐπὶ τῆς οἰκείας καταλιφθέντα [l. καταλειφθέντα] εἰς δύο
μέρη καὶ τ[ὴ]ν μὲν Θαῆσιν ἓν μέρος
. .έξασθαι, τούς δὲ κληρονόμους τὸ ἕτερον
20μ[έ]ρος, τοῦτο δὲ γενέσθαι εἴσω τριακάδος
τοῦ αὐτοῦ Φαρμοῦθι.

Pharmouthi 18 in the courtyard of the catholic church which is under Plousianos, most honorable bishop. In the process between the nun Thaesis and the heirs of Besarion the decision was pronounced by the said bishop Plousianos, serving as arbiter, in the presence of Dioskorides son of Hymnion, city councilor and E[…] and Herakleios son of Eith[… and NN], deacon, that either the heirs of Besarion should present witnesses charging Thaesis with having taken away Christian books, and that she should bring them back, or she should swear an oath that she never took them away, and thus all those things left behind in the house (should be divided) into two shares, Thaesis to have(?) one share and the heirs the other share; and this should happen before the thirtieth of the said (month) Pharmouthi.[11]

Early scholars of this document and other instances of arbitration before bishops tended to take it as evidence of the *episcopalis audientia*,[12] state-sanctioned trials by bishops well known from imperial legislation, hagiography, and the surviving letters of bishops, such as Augustine's epistolary corpus.[13] More recent scholarship has cautioned against this conclusion, arguing that many of these instances can be seen as simple cases of *privilegium fori*, or the church's internal

[11] P.Lips. I.43. Schmelz (2014) p. 524-525 translation.
[12] See, for instance, Lammeyer (1933) pp. 200-202.
[13] For hagiographic depiction of Augustine as judge, see Possidius *Life of Augustine* chapter 19 in Weiskotten (1919) pp. 86-89. For Augustine's own reflections on law and the role of the bishop as judge in his sermons and letters, see passages cited in Lenski (2001) and Raikas (1990) *passim*.

jurisdiction. Claudia Rapp in particular focuses on Thaesis' status as a nun and points to the fact that the *privilegium fori* extended to the religious orders.[14] In addition, some of the most thorough scholarship on this topic has concluded that there is no evidence that bishops acted as anything other than simple arbiters in cases like this, with no state-sponsored powers of civil adjudication.[15] I agree with this recent note of caution, and I think it likely that, in this instance and several others, the bishop acted solely on the social prestige of his position in the community, rather than exercising any formal jurisdiction granted to him by the state or by the church. However, the question of the bishop's exact source of authority or jurisdiction exercised here is difficult to answer with certainty, as we lack crucial contextual information for this record of proceedings and for other documents.

If in this case the bishop Plousianos is acting as an arbiter based on his social authority within the community, we have reason to believe that this authority would be well established. As Claudia Rapp has noted, in contrast to many imperial magistrates who served in the province for a fixed term of a few years, a bishop was appointed for life and thus "firmly integrated into the social life of the city as a well-known and well-respected member of the local community."[16] His long tenure and pastoral relationship with his priests and congregants meant that a bishop had enjoyed long-term social status within the community that lent authority to him in his role as arbiter and was a different source of authority than that of secular magistrates. However, it is possible that this degree of social authority and embeddedness within the community could make the bishop's judgment suspect for some, as he may have developed hostility towards some individuals within the community over the course of his tenure there. Indeed, in other historical

[14] Rapp (2005) p. 247.
[15] Bagnall (1993) p. 225 and Lallemand (1964) pp. 150-152.
[16] Rapp (2005) p. 245.

contexts in which litigants had the option of arbitration by community members or adjudication by an outside judge, they sometimes opted for the judge. This was true in Rena Lauer's study of Jewish litigants in Medieval Crete. There, some individuals opted for the Venetian ducal courts as a more neutral tribunal than the rabbinic alternative because "they were not party to the insider, cliquish politics that influenced many Jewish court cases in small towns."[17]

Next, let us turn to a close reading of the text of P.Lips. I.43. This document records the location in which the arbitration takes place, namely "ἐν τῷ πυλῶνι τῆς κ[αθ]ολικῆς ἐκκλησίας τῆς ὑπὸ Πλουσιανὸν." The designation of the church as the one under Plousianos' authority further reinforces the perception of his social prestige within the community. In all likelihood, it was also simply a convenient place for him to hear the dispute. The importance of the church as a physical space for arbitration proceedings or the swearing of oaths will recur in other documents examined in this and my third chapter.[18] The conversion of this public space, in this case the church courtyard, into a judicial one has interesting parallels with the use of public spaces like markets as fora for trials by Roman secular magistrates.

Designating a particular public space where a trial was to occur was important in Roman private law in order to insure the presence of the plaintiff and the defendant. For example, a *vademonium* was a binding promise that a defendant made to appear at a precisely designated place and designated time, either to commence a lawsuit or to continue one that had gone into recess or needed to be tried before a different official.[19] Several written examples of this type of promise survive in the form of first century[20] wax tablets excavated at Herculaneum.[21] They

[17] Lauer (2016) p. 121.
[18] pp. 137-138 this volume.
[19] Metzger (1998) p. 218.
[20] 74 and 75 A.D., according to Metzger (2000).
[21] This archive of eighteen documents was excavated in the houses of L. Cominius Primus and L. Vennidius Ennychus and in the building designated "House of the Bicentenary" at Heraculaneum during

contain precise descriptions of place and time in the form "[the defendant promises to appear] on the third day before the first Nones of December at Rome in the forum of Augustus before the tribunal of the urban praetor at the second hour"[22] or "on the fourth day before the first Ides of March at Rome in the forum of Augustus in front of the temple of Mars Ultor at the third hour."[23] Ernst Metzger has pointed out how the language of these *vademonia* was precisely calibrated to work in concert with the plaintiff's ability to summon the defendant *in ius vocatio*: by promising to appear at a location *near* the court (such as the temple of Mars), rather than *in* the court itself (*in iure*) the plaintiff could summon the defendant into court immediately through the *in ius vocatio* once they made their stipulated meeting.[24] We do not have evidence for how participants in the arbitration agreed to meet in the courtyard of the church, but in the heading of P.Lips I 43 a designation of a particular space and date transforms a public space into a judicial one and has parallels with the designation of public landmarks as meeting spaces for legal affairs in Roman private law from earlier periods.

The meaning of Thaesis' epithet "ἀειπαρθένου" and the nature of her alleged misappropriation has already been the subject of extensive scholarly commentary[25] and need not concern us here. Suffice it to say that Thaesis was likely a nun of some variety and the accusation of misappropriation of property arose as part of an inheritance dispute. Again, I am inclined to conclude that Plousianos acted as an arbiter in this document, rather than in his official capacity as bishop, in part because of the use of the participle "διαιτήσαντος" to describe

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the 1930's. They concern a lawsuit over the freeborn status of a woman named Petronia Iusta. The *editiones princepes* of these tablets are Carratelli (1946) and (1948).

[22] Carratelli (1948) p. 169: "in iii Non. Decembr. prim. R[o]mae in foro Augus. ante tribunal praetoris urbani hora secun[d]a"

[23] Carratelli (1948) p. 170: "in iiii Id[u]s Mar[tias] primas. Rom[a]e in foro Augusto ane ae[d]e Ma[rtis] Ultoris h[ora t]er[tia]"

[24] Metzger (1998) pp. 221-222.

[25] See Albarrán Martínez (2015) pp. 9-10, Elm (1989), and Emmett (1982).

his action. The verb διαιτάω normally designates arbitration as opposed to other forms of adjudication, and in some contexts can even have the meaning of to "reconcile."[26] Besides Plousianos and the two parties to the arbitration, there were three other individuals present: Dioskorides the town councilor, a man called Herakleios and an unnamed deacon. Based on my study of *dialysis* documents, it is likely that these three individuals served as witnesses to the arbitration. In the subscriptions of witnesses on *dialysis* documents, titles like "βουλευτός" and "διάκονος" are frequently included. As I will explain more fully later in this chapter, the increasing tendency to identify deacons, sub-deacons, and priests in legal documents during the period under consideration suggests that these individuals' positions within the institutional church in Egypt were perceived as making them effective witnesses whose involvement could help guarantee the permanence of written legal agreements. The inclusion of these titles in this report of proceedings in addition to their presence in *dialysis* documents indicates that the tendency to identify individuals in part using these offices was widespread in these legal settings and points to the social prominence of these positions.

Furthermore, this record shows the type of evidence that Plousianos considers in arbitrating this case. Apparently unsatisfied with evidence presented by the two parties, he asks that the heirs of Besarion produce witnesses, "μάρτυρας," who could testify orally, "ἐλλέγχοντας" to the fact that Thaesis did in fact steal the religious writings. Failing that, Thaesis could swear an oath that would put the matter to rest. As arbiter, the bishop preferred the testimony of two or more witnesses (note the plural noun) as firm evidence to prove Thaesis' misappropriation of part of the estate. He would also accept the nun's testimony as a secondary, but in the event no less dispositive, form of proof. Finally, with a framework in place to decide

[26] LSJ "διαιτάω."

the question of the misappropriation, Plousianos makes a division of the disputed inheritance, dividing it equally between Besarion's heirs and Thaesis. This suggests that the background of case would have tended towards this resolution in the first place. If it was true that the estate was meant to be divided equally between the two parties, then this arbitration turned on whether Thaesis managed to obtain possession of some property before the formal division, thereby causing a 50/50 division to issue in an unequal division at this juncture.[27] Property divisions are a very common subject of *dialysis* agreements, and this fact provides further indication that the bishop may have been acting simply as an arbiter in this case. Plousianos also sets a deadline by which the property dispute needed to be resolved, twelve days. This deadline may have been enforced through a clause in a *dialysis* agreement. The bishop's prominent and fixed place in the community would also allow him to monitor both parties in the future to ensure that they continued to abide by the terms of the arbitration award.

Another early example of arbitration before clergy demonstrates how a case could move from arbitration to litigation before a state tribunal, in addition to the more commonly documented move from litigation to arbitration that we will see later in this chapter. It also provides further evidence of how Christian norms and rhetoric entered legal documents, even petitions addressed to secular authorities, in addition to the example that we saw in Aurelia Nonna's petition in Chapter 1.[28] The affidavit is a fourth-century record by an unnamed woman alerting the authorities to the abuses that she had suffered at the hands of her husband. This narrative of abuses may have been attached to a petition, which in turn, could seek delictual

[27] Monks and nuns were allowed by imperial legislation to inherit property, see CTh. 16, 3, 28 and Nov. 5 (Marcian emperor, A.D. 455). Papyrological documentation provides further evidence of this fact, as members of holy orders often appear as heirs to estates or parties in agreements for the division or sale of an estate, see P.Lips. I.60, P.Prag. I.42, P.Princ. II.84, and P.Köln. X.421.
[28] pp. 59-63 this volume.

damages or a formal division of property for divorce. It is likely that this affidavit was in fact part of a larger petition due to the heading at the top of the document: "Concerning all of the *hybreis* that he said against me."[29] The plaintiff first recounts all of the physical abuse inflicted on her slaves and foster-children by the defendant, apparently while they were still in an ἄγραφος marriage, or one not recorded by a formal legal contract.[30] The spouses then go to a body of religious officials for reconciliation or arbitration, which is the part of the text that most concerns the themes of this chapter:

> καὶ ὤμοσεν ἐπὶ παρουσίᾳ τῶν ἐπισκόπων καὶ τῶν ἀδελφῶν αὐτοῦ
> ὅτι ἀπεντεῦθεν οὐ μὴ κρύψω αὐτη [l. αὐτὴ<ν>] πάσας μου τὰς κλεῖς καὶ ἐπέχω
> \καὶ τοῖς δούλοις/
> \αὐτοῦ ἐπίστευσεν κἀμοὶ [l. καὶ ἐμοὶ] οὐκ ἐπίστευσεν/ οὔτε ὑβρίζω αὐτὴν
> ἀπεντεῦθεν. καὶ γαμικὸν γέγονεν, καὶ μετὰ
> τὰς συνθήκας ταύτας καὶ τοὺς ὅρκους ἔκρυψεν πάλιν ἐμὲ τὰς κλεῖς
> εἰς ἐμέ. καὶ ἀπελθοῦσα [εἰ]ς τὸ κυριακὸν ἐν σαμβάθῳ [l. σαββάτῳ], καὶ ἐποίησεν
> 20τὰς ἔξω θύρας αὐτοῦ ἐνκλισθῆναι [l. ἐγκλεισθῆναι] ἐπάνω μου λέγων ὅτι διὰ τί
> ἀπῆλ-
> θας εἰς τὸ κυριακόν; καὶ πολλὰ ἀσελγήματα λέγων εἰς πρόσωπόν
> μου καὶ διὰ τῆς ῥινὸς αὐτο[ῦ], καὶ περὶ σίτου (ἀρτάβας) ρ τοῦ δημοσίου τοῦ
> ὀνόματός μου μηδὲν δεδωκὼς μηδὲ ἀρτάβ(ην) μίαν.
>
> He swore in the presence of bishops and his brothers that "From now on, I will not hide all of my keys from her" – he trusted his own slaves, but he didn't trust me – "and I will even stay away from her, nor will I do violence to her again." We made a marriage agreement, and after these agreements and the oaths, once again he hid the keys from me. When I went to church on the Sabbath he locked the outside doors, and yelled down at me, "Why have you gone to the church?" He said many foul things to my face, even speaking through his nose. As for the 100 artabas of grain due in taxes under my name, he has given not the first artaba.[31]

[29] P.Oxy. VI.903 line 1: "περὶ πάντων ὧν εἶπεν κατ' ἐμοῦ ὕβρεων."
[30] In such a union, the wife would not have the protections of her dowry and other specific terms of the marriage that would come from recording the property arrangements of the marriage in a written contract. See Yiftach-Firanko (2003) pp. 81-104.
[31] P.Oxy. VI.903 lines 15-23. Bryen (2013) translation.

The plaintiff then goes on to describe further physical, emotional, and financial abuse that her husband had inflicted on her, concluding with the pathetic assertion that "God knows this is true."[32]

The episode described in this affidavit was most likely a form of arbitration, since the bishops appear to have heard the case and required the husband to swear oaths in order to bring about a reconciliation.[33] A formal wedding document was also drawn up, so the arbitration of the bishops issued in a marriage contract that could be enforced in the formal court setting through the use of state power. Consequently, this marriage contract was similar to *dialysis* agreements, in that it was created through the use of arbitration to resolve a dispute but preserved the option for that resolution to be upheld in subsequent litigation. The involvement of plural bishops "ἐπὶ παρουσίᾳ τῶν ἐπισκόπων" is somewhat puzzling, since it is unclear why two bishops would be in the same location and available to arbitrate, though Roger Bagnall has proposed the helpful suggestion that they may have been the bishops of Oxyrhynchos and Antinoopolis.[34]

Unfortunately, this arbitration did not provide a permanent solution for the abuse, forcing the plaintiff to bring her case before secular magistrates. At least in this period, state-sponsored adjudication was frequently available when settlements reached through arbitration or mediation fell through.[35] Although the bishops' arbitration had failed, the plaintiff still has recourse to Christian values and rhetoric in her petition, which may have been addressed to magistrates who

[32] P.Oxy. VI.903 line 37: "ταῦτα δὲ οἶδεν ὁ θ(εός)."
[33] Several Christian emperors in the fourth-sixth centuries attempted to place restrictions on divorce, which classical Roman law allowed freely. See C.Just. 5.17.8 and Nov. 117. For example, the fifth century Theodosian code imposed strict penalties on spouses who sought a divorce except in cases of spousal misbehavior, which included physical abuse. The uncertain dating of this papyrus makes it difficult to know exactly which divorce regulations would have been in place.
[34] Bagnall (1996) p. 195.
[35] For a case of an analogous dispute within an *agraphos* marriage, see P.Oxy. L.3581. In that case, the dispute was similarly settled through mediation by priests but later required a petition to an imperial magistrate when the husband's abuses continued.

were Christian. She emphasizes the fact that her husband attempted to prevent her from going to church, connecting some of her most vivid descriptions of verbal abuse to that episode in particular: "He said many foul things to my face, even speaking through his nose."[36] Shaping the narrative in this way allows her to portray herself as pious, while at the same time making the defendant seem hostile to Christian practices in addition to being violent and abusive. At least one Late Antique literary source also suggests that violent expulsions of air through one's nostrils was associated with pagan worship in Christian writings, so including this detail may have served to accentuate the impression that he was opposed to Christian worship.[37] Furthermore, the concluding line of the document "God knows this is true," serves to bolster this distinctive narrative style that arose in petitions under Roman rule with the additional assertion that she is telling the truth in God's presence. This statement reinforces the claim to factual accuracy implicit in Roman petition *narratio* with the further assertion that the accuracy of the knowledge is somehow secured by divine knowledge of the truth concerning the facts of the case.

On the whole, this document demonstrates three key factors of Christian legal practice that had already emerged in the fourth century. First, clergy sometimes sought to arbitrate marital disputes in addition to conflicts over property, as was already suggested by Aurelia Nonna's petition and the episode from the Life of Pisentius. Second, individuals who sought arbitration from clergy could still have recourse to secular magistrates if the other party did not uphold the settlement. Finally, Christian rhetoric and norms had already begun to permeate the narrative of petitions in this period, even those addressed to secular magistrates. Nevertheless, the *narratio* of

[36] An example of *iniuria*, see Torallas Tovar and Martin (2007).
[37] Gascou (2006) p. 108. Blowing or speaking through the nose conveys a similar notion to that of the Greek verb μυκτηρίζω, as well as a Coptic expression for mocking someone, as in "ⲁⲕⲱⲁⲛϫⲩ ⲉ̅ⲛⲱⲁⲁⲛⲧⲩ." See Vergote (1938) pp. 1358-1359.

this petition retains the structure, rhetoric, and selection of details that had grown up over the course of Roman rule in Egypt, even as the plaintiff added Christian elements to this narration. The remarkable degree of notarial stability in some elements of these legal documents, as well as the addition of Christian elements, will be explored in more depth in the next two chapters, which deal with Coptic legal documents in which these tendencies are even more pronounced.

Priests associated with the community also played an important role of witnesses to legal proceedings as early as the fourth century. An example of this comes in Stud.Pal.XX.86, a petition from Hermopolis written in 330 A.D. In it, Demetria sued another woman named Eus for failing to pay the agreed-upon tax payments as part of a sales contract.[38] In laying out her narrative of the case, Demetria explains that "Eus, the wife of Saprikios from the same city, approached me, because she wished to buy it [the land], and I made a contract with her in the presence of Dioskourides, the priest of the church, on the following terms…"[39] Dioskourides, as the priest of the church in Hermopolis, served as a reliable witnesses who could confirm the details of the transaction. Demetria herself asserts this role for him, since in her narration of the events surrounding the sale she states: "I urged her often, in the presence of the mediator [μεσίτου]…" and "I requested through the above-mentioned petition that she be ordered to pay me within ten days what we agreed on, and then she would receive the sale document in accordance with what our witness [μεταξυμάρτυς] will confirm."[40] The terms "μεσίτου" or "mediator" and "μεταξυμάρτυς" or "intermediary witness" used for Dioskourides helps to explain his role in creating the contract: he served as a neutral third party who could confirm the

[38] See van Minnen (2009) pp. 8-10 and Mitthof (2009) pp. 147-149.
[39] Stud.Pal. XX.86 lines 6-8. van Minnen (2009) p. 9 translation. "καὶ Ἐὺς γυνὴ Σαπρικίου ἀπὸ τῆς αὐτῆς πόλεως πρ[ω]σῆλθέν μοι βουλομένη πρίασθαι ταῦτα καὶ συνεθέμην πρὸς αὐτὴν ἐπὶ παρουσίᾳ Διοσ[κ]ουρίδου πρεσβυτέρου τῆς ἐκκλησίας ἐπὶ ὅροις."
[40] Stud.Pal. XX.86 lines 10-14. van Minnen (2009) p. 9 translation.

details of the agreement. This role combined the standard function of a witness with the more involved one of an arbitrator. His position as a priest in the community made him well-suited for this role, as he was integrated in the locality in a way that would allow him to verify the terms of a contract in the event of a dispute, such as this one, and to seek to reconcile the parties to one another. Furthermore, the fact that he was selected as witness at the time of the ratification of the agreement, rather than as an arbiter after the dispute had arisen, may indicate that neither party felt him to be biased, and thus his prominence within the community buttressed his authority as witness and mediator, instead of detracting from it.

In contrast to some of the earlier activities of embedded officials as arbiters, in the fifth through seventh centuries, clergy were requested to serve as arbiters in locations away from their home communities. This activity is attested in novel documents, like *dialysis* agreements, as well as letters. These clergy are trusted to mediate disputes between strangers in other localities because of the growing social prestige of Christian offices and connections between clergy in different locations, which in turn may be correlated with the growing influence of churches and monasteries in this period. This social prestige of their office within the institutional and social network of the church allowed these arbiters, who lacked local ties, still to be situated within hierarchies of social authority that extended into the locality and yet transcended it.

The first document recording the results of this type of arbitration that I will discuss is P.Münch. I.14, a *dialysis* or arbitration agreement from AD 594. The legal case at issue in this papyrus is complicated: the entire text is 111 lines and includes a number of complex legal clauses employing the florid language common in documents of this period. The plaintiffs, who are brothers-in-law, each brought a suit against the other before the *vicarius* of Hermonthis[41] for

[41] The term βικάριος very generally means a representative and was consequently used in Late Antiquity to designate a range of individuals who had civil responsibilities or jurisdiction, see Gutsfeld (2006). In

violating a prior arbitration agreement. Patermouthis sued Ioannes because the latter had brought a previous suit over an inheritance dispute that had resulted in Patermouthis being fined 7 solidi, even though that inheritance dispute was recorded as being resolved in *dialysis* agreements (ἐγγράφους διαλύσεις) that both men had signed.[42] In response to Patermouthis' charge, Ioannes responded that he had only revisited the inheritance dispute because Patermouthis (who was married to Ioannes' sister) had prevented Ioannes' mother from giving him money that she owed to him as a result of a dispute over her house that had been arbitrated by Paeion, a local lawyer.[43]

In the passage relevant to Christian arbitration, the text abruptly shifts to explain that the two parties settled the issue via the arbitration of a priest, instead of awaiting the results of litigation:

> …καὶ πολλῶν
> ὅσων λεχθέντων καὶ ἀντιλεχθέντων μεταξὺ ἀλλήλων ἔδοξεν κατὰ κοινὴν
> συναίνεσιν ἀπαντῆσαι αὐτοὺς εἰς δίαιταν παρὰ Σερῆυ τῷ εὐλαβεστάτῳ
> πρεσβυτέρῳ τῆς ἁγίας ἐκκλησίας Ὄμβων εὑρεθέντι κατὰ τύχην ἐν ταύτῃ
> τῇ Συηνιτῶν. vac. καὶ δὴ γενόμενοι παρὰ τῇ αὐτοῦ θεοφιλείᾳ ἑκάτερον μέρος
> 35ἀνέθετο αὐτῷ τὰς ἑαυτοῦ δικαιολογίας, ὅστις ἀκροασάμενος τῶν μεταξὺ
> αὐτῶν ἀμφιβαλλομένων, διελθὼν δὲ καὶ τὰς διαλύσεις τὰς προενεχθείσας
> παρὰ Πατερμο(υ)θίο(υ) γενομένας εἰς αὐτὸν καὶ Κακὸ τὴν αὐτοῦ γαμετὴν
> παρὰ Ἰωάννου τοῦ προειρημένο(υ), οὐ μὴν ἀλλὰ καὶ ἐφειδὼν τὴν ἐπίκρισιν
> τὴν δοθεῖσαν Ἰωάννῃ καὶ τῇ μητρὶ αὐτοῦ παρὰ τοῦ αὐτοῦ λογιωτάτου
> γραμματικοῦ
> 40ἕνεκεν τῆς ὑποθέσεως τῆς οἰκίας, δι' ἧς ἐπέκρινεν καὶ συνεῖδεν
> δοθῆναι Ἰωάννῃ παρὰ τῆς μητρὸς αὐτοῦ νομίσματα τέσσερα , καὶ αὐτοῦ
> Ἰωάννου \ἐπιμείναντος/ καὶ λέγοντος, ὡς ἐμποδισθεὶς παρὰ Πατερμουθίου
> το(ῦ) εἰρημένο(υ) λαβεῖν παρὰ τῆς μητρὸς αὐτο(ῦ) τὰ αὐτὰ νομίσματα τέσσερα
> ᾐτιάσατο αὐτόν, συνεῖδεν καὶ ἐπέκρινεν ὁ προειρημένος θεοφιλέστατος
> 45διαιτητής, ὥστε πρὸ παντὸς λόγου καταβαλεῖν Ἰωάννην τὸν προλελεγμένον
> ἐπὶ Πατερμοῦθιν χρυσο(ῦ) νομίσματα πέντε ὑπὲρ ἧς ἔλεγεν δεδόσθαι ζημίας…
> τούτων οὕτως ἐπικριθέντων παρὰ Σερῆυ τοῦ προγεγραμμένο(υ) θεοφιλεστάτου
> πρεσβυτέρου, καθ' ἑαυτοὺς γενόμενοι συνῆνησεν πρὸς ἀλλήλους φιλικῶς…
> τούτων ο(ὕ)τως γενομένων καὶ ἀπαλλαγέντων πρὸς ἀλλήλους εἰς ταύτην εἰκότως

this particular context, he seems to have been a subordinate of the τοποτηρητής in Hermopolis who held civil and military jurisdiction, see Hagedorn (1986) pp. 160-161.

[42] P.Münch. I.14 lines 15-25.

[43] P.Münch. I.14 lines 25-30.

ἀφίκοντο οἱ προειρημένοι Ἰωάννης καὶ Πατερμοῦθις τὴν ἔγγραφον ὁμολογίαν τῆς διαλύσεως, δι᾽ ἧς ὁμολογοῦσιν ἑκουσίᾳ γνώμῃ

> And after they had said and argued much with each other, they decided by common accord to appear for arbitration before Sereu, the most prudent priest of the holy church of Omboi, who happened to be found in the city of the Syenians. And then, when they came before his Godbelovedness, each side prepared for him his own pleas of justification. He, when he had listened to what was in dispute between them; and when he had also gone through the settlements brought forward by Patermouthis which had been made for him and his wife by the said Ioannes; and when, moreover, he had also examined the arbitration award given to Ioannes and his mother by the same most learned lawyer… the aforesaid most-beloved-of-God arbitrator decided and arbitrated that above all the said Ioannes should tender to Patermouthis gold, five *solidi*, for the penalty… When this had been awarded by the aforesaid Sereu, the most-beloved-of-God priest, being by themselves they came to agreement with each other in a friendly way that... After this had thus been done and been reconciled between the parties, the said Ioannes and Patermouthis logically arrived at this written acknowledgement of settlement through which they acknowledge of their own free will... [44]

The text of the document then goes on at some length, describing how both parties accepted the settlement in which Ioannes would pay Patermouthis one *solidus* once previous obligations were taken into account. It also includes an elaborate quitclaim, several security and penalty clauses, and the signatures of seven witnesses.

This case is especially interesting for the study of arbitration, because it demonstrates how the initial resolution of a dispute through arbitration could be revisited in the formal court setting, where the violation of these arbitration awards constituted grounds for ligation and the documents themselves were used as evidence. Furthermore, this document illustrates how the imperial state power was felt in legal disputes, even at this late date at the end of the sixth century. In both of the extensive security clauses at the end of the document, each party agreed not to contest the arbitration in the future through a variety of legal means, including through "imperial pronouncements" or "an imperial rescript."[45] However unlikely it was in a dispute over

[44] P.Münch. I.14 lines 30-59. Porten et al. (2011) Translation.
[45] P.Münch. I.14 lines 71 and 85. θείων βέρβων or θείας ἀδνουτατίωνος.

comparatively modest sums, the perceived possibility of an imperial intervention on behalf of one of the plaintiffs is expressed in this security clause. The clause indicates an awareness of imperial legal authority at the level of imagination and discourse, even as it tries to block an intervention through a contractual clause. The document as a whole exhibits the tendency of Byzantine legal prose to employ a string of similar words in order to make a legal claim more secure. One example of this is in the opening lines: "This acknowledgement of settlements is drawn up and made as the termination of all criticism and accusation and liability and inculpation and inquiry and altercation [by Patermouthis and Ioannes]."[46] This ornate prose style persists throughout the document and can be observed in many other contracts and legal documents from this period.

This text is incredibly rich, but for the purposes of this chapter, I will emphasize three facts from the underlying legal situation. First, the legal adversaries appear to have selected Sereu as an arbiter in part based on his status as a priest. In a chapter on arbitration by clerics, Georg Schmelz notes that they were not members of his congregation, as he was from Omboi and only in Syene "by chance;" therefore "his spiritual authority [alone] gives sufficient grounds for his competence as an arbiter."[47] Indeed, the fact that he was a priest from another village may have made him more desirable as an arbiter who could be neutral in this local dispute. He held spiritual authority due to his office but likely was not part of existing insider politics of Syene and existed outside of the local networks of social relations.

Second, the text gives us some indication of how the arbitration proceeded. Each side prepared oral arguments, which Sereu heard. He also examined the written legal instruments

[46] P.Münch. I.14 lines 6-8 "ταύτην τίθενται καὶ ποιοῦνται τὴν ὁμολογίαν τῶν διαλύσεων ἀναιρετικὴν οὖσαν πάσης μέμψεως καὶ ἀγωγῆς καὶ ἐνοχῆς καὶ ἐγκλήσεως καὶ ζητήσεως καὶ ἀμφισβητήσεως."
[47] Schmelz (2014) p. 526.

upon which they based their respective cases, as the text explicitly mentioned that he examined the settlements brought by Patermouthis and the previous arbitration agreement awarded to Ioannes. These legal documents were crucial to the proceedings, forming an important evidentiary basis for Sereu's eventual decision. Furthermore, the text attempts to describe the entire process of arbitrating, from the initial decision to submit the case to Sereu, to the reconciliation after the priest had rendered his decision, and finally the decision to record the arbitration using a written legal instrument.

Finally, and crucially, while the litigants trusted in the spiritual authority of the priest to reach a just resolution of their dispute, they did not trust in this same spiritual authority to enforce that outcome or record the results of the arbitration and the history of the case. For that, they required an extensive agreement drawn up by a professional scribe with a dizzying array of clauses waiving the right to future suits and establishing penalties for cases of non-compliance. This written Roman legal instrument was perceived as the legitimate mechanism for recording social knowledge, even in a legal dispute where a priest was trusted more than a secular judge to reach a just outcome.

Evidence for arbitration by Egyptian monks and clergy exists in papyri of many other genres beyond arbitration agreements, including letters, petitions, and reports of proceedings. Furthermore, as P.Munich I.14 demonstrates, the individuals who served as arbiters did not necessarily depend on a formal institutional authority to adjudicate granted to them by the church, such as the bishop's *episcopalis audientia*. Rather, priests, deacons, and monastics frequently served as arbiters based on their social prestige and prominence within their communities. The sixth or seventh century letter BGU I.103 provides further documentation of this fact:

R
† ἐπιδὴ [l. ἐπειδὴ] οἱ ἀδελφοὶ τοῦ μακαρίου Ἐνὼχ ἦλθαν πρὸς ἡμᾶς λέγοντες
ὅτι δικασθῆναι θέλωμεν [l. θέλομεν] μετὰ τὴς γυνεκὸς [l. γυναικὸς] ἑαυτοῦ,
καταξήωσον [l. καταξίωσον]
οὖν ἡ ὑμετέρα θεωφελία [l. θεοφιλία], ἐὰν αὐθεντίσεις [l. αὐθεντήσῃς] τω [l. τὸ]
πρᾶγμα καὶ λάβις [l. λάβῃς]
αὐτοὺς ἐν τῇ πόλει, καὶ ἀπαλλαγοῦσιν [l. ἀπαλλαγῶσιν] πρὸς ἀλλίλους [l.
ἀλλήλους], εἰ δὲ μή γε,
5καταξήωσον [l. καταξίωσον] τούτους παρασκευάσε [l. παρασκευάσαι]
ἀμφοτέρους ἐλθῆν [l. ἐλθεῖν] ἐνταῦθ[α]
καὶ τούτους παρασκευάσωμεν αὐτοὺς ἀπαλλαγῖνε [l. ἀπαλλαγῆναι] κατὰ των [l.
τὸν] τοῦ δι-
κέου [l. δι|καίου] καὶ κατὰ τω [l. τὸ] ἔθος τοῦ κτίματος [l. κτήματος]. ἀλλὰ μὴ
ὑπερθῖ [l. ὑπερθῇ] ἡ ὑμετέρα εὐλάβια [l. εὐλάβεια]
πατριδιαθεσιν τούτους ἐκπέμψε [l. ἐκπέμψαι], εἰ δὲ πάλιν αὐθεντῖς [l. αὐθεντεῖς]
καὶ
λαμβάνις [l. λαμβάνεις] αὐτοὺς ἐν τῇ πόλει, καλῶς [l. καλῶς], ὅτι γὰρ μέτριοί
εἰσιν καὶ δημόσια
10συντελοῦσιν ἁγιωτάτωι πατρί. †
V
τῷ ἁγιωτ(ά)τ(ῳ) πατρ(ὶ) ἄββᾳ Σερῖνος [l. Σερίνῳ] ἀρχιμανδρ(ίτῃ) † Ἀβραὰμ
Ἀρωω[…]
μίζ(ων)[l. μείζ(ων)] Πιναρά(χθεως)(*) .[. . . . .]

Since the brothers of the deceased Enoch came to us saying "We wish to have our case with his [Enoch's] wife decided," so then, your divine grace, if you assume authority over the matter and receive them in the city, see to it [that it be decided] and let them be reconciled towards one another. But if not, be so good as to have both parties come here and let us induce them to reconcile themselves according to the just outcome and custom regarding an estate. But so that your reverence not delay and exclude them from their inheritance, if you do exercise authority and receive them in the city, [it happens] rightly, for they are reasonable and contribute public gifts for their most holy father.
To the most holy father Apa Serinos archimandrite. Abraam Aroo… headman of Pinarachthis.[48]

As the text on the verso makes clear, this letter is addressed to an individual named Serinos, whom we know to be an abbot of a monastery based on his honorific "ἄββᾳ" and his designation as an "ἀρχιμανδρ(ίτῃ)."[49] Here again, some choice exists about where the two parties will have their case arbitrated: it can be heard by Serinos the abbot or Abraam, who is probably a village

[48] BGU I.103, my translation.
[49] The latter term often designates abbots of large monasteries, see Delattre (2004) p. 67.

headman based on his designation as "μείζ(ων)." Abraam attempts to refer the case to Serinos and does not explicitly state his reasons for doing so. He might have thought that Serinos' position within the community would help bring about a lasting settlement that both parties would respect. However, Abraam also gives Serinos the option of referring the arbitration back to him. The relatively rare verb used for Serenos acting as arbiter, αὐθεντίζω or αὐθεντέω in lines 3 and 8, simultaneously recalls two different uses of the verb in this one instance. Words from this root are frequently used in documentary papyri to mean "authentic," "warranted," or "authoritative" with reference to documents or officials. At the same time, the verb form also has a specifically Christian register, concerning the exercise of a priest's authority over his congregation. For instance, it is controversial among New Testament scholars due to its occurrence in a passage on the role of women in the church in 2 Timothy.[50] Despite this controversy, we can say that the verb seems to refer to the exercise of pastoral authority, power, or rights in other Patristic Greek and Byzantine contexts in which it is used.

The brothers and widow of Enoch do not appear to be monastics under Serinos' supervision, since they are not designated as such and would have to travel to another, unnamed, city where Serinos is in order for him to be able to hear their case. Either Serinos or Abraam would be judging these villagers on the basis of their social authority within their communities. In fact, Abraam explicitly states that he would decide the case according to the custom regarding estates "ἔθος τοῦ κτήματος" in his village. This term is not specific enough for us to understand the substantive legal standards that Abraam or Serinos would make use of, and we do not know what the evidentiary basis of their decision would be. This sort of information is less likely to be preserved in letters than in more formal legal documents like arbitration agreements or reports of

[50] 1 Timothy 2:12. See, e.g., Knight (1984) and Payne (2009) pp. 361-398, for two competing interpretations of this passage.

proceedings. Nevertheless, this letter provides clear evidence of a monastic abbot serving as an arbiter in a secular inheritance dispute of the sort commonly found in *dialysis* documents. This provides further documentary evidence of monastic leaders serving as arbiters that we have also seen in the Coptic *Lives* of Longinus, Pisentius of Coptos, and Shenoute of Atripe. The literary depictions of monastics engaging in arbitrations are historically plausible, and thus we should take all the more seriously the legal standards and values articulated in these Coptic *Vitae.*

Later evidence suggests that the clerics who arbitrated these disputes sought a particularly Christian form of reconciliation. The sixth-century[51] letter SB XX.14987 is similar to the correspondence between Serinos and Abraam in that it involves one individual referring a dispute to someone else for arbitration. The text of the letter reads as follows:

τῷ εὐλογο[υ]μένῳ καὶ ἀληθῶς ποθει-
νοτάτῳ υἱ[ῷ] Θέωνι πολιτευομένῳ
πατρὶ πόλεως Λεόντιος ἐν Κ(υρί)ῳ χαίρειν.
Καθὼς ἀπέστιλας [l. ἀπέστειλας] Ἰωάννην καὶ Εὐσέ-
βιον καὶ Δίδυμον ἐπὶ τῷ αὐτοὺς
ἐπ᾽ ἐμοῦ κριθῆναι, νῦν εὖ ἀκούσας
τῆς ὑποθέσεως αὐτῶν, οὕτως
οὖν ὥρισα ὥστε Δίδυμον ἔχει[ν]
ὅλον τὸ μέγα μνημῖον [l. μνημεῖον] παρ[ὰ]
τὰ σώματα αὐτοῦ καὶ τὸ μικρὸν
μνημῖον [l. μνημεῖον] ἔχειν αὐτὸ οἱ τρῖς [l. τρεῖς]
Ἰωάννης καὶ Εὐσέβιος καὶ Δίδυμος
ἐκ τρίτ[ου μ]έ[ρ]ους τοῦ ἑνός .
καὶ θ(εο)ῦ π[ροενοή]θησαν οἱ τρῖς [l. τρεῖς]
Ἰωάνν[ης κα]ὶ Εὐσέβιος καὶ Δίδυ-
μος vac. ? κ[αὶ ἀπ]ῆλθαν ἀπ᾽ ἐμοῦ
πιθόμεν[οι] [l. πειθόμεν[οι]] καὶ ηὔχοντο{ν} ἐπ᾽ ἀ<λ>-
λήλων ἐπὶ ταύτῃ τῇ σήμερ[ον,]
μηδενὸς αὐτῶν λυπουμένου.
ἡ θεῖα πρόνοια διαφυ-
λάξει σε ἐπὶ μήκιστον
χρόνον ὑγιαίνοντα
καὶ εὐθυμοῦντα ἐν

[51] This dating, made on paleographical grounds, has been disputed, and the papyrus could be as early as the fourth century. See Azzarello (2006) p. 211 n. 11.

τῷ φόβῳ τοῦ θεοῦ
25[.] . . θ vac. ? .ṭαṭα.[.] .

To the blessed and truly dearest son, Theon, curialis, *pater civitatis*, from Leontios, greetings in the Lord. Inasmuch as you sent John and Eusebios and Didymos for decision in my presence, now, upon having given their argument a fair hearing, I have decided as follows: that Didymos have all the great tomb for his corpses, and, as for the small tomb, that the three, John and Eusebios and Didymos, have it, each a third share of the one tomb. And the three, John and Eusebios and Didymos, took thought of God and they left me compliantly and prayed for one another this very day, no one of them showing any signs of annoyance. May the divine foresight protect you for a very long; time, in health; and good spirits, in the fear of God.[52]

Leontios addressed his letter to Theon, a member of the curial class who seems to have been active in local government, given his title of "πατρὶ πόλεως," a term whose exact meaning is unclear. Leontios may have been a member of the clergy, since he addresses Theon as "υἱ[ῷ]," a term that was used frequently in letters from clergy to lay people. Thus this case may have been exactly the same sort of situation that brought about BGU I.103, with a local official referring a case to a clergyman who is located somewhere else[53] for arbitration. Even if Leontios was not in fact a member of the clergy, the phenomenon is still significant because it demonstrates that in some cases the local notables or "great men" were not considered to be the most effective arbiters, but they instead referred the case to someone outside the immediate community who nevertheless held personal or spiritual authority.

The legal case at issue in this papyrus seems to have been a dispute between three individuals over the ownership of two tombs, but no further details about the case survive except the description of how the tombs were allocated in the judgment of Leontios. The arbitration proceeded in the way that we would expect from other evidence examined in this chapter: Leontios heard oral arguments from the disputants and rendered a decision, "upon having given

[52] SB XX.14987. Keenan (1988) text and translation.
[53] Leontios says that Theon "sent (ἀπέστειλας)" the disputants to be judged "in my presence (ἐπ' ἐμοῦ)."

their argument a fair hearing [νῦν εὖ ἀκούσας τῆς ὑποθέσεως αὐτῶν].” This technical usage of the word ὑποθέσεως, also used in another record of an arbitration, P.Budge, which I will examine in the third chapter,[54] is striking. The word ὑπόθεσις has a wide range of much more common meanings such as “proposal,” “advice,” “purpose,” or “supposition.”[55] It is used to mean “legal case” mostly in documents that would have been drawn up by a legal professional, such as petitions and court proceedings, though it does occasionally occur in private letters as well. The fact that Leontios knew this relatively rare use of this word to mean “legal dispute or case” might indicate that he frequently served as an arbiter for disputes in his own and neighboring communities.

This letter also contains strong Christian elements as part of its form and content. By this time, the opening “ἐν K(υρί)ῳ χαίρειν” had become extremely common in Christian epistolography, and this salutation was at times useful for signaling membership within the ecclesiastical community.[56] This formula is drawn in part from the Pauline books of the New Testament, and it would continue to appear in Coptic epistolography for centuries after the composition of this text.[57] Furthermore, the extended benediction in the final four lines of the letter indicates that the shared Christian identity of the two parties was significant, perhaps even consisting in a pastoral relationship, as I have already suggested. Additionally, this benediction is set apart visually from the rest of the letter, as it has a more extensive left-hand margin that puts it in a separate column from the preceding text.

Finally, Leontios describes a reconciliation of the disputants that is figured as being distinctively Christian. He writes that “And the three, John and Eusebios and Didymos, took

[54] pp. 143-154 this volume.
[55] LSJ ὑπόθεσις.
[56] Luijendijk (2008) p. 66ff.
[57] Choat (2006a) pp. 101-104 and Choat (2007), esp pp. 672 and 675.

thought of God and they left me compliantly and prayed for one another this very day, no one of them showing any signs of annoyance." In this account, consideration of God (θ̣(εο)ῦ̣ π[ροενοή]θησαν), and presumably their common identity as co-religionists, helps to induce reconciliation between the parties once the arbitration decision has been handed down. Furthermore, the three litigants are depicted as engaging in corporate prayer (ηὔχοντο{ν} ἐπ᾽ ἀ<λ>λήλων ἐπ̣ὶ̣ ταύτῃ τῇ σήμ̣ερ[ον,]), thereby symbolically enacting their being reconciled as members of one religious community. A reconciliation this harmonious may seem too sanguine an outcome in a contentious dispute over property, but even if Leontios is exaggerating the good feelings between the litigants, this detail still demonstrates an expectation that arbitration conducted within the Christian community would serve to strengthen communal and social bonds, while state-sponsored adjudication could potentially bring division. Finally, this letter is interesting as a historical document because it demonstrates that arbiters sometimes communicated their decision in a case to another, referring party and had an ambition that their arbitration would reinforce social ties and connections based on a common religion within the Christian community.

♦ ♦ ♦

Arbitration allowed clergy and monastics to provide a means of dispute resolution that was modeled on Roman cultural archetypes. However, the practice also helped church officials to position themselves in relation to state power in a way that would allow Christian institutions to maintain control of their own affairs. Arbitration was used within church communities as it provided a means of settling disputes without having recourse to the public process of state-sponsored adjudication. At the same time, the creation of notarized arbitration contracts ensured

that the settlement reached would be recognized and protected by the legal system in the case of further litigation concerning the dispute.

Arbitration and *dialysis* agreements also provided a discreet way of solving legal conflicts between church officials. The creation of a *dialysis* agreement provided the benefit that it did not require a public trial before a secular magistrate to reach a settlement in the first place, but it was still enforceable within the legal system if either party failed to obey the terms of the agreement. One arbitration settlement that provides a candid discussion of considerations about publicity is P.Princ. II.82. This document records the settlement of two different disputes in favor of Theophilos, deacon of the church in Lycopolis. Cyrus, the bishop of Lycopolis, owed Theophilos a debt of sixteen nomismata and had failed to repay it; while Danielios and Areion, priests of the church in Lycopolis, had come into possession of a large number of clothes owned by Theophilos and refused to return them. As other scholars have noted, the fact that Theophilos was able to obtain justice successfully against individuals who were above him in the church hierarchy and more educated (his signature mentions that he was illiterate while his opponents could sign their own statements) is remarkable in and of itself.[58]

Theophilos appears to have drafted or even submitted a petition to the prefect concerning these outstanding obligations, and he used the threat of legal action to induce his ecclesiastical superiors to reach a settlement before an arbiter. This threat to bring the case before the prefect is not implied, but rather explicit in the text:

> καὶ διαλελάληται Κῦρον μὲν τὸν θεοφιλέστατον ἐπίσκοπον καταλαμβάνοντα τὸ μέγα ἐκεῖνο δικαστήριο̣ν τὰς προσούσας αὐτῷ ἐκθέσθαι δικαιολογίας, εἰ μὴ ἔλοιτο πρὸ δίκης ἐπιλύειν τὰ ἐ̣ναγόμενα, Δανιήλιον δὲ καὶ Ἀρείωνα τοὺς εὐλαβ(εστάτους) αὐτοῦ ἀδελφοὺς ἐξ ἀντιρρήσεως πα[ρ]ὰ Μακαρίῳ τῷ [ἐλλ]ογιμωτα [l. ἐλλογιμωτάτῳ] συνηγόρῳ τοῦ Θηβαίων φόρου δικάσασθαι

[58] Harries (1999) pp. 182-183.

> and he talked of arresting Cyrus, the most God-beloved Bishop, and then setting forth the claims he had before a judge, unless he (Cyrus) should choose in place of court proceedings to discharge his obligation, while Daniel and Areion, his pious brothers, should state their case with a counterstatement before Macarius, the very honorable counsel of the Theban tax[59]

Theophilus used the threat of legal action and the associated state powers of imprisonment of debtors to compel the defendants to appear for arbitration, which was conducted by the arbiters Makarios and Sabinus, in the end. There is reason to expect that the threat of public humiliation and judgment by a secular official would be an effective threat for forcing someone in the position of a bishop to comply. Such an ordeal could doubtless undermine Cyrus and his standing within the community. This threat brought about his swift compliance:

> ἐπὶ δὲ τούτοις ψιλὰς τὰς ὑπομνήσεις Κῦρος ὁ θεοσεβέστατος ἐπίσκοπος ὑπομεμενηκὼς παρὰ Θεοφίλου μὴ ἀναμείνας διαστικὴν διαγυμνασίαν δεδυσώπηκεν ἑαυτὸν ἐκεῖνα ποιεῖν, ἅπερ ἂν μέσοι τινὲς αὐτῶν γιγνόμενοι δικαιώσωσιν· καὶ δὴ Μακάριος καὶ Σαβῖνος οἱ ἐλλογιμώτατοι παρ᾽ ἑκατέρου μέρους ἐν τοῖς ἀγράφοις στερχθέντες μέσοι αὐτῶν γεγονότες καὶ τῆς αὐτῶν ἁπάσης ἀκραοσάμενοι [l. ἀκροασάμενοι] δικαιολογίας ἐδικαίωσαν Κῦρον μὲν τὸν εὐλαβ(έστατον) ἐπίσκοπον καταθεῖναι ἐπὶ Θεόφιλον χρυσίνους δεκαέξ, γί(νεται) χρ(ύσινα) ν(ομίσματα) ις, ὑπὲρ ἀπαλλαγῆς πάσης δίκης καὶ δικαιολογίας καὶ μέμψεως
>
> Thereupon, however, Cyrus, the most righteous Bishop, after having been forced to endure the simple reminders administered by Theophilus, without awaiting the laborious process of accounting, humiliated himself (to such an extent as to consent) to do exactly what any persons acting as intermediaries should judge to be right. And finally the very honorable Macarius and Sabinus, being satisfied on either side with the oral statements, after intervening between them and listening to their whole case, gave judgment that Cyrus, on the one hand, should pay over to Theophilus sixteen (16) nomismata in acquittal of every charge and claim and reproach...[60]

The social pressure that Theophilus exerted on Cyrus was effective, and the bishop preferred to have the case decided quietly by arbitration, even agreeing to obey whatever decision the arbiters should reach. The clause stating that he promised do "what any person acting as intermediaries

[59] P.Princ. II.82 lines 18-22. Dewing (1922) translation.
[60] P.Princ. II.82 lines 27-35. Dewing (1922) translation.

should judge to be right"[61] is unusual, and it provides crucial information about the sort of verbal agreements given before an arbitration took place, at least in this sort of situation where one party was under significant legal pressure. Furthermore, the language is emotive in a way that is rare in legal documents of this type, characterizing Theophilus' threats as "ψιλὰς τὰς ὑπομνήσεις," which gives the sense that Cyrus felt mounting pressure from multiple warnings, and saying that Cyrus "δεδυσώπηκεν ἑαυτὸν," that is shamed or constrained himself to appear before the arbiter despite his high position in the church. The inclusion of this type of detail about motivations and emotional reactions is not typical of *dialysis* documents, and it is thus rhetorically significant. It may have served, in part, to explain how someone of a lower rank was able to win a legal victory over his social betters so that the settlement document would seem more plausible in future court proceedings. Providing these sorts of details is also a convenient means of constructing a narrative, and it helps to provide some explanation for the successful shift from state adjudication to arbitration. Furthermore, this text provides information for how this arbitration proceeded, stating that the arbiters heard "oral statements (ἀγράφοις)" in an in-person arbitration. Finally, the text says that the arbiters acted as intermediaries (μέσοι αὐτῶν γεγονότες), implying that some kind of mediation and reconciliation may have occurred as part of the in-person arbitration.

The rhetorical character of this arbitration agreement is biased in favor of Theophilus over the other disputants for the first fifty lines of the document. Cyrus is depicted as being shamed into appearing before the arbiter, but a later clause seems to have been designed to cast him in a more positive light. The text explains that the bishop helped facilitate the return of Theophilus' clothes: "since the above-mentioned most God-beloved bishop, prompted only by

[61] Line 30, "ἅπερ ἂν μέσοι τινὲς αὐτῶν γιγνόμενοι δικαιώσωσιν."

the reverence and the piety that is in him, has awarded an additional sum to those who originally held the garments of Theophilus and has actually paid this sum."[62] The language here seems extravagant in its praise for Cyrus' generosity "prompted only by the reverence and the piety that is in him [εὐσεβείας **μόνης** ἕνεκεν καὶ τῆς προσούσης αὐτῷ εὐλαβείας]," and the use of this sort of rhetoric may be a product of the drafting process for this narrative of the events to include in the *dialysis* document. Cyrus may have requested that the notary drafting the document include this language as part of his narration of the details of the arbitration. Characterizing the bishop's actions in this way also creates the impression of a distinctively Christian unity motivated by "reverence and piety" that was also present in the letter SB XX 14987. Overall, this document provides insight into the process of narrating disputes between ecclesiastical personnel, and it indicates that church officials, especially those in high positions like bishops, sometimes preferred to have their legal disputes heard by a private arbiter instead of a state magistrate, even if, as in this case, that arbiter could reach a decision that was very much in favor of the bishop's opponent.

In addition to allowing church officials to settle legal disputes outside of the public court setting, arbitration and written legal instruments also provided a way for monastic communities to regulate their internal affairs and solve conflicts. Evidence for this sort of legal activity within monasteries exists from as early as the start of the sixth century, in the case of the monastic community at Labla near the Hawara pyramid. The production of legal documents within a monastic setting would flourish in the seventh and eighth centuries, as I will describe in my fourth chapter. Three documents from Labla were found in the same find-spot, and they seem to

[62] P.Princ. II.82 lines 53-56. Dewing (1922) translation. "διὰ τὸ τὸν προγεγραμμένον θεοφιλέστατον ἐπίσκοπον εὐσεβείας μόνης ἕνεκεν καὶ τῆς προσούσης αὐτῷ εὐλαβείας ἕτερα ἐπιγνῶναι χρήματα τοῖς ἐξ ἀρχῆς τὰ Θεοφίλου ἐσθήματα κατεσχηκόσι καὶ ταῦτα ἐπιλύσασθαι"

document a series of sales and a settlement concerning a monastic dwelling, or hermitage, in that community.[63]

Two of these documents, P.Dubl. 32 and 33, are sales contracts for this monastic hermitage. They are both elaborate, extensive legal instruments, more similar to contemporary cession contracts for real property than a personal correspondence between two monks. Ewa Wipszycka also finds the elaborate nature of these documents striking: "It is not enough for them to make a contract in the presence of the prior and/or of witnesses: they want to have a notarial document. Other texts from Bawit, published by Sarah Clackson, show an analogous phenomenon: the regulation of relationships inside a monastery by means of documents."[64] This recourse to written legal instruments that adopted the language and protections of contemporary housing contracts represents an important instance of the continued social prestige of Roman legal forms in a monastic context.[65] This fact is striking because one might expect that documentation or ceremony based on the monastery's own internal canons and official hierarchy would be sufficient to execute the sale. This recourse to a more formal notarial document could be explained in part because Eulogios, the seller in both documents, was formerly aligned with the Melitian schism but is no longer a part of that movement at the time of the sale: "Εὐλόγιος μονάζων ποτὲ μὲν Μελιτιανός, νῦν δὲ ὀρθόδοξος."[66] The buyers of the monastic dwelling are still Melitian in both cases, a Melitian priest and a pair of Melitian monks, respectively. In fact, these three documents allow us to trace Eulogios' transition from a monastic affiliation aligned with the Melitian schism to an orthodox one over a period of three years through his designation

[63] Wipszycka (2009) pp. 239-241.
[64] Wipszycka (2009) p. 243.
[65] See administrative documents from the chancery of Abraham of Hermonthis below in Chapter 4 (pp.186-193 of this volume) for another instance of the adoption of legal document forms by a Christian institution in late antique Egypt.
[66] P.Dubl. 32 line 2.

at the start of each document. In P.Dubl. 34, written in A.D. 511, he is addressed as "Εὐλογίῳ μονάζοντει Μελειτιανος ἐν <τῷ> ὥρῳ [l. ὄρει] Λαύλα [l. Λάβλα]," he is called "Εὐλόγιος μονάζων ποτὲ μὲν Μελιτιανός, νῦν δὲ ὀρθόδοξος" in P.Dubl. 32 from 512, and in P.Dubl. 33, dated in 513, he is called "Εὐλόγιος ὀρθόδοξος μοναστηρίου Μικροῦ Ψυῶν." His shift from a faction of one confession to that of another may have been one of the factors motivating Eulogios to sell the hermitage in the first place.[67] Even if this dogmatic difference may have made the contracting parties less likely to trust each other in this particular case, these documents are still consistent with the general trend of the use of formal legal instruments within the monastic setting that stems from the continued prestige of Roman legal forms.

The third document in this group, P.Dubl. 34, is a settlement document concerning an apparent dispute over the transmission of ownership of this monastic dwelling. Unlike some of the other arbitration agreements examined in this chapter, it does not provide any information about the arbiters involved, and it also tells us very little about the original dispute. It is identifiable as a settlement document primarily because it is labeled a "ὁμολογία διαλύ̣σ(εως)," both on the verso and within the body of the text. In this document, the monk Aioulios guarantees that ownership of the dwelling will pass from him to Eulogios upon his death or abandonment of the hermitage. Lines 3-5 provide some indication of the conflict that made the settlement necessary: "I acknowledge that whereas I have written on another occasion to Isak son of Sabinos concerning my cell, whatever letter of mine he produces is invalid, but that after my death my cell will belong to Eulogios."[68] This sentence suggests that Aioulios, as full owner of

[67] This possibility is made less likely by James Goehring's contention that the community at Labla included monks of both factions and that this political division was not contentious enough to break up the monastery at this time. See Goehring (1997) pp. 69-70.

[68] P.Dubl. 34 lines 3-5 McGing (1990) p. 89 translation. "ὁμολογῶ ἐπιδὴ [l. ἐπειδὴ] γεγράφηκα ἄλλοται [l. ἄλλοτε] ᾽Ισὰκ υἱῷ Σαβίνου περὶ τοῦ ἐμοῦ μωναστηρίου [l. μοναστηρίου] {μου} οἱονδήποται [l.

the dwelling, promised it to Isak in writing, despite the fact that he had already agreed that it would pass to Eulogios after his death. Eulogios most likely found out about this letter and this conflict led to the case being arbitrated. The result of this arbitration is that Aiolios disavowed the letter that he wrote to Isak and gave Eulogios a series of assurance that the hermitage would pass to him. Arbitration and a settlement document most likely provided a more discreet, but still secure, means of addressing this monastic conflict without bringing it before the secular authorities. Avoiding contact with secular officials may have been particularly relevant to members of the Melitian schism who were not aligned with the orthodoxy endorsed by the imperial government. For instance, in the Nepheros archive, Melitians displayed distrust towards secular officials and preferred to submit their disputes to Church officers, and this attitude is most likely tied to their status as a minority religious group.[69]

Beyond the murky details of this internal conflict in a monastery, the identity of the witnesses to the settlement document also provides information about the social dynamics at work in this settlement process. All five witnesses to P.Dubl. 34 are members of the clergy, and four of them also belong to the monastery: "† μαρτυρῶμεν [l. μαρτυροῦμεν] ὑμῖς [l. ἡμεῖς] οἱ εὐλαβέστατοι Ἄπα Ὅλ (καὶ) Τοῦρβος {(καὶ)} πρεσβύτεροι ἁγίας καθολικῆς ἐκκλησίας Μελειτειανοὶ [l. Μελιτιανοὶ] ἐν <τῷ> ὥρῳ [l. ὄρει] Λαύλα [l. Λάβλα], (καὶ) Ἠλίας διάκον [l. διάκων] τοῦ αὐτοῦ ϙο[μο]ῦ, (καὶ) ὑμῖς [l. ἡμεῖς] οἱ εὐλαβέστατοι Ἀνοῦπ (καὶ) Παμουτιω [l. Παμούτιος] (καὶ) Σαμβά [l. Σαμβᾶς] πρεσβύτεροι ὠρθώδωξυ [l. ὀρθόδοξοι] ἐν <τῷ> ὥρῳ [l. ὄρει] Λαύλα [l. Λάβλα] περὶ τοῦ ἐνγρᾴφω [l. ἐγγράφου] τούτῳ [l. τούτου] ὡς πρόκιται [l. οἷον|δήποτε] ἐξενίκει [l. ἐξενίκη] τω [l. τὸ] ἐμὸν χαρτίον ἄγυρόν [l. ἄκυρόν] ἐστιν [l. εἶναι], ἀλλὰ μετὰ τὴν τελευτήν \μου/ τῷ Εὐλογίῳ ἐστιν [l. ἔσεσθαι] τω [l. τὸ] μονατήριόν [l. μονα<σ>τήριόν] μου"

[69] Hauben (1998) p. 348. For example, in the letter P.Neph. 19, the village of Neson asks the Melitian monk Paul to arbitrate a dispute within their community.

πρόκειται]. †"[70] The witness names are all written by the same hand, so it is possible that one witness wrote for all of them. The identifications of these individuals emphasize both their ecclesiastical titles of "priest" or "deacon" and their affiliation with the monastery at Labla. Comparing the witnesses to P.Dubl. 34 to those of P.Dubl. 32 and 33 provides some insight into the extent to which different legal documents were intended to avoid publicizing conflicts within a religious community beyond those communities. The witnesses on P.Dubl. 32 and 33 are all professionals and community members from the town of Arsinoe, such as wine merchants, surveyors, and brick makers. In other words, the choice of five clergy members as witnesses in P.Dubl. 34 was not necessarily the standard practice for legal agreements in this community and may communicate some special significance. The preference for clergy from within the Melitian monastic community in P.Dubl. 34 may be linked to the fact that Eulogios was aligned with that group at the time, and was thus more likely to trust figures of religious authority internal to that faction. However, as with the legal quarrel between a deacon and bishop in P.Princ. 82, resolving a monastic dispute using a legal document witnessed by members of that monastic community may have also served to reach a settlement quietly while still preserving the option of bringing the document to a public court in case of violation of the agreement. The document was created within the monastery and secured via the social knowledge of Eulogios' fellow monks, but as a notarized legal document it still had the ability to be effectual within the formal court setting.

Arbitration could also serve as a mechanism for protecting the relationship between donors and religious institutions by providing safeguards for wealthy religious patrons. These documents even took on distinctively Christian language in describing the virtues of the patrons, who were in this case also well connected with the Byzantine court and other state power. This

[70] P.Dubl. 34 lines 9-12.

same language of pious benefaction and virtue would also appear in Coptic wills in the seventh and eighth centuries, as I will explain in my fourth chapter.[71]

Notarized documents could provide protection from future legal action for individuals engaging in pious or economic exchanges with monasteries, such as donations of real property. This was especially true in the sixth century, when Egyptian monasteries were at the height of their economic and political power, in part due to ties with influential families such as the Apion clan in Oxyrhynchos. Families like the Apiones dominated Egyptian society in this period through their extensive landholdings that tied many members of the community into lessor-lessee relationships with them, and through their connections in the imperial court at Constantinople.[72] One incredibly rich example of how formal legal instruments could be used to define and regulate relations between monasteries and these powerful families is P.Oxy. LXIII.4397. This extensive 247-line document is a formal settlement of claims between the monastery of Apa Hierax and Flavius Apion II, dated to A.D. 545. The full narrative that the legal instrument provides for the events leading up the settlement also conveys vital information about the kind of economic activity and involvement in imperial politics that monasteries and influential families engaged in during this period. A brief summary of these events consists in the following: Diogenes from Oxyrhynchos secured two loans from Theophilos, a representative of the monastery, when they were both in Constantinople. The two loans totaled 130 solidi on the basis of a mortgage of a 16.5 arouras plot of land and a *hypotheca generalis* over all of Diogenes' property. When Diogenes died without repaying the loans, the monastery discovered that he was both insolvent and had mortgaged his property to other creditors, including Flavius Strategios II,

[71] pp. 158-183 this volume.
[72] For more information about the Apion clan, see the crucial monographs Mazza (2001) and Hickey (2012).

a member of the Apion family who had assumed control of Diogenes' estate in the absence of any heirs. Theophilos, as legal representative of the monastery, attempted to sue Strategios in Constantinople for the mortgaged piece of land. Theophilos's legal case seems to have failed, on the basis of the fact that Strategios held an earlier mortgage on the land and thus had a better claim to ownership of it.

Having discovered that the monastery had no legal claim on the mortgaged land, Theophilus adopted a different strategy:

> … Ταῦτα γνοὺς τηνικαῦτα Θεόφιλος
> ὁ τῆς εὐλαβοῦς μνήμης καὶ λογι[σ]άμενος ὡς οὐδεμία ἁρμόζει
> αὐτῷ δικαιολογία περὶ τῆς αὐτῆς μηχανῆς, ἀλλὰ πανταχό{ν}θεν
> ἐξέπεσεν τῆς ὑποθηκην [l. ὑποθήκης] ταύτης διὰ τὸ προ{το}γενεστέρας εἶναι
> τὰς ἐμφερομένας ὑποθήκας ταῖς δανιακαῖς [l. δανειακαῖς] συγγραφαῖς Στρατηγίου τοῦ
> τῆς πανευκλεοῦς μνήμης ἐδεήθη τοῦ αὐτοῦ τῆς πανευκλεοῦς μνήμης
> Στρατηγίου μὴ ἀποχρήσασθαι τῷ νόμῳ καὶ τοῖς προσοῦσιν αὐτῷ
> δικαίοις ἀλλὰ ἀφορᾶν πρὸς τὸ εὐσεβὲς καὶ {.} τὸ ἐνδεὲς ̣τῶ̣ν
> ἐν τῷ εἰρημένῳ εὐαγεῖ κοινοβίῳ ἀδελφῶν δεομένων ⟦δεον⟧ τῶν
> αὐτῶν ἑκατὸν τριάκοντα νομ(ισμάτων) πρὸς περιποίησιν τῶν ἀναγκαίων αὐτῶν
> ἀποτροφῶν καὶ δοῦναι λογῳ εὐσεβείας τῷ αὐτῷ εὐαγεῖ κοινοβίῳ
> τὰ ἑκατὸν τριάκοντα νο̣μί[σ]ματα. [ὁ δ]ὲ τῆς πανευκλεοῦς μνήμης Στρατήγιος
> ἐπικαμφθεὶς ̣τ. . [. .]. . . [. . .]. . [- ca.10 -]ϰ̣[. .]. . . ἔγραψεν τοῖς προσήκουσιν
> τῇ αὐτοῦ ὑπερφυείᾳ κατὰ ταύτην [τ]ὴν πόλιν δοῦναι τῷ εὐαγεῖ κοινοβίῳ
> οἰκονομουμένῳ παρὰ τοῦ τῆς εὐλαβοῦς μνήμης Θεοφίλου νομίσματα
> (hand 2) ἑκατὸν τριάκοντα

> On learning these things at that time and reasoning that no just claim was available to him concerning the same irrigated area and that from every point of view he was debarred from this mortgage because the mortgages embodied in the loan contracts of Strategius of all well-famed memory were earlier in date, Theophilus of discreet memory begged the same Strategius of all well-famed memory not to make use of the law and of the rights belonging to him but to have regard to pity and to the neediness of the brothers in the said well-sanctified coenobitic monastery who required the same one hundred and thirty solidi for the acquisition of their necessary sustenance and for the sake of piety to give to the same well-sanctified coenobitic monastery the one hundred and thirty solidi. Strategius of all well-famed memory deflected... wrote to those who belonged to his Excellency in this city to give to the well-sanctified coenobitic monastery administered by Theophilus of discreet memory one hundred and thirty solidi.[73]

[73] P.Oxy. LXIII.4397 lines 82-97. Rea (1996) translation.

This narration documents the move from state-sponsored litigation to a private settlement that we have seen in other *dialysis* agreements. However, this account is exceptional because it is explicit about the fact that the two parties reached a settlement because one of them realized that he had no case before the law (οὐδεμία ἁρμόζει αὐτῷ δικαιολογία). Theophilus was able to admit this fact in the settlement agreement, in part, because he then appealed to Strategius on an entirely extra-legal basis, openly asking him not to make use of his rights before the law (μὴ ἀποχρήσασθαι τῷ νόμῳ καὶ τοῖς προσοῦσιν αὐτῷ δικαίοις). Instead, he petitioned Strategius on an emotional and religious level, asking him to pity the brothers and consider their poverty (ἀφορᾶν πρὸς τὸ εὐσεβὲς καὶ τὸ ἐνδεὲς) and to donate the 130 solidi to the monastery for the sake of piety (λογῳ εὐσεβείας). This appeal worked, demonstrating that monasteries could use their social and religious clout to solicit donations even in exceptional circumstances, such as this case where they were litigating with the donor immediately beforehand. Due to a complicated disbursement arrangement, the monastery only received 72 solidi initially.

The case lasted for several more years, as the monks later petitioned Strategius' heir Flavius Apion II and his mother Leontia for the remainder of the 130 solidi. In Constantinople, Apion heard the monks' request, which was brought by Joseph the provost and Theodorus the steward of the monastery. The settlement records that he gave them the remaining 58 solidi because of his father's promise and because he and his mother "being both naturally disposed to piety and inclined to accept the requests of petitioners, especially of most discreet (i.e. religious) men."[74] Here, the donation to the monastery is justified on two levels: it was an expression of piety, both on the part of Strategius and his heir, and the monks had in some sense adopted the posture of petitioners, or literally "those in need (δεομένων)." As a powerful, aristocratic family

[74] P.Oxy. LXIII.4397 lines 122-123. Rea (1996) translation. "ἐμφύτως ἔχοντες πρὸς εὐσέβ̣ειαν καὶ ἐπιρ̣επ̣εῖς [l. ἐπιρρεπεῖς] ὄντ̣ες τ̣ὰς αἰτ[ήσεις] τῶν δεομένων, μάλιστα τῶν εὐλαβεστάτων ἀνδρῶν"

the Apiones were in a position to be charitable towards these pious petitioners. It was on this occasion that the settlement document was created.[75]

The document was designed to protect the Apion family from any further liability in this case and to acknowledge that the monastery had no further claim on the mortgaged land and had only received any payment at all because of the family's generosity. The document states repeatedly that Strategius had only agreed to give the monastery funds "for the sake of piety (εὐσεβείας)" in lines 117, 136, 156, and 176. The settlement also mentions the fact that the monastery had no legal case, since Strategius held the prior lease, in numerous clauses including lines 134-136, 153-154, and 172-176. The repetition of these core facts both in the narrative portion of the document and in subsequent security clauses serves to place the transaction exclusively in the pious economy of donations, with no basis in legal obligations or rights. These recurring phrases reach an almost formulaic status in their repetition of certain key terms and grammatical structure, as protecting the Apiones from future lawsuits or entanglements was the key function of this written legal instrument. The document also includes a clause pledging that the monastery will not sue the Apiones in a court of any description or petition the emperor about the case and "that they will neither make accusations among friends, nor impugn them (i.e. the matters acknowledged) or part of them, either at law or in holy churches, nor say that they have suffered any fraud or neglect."[76] While clauses promising to abstain from future lawsuits are fairly common in contracts of this period, this promise to refrain from social action against the Apiones, in effect an anti-defamation clause, is more unusual. Clearly, it was important that

[75] Unfortunately, I have not been able to find any other parallels for this type of use of a settlement document in a dispute arising from a donation.

[76] P.Oxy. LXIII.4397 lines 169-171. Rea (1996) translation. "μὴ ἐπὶ φίλων [αἰτι]᾽ασθαι, μηδὲ μ̣έμψ̣α̣σ̣θ̣[α]ι α̣ὐ̣τ̣ο̣ῖ̣ς̣ ἢ μέρει αὐτῶν, ἢ δικαίῳ ἢ ἐν ἁγίαις ἐκκλησίαις, μηδὲ λέγειν περιγραφήν τινα ἢ ῥ̣α̣διουργίαν ὑπομεμενηκέναι"

the Apiones receive the credit that they thought was their due for their generosity in this donation. This clause may also indicate that social pressure helped drive Strategius' decision to donate to the monastery in the first place, as it might threaten his position in the community to be seen to be depriving a monastery of its means of sustenance. While Jakub Urbanik is technically correct that the monks were "only petitioners" in this case, his analysis underestimates the social pressure that the monastery was able to bring to bear in recovering its funds.[77]

In addition to providing another possible use for a private settlement by a monastic community, this document also reveals some information about legal representation for monasteries. Urbanik has already discussed these issues with regard to this document,[78] so I will only focus on a few key points. First, Theophilus seems to have played an interesting role as an official conducting the monastery's business, since he was dispatched to Constantinople with a large sum of ready money that he was apparently free to lend and dispose of as he saw fit. Furthermore, he acted as a lawyer representing the monastery in the subsequent legal case with Strategius. These facts have led Urbanik to conclude that he was a monastic procurator of the sort mentioned in imperial legislation.[79]

Second, in the final settlement document, the provost Joseph and steward Theodorus seem to have been authorized to make agreements, including a general mortgage as part of the penalty clause, on behalf of the entire monastery. At one point, the document uses the following language: "So therefore both the provost of the same well-sanctified monastery and Theodorus the steward administering the well-sanctified monastery and through them the other most

[77] Urbanik (2009) pp. 232-233.
[78] Urbanik (2009) pp. 226-229.
[79] Urbanik (2009) p. 229.

discreet monks of the same well-sanctified coenobitic monastery acknowledge in addition..."[80] This clause states that Joseph and Theodorus made the agreement on behalf of the entire monastery and that furthermore they did so as representatives of the corporate body: they individually make an agreement on behalf of all of the other monks (μονάζοντες). Furthermore, in the statements by the parties at the end of the contract, the monastery is stated to have made the acknowledgement "through (διά)" Joseph and Theodorus in lines 196 and 213, respectively. Thus, this seems to be a clear case of the provost and steward representing the monastery in a legal contract and making binding promises on behalf of the monastic body.

Thirdly, it is odd that both Joseph and Theodorus are described as "illiterate (ἀγραμμάτου)" in lines 211 and 226, given that they hold the offices of provost and steward of an apparently wealthy monastery and Joseph is ordained as a priest.[81] However, Urbanik offers the plausible solution that, in this context, "ἀγραμμάτου" means unable to read or write in Greek, even though both monks were literate in Coptic.[82] Finally, it is also impressive that, given so many of the parties to the previous transactions were deceased at the time of the composition of the settlement, including Diogenes, Theophilus, and Strategius, the monastery was still able to create a narrative of these events that was this detailed. The ability to reconstruct full and meticulous account of the events leading up to the settlement may indicate that the monastery kept extensive records of its past legal and business transactions that would include information like how Theophilus convinced Strategius to donate the value of the land to the monastery. The

[80] P.Oxy. LXIII.4397 lines 141-144. Rea (1996) translation. "προσομολογοῦσιν τ[οί]νυν ὅ τε προεστὼς τοῦ αὐτοῦ εὐαγοῦς κοινοβίου καὶ Θεόδωρος ὁ οἰκονομῶν τὸ εὐαγὲς κοινόβιον κ̣α̣ὶ δι' αὐτῶν οἱ λοιποὶ εὐλαβέσ̣τ[ατοι] μονάζοντες τοῦ αὐτοῦ εὐαγοῦς κοινοβίου πρωτοτύπως."
[81] Alain Delattre found a wide degree of variability in the signatures of the superiors of the monastery at Bawit. He characterizes some of the hands as "posed, almost bookish" and others as "slow and unsteady" and "rather clumsy." See Delattre (2004) pp. 149-151.
[82] Urbanik (2009) p. 225.

monks may have made use of public notary offices as well, since at several points in the narrative the settlement mentions that a public document (ἀγοραῖον γραμματεῖον) was drafted, such as in the account of the initial loan of Theophilus to Diogenes in lines 28-29. Either way, the ability to construct this kind of narrative points to a high degree of institutional knowledge and access to legal expertise on the part of the monastery.

Beyond the exceptionally complete and rich documents that I have discussed in this chapter, there are also several important general themes regarding the inclusion of Christian elements and involvement of clergy and monastics in *dialysis* agreements over the course of the fifth and sixth centuries. First, invocations and oaths in the name of the Christian God or Trinity become increasingly common over the course of this period. This trend will be considered in relation to the addition of Christian elements to the formulae of Coptic legal documents in my fourth chapter. Second, monks, priests, and deacons of local churches frequently appeared as witnesses to *dialysis* agreements, as they do in other legal documents of this period. Settlement contracts written in Greek with clergy witnesses include P.Lond V.1728, P.Lond V.1731, P.Lond I.113, and P.Herm.31. P.Lond V.1728 is particularly noteworthy because it provides an example of a member of the clergy serving as a scribe for illiterate litigants in the late sixth-century: "Θεόφιλο[ς] Ἰ̣α̣εί[ον]ος [ἐλά(χιστος)] δ̣ιάκο(νος) αἰτηθεὶς ἔγραψα ὑπὲρ αὐτοῦ γράμμα(τα) μ[ὴ εἰ]δ̣ό̣τ̣ο̣ς."[83] Here, a deacon helps provide access to law for a member of his community by subscribing on his behalf, and in the seventh and eighth centuries, monasteries and religious personnel would come to play an even more important role in providing access of law in their local communities.

[83] P.Lond. V.1728 lines 25-26.

Finally, *dialysis* agreements show that clergy were sometimes involved in arbitration in roles besides that of arbiter or a party of the dispute. For example, P.Mich. XIII 659 shows a priest named Victor "undertaking business on behalf of" one of the parties to a dispute: "Victor son of Besarion made the arguments on behalf of Apollo and Paulos and Mary, children and heirs of Ioannes of discreet memory."[84] While the language used here is not technical enough to determine exactly what service Victor was providing for the family of the deceased, it is likely that he served as an advocate on their behalf before the arbiters, as someone who was familiar with the dispute and might have some relevant knowledge of law as well. Furthermore, this document provides evidence for the role of the church as a public space that could be used in legal disputes: "Pleading against this, the people of the prosecuting party proved that they had often used loud complaints in the Holy Church against Ioannes of discreet memory."[85] Prior attempts to arbitrate, negotiate, or simply to complain about a dispute within the church building could be verified easily by witnesses from the congregation, and it was used here by the plaintiffs to provide a verifiable event that helped reconstruct a history of the case. This is another example of the importance of the church building as a central, public space within the community that we already saw in the account of arbitration before the bishop Plousianos in P.Lips. I.43. Events that occurred within the church building, especially when the congregation was gathered for worship, were recorded in the social memory of the community in ways that could be useful for future legal or arbitration proceedings.

[84] P.Mich. XIII.659 lines 281-283. "Βίκτωρ Βησαρίων[ος] πρεσβύτερος ποιούμενος τοὺς λόγους ὑπὲρ Ἀπολλῶτος καὶ Παύλου καὶ Μαρίας τέκνων καὶ κληρονόμων Ἰωάννου τοῦ τῆς εὐλαβοῦς μνήμης."
[85] P.Mich. XIII.659 lines 40-44. Sijpesteijn (1977) translation. "δικαιολογούμενοι πρὸς ταῦτα οἱ τοῦ διώκοντος μέρους ἐδίδαξαν πολλάκις ἐκβοήσεσι κεχρῆσθαι κατὰ τὴν ἁγίαν ἐκκλησίαν κατὰ Ἰωάννου τοῦ τῆς εὐλαβοῦς μνήμης." See P.Lond I 77 (pp.231 ff.) lines 45-46 for a similar clause.

Dialysis agreements as a notarial form and arbitration as a means of dispute resolution persisted into the seventh and eighth centuries in Egypt and through the transition from Greek to Coptic as the language most commonly used for legal documents in Christian communities. In fact, the Coptic term ⲇⲓⲁⲗⲩⲥⲓⲥ seems to have encompassed a wider range of different types of documents than it did in its relatively narrow usage in the Greek legal documents. Many Coptic documents that were labeled as ⲇⲓⲁⲗⲩⲥⲓⲥ documents do not appear to have involved any sort of legal conflict or dispute, but rather a regular and amicable division of property, such an the apportioning of an estate between siblings. The next chapter will examine the formal aspects of these Coptic *dialysis* agreements and investigate the legal disputes that some of them record. For the purposes of this chapter, I will discuss a sixth century fragmentary *dialysis* document, the first recorded example of this type of document written in Coptic, in order to gain insight into the legal culture in this moment of transition from writing legal instruments in Greek to Coptic.[86] Even discussing the emergence of Coptic legal documents as a "transition" can be misleading, because Greek and Coptic written legal instruments existed contemporaneously for more than a century, and in many cases the Coptic documents borrowed vocabulary and even entire formulae from their Greek precursors. The document comes from the archive of Dioscorus of Aphrodito, a poet and notary who was active in the mid-sixth century.[87] While many documents in Dioscorus' archive involved him as the drafter of the legal instrument, or even as an arbiter in a dispute, he seems to be a party in a conflict over property in this agreement. The text reads as follows:

> ⲁⲛⲥⲱⲧⲙ ⲉϥⲱⲃ ⲛⲇⲓⲟⲥⲕⲟⲣⲟⲥ ⲙⲛ ⲓⲱⲥⲏϥ ⲡⲱϫⲉⲛ ⲥⲉⲣⲙⲁⲩⲱ ⲡⲁⲡⲱϫⲁⲣ ⲉⲩⲭⲓ ⲥⲁⲡ ⲙⲛ ⲛⲉⲩⲉⲣⲏⲟⲩ ⲁⲭⲛ ⲛⲅⲏⲛⲏⲙⲁ ⲙⲡⲓⲱⲥⲉ ⲇⲓⲟⲥⲕⲟⲣⲟⲥ.. ⲇⲓⲟⲥⲕⲟⲣⲟⲥ ⲙⲉⲛ ⲉϥⲭⲙⲙⲟⲥ ⲕⲧⲗ.....

[86] On the use of Greek or Coptic for various types of documents in the fourth-seventh centuries, see Bagnall (2011) pp. 68-82.
[87] For more information on this individual and his work, see MacCoull (1988) and Fournet (1999) and (2008).

†Καλλίνικ[ος] [Β]ίκτορος ἐπειδέδωκα [l. ἐπιδέδωκα] τοῦτ[ο]ν τὸν ὅρον†

We have heard the case of Dioscorus and Joseph son of Hermauo, the one of the *shaar*, who were in conflict with one another over the crops of a field of Dioscorus. Dioscorus, on the one hand declared that...

I, Callinicus son of Victor, have given this ruling.

The exact nature of the dispute between Dioscorus and Joseph cannot be determined from this fragmentary document, beyond the fact that it involved some sort of agricultural controversy over the produce of a field owned by Dioscorus. Furthermore, the identity of Joseph is not well understood, as no mention has been found of him in other papyri and even the meaning of his (possibly professional?) epithet ⲯⲁⲁⲣ is unclear.[88] Fortunately, the arbiter Callinicus is much better attested in other documentary papyri, as he was a nephew of Dioscorus who appeared in six other legal documents from sixth century Aphrodito as a witness or *hypographeus*.[89] The latter term designates an individual who subscribed a document on behalf of another, often because the other individual was illiterate, and this term took on connotations of a moral agent who assumed some legal responsibility in performing this role.[90] His relation to Dioscorus would seem to make him an unusual choice as an arbiter, since his objectivity could be called into question due to this blood relation. However, it is possible that his well-established role as a witness and legal agent within the community secured a reputation for him that would allow him to serve as an arbiter, even in a case that involved one of his relatives.

The fact that the Dioscorus archive contains documents in both Greek and Coptic and the additional fact that this document includes a Coptic narration of the dispute, but a Greek subscription by Callinicus, indicates that there is not necessarily a sharp division between Greek

[88] Fournet (2010) p. 131 note 25.
[89] Fournet (2010) p. 131.
[90] Youtie (1975) pp. 208-212.

and Coptic arbitration agreements.[91] Rather, documents in these two languages may have transitioned smoothly from one to another. Therefore, we should expect and interrogate aspects of continuity in the Coptic legal documents when we examine them at length in the following chapter. Furthermore, this fragmentary document demonstrates the tight networks of social relations that operated in places like the village of Aphrodito as the nephew of a local notary played several roles within the legal affairs of the village, including witness, *hypographeus*, and arbiter of local property disputes. Despite these strong local social ties, the results of this form of dispute resolution were still recorded in a written legal instrument that appears to have been written in the style of a traditional Roman document, even as it adopted the Coptic language, which was the vernacular of the village by this time.

Arbitration served as a crucial mechanism for Christian clergy and monastics in their attempts to position themselves in relation to the reality and prestige of imperial power. Settlements are attested in familiar types of documentary evidence, such as letters, and also the new *dialysis* document, a contract that could be enforced in the formal court setting. These documents demonstrate the continued reliance on written evidence in arbitration proceedings and the recourse to elaborate notarized documents to record the results of these proceedings. This was the case even in legal conflicts arbitrated before holy men and clerics, as has been established at the levels of both discourse and practice with regard to these disputes. This fact of legal practice has important implications for the ideological and cultural impact of Roman rule in the provinces that persisted after Roman political control had begun to decline. To the extent that imperial subjects of earlier centuries opted for Roman adjudication because they subscribed to Roman cultural archetypes, they continued to evince attachment to these imperial archetypes in

[91] Furthermore, Dioscorus' writings also reveal strong Christian influences in their quotation of scripture and liturgy, similar to the Coptic wills examined in Chapter 4. See MacCoull (1988), esp. pp. 18-19.

how they arbitrated disputes in later periods. This attachment is evident even in cases heard within explicitly Christian institutional settings, such as the monastery at Labla. These cultural archetypes and legal practice would persist into the seventh and eighth centuries, and the next chapter will examine the documentary evidence of this phenomenon in the monasteries and Christian communities of that period.

Chapter 3

Law in the Aftermath of Empire: Coptic Christian Communities in Early Islamic Egypt

The size of imperial bureaucracy in Egypt may have decreased during the sixth century, as suggested by the scarcity of surviving evidence for civil litigation before Byzantine magistrates. During the seventh century, Byzantine magistrates and garrisons were ousted by military conquest: the province came under the control of the Sassanian Empire from 619 to 629, was returned briefly to Byzantine control, and then came under the lasting control of the Muslim Caliphate in 641. The Arab conquest of Egypt would completely alter the political and cultural context within which the Coptic church found itself, and several dimensions of these societal changes have been well studied: recent scholarship has addressed such subjects as the religious conversion of the elite and village communities, the gradual adoption of Arabic in literary and administrative culture, and the Islamization of art and architecture.[1]

Historians of the Roman empire sometimes evaluate the impact of Roman rule in the provinces by examining how imperial imagery, practices, and conventions appeared in non-imperial settings. In Clifford Ando's formulation: "The trappings of Roman power and the conduct of Roman officialdom thus came to occupy an archetypal position in the high imperial imaginary."[2] In examining Late Antique Coptic documentary evidence, my chapter follows this cultural phenomenon, both in terms of how holy men constructed their judicial authority as arbiters and the ways in which these documents adopted conventions found in Greek papyri of the high Roman imperial period.

[1] Mikhail (2014) pp. 51-105.
[2] Ando (2012) pp. 228-229.

During the seventh and eighth centuries in particular, the Christian community in Egypt continued to evince strong ties to Greek and Roman culture, especially in the Theban region.[3] While the villages and monasteries paid taxes to the administration of the caliphate, Christian landowners continued to administer the fiscal system of the Caliphate for its first century and Coptic monasteries remained centers of education and learning. Roman cultural archetypes for dispute resolution recur in this new institutional context. Furthermore, these communities constructed new legal norms that at times affirmed Roman standards for aspects of law like standards of evidence while also introducing concepts and considerations from Christian scripture and other sources of normativity. In this chapter, I will examine the instantiation of these Roman cultural archetypes in two institutional settings: the episcopal chancery of the seventh century bishop Abraham of Hermonthis and Coptic legal documents and arbitration agreements composed in seventh and eighth century Jeme.

The Coptic legal documents produced in the monasteries and villages of Upper Egypt during the seventh and eighth centuries adhered to Roman archetypes on a number of levels. They retained many of the formal qualities of earlier Greco-Roman legal documents, including both their structure as legal documents and their extensive use of Greek loanwords. They even deployed these existing document forms in new contexts, as I will demonstrate with the use of contracts and guarantees within the chancery of Abraham of Hermonthis. They also retain more complicated Roman legal archetypes, such as the direct quotation of witnesses, the creation of transcripts of proceedings, and standards of evidence for testimony and legal documents. During the first two centuries of Islamic rule, when Islamic courts were still developing, Christians were relatively free to define the legal practice of their own community. They employed systems of

[3] Papaconstantinou (2009).

dispute resolution and the recording of property and obligations that were internal to their own community and its social networks but that still relied on the archetypes of a previous imperial administration and its cultural prestige to maintain their legitimacy.

♦ ♦ ♦

This first section examines the use of legal documents and dispute resolution procedures within the chancery of Abraham of Hermonthis, a seventh century bishop from Upper Egypt. It does so using a dossier of Coptic ostraca, which I have examined in person, that have so far only appeared in a mid-twentieth century unpublished dissertation.

The thirteen ostraca, which are a mix of legal documents and letters, are held at the Ägyptisches Museum in Berlin. These documents form part of the dossier of the bishop Abraham of Hermonthis, who was active during the late sixth and early seventh centuries C.E., in the region around Thebes.[4] They represent unique examples of the product of a particular bishop's chancery, or secretarial staff, and the documents often conceptualize institutional structures within his diocese as legal relationships. Moreover, they provide evidence of a bishop's direct involvement in legal disputes and the presence of a legal culture based in Roman law within a bishop's chancery in the early seventh century.

Martin Krause edited and translated these ostraca in his 1956 dissertation *Apa Abraham von Hermonthis: ein oberägyptischer Bischof um 600*, as well as several dozen others that had been published in *BKU* and *O.Crum*. Unfortunately, Krause's dissertation has never been published and fewer than a dozen copies exist in research libraries worldwide. The ostraca have received relatively little scholarly comment, most likely because of this lack of a generally available edition. Notable exceptions to this lack of scholarship on the subject are Eva

[4] See Wipszycka (2015) pp. 34-36 for a general introduction to this dossier.

Wipsyzcka's *Les ressources et les activités économiques des églises en Égypte du IVe au VIIIe siècle* and Georg Schmelz's *Kirchliche Amtsträger im spätantiken Ägypten*. Wipsyzcka studies these documents for what they reveal about the economic activities of priests and monks and the donations of laypeople that helped to sustain ecclesiastical activity. Schmelz, on the other hand, offers a careful study of the offices of bishop and priest, explaining the institutional powers and responsibilities of each of these positions.

This chapter and my fourth chapter build on these two excellent studies of the ecclesiastical implications of these documents by examining what they reveal about the practice of law in this period. Specifically, the chapter examines how Roman imperial cultural archetypes shaped dispute resolution and even the forms of church documents in Late Antique Egypt. The documents from this episcopal chancery record Abraham serving as an arbitrator or mediator resolving disputes within his community. This includes documents like P. Berl. Inv. 8727, which records the results of Abraham's arbitration of a conflict between the headmen of two villages. Taken as a group, these ostraca provide unique insight into the legal culture of late Byzantine Egypt and Early Islamic Egypt. They form a cohesive group of texts that shows a single bishop involved in the resolution of legal disputes and managing the internal institutions of his diocese using the language and forms of Roman legal documents.

Parallel seventh and eighth century Coptic ostraca document the similar forms of dispute resolution provided by other priests and bishops within their communities. Therefore, these conventions and documentation of arbitration are attested beyond Abraham's dossier, and thus point to more general developments in legal and ecclesiastical practice in the early Islamic period.

The evidence from Apa Abraham's dossier demonstrates that he played an active role in dispute resolution within his community as an arbiter, just as other clerics and community leaders did in the previous two centuries. Abraham's correspondence allows for a more in-depth study of arbitration however, because it includes a wider variety of documents relating to arbitration that are all connected to a single individual. In addition to documents intended to record arbitration, similar to *dialysis* agreements, Abraham's dossier also includes letters relating to arbitration and undertakings by disputants to abide by Abraham's decision as arbiter, under penalty of a fine.

Abraham's dossier includes at least one document intended to convey the results of an arbitration, *BKU* II 318. This ostracon is written on two sides of a piece of limestone, the medium used for almost all of Abraham's dossier. The text reads as follows:

R: [ϣ]ⲟ̣[ⲣ]ⲛ̄ ⲙⲉⲛ [ϯϣ]ⲓⲛⲉ ⲉⲧⲉⲧ̄ⲛⲙⲛⲧϣⲏⲣⲉ
[ⲡ]ⲭ[ⲟⲉⲓⲥ] ⲉϥⲉⲥⲙⲟⲩ ⲉⲣⲱⲧⲛ̄ ⲥⲓⲧⲛ̄ⲧⲙⲛ
[ⲧϣⲁⲛⲁⲧ]ⲏϥ ⲙ̄ⲡⲛⲟⲩⲧⲉ ⲁⲡⲛⲟⲩⲧⲉ ⲭⲁ
[ⲣⲓ]ⲍⲉ ⲛⲁⲛ ⲙ̄ⲡⲗⲁϣⲥ ⲉⲧⲛⲁⲛⲟⲩϥ ⲁⲩⲱ ⲛ
5[ⲡⲉ]ⲧⲁⲣ[ⲭⲉ] ⲥⲛ̄ⲧⲙⲏⲧⲉ ⲙ̄ⲡⲗⲁⲟⲥ ⲛ̄ⲧⲉⲣⲉ
[ϥⲡⲁⲣ]ⲁⲅⲉ ⲟⲩⲛ ⲉⲥⲟⲩⲛ ϣⲁⲧⲉⲛⲙⲛⲧⲉ[ⲗⲁⲭ/]
ⲙⲛ̄ⲛⲉϥⲭⲛⲏⲩ ⲁⲩⲱ ⲛⲛⲟⲟ ⲛ̄ⲣⲱⲙⲉ [ⲙⲛ]
[ⲡⲗ]ⲁⲟⲥ ⲧⲏⲣϥ ⲙⲡϯⲓⲙⲉ ⲁⲛⲡⲁⲣⲁⲕⲁⲗⲉⲓ
[ⲛ̄]ⲧⲉⲩⲙⲛ̄ⲧϣⲏⲣⲉ ⲉⲧⲣⲉ ⲟⲩⲉⲓⲣⲏⲛⲏ ϣⲱ
10[ⲡ]ⲉ ⲉ̣ⲧ̣ⲣⲉⲟⲩⲉⲓⲣⲏⲛⲏ ϣⲱⲡⲉ ϩⲛⲧⲉⲧⲛ[ⲙ]
ⲏⲧⲉ ⲛⲙⲙⲁⲩ ϩⲓⲟⲩⲥⲟⲡ ⲉϥⲥⲏⲏϩ ⲅⲁⲣ
[ϩⲛⲧⲉ]ϩⲉ ⲭⲉⲡⲉⲧⲟⲩⲱϣϥ ⲛⲛⲡⲟⲗ
[ⲉⲙⲟⲥ ⲡ]ⲉ̣ⲧ̣[ⲭⲙⲓ]ⲛⲉ ⲛϯⲣⲏⲛⲏ

V: ⲛⲧⲉⲣⲉⲛⲁⲓⲧⲉⲓ ⲟⲩⲛ ⲙ̄ⲙⲟⲟⲩ ⲛϯⲣⲏⲛⲏ
ⲁ̣ⲩⲭⲟⲟⲥ ⲭⲉⲁⲣⲓ ⲡⲛⲁ ⲛ̄ⲓⲅϩⲁⲓ ⲛⲁⲩ ⲉϣⲫ̣
ⲡⲉ ⲁⲉ ⲧⲛⲉⲧⲏⲧ ⲉϯⲣⲏⲛⲏ ⲁⲣⲓ ⲡⲛⲁ ⲧⲛⲛⲟ[ⲟⲩ]
ⲡⲭⲱⲕ ⲙⲡϩⲱⲃ ⲛⲁⲛ ⲭⲉⲟⲩⲡⲉ ⲧⲁⲣⲓⲡⲭⲟⲉⲓⲥ
5ⲥⲙⲟⲩ ⲉⲣⲱⲧⲛ ⲁⲩⲱ ⲛϥⲛ ⲟⲩⲉⲓⲣⲏⲛⲏ ⲉⲧⲉⲧⲛ̄[ⲙ]
[ⲏ]ⲧⲉ ⲛⲙ̄ⲙⲁⲩ ϩⲓⲟⲩⲥ̣ⲟⲡ ⲁⲣⲓ ⲡⲛⲁ ⲛⲧⲉⲧ[ⲛ]
ⲧⲛⲛⲟⲟⲩ ⲡⲭⲱⲕ ⲛⲁⲓ ⲭⲉⲉ[ⲧ]ⲛⲉⲟⲩⲱϣ ⲉϣⲁⲭ[ⲉ]
ⲛⲙ̄ⲙⲁⲩ ⲛⲁϣ ⲛ̄ϩⲉ ⲕⲁⲧⲁ ⲡⲛⲟⲩⲧⲉ ϯϣⲗⲏ[ⲗ]
[ⲉ]ⲧⲃⲉ ⲡⲉⲧⲛ̄ ⲟⲩⲭⲁⲓ ⲧⲏⲣ̣ⲧ̣ⲛ̄ ϩⲓⲟⲩⲥⲟⲡ ⲧⲁⲁⲥ
10ⲛⲛ̄ⲁϣⲏⲣⲉ ⲛ̄ⲣⲉϥⲣϩⲟⲧⲉ ⲁⲡⲁ ⲃⲓⲕⲧ

ⲱⲣ ⲙⲛⲛⲛⲟϭ ⲛ̄ⲣⲱⲙⲉ ⲧⲏⲣⲟⲩ ⲥⲓⲟⲩ
ⲥ̣ⲟⲛ ⲥ̣ⲓⲧⲛ ⲁⲃⲣⲁϩⲁⲙ ⲛⲉⲓⲉⲗⲁⲭ/

First I greet your sonship. The Lord bless you through God's mercy. God gave us the good *lashanes* [i.e., village headman] and those who rule amidst the people. When therefore he came now to our humbleness with his brothers and the great men and all the people of the town, we asked their sonships that there be peace amidst you together with them at once. For it is written: "Who destroys war, establishes peace." When we asked them for peace, they said, "Be so good as to write to them, "We agree on peace". Be so good as to send us the outcome of the matter as it is. May the Lord bless you and give you peace with those who are amidst you at once." Be so good to us and send me the outcome, how you want to talk to them by God. I pray for the well-being of all of you. Give it to my pious children, Apa Victor and all the great men together, from Abraham, the most humble.[5]

Here, Abraham arbitrates between the *lashanes* and great men of two villages. The document is not explicit about the nature of the conflict, which may have been between the entire communities of these two villages. The *lashanes* themselves were village elders who were elected annually in pairs and are attested frequently as arbiters in Coptic legal documents from the seventh and eighth centuries.[6] This arbitration document takes the form of a letter that was composed midway through the arbitration process. Only one of the parties of the dispute, an unnamed *lashane*, is physically present with Abraham. That individual has agreed to let Abraham decide the controversy, so the bishop writes to the other disputant, Apa Victor, to secure his consent. Victor was himself also a *lashane*,[7] as evidenced by the fact that he is also depicted as being at the head of a group of great men, "ⲙⲛⲛⲛⲟϭ ⲛ̄ⲣⲱⲙⲉ," in line 11 verso.

While this limestone letter is not as elaborate as some of the Greek *dialysis* agreements, it nonetheless provides crucial information about the process through which Abraham resolved disputes in his surrounding community. Unlike many of the other disputes mentioned in

[5] BKU II 318. Modified Schmelz (2014) translation.
[6] Mikhail (2014) pp. 146 and 155. See Wickham (2005) pp. 422-424 for a full description of the duties of this magistracy and their role in arbitration. See also, Steinwenter (1920) p. 38.
[7] Krause (1956) p. 199.

Abraham's dossier, this conflict seems to have been a secular one between lay individuals in two communities, and thus Abraham does not rely on an ecclesiastical power attached to his office, such as the *privilegium fori*, to resolve it. In fact, even though Abraham was selected as an arbiter for this dispute, the rhetoric of the letter is at times deferential to the secular authorities. At the start of the letter, lines four and five state "God gave us the good *lashanes* [i.e., village headman] and those who rule amidst the people." This rhetoric mirrors the political language used in Coptic texts throughout the seventh through tenth centuries that accepted the Muslim rulers as those ordained by God.[8] However, since the precise date of this ostracon is uncertain, it is not possible to read any comment on Byzantine, Sassanian, or Muslim authority into this line. Rather, this sort of rhetoric demonstrates a measure of deference to the established authority of those who "rule the people," even in a text where the bishop was chosen to arbitrate between magistrates. This deference is consistent with the positioning of clergy in relation to secular authority in previous centuries, as Abraham and other clergy serving as arbiters were not attempting to create a new form of judicial authority divorced from preceding imperial ones.

Two additional aspects of this text merit comment within the larger discussion of the development of arbitration as a form of dispute resolution in Late Antique Egypt. First, Abraham quotes scripture or some other type of Christian literature as he attempts to set up the arbitration between the two parties. In lines 11-13, he states "For it is written: 'Who destroys war, establishes peace.'"[9] The exact source of this quotation is difficult to determine, as it does not come from the Coptic New Testament. However, the introductory words clearly indicate that Abraham is quoting an authoritative text and that he attempted to use this distinctively Christian

[8] Mickhail (2014) pp. 177-204. See Sijpersteijn (2013) pp. 64-81 and 152-163 on the early Arab administration in Egypt and coordination between Christian landowners and Muslim governors.
[9] ϵϥϹΗΗϩ ΓΑⲢ[ϩΝΤϵ]ϩϵ ⲭϵⲡϵⲦⲞⲨⲱⲱϥ ΝΝⲡⲟⲗ [ϵⲘⲞⲤ ⲡ]ⲉⲧ[ⲭⲘⲓ]Ⲛϵ Ν†ⲢⲎⲚⲎ.

citation to help bring about a resolution to the conflict. Furthermore, the letter demonstrates a tendency to use direct quotations that is consistent with previous Roman practice in documents like transcripts of proceedings. This use of direct quotations will occur in many of the other Coptic legal documents studied in this chapter. Abraham states that the unnamed *lashane* told him "Be so good as to write to them, 'We agree on peace.' Be so good as to send us the outcome of the matter as it is." This type of language is similar to that used in undertakings to abide by the outcome of an arbitration that were included as part of a *dialysis* agreement or were retained by the arbiter as stand-alone documents before the proceedings. This direct quotation in the letter was probably intended to assure Apa Victor that the other *lashane* was committed to abide by the arbitration decision and to demonstrate that Abraham had been given permission to act as arbiter through this written correspondence.

Other correspondence within Apa Abraham's dossier also makes reference to arbitration. For instance, O.Crum 49 appears to inquire about a dispute that Abraham was deciding in concert with a *lashane*. In it, a man named John asks Abraham what he has decided with the *lashane* and repeatedly requests that the bishop send him his response. Unfortunately, it is not possible to determine the content of the dispute based on the text of the letter, which obviously assumes prior knowledge on the part of the recipient. In addition, John asks Abraham to forward to him a bond document [ⲁⲥⲫⲁⲗⲉⲓⲁ], if he has received it. This last request is intriguing, because it suggests that Abraham was involved in legal affairs and the movement of legal documents, beyond his role as an arbiter within the community. Unfortunately, it is not clear why Abraham would have been in possession of the bond in the first place, but other documents in his dossier suggest that a wide range of legal instruments were retained by his chancery.

Abraham's larger involvement in legal affairs in Upper Egypt is confirmed by the presence of several undertaking agreements within his dossier.[10] In these documents, disputants (many of whom are clergy) promise to abide by Abraham's decision in the arbitration of the dispute. In addition, the undertakings name penalties in the case of non-compliance, and these stipulations often include both a monetary fine and a spiritual punishment. It is possible that these undertakings were incorporated into a *dialysis* agreement, if the disputants decided to create one after their case had been arbitrated. However, the undertakings themselves are more likely to show up in Abraham's dossier than *dialysis* agreements, since the bishop would hold and retain these promises from the disputants as part of his role as arbiter.

One complete example of this type of undertaking is O.Crum 42, written by a deacon named Abraham and sent to Bishop Abraham, who was serving as arbiter. The text reads as follows:

> R: ⲁⲛⲟⲕ
> ⲁⲃⲣⲁϩⲁ[ⲙ ⲇ]
> ⲧⲓⲁⲕ ⲉⲓⲥϩⲁⲓ
> ⲭⲉ ⲧⲟ ⲛϩⲉⲧⲉⲙⲟ[ⲥ]
> 5ⲛⲧⲁϩⲱⲛ ⲉⲡϩⲁⲡ [ⲇ]
> ⲉⲧⲛⲏⲩ ⲉⲃⲟⲗ ⲉⲧⲙ
> ϩⲁⲛ ⲧⲛⲁⲕⲱⲃ ⲡⲟⲥⲉ
> ⲛⲧⲁⲓ †
> ⲁⲛⲟⲕ ⲁⲃⲣⲁϩⲁⲙ ⲡⲁ̅ⲓ̅
> 10ⲧⲥⲧⲓⲭⲏ ⲉⲡⲉⲓⲡⲗⲁⲍ̈ †
> V: ⲁⲩⲱ ⲉⲓⲥ
> ϩⲁⲓ ⲉⲓⲧⲱⲧⲱⲣⲉ
> ⲉⲣⲟⲓ ⲉⲧⲟⲟⲧϥ ⲛⲁ
> ⲃⲣⲁϩⲁⲙ ⲡⲏⲡⲓⲥ
> 5ⲕⲟⲡⲟⲥ ⲉⲓⲧⲙϩⲱⲛ
> ⲉⲡϩⲁⲡ ⲙⲛⲥⲧⲁⲩⲣⲟⲥ
> ⲛⲧⲟⲟⲧ ϩⲙⲙⲁ ⲛⲓⲙ
> ⲉⲛⲁⲃⲱⲕ ⲉⲣⲟϥ̅ ̅

> I, Abraham the deacon, write that I am ready to obey the coming decision. If I do not accept it, then I will pay a double fine. I, Abraham the deacon, assent to this

[10] O.Crum 42, 43, 48, and ad. 12.

document. And I write and give a guarantee to the Bishop Abraham. If I do not obey the decision, there will be no cross in my hand wherever I go.

The text is relatively short, but it contains some of the features seen in earlier contracts, such as the use of a variant of the adjective ἕτοιμος to designate what the signatory has agreed to do and his signature with a misspelled form of the verb στοιχέω at the end of the recto of the document. The text also includes a monetary penalty of a double fine as well as a religious sanction in the case of non-compliance. The exact nature of this punishment, "there will be no cross in my hand," is unclear, but it is likely that it involved Abraham's removal from the office of deacon. Thus, it functions as a synonym with the Greek adjective ἀπόκληρος, which is used in other disciplinary texts in Abraham's dossier. As a more evocative alternative to this adjective, it may also have conceptual links with role of the deacon in the liturgy performed in Coptic churches.[11] Several other Coptic documents of this type were published by Crum, including O.Crum 43, 48, and ad. 12 from Abraham's dossier and O.Crum 86, 155, 295, and 297, which are undertakings addressed to other arbiters. These documents contain varying levels of detail, with O.Crum 86 (which is addressed to a bishop whose name does not survive) naming the other disputant in addition to the signatory and specifying the property that was the object of the arbitration.

At the other end of the continuum of detail provided, O.Crum. ad. 12 is brief, laying out the undertaking in as few characters as possible. The text reads as follows:

R: ⲁⲛⲟⲕ ⲃⲓⲕ ⲡⲡⲣ/
ⲉⲓⲥⲉⲁⲓ ⲛⲧⲉⲉⲉ
ϫⲉ ⲉⲁⲡ ⲉⲧ
ⲛⲏⲩ ⲉⲃⲟⲗ ⲉⲓⲧⲙ
5ⲉⲓⲣⲉ ⲕⲁⲧⲁⲣⲟ
ⲩ ⲧⲉⲓⲃⲟⲗ
[ⲙⲡ]ⲱⲁ
V: ⲁⲩⲱ ⲛⲧⲁⲧ
ⲟⲩⲉⲟⲗⲟⲕ/
ⲛⲕⲁⲧⲁ ⲁⲓ

[11] Schmelz (2002) p. 154.

κϵ

> I, Vic[tor] the priest, write that if I do not obey the coming decision I will be excluded from the service and I will pay one solidus as a fine.

While this text does not include the contracting language of ἕτοιμος and στοιχέω seen in O.Crum 42, it does use other words typical of the penalty clauses of earlier Byzantine and Roman contracts. Even this very brief document, which is less elaborate than the examples cited above, shows some influences of earlier Greek contract forms and a tendency to retain a written legal instrument for penalties in cases of non-compliance.

In another case, a litigant gives a written penalty clause to Apa Abraham after the arbitration has already been completed. The document, O.Crum 44, follows an arbitration in which Abraham had ruled in favor of Ezekias the deacon and expelled his opponent Ebonech from the church. Ezekias undertakes not to bring the matter before Abraham in the future or undertake further litigation against Ebonech, with a penalty of one gold ounce in case of violation. This document uses a number of Greek loanwords, including οὐκ ἔξεστιν, τολμάω, καλέω, ἕτοιμος, σύμφωνον, and στοιχέω, many of which were common in the penalty clauses of arbitration awards and other contracts from Byzantine Egypt. Like O.Crum 42, this document is drawn up in the form of a contract, with a final στοιχέω clause ratifying the formulaic penalty clause above it. The strong parallels in form and content between this document and penalty clauses in earlier Greek arbitration agreements demonstrate the influence of the latter type of text on the former. The penalty clause had simply become a separate document that Abraham may have retained in his role as arbitrator.

The attestation of similar undertakings drawn up before an arbitration and preserved on seventh and eighth century Coptic ostraca demonstrates that this convention extended into more general legal practice and was not characteristic solely of Abraham's chancery. For example, in

O.Crum 295, an individual named Iohannes provides a guarantee to an arbiter Papas that he will accept his decision in a dispute with Zacharias. Iohannes closes the document by stating that he "will submit to this deed and gives a promise to him [Papas]."[12] The word used for "deed" here, ⲡⲗⲁϫ, translates literally as "ostracon," and thus Iohannes here specifies the physical medium of the legal document to which he will submit after the arbitration has occurred. In this formulation, the ostracon is not only a record of the agreements that have been concluded before the arbitration, as it also takes on its own legal authority to bind Iohannes to his commitments, even if it is a comparatively humble limestone slab.

Similarly, O.Crum 297 provides an example of a religious officer who is not Abraham taking a written pledge or security [ⲉⲓⲧⲩⲁ] from one of the parties before arbitrating a dispute. In it, an individual named Phoebammon gives a guarantee to the priest Apa Victor that he will accept Victor's decision in his suit with Paham, under penalty of two trimesia. The recto of the ostracon reads: "I Phoebammon write thus to my holy father the priest Apa Victor: since it seems best to you that I go to law with Paham, I come ready to submit to the judgement that God will cause to arise…"[13] Here Victor acts as arbiter, and the wording of the document also implies that he helped the two parties come to an arbitration in the first place. This legal document also uses distinctively Christian rhetoric, "the judgement that God will cause to arise," a phenomenon that we have also seen in other Coptic legal texts. This particular formulation accords with the way that other arbiters describe their process of coming to a ruling in this period. The arbitration decision is in some way laid on their hearts or inspired by God. This concept also appears in one of the plaintiff's arguments on the Budge papyrus, which is the subject of the final section of this

[12] O.Crum 295 lines 14-17. ⲛⲧⲁϩⲱⲛ ⲉⲡⲓⲡⲗⲁϫ ⲁⲩⲱ ⲧⲥⲧⲏⲭⲏ ⲉⲣⲟϥ.
[13] O.Crum 259 lines 1-9. ⲁⲛⲟⲕ ⲫⲟⲓⲃⲁⲙⲱⲛ ⲉ[ⲓ]ⲥϩⲁⲓ ⲛⲧⲉⲓϩⲉ ⲛⲡⲁⲙⲁⲓⲛ[ⲟⲩⲧⲉ ⲛ]ⲉⲓⲱⲧ ⲡⲡⲣⲉⲥⲃ ⲁⲡⲁ ⲃⲓⲕⲧⲱⲣ ⲭ[ⲉⲉⲡⲉⲓ]ⲇⲏ ⲁⲥⲇⲟⲕⲉⲓ ⲛⲧⲉ ⲫⲓⲃⲟⲗ ⲙⲙⲟⲕ ⲉⲧⲣⲁⲃⲱⲕ ⲉⲡϩⲁⲡ ⲙⲛⲡⲁϩⲁⲙ ⲧⲛⲟⲩ ⲧⲟ[ⲛϩⲉ]ⲧⲟⲓⲙⲟⲥ ⲉⲧⲣⲁϩⲱⲛ ⲉⲡϩⲁⲡ ⲉⲧⲉⲣⲉⲡⲛⲟⲩⲧⲉ ⲛⲁⲛⲧⲩ ⲛ[ⲁⲓ ⲉ]ⲃⲟⲗ…

chapter. In that document, the plaintiff argues that the panel of arbiters hearing the case should be open to divine guidance as to which party is in the right.

The use of these signed undertakings demonstrates that written legal instruments were employed over the course of the arbitration process, not just for the final result of the arbitration, as in a *dialysis* agreement. For the ecclesiastical penalties especially, these documents played an important role in the formation of social knowledge within these church communities as they offered written, authoritative proof of the agreed-upon penalties if the disputant subsequently violated the arbitration decision. Furthermore, they document Abraham and other arbiters' involvement over the course of the entire process of dispute resolution, and his oversight extended beyond the act of hearing the case and providing a ruling.

In addition to serving as an arbitrator himself, Abraham was also involved in arranging arbitrations for others. This role is similar to that of clergy and community leaders who sent litigants to another spiritual authority for arbitration, which the last chapter studied in detail. This act of sending litigants to arbiters or vice versa demonstrates the existence of networks of authority that extended into village communities in Egypt but also connected different communities with one another. In O.Crum 62, Abraham sends an order (apparently for the second time) to the priests Ananias and Isaac to go resolve a dispute between two individuals named Pkale and Psosh.[14] Crum himself points out that the Coptic word ⲧⲱϣ central to the priests' assignment is difficult to translate, as it can mean a property division in particular or a judgement or determination more generally.[15] Therefore, it is difficult to know whether this dispute involved property in particular or involved some other type of arbitration, although many

[14] O.Crum 62 line 3-4. Crum points out that the construction used here can also mean "set the boundary [ⲧⲱϣ]." Krause follows this alternative translation. See Krause (1956) pp. 223-225 for a more fully reconstructed text.
[15] O.Crum p. 17.

arbitrations from this and earlier periods were about real property. Abraham further stipulates that the priests are to make a "division for them according to the justice [ⲇⲓⲕⲁⲓⲟⲛ] of God, not showing favor to either of them, and not allowing them to distract you before you have made the division. And if you do not go, you are excluded from the service."[16] Abraham is concerned that the arbitration be conducted justly, specifically in conformity with God's justice, and quickly, and the request for speed is reinforced by the fact that he is writing Ananias and Isaac for the second time. If the priests do not carry out their assigned task, Abraham threatens them with the ecclesiastical penalty of exclusion from the service. This case confirms that Abraham was involved in arbitrations that he himself was not asked to arbitrate, and at times he would order reluctant priests to conduct an arbitration in another location.

As bishop, Abraham could impose a number of ecclesiastical penalties for infractions within his diocese. However, these sanctions could not serve as a replacement for the jurisdiction and punitive powers of the state authorities, and at times Abraham's dossier demonstrates the necessity of secular intervention in more serious disturbances. These moments when ecclesiastical authority was required to admit the inadequacy of its punitive measures and look to the state for assistance provide further insight into how this authority framed itself in relation to the imperial state. One papyrus that captures the limitations of ecclesiastical discipline is P. Berl. Inv. 12491, which documents a conflict between Abraham and the village of Timamen. The text itself is a letter to a secular authority that reads as follows:

R: † ϣⲟⲣⲡ [ⲙ]ⲉⲛ ϯϣⲓⲛⲉ ⲉⲧⲉⲕ ⲙ̅ⲛ̅[ⲧ]ϣⲏ
ⲣⲉ ⲡⲭⲟⲉⲓⲥ ⲉⲩⲉⲥⲙⲟⲩ ⲉⲣⲟⲕ ⲉⲓⲥ ⲛ̅ⲣ̅ⲙ̅
ⲛ̣ ⲧⲟⲓⲙⲁⲙⲏⲛ ⲁ̣ⲩ̣ⲁⲍⲉ ⲛ̅ⲃⲟⲗ ⲉⲣⲟⲓ̣ ⲁⲩⲧⲁⲕ
[ⲉ]ⲛ̅ ⲕⲁⲛⲱⲛ ⲛ̣ⲧⲟⲟⲧ ⲁⲩⲛⲉⲭ ⲛ̅ⲕⲗⲏⲣⲓⲕⲟⲥ ⲉⲡⲓ
5ⲟⲣ ⲛ̅ⲧⲉⲣⲓⲭⲛⲟⲟⲩ ⲭⲉ ⲉⲧⲃⲉ ⲟⲩ ⲉⲧⲉⲧⲛ̅ ⲛⲉⲭ ⲛ̅
ⲕⲗⲏⲣⲓⲕⲟⲥ ⲉⲡⲓⲟⲣ ⲁⲩⲃⲱⲕ ⲥⲣⲟⲟⲩ ⲛ̅ϣⲁ᾽ [ⲉ]
ⲥⲣⲁⲓ ⲥⲓⲱⲓ ⲙ̅ⲡⲓⲟⲛ̅ⲣⲱⲙⲉ ⲉⲛⲉⲥ ⲉⲁⲫⲃ[ⲁ]

[16] Verso lines 1-11. Translation based on O.Crum p. 17.

ⲕⲟⲩ ϩⲓⲡⲁϩⲟⲩ ⲙ̄ⲙⲟⲓ ⲉⲓⲧⲉ ⲉⲡⲓⲥⲕⲟⲡⲟⲥ ⲉⲓⲧⲉ
ϩⲩⲡⲁⲣⲓⲥ ⲉⲓⲧⲉ ⲗⲁⲁⲩ ⲛⲣ̄ⲱⲙⲉ ⲉⲫⲥⲏϩ ⲅ[ⲁⲣ]
10ⲛ̣ϯϩⲉ ⲭⲉ ⲡⲉⲧⲉ ⲙⲡⲉⲗⲁⲁⲩ ⲁⲁⲫ ⲁⲩⲁⲁ[ⲫ]
ⲛⲁⲓ ⲁⲩⲱ ⲟⲛⲭⲉ ⲙ̄ⲛ̄ⲥⲟⲙ ⲛ̄ⲗⲁⲁⲩ ⲉ̣ⲣ̣
ϩⲙϩⲁⲗ ⲛ̄ⲭⲟⲉⲓⲥ ⲥⲛⲁⲩ ⲣⲱⲙⲉ
ⲛⲓⲙ ⲉⲫⲭⲏⲩ ⲛ̄ⲥⲟⲛⲥ̄ ⲉ[ⲃⲟⲗ]
ⲫⲥⲉⲡ ⲡⲉⲩⲁⲓⲧⲉⲗⲓ
15ⲟⲛ

V: ⲁ̣ⲩ̣ⲣⲁⲧⲱⲓⲛ̣[ⲉ]
ⲁⲩⲧⲁⲕⲟ ⲧⲉⲛ[ⲧⲟⲗⲏ ⲙ]
ⲡⲛⲟⲩⲧⲉ ⲁⲩⲧⲁ[ⲕⲟ] ⲛⲕⲁ̣[ⲛⲱ]
ⲛⲉⲓⲭⲏⲩ ⲛⲥⲟⲛⲥ̄ ⲃⲟⲕⲟⲩ ⲉⲛ̣[ⲁϩⲟⲩ]
5ⲛⲙⲙⲁⲓ ⲙⲏⲡⲟⲧⲉ ⲛ̄ⲧⲉⲧⲁⲛⲁⲅⲕ[ⲏ]
ⲱⲱⲡⲉ ⲛ̄ⲧⲁⲭⲟⲟⲩ ⲛⲧⲁⲥⲱⲱⲧ ⲡⲱⲁ’[??]
ⲟⲗⲥ ⲛⲧⲉⲧⲛⲭⲟⲟⲥ ⲭⲉ ⲉⲧⲃⲉ ⲟⲩ̄ ⲙ̄ⲡⲕⲭⲟⲟ
ⲩⲛⲁⲩ ⲡⲱⲓ ⲁⲛⲛⲉ ⲡⲓϩⲱⲃ ⲙⲁⲓⲱⲃⲓⲧⲫ ⲟⲩⲇ
ⲓⲕⲁⲓⲟⲛ ⲛⲁⲓ ⲁⲛ ⲡⲉ ⲛ̄ⲟⲩⲕⲉⲛⲟⲇⲟⲙⲓⲁ [l. καινοτομία] ⲉⲫ̣
10ⲟⲩⲛ ⲉⲭⲛ ⲛⲉⲕⲗⲏⲣⲓⲕⲟⲥ ⲛ̄ⲛ̄ⲉⲕⲕⲗⲏⲥⲓⲁ
ⲙ̄ⲡⲉⲡⲛⲟⲩⲧⲉ ⲛⲧⲫ ⲙ̄ⲡⲉⲣⲱⲙⲉ ⲛ̄ⲧⲫ ⲛ̄ⲧ
ⲉ ⲟⲩϩⲱⲃ ⲱⲱⲡⲉ ϩⲛ̄ⲛⲁϩⲟⲟⲩ ⲙ̄ⲡⲉⲫ̣
ⲱⲱⲡⲉ ⲉⲛⲉϩ ⲉⲱⲭⲉ ⲉⲱⲱⲡⲉ ⲙⲁ̣
ⲧⲛⲉⲣⲡⲁⲓⲕⲁⲓⲟⲛ ⲱⲁ̣ⲣⲉⲧⲁⲛⲁⲅⲕ
15ⲏ ⲱⲱⲡⲉ ⲛ̄ⲧⲁⲃⲱⲕ ⲟⲩⲥⲕ̣ⲩ̣[ⲗ]
ⲙ̣ⲟⲥ[17]

R:First I greet your sonship. May the Lord bless you. See the men of Timamen have opposed me. They have destroyed my canons, they have thrown the clergy into the canal. When I asked them, “Why did you throw the clergy into the canal?” They raised their voices against me. And I have not been able to find a man who can put them in line behind me whether bishop or *riparius* or any other man. For it is written: “That which no one has done they have done to me” and “It is not possible to be slave to two masters.” Each man who uses violence destroys the gospel.

V: They were unashamed and they abandoned the command of the Lord and they abandoned my canons, I have undergone violence and put them in line behind me and I sent and I stopped the Eucharist and you said “For what reasons did you not send to them? The matter is not mine, I cannot change it, it is not just for me [to do so]. There is no innovation/novelty within the clergy of the church.” God did not cause it, a man did not cause it. And an event happened in my days which did not happen ever before, since it happens that they do not want to act justly, necessity arises and I cause trouble [lit. go as an irritation/annoyance]…

[17] See note in O.Frange 721 for use of this Greek word with ⲃⲱⲕ in Coptic correspondence in this period. It often occurs in the context of asking a friend or colleague for a favor.

Instead of a family quarrel about property, this dispute represents a major communal conflict and the outright rejection of Abraham's spiritual authority by the village of Timamen. The addressee of the letter is not stated in the surviving text, but the appeals to justice contained in the letter suggests that Abraham was petitioning a secular authority. Georg Schmelz concurs that in this letter Abraham "…addresses an author who can create justice, probably a representative of the political authority - apparently, he believes that he cannot bring the situation under control alone."[18] Furthermore, it is likely that he was a high ranking official in the administration, as Abraham states that he had already sought help from the ⲣⲩⲡⲁⲣⲓⲥ or *riparius*, a local policing official who was tasked with providing security and ensuring public order in fourth through eighth century Egypt.[19] The language used in the letter indicates that Abraham may have had a preexisting relationship with the recipient. For instance, the combination ⲃⲱⲕ ⲟⲩⲥⲕ̣ⲩ̣[ⲗ]ⲙ̣ⲟⲥ in line 30-31 is frequently used in Coptic letters when asking for a favor from a friend or acquaintance. The text also exhibits some characteristics of a petition from earlier periods, such as the inclusion of a long *narratio* section and repeated references to justice, "ⲇⲓⲕⲁⲓⲟⲛ." In addition to these features of earlier Roman petitions, the text also contains distinctively Christian elements in the form of the two scriptural citations in lines 10-12 at the end of the recto.

The alleged actions of the villagers represent a serious challenge to Abraham's spiritual authority. The inhabitants of Timamen have physically abused some of Abraham's priests, throwing them into the canal, and they verbally abused Abraham himself. They could not be brought in line even by another spiritual authority or bishop, hypothetically a bishop from a neighboring diocese like the Bishop of Coptos. The reference to "destroying Abraham's canons [ⲕⲁⲛⲱⲛ]" in line 4 of the recto and 3 of the verso is a bit less clear, but parallel attestations of

[18] Schmelz (2002) p. 131.
[19] See Torallas Tovar (2001a) and (2001b) for more information about this official.

this Greek word in Coptic documents suggest that it means violating ecclesiastical commands or regulations in this context.[20] Abraham emphasizes the unprecedented nature of this act of defiance at the end of the verso and suggests that there may be some larger issues of transgression of the Christian faith when he says that the villages have abandoned the "command of the lord" in line 2 of the verso.

The content of the petitioning letter also has important conceptual links with several of the works of hagiography examined in the first chapter. Abraham characterizes the villagers' actions as violence when he invokes the aphorism that "Each man who uses violence [ϭⲟⲛⲥ̄] destroys the gospel." The word used for "violence" here, ϭⲟⲛⲥ̄, has significance in Shenoute's writings where he positions himself as the defender of the downtrodden from those who would use violence against them.[21] Abraham also states that he has undergone violence [ϭⲟⲛⲥ̄] on the fourth line of the verso of the document. Characterizing one's legal adversary as "violent" is also common in petitions from the Roman period, and this rhetoric may have been useful in convincing the addressee to side with Abraham. Abraham has threatened to use a very serious ecclesiastical punishment, that of forbidding communion from being celebrated in the village. This was probably one of the most serious sanctions that Abraham could employ, and he requested the intervention of another authority, rather than trying to incite his own priests and congregants to use violence against the villagers. In this way, Abraham continues to evince the same deference to the secular authority's monopoly on the use of force that we also saw earlier in the *Life of Shenoute*. In a case of extreme civil unrest, Abraham looks to a secular authority to restore order in his diocese, and he appeals to that authority using the rhetoric of earlier petitions

[20] See Schiller (1950) for a study of the use of this Greek noun and its related verb in Coptic documentary papyri. Layton (2014) p. 35 explains that in Coptic literary texts, it can mean "a rule or regulation of ecclesiastical law" or "norms of thought and conduct."
[21] Lopez (2013) pp. 35-40.

to Roman and Byzantine authorities, with the addition of the Christian elements of quotation of scripture and the ecclesiastical punishment of excommunication.

The influence of Roman practices for dispute resolution is also evident in how Abraham administered discipline within the ecclesiastical hierarchy of his diocese. Several of the documents in the dossier demonstrate Abraham's use of the ecclesiastical penalty of exclusion from the divine service. Other documents demonstrate how this punishment could be appealed or reversed. These examples of appeals are in some ways similar to the appellate jurisdiction that magistrates exercised in Byzantine and Roman Egypt. Other documents related to church discipline demonstrate features familiar from earlier administrative practices, such as the taking of written witness statements.

The ecclesiastical institution of Abraham's diocese allowed some mechanisms for priest to be readmitted to the Eucharist after being excluded. P. Berl. Inv.12486 is a contract by a priest promising future good behavior after an infraction. Significantly, the document is structured as a contract or guarantee, thus using an earlier Byzantine legal document form to perform this ecclesiastical function of readmitting a member of the clergy. The document reads as follows:

R: † ⲁⲛⲟⲕ ⲁⲛⲑⲁⲛⲁⲥⲓⲟⲥ [ⲡⲡⲣ]
ⲉⲡⲉⲓⲇⲏ ⲁⲓⲣⲁⲧⲥⲱⲧⲙ ⲛⲥⲱ
ⲕ ⲁⲕⲛⲟⲭⲧ ⲥⲓⲃⲟⲗ ⲙ̄ⲡⲱⲗ ⲁⲓ ⲉ
ⲥⲟⲩⲛ ⲁⲓⲡⲁⲣⲁⲕⲁⲗⲉⲓ ⲙ̄ⲙⲟⲕ ⲉⲧⲣ
5ⲉⲕⲛ̄ⲧ̄ ⲉⲥⲟⲩⲛ ⲉⲡⲱⲗⲁ’ⲉ ⲁⲕⲭ[ⲟⲟⲥ]
ⲛⲁⲓ ⲉⲧⲣⲁⲭⲓ ⲟⲩⲙⲉⲣⲟⲥ ⲛⲭⲱ
ⲙⲉ ⲥⲓⲛⲉⲩⲁⲓⲧ[ⲉⲗⲓ]ⲟⲛ ⸗ⲛⲟⲩ ⸗
ⲱⲧⲱⲣⲉ ⲉⲧⲟⲟⲧⲕ̄ [ⲉⲧⲣ]ⲁⲭⲓ ⲛ̣[ⲟⲩ ⲙⲉⲣ]
ⲟⲥ ⲛⲭⲱⲱⲙⲉ ⲥⲛ̄ⲥⲟⲩ [ⲁⲉⲕⲟ]
10ⲩⲟⲣⲥ ⲉⲡⲁⲁⲡⲉ ⲉⲓⲧⲙⲭ[ⲓⲧ]
[ⲉⲫ] ⲁⲉ ⸗ⲟⲛⲁⲡⲟⲕⲗⲏⲣ
ⲟ̣ⲥ̣ ⲛ̣ⲧ̣[ⲁ]

V:ⲥⲉ ⲁⲩⲱ ⲛ̄ⲧⲁⲣⲟⲉⲓⲥ [ⲃⲡⲁⲙⲁ]
ⲡⲟⲟⲩ ⲉⲃⲟⲗ ⲛⲓ̄ ⲧⲙ̄ⲫ̣ⲛ̣ⲥ̣
ⲧⲭⲁⲥⲓⲥⲏⲧ ⲥ̣ⲓⲱⲓ ⲁⲩⲱ ⲛⲧⲁ

ⲧⲥⲁⲃⲟ ⲡⲛ̣ⲣ/ ⲉⲧⲱⲁ ⲁⲛⲟⲕ ⲁ[ⲛ]
5ⲑⲁⲛⲁⲥⲓⲟⲥ ⲡⲛⲣ/ ⲧⲥⲧⲟⲓⲭⲉ
ⲉⲧⲣⲟⲙⲟⲗⲟⲅⲓⲁ ⲁⲩⲱ ⲛⲧⲁ
ⲗⲉ… ⲙⲙⲟⲩ †

R: I, Athanasius, the priest. Since I was disobedient towards you, you excluded me from service. I came to you, I beseeched you to readmit me to service. You told me to memorize a portion of the book of the Gospel. Now I give a guarantee to you that I will memorize a portion of the book, by the end of the month of Phaophi. If I do not learn it, then I will be expelled from the clergy [ἀπόκληρος]. And I come and watch my place for the day and you will not find pride with me and I teach the priests to administer communion. I, Athanasius the priest, agree [στοιχεῖν] to the contract [ὁμολογία] and …

Athanasius has been excluded from the service for some act of insubordination towards Abraham, and Abraham has given him the task of memorizing a selection from the gospels in order to be readmitted.[22] This text adopts the language and form of a legal document at several points. First, Athanasius gives a guarantee [ⲱⲧⲱⲣⲉ], using the language of a legally binding commitment, that he will perform his assigned task, with the explicit penalty that he will be expelled from the clergy if he does not. Furthermore, the document's closing assumes the form of a Greek contract, as Athanasius uses the loanwords "ⲧⲥⲧⲟⲓⲭⲉ ⲉⲧⲣⲟⲙⲟⲗⲟⲅⲓⲁ," which typically form the signature line of an undertaking in the Roman and Byzantine period. In order to be readmitted from the punishment of exclusion, Abraham at times required his clergy to provide a guarantee of their penance in the form of a legally binding contract.

Other correspondence from Abraham's dossier indicates that he had the ability to overrule disciplinary actions taken by other priests within his diocese. In at least one case, the chastened individual wrote to Abraham to contest the decision of a priest within his hierarchy, in a process that bears some resemblance to appeal within the state hierarchy of earlier periods. In P. Berl. Inv. 12495, Abraham wrote to the priest Isaac in order to ask him to make peace with a

[22] See Perrone (2008) pp. 398-409 and Luijendijk (2008) pp. 117 and 122 on the use of memorization of scripture in monastic training.

"brother" that he has excluded from the service. Abraham wrote about this individual: "He told me that you excluded him from the service. Now do not persist without being in agreement with him."[23] Unfortunately, there is no evidence in this case of the kind of petition submitted over the course of appellate litigation seen in earlier periods, and the verb used in line 5 implies that the individual made his appeal to Abraham verbally. Nevertheless, this letter demonstrates that the ecclesiastical hierarchy provided a means to appeal and reverse ecclesiastical punishments.

In his episcopal role of punishing infractions within his diocese, Abraham also made use of the Roman cultural archetype of taking written witness statements. These documents resemble earlier court proceedings in their content. They also form an important parallel with the written confession of the child-sacrificing pagans that was included in the *Panegyric of Macarius*. Both the literary account in the *Panegyric* and the prevalence of written witness statements in Abraham's dossier demonstrate the continued importance of the Roman practice of taking verbatim records in disciplinary proceedings in this period. For example, BKU I 68 is a written declaration by Abraham that involves the illicit consumption of wine by a priest in a church. That texts reads as follows: "I, Abraham the bishop: Zacharias and Constantine told me: "We found the vessel of wine under the chest in the interior of the sanctuary, in the enclosed space…" But when I asked, I was told that the Priest Jacob had deposited it. I Abraham the bishop, Zacharias and Constantine said these words to me."[24] As George Schmelz has previously pointed out, this document demonstrates Abraham's personal involvement in the disciplinary process,

[23]P. Berl. Inv. 12495 Lines 4-7 "ⲁϥϫⲟⲟⲥ ϫⲉ ⲁⲕⲛⲟϫ̅ⲧ ⲉⲃⲟⲗ ⲙ̅ⲡⲣⲟ̅ ⲟⲩⲛ ⲛ̅ⲟⲩⲉⲱ ⲛ̅ⲧⲱⲧ ⲛ̅ⲙ̅." See also Schmelz (2002) pp. 135-136

[24] BKU I 68 lines 1-6 recto and 1-7 verso. ⲁⲛⲟⲕ ⲁⲡⲁ ⲁⲃⲣⲁϩⲁⲙ ⲡⲉⲡⲓⲥⲕ/ ⲁⲥⲁϫⲁⲣⲓⲁⲥ ⲙⲛⲕⲱⲛⲥⲧⲁⲛⲧⲓⲛⲟⲥ ϫⲟⲟⲥ ⲛⲁⲓ ϫⲉⲁⲛⲕ/ ⲟⲩⲕⲟⲛⲧⲱⲛ ⲛⲏⲣⲡ ϩⲁⲧⲧⲉⲃⲓ. ⲛ̀ϩⲟⲩⲛ ⲙⲡⲧⲁⲃⲓⲣ ⲡⲁⲛⲧⲕⲗⲁⲥⲧⲏⲣⲏ…ⲛⲧⲉⲣⲓⲱⲓⲛⲉ ⲇⲉ ⲁⲩⲧⲁ ⲙⲟⲓ ϫⲉⲡⲡⲛⲣ/ ⲓⲁⲕⲱ[ⲃ] ⲡⲉⲧⲕⲟ ⲙⲙⲟⲩ ⲉ̀ϩⲣⲁⲓ. ⲁⲛⲟⲕ ⲁⲡⲁ ⲁⲃⲣⲁϩⲁⲙ ⲡⲉⲡⲓⲥⲕ/ ⲁⲥⲁϫⲁⲣⲓⲁⲥ ⲙⲛⲕⲱⲥⲧⲁⲛⲧⲓⲛⲟⲥ ⲧⲁⲩⲉ ⲛⲓⲱⲁ ϫⲉ ⲉⲣⲟⲓ ⲛ†ϩⲉⲓ. See also Schmelz (2002) pp. 129, 137, and 139.

which included tasks as involved as taking witness statements.[25] The document records the statements of the two priest witnesses in detail, suggesting that these quotations were verbatim records of their testimony. The practice is not limited to this document.[26] The practice of taking written witness statements of the events that transpired shows the influence of Roman methods for recording social knowledge on the disciplinary practices within Abraham's diocese.

Similarly, O.Crum ad. 10 provides a testimony that bears on a matter of ecclesiastic discipline that a priest has recorded from a witness. In it, the priest Isaak testifies that he discovered Papnoute breaking the Lenten fast and provides a quotation of disrespectful words that Papnoute uttered. The text reads as follows:

> I, the priest Victor, Isaak the priest told me: "When I came to Papnoute to celebrate the breaking of the fast on the evening of the Sabbath, I came to him and I found him eating and drinking. I said to him: 'Is this the state in which I find you?' and he said to me '[if] you wish to celebrate the service, do it, if you do not wish to, do not do it.' I, Isaak the priest am witness that Papnoute the priest said these words to me."[27]

The text of this ostracon records a direct quotation from Isaak, serving as a witness, who in turn reports the words that Papnoute spoke to him over the course of their confrontation. The direct quotation of the exchange is marked out by the verboid **ⲡⲉϫⲁⲓ**. Isaak's formal role as a witness is stated officially at the end of the document, where he refers to himself as ⲙⲛⲧⲣⲉ. Papnoute seems to have been guilty of a serious violation of ritual, possibly including the premature

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[25] Schmelz (2002) p. 139.

[26] Other Coptic witness statements include O.Crum 82, 481, and ad. 10, which involve disciplinary cases against priests, O.Crum 310 and 312, a case of infractions committed by a monk that Abraham hears, and O.Crum 215, which is a witnesses statement to a commercial transaction.

[27] O.Lips.Copt 14. O.Crum ad. 10 *editio princeps*. † ⲁⲛⲟⲕ ⲡⲡⲣ/ ⲃⲓⲕⲧⲱⲣ ⲁⲓⲥⲁⲕ ⲡⲡⲣ/ ϫⲟⲟⲥ ⲛⲁⲓ ϫⲉ ⲛ̄ⲧⲉⲣⲉⲓⲉ̈ⲓ ⲉⲓⲛⲁⲣⲡⲱϫⲁ ⲉⲡⲁⲡⲛⲟⲩⲧⲉ ⲥⲓⲣⲟⲩⲥⲉ ⲙⲡⲥⲁⲃⲃⲁⲧⲟⲛ ⲙ̄ⲡⲃⲱⲗ ⲉⲃⲟⲗ ⲁⲓⲃⲱⲕ ⲉⲥⲟⲩⲛ ⲉϫⲱⲩ ⲁⲓⲟ̄ⲛ ⲧⲩ ⲉⲩⲟⲩⲱⲙ ⲉⲩⲥⲱ ⲡⲉϫⲁⲓ ⲉⲥⲟⲩⲛ ⲉⲥⲣⲁⲩ ϫⲉ ⲉⲕⲟⲛⲧⲁⲛⲁⲩ ⲛ̄ⲧ̄ⲥⲉ ⲡⲉϫⲁⲩ ⲛⲁⲓ ϫⲉ ⲕⲟⲩⲱⲱ ⲣ ⲱⲁ’ ⲉⲓⲣⲉ ⲕⲟⲩⲱⲱ ⲉⲓⲣⲉ ⲁⲛ ⲙ̄ⲡⲣⲉⲓⲣⲉ ⲁⲛⲟⲕ ⲓⲥⲁⲕ ⲡⲡⲣ/ ⲧⲟ ⲛⲙⲛⲧⲣⲉ ϫⲉ ⲁⲡⲁⲛⲟⲩⲧⲉ ⲡⲡⲣ/ ⲧⲁⲩⲉ ⲛⲓⲱⲁϫⲉ [ⲥ]ⲛⲁⲓ.

breaking of the Lenten fast. This infraction was recorded in a form that could be submitted to his supervising priest and even to the bishop, a transcription of verbal testimony.

Beyond the cases of church discipline analyzed above, written witness statements were also used in commercial transactions outside of the context of the chancery. For example, in O.Crum 215, three individuals jointly affirm that another party has received a set of goods. The text states that Papnoute, Patermoute, and Pses all "affirm in the presence of God the all-powerful that Cyrus has affirmed in their presence that he has received the bag of Apa Ananias,"[28] as well as some other purified wares whose name does not survive. The three witnesses then reaffirm that Cyrus verbally acknowledged his receipt of these items. While we need not assert that this sort of written testimony was created for every transfer of goods, its use in this and similar cases demonstrates that the recording of verbal testimony and its affirmation by witnesses (whose patronymics and place of residence are carefully recorded in the beginning of the ostracon) continued to be a part of the legal practice used in commercial transactions within the Coptic Christian communities of the early Islamic period.

♦ ♦ ♦

During the first century and a half of Muslim rule, the use of Coptic legal documents based on the archetypes of Byzantine Greek legal instruments was pervasive in the Christian communities of Egypt. At the same time, arbitration remained the best-attested means of dispute resolution in this period, although some petitions submitted to local pagarchs and the governor at Fustat do survive.[29] Maged Mikhail notes a shift from state-sponsored litigation to arbitration in

[28] O.Crum 215 lines 6-10. ⲉⲛϩⲟⲙⲟⲗⲟⲅⲉⲓ ⲛ̀ϩⲉ ⲙⲡⲛⲟⲩⲧⲉ ⲡⲁⲛⲧⲱⲕⲣⲁⲧⲱⲣ ϫⲉⲁⲕⲩⲣⲓⲕⲟⲥ ϩⲟⲙⲟⲗⲟⲅⲉⲓ ⲛ̀ϩⲉ ϩⲓⲃⲟⲗ ⲙⲙⲟⲛ ϫⲉⲧⲥⲁⲕⲓⲁ ⲛⲁⲡⲁ ⲁⲛⲁⲛⲓⲁⲥ. The meaning of ⲥⲁⲕⲓⲁ is not certain, because Crum doubts its identification with the Greek σακκίον or "bag" due to its gender, see O.Crum p. 27.
[29] Mikhail (2014) p. 155, who cites the following examples: "Evident in several Qurra texts, e.g. P.Heid.Arab.I. 10 and P.Qurra. 3; P.Apoll. 18, 22– 4, 57, 58, 66; P.KRU 25, 42, 45, 46, 50."

the late Byzantine and early Islamic period in Egypt, arguing that this transition marked a shift from legal authority based in state institutions to one rooted in religious social capital. He writes, "…the transfer of legal and moral authority from civil servants to Christian clergy and holy men constituted the imperative catalyst that led to a decline in litigation. This socio-religious shift provided for the development of social mechanisms that were equipped to replace political institutions."[30] Mikhail's idea of a "transfer of legal and moral authority" is problematic because it neglects the ways in which the authority of arbitrators was based on Roman cultural archetypes for dispute resolution and arbitration processes derived their legitimacy in part through adhering to these archetypes. Still more untenable is his attribution of causative force for the decline in litigation to this supposed shift in moral authority. If Coptic Christians selected holy men in place of secular magistrates simply because they felt the authority of the former had replaced that of the latter, then there would be no reason for imperial archetypes to persist in these arbitrations. The second half of this chapter will examine a series of Coptic arbitration agreements in order to understand how these documents retained aspects of the form and content of their predecessors in a way that perpetuated Roman ideas of state authority and standards for the creation of social memory during the first two centuries of Muslim rule. It will demonstrate how Christian officials and institutions in particular adhered to these archetypes even as they introduced new Christian elements to these proceedings.

Coptic *dialysis* agreements follow their Greek predecessors closely in terms of document form. They included a history of the litigation or dispute that led up to the arbitration, the arbitration decision, a series of security and penalty clauses, and the signatures of the disputants, notary, and witnesses. They also incorporated Greek and Arabic phrases into the Coptic text, as

[30] Mikhail (2014) p. 154.

in P.KRU 36 which contains an invocation of the trinity: "ἐν ὀνόματι τῆς ἁγίας καὶ ζῳοποιοῦ ὁμοουσίου τριάδος πατρὸς κ[αὶ] υἱοῦ καὶ ἁγίου πνεύματος."[31] The notary who wrote that document also provided a Greek *completio*[32] signature at its conclusion: "† δι ἐμοῦ Ψάτε Πισραῆλ εγραφ/."[33] While many Coptic *dialysis* agreements were primarily contracts for the division of property, which did not result from any prior dispute or litigation,[34] P.KRU 36 describes the process by which litigation led to a settlement. That document concerns a dispute over inherited movable property by two siblings. One woman, Abigaia, sued [ἐνάγειν] her sister for possession of this property. The town *lashanes* then brought the two sisters to a settlement:

> We were each awarded (portions) under Psate, son of the late Pisrael [the notary who drew up the document]. After we received awards, the most honored Athanasios and Biktor, the *lashanes*, brought about a settlement between us concerning the inheritance of those deceased ones we named above. We drew up a document of settlement with each other, and you reached a settlement with us about all the goods, from great to small, down to the humblest pot and needle, and we drew up a settlement with each other through the notary of the Kastron, according to the law of the Kastron, so that we would not proceed against each other over any of the things received from this inheritance of the late Epiphanios and the late Maria.[35]

This section of the *dialysis* document records the move from litigation to arbitration provided by community members, which is similar to the narrative section of many Greek *dialysis* agreements. Other Coptic documents that mention this transition from litigation to settlement include P.KRU 38, 42, 45, 47, and 50. In the case of Abagaia and Elizabeth, the inheritance division was disputed once again before the case was once again resolved by the *lashanes*.[36] Within this legal context, namely a settlement that was later disrupted by further litigation that

[31] P.KRU 36 lines 2-3.
[32] This final subscription of the scribe served to finish and ratify the document.
[33] P.KRU 36 line 79. See Diethart and Worp (1986) esp. pp. 12-20 for the use of notary signatures in Byzantine Egypt, as well as a catalog of known notaries from this period.
[34] See e.g. P.KRU 35, with commentary in Schiller (1953) pp. 336-339.
[35] P.KRU 36 lines 20-30. Wilfong (2002) pp. 62-63 translation.
[36] P.KRU 36 lines 30-46.

needed to be resolved by another settlement, the above quotation explicitly states the expectations that were in place when the first settlement was concluded. After a precise division of all the movable property in the estate had been completed, the settlement was recorded in a written arbitration agreement "so that we would not proceed against each other over any of the things received from this inheritance." Furthermore, this written record was made "through the notary of the Kastron, according to the law [ⲡⲛⲟⲙⲟⲥ] of the Kastron." The term used for "law of the Kastron [ⲡⲛⲟⲙⲟⲥ ⲙⲡⲕⲁⲥⲧⲣⲟⲛ]" is not particularly specific, and could signify something as general as the custom of the village in that period.[37] Nevertheless, this sentence expresses a claim that settlements drawn up according to a certain notarial and normative standard would make the decision of an arbitration more secure.

Creating a notarized document like P.KRU 36 required a degree of literacy and specialized legal knowledge within the village community. Psate, the notary or ⲛⲟⲙⲓⲕⲟⲥ who drew up the document, was an important source of the specialized knowledge. This fact is especially clear at the end of the document, in the signatures of the witnesses. There Victor, the *lashane* who arbitrated the dispute resolved by the *dialysis* document does not sign his own name, but instead Psate signs for him: "I Victor the *lashane*, son of the late Joseph, I bear witness. I Psate, I wrote for him."[38] Psate also signed for another witness, Stephen son of Moses. In addition, two religious personnel, Shenoute the priest and Pshere the deacon, sign for two witnesses who are identified as being illiterate.[39] Therefore, this particular *dialysis* document both articulates a rudimentary justification for recording arbitration decisions in notarized

[37] See Steinwenter (1956) for more information on the use of this word in Coptic documents.
[38] P.KRU 36 lines 71-72.
[39] P.KRU 36 lines 75 and 77.

documents and demonstrates the importance of trained legal and ecclesiastical personnel for creating legal documents in these village communities.

Beyond providing literate personnel who could sign or draw up legal agreements, religious institutions played an important role in the process of arbitration within Upper Egyptian village communities in several other ways. Churches and monasteries as public places served as important venues for the swearing of oaths in legal and commercial dealings. Any sort of transaction involving the receipt of payments or goods typically involved an oath that the stipulated delivery had been received.[40] Furthermore, disputes were sometimes resolved by requiring a party to swear an oath in a church or monastery. This is consistent with the use of churches as public spaces in the Greek *dialysis* agreements, since these public oaths would be present in the social memory of these communities in a way that could be recalled in future disputes. Two Coptic *dialysis* agreements provide good examples of the use of oaths in churches over the course of dispute resolution in this period. P.KRU 37 involves an inheritance dispute between a son and his mother over his late father's property. The case proceeds as follows:

> …I brought the case before the most honorable Athanasius and Victor, the *lashanes*, in the precincts of the prize-bearing martyr Abba Cyriac of this same Kastron, with the most God-loving Apa Victor the archpriest and *meizoteros* with them. On that day you fulfilled the oath with me before St. Cyriac. After you fulfilled the oath with me, I received and came to an agreement between ourselves about the matter of dividing up this entire inheritance…[41]

In this dispute, both the arbitration and the oath that helped to bring about the settlement took place within the church of Abba Cyriac. In addition to the two familiar *lashanes* Athanasius and Victor, a priest, who is also named Victor, is also present for the arbitration. In this case, the church as a physical space served as an important public forum for conducting an arbitration and

[40] Wilfong (2002) p. 116.
[41] P.KRU 37 lines 13-22. MacCoull (2009) p. 104 translation.

swearing oaths in the presence of the saint to whom the church was dedicated.[42] In addition to the physical space of the church, the presence of the priest Victor demonstrates that religious personnel could also help secure the results of the arbitration conducted within the church. It is not clear from the text whether Apa Victor acted as arbiter in cooperation with the *lashanes*, but in either event, his presence served to reinforce the social implication of conducting the arbitration and swearing an oath within the church. This arbitration conducted within a religious space was also secured by an agreement drawn up by the same notary as P.KRU 36, Psate son of Pisrael. The complete text includes the narration of the conflict, extensive security and penalty clauses, and the signatures of eight witnesses. The witness section also includes two religious personnel: Shenoute, priest of the church of Jeme who acts as witness, and Lole deacon of the church of Jeme who writes for another witness.[43]

In addition to their use over the course of arbitration, oaths in holy places were also used in adjudication before secular officials. For example, P.KRU 56 pertains to litigation before a dioicete concerning an inheritance dispute between two siblings. The dioicete[44] was a local fiscal and legal official in Byzantine Egypt who seems to have continued to serve as part of the local administration in early Islamic Egypt.[45] The text describes how the litigation proceeded:

> Since I litigated with you concerning the four trimesion which I attained, finally, we appeared before Chael, the dioicete. Eventually, the decision was that you go to a holy place (sc. to swear) that you would have no further matter with me about the four trimesion.[46]

[42] See Schmelz (2002) p. 288 for further comment on this aspect of P.KRU 37.
[43] P.KRU 37 lines 129 and 105-110.
[44] This term is considered to be synonymous with *lashane* in Coptic legal documents by Wickham (2005) p. 422, contrary to Steinwenter (1920) pp. 19-25 and Schiller (1953) pp.371-372, who regard them as two different offices.
[45] See Kazhdan (1991).
[46] P.KRU 56 lines 8-13. Schiller (1953) p. 355 translation.

Here, the dioicete Chael issued a ruling that the writer's sister swear an oath that the dispute had been resolved. Unlike other documents examined in this chapter, the dispute was decided by a judge rather than settled by an arbiter. This document serves as a deed of settlement that records this ruling and the promises of both disputants to abide by it. The oath in the holy place, along with the written record of the settlement deed, was intended to secure the resolution of the dispute.

In some cases, notarized documents, oaths in sanctuaries, and the presence of respected community members could serve to ratify compromises that disputants had already come to themselves. For example, in P.KRU 44, two married sisters state that they have come to an agreement concerning the estate of their late father: "In the years past we agreed upon a definition of this inheritance from the late Theodore…"[47] The sisters and their husbands took a number of steps to record this compromise, which amounted to an equal division of the inherited property. They then brought this settlement to the *lashane*: "we wish to come to an agreement with one another according to the force of the arbitration that we arranged with one another. We have brought the equivocated matter before the most honorable Abraham the *lashane*: he has adduced the arbitration."[48] Despite having arrived at the settlement themselves, the relatives brought in Abraham as a respected outside community member who could hold both parties to the agreement. This social pressure is further reinforced by an oath that was sworn by one of the brothers-in-law, Phoibammon "in the precincts of the combatant fair in victory, the holy Abba Victor, of this same *kastron*," the church of the monastery of St. Phoibammon in Jeme.[49] Here

[47] P.KRU 44 lines 8-10. MacCoull (2009) p. 132 translation.
[48] P.KRU 44 lines 15-19. MacCoull (2009) p. 132 translation. ϵⲡⲱⲗϭ ϵⲃⲟⲗ ⲙⲛⲛϵⲛϵⲣⲏⲩ ⲡⲣⲟⲥ ⲧⲁⲩⲛⲁⲙⲓⲥ [ⲛ] ⲧⲙϵⲍϵⲧϵⲓ[ⲗ] ⲛⲧⲁⲛⲭⲓⲧⲥ ⲙⲛⲛϵⲛϵⲣⲏⲩ ⲁⲛⲛ ⲡⲁⲙⲫⲓⲃⲟⲗⲟⲟⲩⲛ ⲛⲛⲁϩⲣⲁⲛⲡⲧⲓⲙⲓⲱⲧ ⲁⲃⲣⲁϩⲁⲙ ⲡⲗⲁⲱ, ⲁⲩⲛ ⲧⲙϵⲍϵⲧϵⲓⲁ.
[49] P.KRU 44 lines 20-22. MacCoull (2009) p. 132 translation. ⲛϩⲟⲩⲛ ⲙⲡⲕⲁⲗⲗⲓⲛⲓⲕⲟⲥ ⲁⲩⲱ ⲡⲁⲅⲱⲛⲓⲥⲧⲏⲥ ⲡϩⲁⲅⲓⲟⲥ [ⲁ]ⲃⲃⲁ ⲃⲓⲕⲧⲱⲣⲟⲥ ⲙⲡϵⲓⲕⲁⲥⲧⲣⲟⲛ

again, an oath in a public place helped to secure an arbitration decision. Unlike previous documents that mentioned oaths in a religious sanctuary, this settlement includes a transcript of the oath sworn by Phoibammon. It is inserted immediately before the *completio* signature of the notary Psate son of Pisrael, who also drafted P.KRU 35, 36, and 37. The oath is framed in the following terms:

> By the holy *topos*, by its power, in this oath I give my soul. I know surely that the late Theodore my father-in-law made over in writing the half of the house of Baruch, this one that he built with David son of Shoi, to Sophia my wife. And again that he granted that the house be added on to for you, Mary, and without revealing it to me he wrote in his testament that he was making an addition to the house. And this is the way he read that testament aloud to me many times, to the effect that Sophia was going to get the half of the house of Baruch that he built with David son of Shoi, and that Mary was to get the addition to the house. This was the oath that Phoibammon swore for Peter and Mary- Thoth 12, indiction 12."[50]

The oath includes an expected invocation of the holy place, and Phoibammon places his soul as collateral, ϯϩⲛⲑⲓⲁⲛⲁⲱ ⲧⲁϥⲩⲭⲏ literally "I give as part of this oath my soul." The oath also included the contents of the settlement, in a fair amount of detail, given that the terms had just been in the notarized settlement document. This level of detail suggests that this is a direct quotation of Phoibammon's oath taken as part of the formal proceedings before the *lashane*. Therefore, this represents another example of the Roman cultural archetype of recording written proceedings of legal processes within Coptic documentary papyri. Recording the exact text of the oath is consistent with the purpose of this settlement agreement, which was intended to prevent further challenge to the verbal settlement by recording its exact details in a notarized legal instrument with penalty and security clauses. The proceedings also embedded those details in the social memory of the community by conducting a public oath in a religious sanctuary before a village notable.

[50] P.KRU 44 lines 140-153. MacCoull (2009) p. 134 translation.

Most of the documentary evidence for arbitration in Late Antique Egypt emerges from administrative processes that occur before or after the arbitration. In other words, this documentation takes the form of letters and guarantees between individuals to set up the arbitration or *dialysis* documents that record the arbiter's decision and the consequent legal agreement between the two disputants. However, two exceptional documents provide more extensive information about the arguments that the litigants offered before the arbiters and what information those arbiters took into account when making their decision. These documents, P.KRU 122 and the more substantial P.Budge, provide transcriptions of the speeches that the disputants offered. These records may have been used by a notary in composing the eventual *dialysis* document. Taken together, they provide a unique opportunity to examine the rhetoric and argumentation used in ancient arbitrations hearings.

P.KRU 122 is a letter written by an arbiter to a colleague who appears to have referred a property dispute to him. The dispute over both a share in a house and a parcel of land occurred between two individuals named Joseph and Tacham. The unnamed author summarizes the speeches given by Joseph and Tacham on the disputes over the house share and section of property, which are treated as two separate cases. These short summaries take the form of direct quotations in the first person. For instance, Joseph's two "speeches" read as follows: "I have a share in it from a real sister of ours, which Tacham took alone" and "Our parents reached an agreement on those lands and made a settlement before I came of age."[51] Tacham's speeches are similar in style and content, and they likewise convey the bare facts of the case, without any sort of rhetorical additions. This attempt to summarize the speeches is basically similar to the archetype of transcripts of court proceedings produced during the Roman and Byzantine period.

[51] P.KRU 122 lines 9-10 and 39-40. Kahle (1954) translation.

Apart from the rarely attested summary of the speeches of the disputants, P.KRU 122 also offers information about the types of evidence that litigants could provide and how the perceived reliability of different types of proof could affect the outcome of the arbitration. The dispute over the share of the house turned upon whether Tacham had purchased the house from a deceased man named Hems. The unnamed arbiter ruled that "…we reckoned that it was just: if Tacham found two or three witnesses in the village, worthy of being believed concerning the sale that she has bought the house from the late Hems… it shall be under her authority."[52] Failing this, the arbiter states that "… she shall be taken into the holy place and shall be made to swear by oath as to what she has paid to the late Hems for it and Joseph shall pay her his share and the house shall be divided between the two of them."[53] Here, the testimony of two trustworthy witnesses was sufficient for establishing Tacham's ownership of the house, but her oath in a church sanctuary would result in a division of the house after Joseph had contributed a payment to her. Thus, in this case, the oath in a sanctuary that often featured in other Coptic arbitration agreements is treated as a less secure proof than the testimony of prominent community members.

Joseph and Tacham also disputed the ownership of some shares of land, with Joseph claiming that property boundaries had been established in an existing *dialysis* agreement while Tacham maintained that no such settlement had occurred. The arbiter's ruling is similar to the one that he issued for the house: "If Joseph found two or three credible witnesses- worthy of being believed- concerning the deed that they have divided the land with their parents, they shall not be able to prosecute each other for this share, but they shall attend to their boundaries

[52] P.KRU 122 lines 19-26. Kahle (1954) translation.
[53] P.KRU 122 lines 30-35. Kahle (1954) translation.

according as they have agreed…"[54] Here, it seems that Joseph was not able to produce the most secure form of evidence, a written *dialysis* document, but he was nonetheless allowed to provide the witnesses to that document as a means of enforcing its provisions. Alternatively, "if Joseph does not find a faithful witness or a deed of agreement (ⲇⲓⲁⲗⲩⲥⲓⲥ ⲛⲉⲅⲣⲁⲫⲟⲛ)… they shall take Tacham into the house of God and she shall be made to swear by oath… saying 'We did not divide the lands nor did we reach an agreement that we should make settlement for them"… they shall be divided between each other according to their proportion."[55] In the absence of either documentation or witnesses provided by Joseph, Tacham is given the opportunity to swear an oath that no settlement had occurred. The arbiter furnishes the text of the oath in the form of a first-person quotation that Tacham is to pronounce within the church sanctuary. Whereas *dialysis* agreements were created as written legal instruments to document one's property rights, this letter reveals that even in their absence, arbiters provided a means of resolving property disputes using the same witnesses and oaths in sanctuaries that were incorporated into the arbitration agreements quoted above.

The Budge papyrus is one of the most fascinating surviving Coptic arbitration documents.[56] This document is incredibly rich and extensive, and using it to make arguments about the overall legal and social history of the seventh century hence poses methodological challenges. I will, however, argue that it is possible to make claims about seventh century legal

[54] P.KRU 122 lines 48-55. Kahle (1954) translation.
[55] P.KRU 122 lines 56-66. Kahle (1954) translation.
[56] This document was acquired by Columbia University at the urging of Arthur Schiller, who was informed by Walter Crum that Sir E. A. Wallis Budge wished to sell this exceptional nine-page manuscript for £75. A. Arthur Schiller to C.C. Williamson, 28 March 1932, Box 33, "Columbia Coptica" Folder, A. Arthur Schiller Papers 1897-1977, Columbia University Rare Book and Manuscript Collections, Columbia University Libraries.

practice using this rich papyrus, as long as it is situated within the larger context of the use of narrative and quotations in Byzantine Greek and Coptic legal documents.

This document is exceptional in part because it includes a level of detail about the arguments presented by the two parties of an arbitration that is not present in other arbitration documents. Whereas Greek and Coptic *dialysis* or arbitration contracts contain at most a bare summary of the argument offered by each of the disputants, the Budge papyrus quotes both the petitioner and the defendant's opening speeches in full, and it also includes a cross-examination of witnesses by the arbiters, two rebuttal speeches by each of the parties, and signed witness statements from each of the disputants that "these are the words that I pronounced."[57] The Budge papyrus is most similar to reports of Roman and Byzantine trial proceedings, even if it concerns an arbitration rather than adjudication before state officials. For this reason, it should be viewed as a further example of the cultural prestige of court proceedings as a way of recording a legal dispute in the memory of a community. The Budge papyrus represents a continuation of the findings of scholars about the use of court proceedings within Christian communities in the third, fourth, and fifth centuries. For instance, in the Christian context, Clifford Ando has confirmed both that Christian councils mimicked Roman assemblies in their records of proceedings, protocols, and parliamentary rules and that third-century martyr acts imitated Roman records of judicial proceedings as a way of authenticating and validating their historical memory.[58]

The 286-line Budge papyrus records the proceedings of an arbitration concerning the ownership of a portion of a house located in Edfu. According to Arthur Schiller, the editor of the original edition of the papyrus, the arbitration was conducted in 646 A.D. during the early Islamic Period, and it concerns property transactions from as early as the start of the seventh

[57] P.Budge lines 283-284.
[58] Ando (2000) pp.128-129 and (2012) pp. 133-134.

century A.D., shortly before the Sassanian conquest of Egypt. The case turns on a piece of property that a woman named Thekla had mortgaged to a man named Philemon, during which time she allowed him and his family to live in it. Thekla and her son then travelled north to Oxyrhynchos without repaying the loan for which the partial house served as collateral. The complicating aspects of the arbitration arise from two conflicting accounts of what happened next. Two men named Iohannes and Tsoker maintained that Thekla refused to give a deed of ownership to Philemon and instead sent the two of them to repay her debt and take possession of the house for themselves in exchange for sponsoring an offering on behalf of Thekla. Philemon maintains that several years later, after Thekla had died, he secured a deed of title from Thekla's heirs in exchange for two measures of oil. The arbitration case then turned on which man could legitimately prove that he had secured title to the house and thus be allowed to take possession.

The fact that the Budge papyrus records a transcript of proceedings allows us to analyze the rhetorical and argumentative content of Iohannes' and Philemon's dispute in a way that is simply not possible for the parties of most arbitration agreements. This paper will focus on two aspects of the contents of these speeches. First, it will identify two important legal theoretical topics that the speeches raise, namely that of standing and standards of evidence, which Iohannes and Philemon in turn employ in order to undermine their opponent's position. Second, it will examine the rhetoric used in the arguments, which both retain aspects of earlier Roman imperial rhetoric while also including Christian elements like scriptural citations, which are deployed in nuanced ways. These categories are by no means mutually exclusive, as many of the passages that raise questions of standing and standards of evidence are themselves quite rhetorically florid.

The contested issues of standing and standards of evidence are closely linked and appear first in the second and third speech recorded in the papyrus. In his opening speech, Iohannes

quotes two letters in full from Thekla and her son Menas respectively, authorizing him to act as her legal representative in repaying the loan and taking possession of the mortgaged house.[59] Philemon begins his opening speech by stating the basic facts of the mortgage.[60] He then launches into a line of argumentation that he will maintain throughout the entire proceedings, which questions Iohannes' standing to sue him by contesting the legitimacy of the evidence that he has presented for Thekla's authorization. He argues concerning the letters that Iohannes has offered as evidence:

> …as far as the very scraps of written evidence- which they offered to you, stating she authorized them therein that they should act as her representative- are invalid because neither is there signature of hers upon them, nor on the other hand have they beginning or end. And… we believe and I will fully prove unto your illustriousness that you should not suffer them to be read at all, particularly to take them as legal justification.[61]

Philemon's characterization of these letters as "scraps of written evidence [that] have neither beginning nor end" becomes almost a formula in his speeches, as he repeats some combination of these words many times over the course of arguing his case and rebutting Iohannes' points. This emphasis on the beginning or ἀρχή and end or ⲧⲁⲛ serves to emphasize that these documents do not contain any of the authenticating features, typically found in the closing of a document, that were accepted as part of notarial practice in this period.[62] In the absence of this

[59] P.Budge lines 24-52.
[60] P.Budge lines 52-57.
[61] P.Budge lines 60-64. Schiller (1968) translation.
[62] This concern with authenticating features based in Roman imperial legal practice finds a close parallel in the early fifth century Councils of Carthage, where Catholics and Donatists used court records to prove their dogmatic commitments. The two groups called into question documents offered as evidence on the basis of the absence of authenticating protocols that included the name of the magistrate and the location of the hearing. Ando (forthcoming) affirms that the debates in the councils "focus on particulars, not principles: the authentication of particular texts via the degree to which their protocols adhere to the standards of the state; the critique of particular copies in light of their authentication, storage and transmission…"

authentication, he goes so far as to label these letters as "forgeries" in lines 83. Philemon does not depend on his own intuitive sense of justice to come to an acceptable standard of evidence, but instead cites a professional opinion on what constitutes established legal practice. He states: "And even if I am a peasant and I do not know the matter, at all events I hear from those who know that a deed without signature upon it or witness or *completio* of a scribe is of no value to the man who brings it to court that it be there pleaded upon."[63] The specific standard of evidence that Philemon cites is a principle that a deed that lacks the signature of the legal actor and of witnesses as well as the authentication of a *nomikos* or notary cannot be used in court for something as significant as proving that an individual has standing to sue on behalf of someone else. This sentence also reveals that Philemon has consulted a legal professional, likely a *nomikos*, who may have even helped Philemon prepare his speech.

Philemon's access to this specialized legal knowledge and vocabulary is displayed further in the closing of his opening speech, where he states that Iohannes does not have standing to sue him because "there is not a deed (χάρτης) in their hands that was according to law, for there is neither authorization (ἐπιτροπή) nor deed of sale (πρᾶσις) or deed of gift (δωρεαστικόν) that bears the signature or attestation or *completio* of a scribe in their hands."[64] This list of the technical Greek terms for the various types of legal documents that could prove Iohannes' standing to bring suit indicates that Philemon, as someone who is attested as being illiterate at the very end of the papyrus, hired legal help. Philemon's use of Greek forms extends beyond these specialized terms. His speech also includes an unusual number of Greek prepositions and particles that are not typically used in constructing Coptic sentences. These words include the

[63] P.Budge lines 85-87. Schiller (1968) translation.
[64] P.Budge lines 104-105. Schiller (1968) translation.

following terms that do not appear in any other Coptic documentary texts: ⲅⲉ, ⲉⲛ ⲟⲓⲥ, ⲉⲡⲁⲛ, ⲉⲱⲥ, ⲟⲡⲉⲣ, and ⲟⲩⲕⲉⲧⲓ, which mean "if indeed," "in that," "since," "until," "which," and "no more." This unique use of Greek particles is more characteristic of Philemon's speech than it is of Iohannes'. There are two ready explanations for this use of Greek function words in Philemon's speech. The first is that, despite his claims of illiteracy discussed below, Philemon spoke Greek with a fluency that caused it to influence the way in which he composed his Coptic speech. The second explanation is that the notary who prepared Philemon for this trial gave him a speech to memorize *verbatim*, and his close study of this speech is demonstrated by the fact that even his prepositions and particles show heavy Greek influence.[65] Access to this hired specialist knowledge helped him prepare a speech that would allow him to attack Iohannes' standing to sue him on the basis of the defectiveness of the documents that he provided.

In his first rebuttal, Iohannes responds to Philemon's questions about the letters that Iohannes had offered as evidence by asserting that his standing to sue did not rest on these documents, but instead on the testimony of witnesses. Iohannes claims that he had only brought the letters because the arbiters explicitly requested written evidence that they could examine. He states that instead "I relied on that which the Savior relates in His mouth of truth through the law-giver Moses: through the mouth of two or three witnesses every word is established."[66] Here, Iohannes offers an alternative standard of evidence to prove his standing to sue, one that is grounded explicitly in scripture. Thus, he relies on a common religious ground with his arbiters, rather than established notarial practice. His background as a deacon may have made him more likely to quote scripture as justification in his speeches. He also requests that Philemon present

[65] I am extremely grateful to Sebastian Richter for this point, who first drew my attention to the use of Greek function words in the Budge papyrus and proposed these two possible explanations for their presence in Philemon's speeches in particular.
[66] P.Budge lines 116-118. Schiller (1968) translation. Citation of Deuteronomy 19:15.

his own written proof of his position in the case. After Iohannes finished his rebuttal, he brought three witnesses. The proceedings record their testimony, in which each of them claim that Thekla told them that she wanted Iohannes and Tsoker to settle her debts with Philemon. The arbiters also cross-examine the witnesses about matters like whether he read the contents of the letter that Thekla gave him and what the specific month and year was in which they spoke with Thekla. The witnesses were unable to answer these questions.

In his response, Philemon complains that Iohannes has wasted the arbiters' time by arguing on the basis of written evidence for four days and only now changed his strategy to rely on witnesses instead.[67] He further claims that they have ⲕⲁⲛⲱⲛⲓⲍⲉ the witnesses, a verb that Schiller argues means "coached" in this context.[68] Philemon repeats his claim that Iohannes does not have standing to sue, arguing that Thekla would have had to transfer title to them while she was still living either by deed (πρᾶσις), gift (δωρεά), deed of cession (ἐκχώρησις), testament (διαθήκη), or authorization (ἐντολικόν).[69] This series of technical Greek loanwords confirms earlier evidence that Philemon had the help of a legal professional in preparing for his speech. At the end of his rebuttal, in response to Iohannes' request for written proof, Philemon produces a deed transferring ownership of the house from Thekla's children to his family. In the proceedings, the arbiters record the characteristics of this deed, stating that it was drawn up "in Oxyrhynchus city by a scribe (δία νομικοῦ)" and that "we found it having signature (ὑπογραφή), having witness (μάρτυρος), having *completio* (κομπλεύσις)."[70] In short, Philemon's deed contained all the authentication elements that Iohannes' documents lacked, and the record of proceedings noted this fact specifically.

[67] P.Budge lines 171-175.
[68] Schiller (1950).
[69] P.Budge line 183.
[70] P.Budge lines 182-183. Schiller (1968) translation.

The two men continued to argue along the same lines in their respective second rebuttal speeches. Philemon emphasizes that Iohannes has neither proof that he is authorized to act as Thekla's representative nor a deed or cession document that would give him the ability to contest the title of the house. Having offered a thorough rebuttal of Iohannes' evidence, Philemon emphasizes the characteristics of the deed he has submitted. He states: "Your lordships know that the deed aforesaid that we offered to you, it was executed for us in a metropolis, and that this was done according to law, and that you be fully satisfied that we paid the just price. Be so good and watch over us for its (i.e. the deed's) force, that their false words be not able to injure our legal justification."[71] In contrast with the doubts that he has raised about Iohannes' evidence, Philemon stresses the documentation that he has provided for the facts on his side of the case. The deed was in full compliance with notarial practice at the time, having been executed in a metropolis according to the laws in force in the village, and the price that he had paid was recorded securely in this document. Philemon claims that this compliance with contemporary legal practice and standards of evidence lends his case a level of credibility that that Iohannes cannot match with his shifting court strategy and appeal to the personal authority of his witnesses. Philemon concludes: "You know justice and law and the form of writing of the scribes (νομικός) of Thebais[72], particularly those of Arcadia, for there is no defect existing in our legal justification because of their fabricated words."[73] For the purposes of this chapter, I wish to point out that Philemon argues that his compliance with existing notarial norms should allow his case to win out over any consideration that Iohannes offers based on the testimony of Christian men or his appeals to scriptures. Furthermore, the reference once again to the *nomikos* who drew up

[71] P.Budge lines 274-277. Schiller (1968) translation.
[72] Sebastian Richter presented a paper in Athens in 2017 that analyzed this phrase, among others in the Budge papyrus, and I am grateful for his willingness to share the text of that paper with me.
[73] P.Budge lines 278-280. Schiller (1968) translation.

Philemon's deed and quite possibly also helped him prepare his case indicates that he depended on this network of legal professionals in his property transactions and that this network could then be deployed in his favor in the event of litigation over that property.

The rhetoric employed in both speeches includes both elements familiar from Roman and Byzantine era petitions and elements imported from contemporary Christian culture, such as the citation of scripture. Philemon makes use of rhetorical tropes that Benjamin Kelly has identified as the "rule of law discourse" in his study of Roman-era petitions. This discourse relied on the Roman administration's conception of its own internal rationality to realize, through the action of the courts, abstract rights that were guaranteed through law or legal documents.[74] In Philemon's case, he states that he depends on the wisdom of the arbiters to protect his property rights from the legal attacks of Iohannes. He states that Iohannes and Tsoker "continued busying themselves with these words aforesaid, it would eventually avail them to make what is ours theirs."[75] Philemon appeals to the arbiters' sense of justice: "As we rely upon your hatred of iniquity that you will not suffer to pay heed to men's faces or garments made of linen and subvert justice for the poor, we have besought your lordships and you heard our case, before God."[76] As do the petitioners in documents examined by Benjamin Kelly, Philemon claims that he relies on the arbiters' rationality in looking past Iohannes' appeals to religious authority in order to exercise their role of protecting the poor from oppression via the legal system. The claim that one was the less powerful litigant in a dispute, self-identifying as a member of "the poor" who was oppressed by the powerful, is common in Byzantine-era petitions. Philemon asserts this status explicitly earlier in the proceedings, when he says that "he, the deacon Iohannes, if he thinks that I am a

[74] Kelly (2011) pp. 195-201.
[75] P.Budge line 235. Schiller (1968) translation.
[76] P.Budge lines 237-239. Schiller (1968) translation.

peasant and he is an urbanite and is a deacon, that any word is good enough to relate against me or to do to me..."[77] Here, Philemon claims that he as a poor peasant is being oppressed by someone who has advantages over him in education and his religious office, and that these advantages allow Iohannes to use worse legal arguments in his case. There may be some truth in this characterization, as at the end of the document a priest named Iohannes signs on behalf of Philemon because "he does not know how to write,"[78] while Iohannes the deacon is able to sign his own name. However, there is also reason to be skeptical of Philemon's rhetoric here, as he clearly had the means and access to hire a legal professional to help him prepare for this arbitration, not to mention the ready capital to extend a loan to Thekla in the first place.

Philemon attacks Iohannes in his capacity as a deacon, intimating that Iohannes' conduct does not befit his ecclesiastical office. "We say again that [we are] astounded, and we are ashamed to see the deacon Iohannes, this one whom the holy Paul exhorted saying: It does not beseem a deacon to be double-tongued," Philemon says, quoting 1 Timothy 3:8.[79] This is similar to the rhetorical strategy studied in Chapter 1[80] that appears in fourth and fifth century petitions submitted against members of the clergy or monastics, where the petitioners would attack the defendant for their conduct as an ecclesiastical officer in particular. At times in his speeches, Iohannes attempts to appeal to the arbiters on the grounds of their common religion; attacking his conduct as unbefitting of a member of the clergy served to undermine these appeals.

Iohannes' rhetorical strategy uses scriptural citation to appeal to the likely religious convictions of the arbiters. For example, in response to Philemon's charge about being a double-tongued deacon, he states "He (i.e. Philemon) said with his mouth… that which Paul said 'A

[77] P.Budge lines 80-81. Schiller (1968) translation.
[78] P.Budge lines 285-286. Schiller (1968) translation.
[79] P.Budge lines 91-92. Schiller (1968) translation.
[80] p. 62 this volume.

deacon worthy of respect would not speak double-tongued.' I, myself, shall reply to him, in this fashion, out of His (Christ's) mouth, in the way those graves which are white-washed outside while their insides are full of skeletal bones."[81] Iohannes responds to a scriptural citation with another citation, and he may also try to invoke a higher authority by emphasizing that his quotation is from Christ while Philemon's was from Paul. Furthermore, by using a quotation from a passage where Christ accused the Pharisees of hypocrisy, he further reinforces his own point that Philemon has attacked him for not offering written proof but had not yet offered any deed of his own.

Later, in the absence of written proof of his family connection with Thekla, Iohannes asserts in his first rebuttal "But God, who placed into the heart of the prophet Daniel, when Susanna was condemned to death on account of lust, He is able to place it into the heart of your illustrious lordships that you know whether I am worthy of speaking on behalf of this plea or whether I am unworthy, and, further, of giving proof that she (i.e. Thekla) is my sister (i.e. aunt) or she is not my sister."[82] In the biblical episode to which Iohannes alludes, the prophet Daniel is divinely inspired to intervene in the trial of a woman falsely accused of adultery by having the witnesses against her cross examined separately. Iohannes looks to a similar divine, charismatic intervention in this case that will convince the arbiters that he has standing to sue on Thekla's behalf. Iohannes returns to this same biblical episode in his second rebuttal. There, he says that just as God helped Daniel convince the elders to reconsider the case of Susanna's adultery, so He would also inspire the arbitrators to reconsider Iohannes' position.[83] Iohannes inserts scriptural citations and Christian rhetoric throughout his speeches, but this particular citation of scripture is

[81] P.Budge lines 128-130. Schiller (1968) translation. Matthew 23:27.
[82] P.Budge lines 123-126. Schiller (1968) translation.
[83] P.Budge lines 206-207. Schiller (1968) translation.

intended to have a more consequential effect. Iohannes plainly asks the arbiters to accept the inspiration and internal assurance of God where they might otherwise expect written documentation proving his standing to sue Philemon as Thekla's representative or the owner of the house. When deployed in this way, Christian norms served as a competing alternative to the notarial norms of Roman and Byzantine legal practice upon which Philemon based his case. However, it is important to note that Iohannes was not alone in drawing on the trope of God revealing the truth to arbiters, as this was how other arbiters often conceptualized their own judgments in literary texts.[84] Furthermore, in assuming the position of the helpless, falsely accused Susanna in this reference, Iohannes asserts that he is in fact the less powerful party in this dispute. In the tradition of the rhetoric of Byzantine petitions referenced earlier in this chapter, he argues that he is in fact the poor man in need of the arbiters' help, a claim that Philemon made in his first speech on the basis of his status as an illiterate peasant suing a metropolitan. Iohannes was correct that his position was fairly hopeless at this point in the arbitration proceedings, as the arbiters subsequently ruled wholly on the side of Philemon, having found his notarized document conclusive as evidence for his ownership of the house.

The Budge papyrus provides a vivid episode in which a disputant attempted to persuade a panel of arbiters to disregard longstanding legal conventions in favor of Christian norms and the arbiters rejected this line of argumentation. Arguing for disregarding authenticated legal documents in favor of oral testimony on the basis of scriptural norms represented a substantial divergence from established practice, as written legal instruments had been a longstanding part of the legal practice in Egypt, since before Roman rule.[85] The use of arbitration for dispute

[84] See in this volume, for example, *Life of Aaron* episode in Chapter 1 (pp. 31-35) and pp. 123-124 of this chapter.
[85] See, for instance the Demotic court proceedings of a civil trial at Asyut in 171 B.C. (P.Siut. 1), in which litigants argued about the validity of written and oral testimony and the validity of signatures and whether

resolution made it possible to offer this sort of argument derived from different sources of normativity, and the Christian legal culture of seventh and eighth century Egypt allowed Iohannes to think that this line of argument might be successful. However, while the Budge papyrus illustrates the legal pluralism at work in Coptic Christian communities in early Islamic Egypt, with arguments offered based in the norms of both established legal practice and Christian scripture, it also shows the continued appeal of concepts of standing and standards of evidence drawn from established legal practice, as the arbiters ruled in Philemon's favor.

I have argued above that the work of holy men and arbiters in resolving disputes does not represent a straightforward transfer of legal and moral authority from the governmental to the religious sphere in Late Antique Egypt. Rather, the rhetorical and evidentiary legal archetypes they used were drawn from earlier imperial practice. This was clear in ostraca from Abraham of Hermonthis's dossier that demonstrated his extensive involvement in providing arbitration, while still using earlier document forms and rhetoric to record these arbitrations and to discipline clergy within his diocese. Coptic *dialysis* agreements and reports of arbitration proceedings, including the Budge papyrus, also drew heavily on earlier document forms and administrative practices. They depended on the language and forms of these prior institutions to confer legitimacy on their judicial role and even drew on Roman legal standards in deciding cases between Coptic disputants, even as they introduced new Christian elements to these proceedings. In so doing, they retained aspects of the form and content of their predecessors in a way that perpetuated Roman ideas of state authority and procedure during the first two centuries of Muslim rule.

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the document had been written under duress. Also, in P.Tor.Choach. 12 (117 B.C.), a group of Egyptian priests won a case over a high-ranking military officer on the basis of their ability to produce tax receipts and contracts that proved ownership. Manning (2010) pp. 193-198.

Chapter 4

Small Groups and the Law in Late Antique Egypt: Family and Clergy

The previous chapter examined the formal characteristics of Coptic arbitration contracts and records of proceedings in order to understand the continued influence of Greco-Roman archetypes in a changing political environment. The first, second, and third chapters also traced the relocation of social authority to non-state actors, especially in the area of dispute resolution, over the course of the fifth through eighth centuries. This chapter examines areas of discontinuity in the forms of Coptic legal documents, especially the insertion of Christian scripture and the expression of other Christian norms. It also tracks the institutional consequences of the shift in social authority to Christian officials, which encouraged the growth of monasteries, as religious ideology impinged on the economic relations of testamentary succession.

As demonstrated in Greek arbitration agreements, the tightly knit communities in late antique Egypt relied on the social pressure of a decision reached by village elders and clergy in order to resolve disputes over contracts and inheritance. The papyrological evidence from seventh and eighth-century Jeme indicates that small, cohesive social groups particularly characterized the community there: Terry Wilfong documents close social relationships and long-term living arrangements within families,[1] and Tasha Vorderstrasse provides extensive evidence for neighbors intermarrying, lending each other money, and transferring houses and portions of houses within their families.[2] Furthermore, the correspondence of clergy and monastics that facilitated referrals for arbitration within and between villages indicates that

[1] Wilfong (2002) pp. 82-88.
[2] Vorderstrasse (2015). Vorderstrasse studies the houses and reconstructs the archives of Early Islamic Jeme using eighth century papyri and archeological evidence.

networks of friendship and familiarity existed between church officials as well. These familial and clerical communities constituted small groups where strong forces of socialization helped shape norms and constrain behavior. This phenomenon has been studied extensively in the literature on the sociology of law; Benjamin Kelly draws on this literature in his excellent recent historical study, an analysis of small groups and social control in litigation in Roman Egypt.[3] Kelly demonstrates how the experience of litigating and petitioning in Roman Egypt served to reinforce family and patron group identities and hierarchies based on gender and social status. The fora for petitioning imperial magistrates similarly encouraged plaintiffs to re-articulate the "rule of law" discourse and other contemporary Roman political tropes.[4]

This chapter explores how members of small groups in Late Antique Egypt rearticulated Christian ideology and social hierarchies through their involvement in legal transactions and the creation of legal instruments. It does so using two test cases: Coptic wills that cite Christian scripture and ecclesiastical arrangements regulated through formal legal instruments.

The first section of the chapter examines a series of Coptic wills and donation documents from early eighth century Jeme in order to understand the interaction of religious institutions and ideology with legal practice in this period.[5] These documents, all composed in the 720's and 730's A.D., constitute a high concentration of rich, detailed testaments in the papyrological record. They are written in Coptic and frequently implicated religious institutions that were beneficiaries of the wills and provided skilled monastic scribes who wrote down the donation documents and testaments.

[3] Kelly (2011) pp. 210-244.
[4] Kelly (2011) pp. 195-209.
[5] The documents include P.KRU 67, 69, 74, 66, 76, and 106.

The second test case consists of church documents drawn up in the form of legal documents known from the Roman and Byzantine periods, such as guarantees and contracts. With most examples coming from the early seventh century Abraham of Hermonthis's dossier,[6] these contracts were used for ecclesiastical activities, such as restoring a priest who had been disciplined or arranging for clergy to perform baptisms in another community. Of particular interest are guarantees drawn up on the occasion of the ordination of a deacon in which other priests stand as guarantors for the deacon's good behavior. These guarantees both demonstrate the influence of the practice of law on the mechanisms used by the church to conduct its internal affairs and shed light on the nature of social networks within the clergy of these village communities.

Coptic wills presented several opportunities for the testator to exert social control over their families and express their alignment with Christian communities and ideologies. A will offered an occasion to express one's affinities through the disposition of one's property, for example through donations to a church or monastery.[7] Furthermore, the document called on a close relative or friend to enact these preferences in the role of executor, by giving a regular offering to a church or excluding an estranged family member from the inheritance. The documents also frequently cite scripture, especially in the opening that gives the reasons why the testament is being drawn up, and in the penalty clauses. As Sebastian Richter noted in his chapter on transtextuality in Coptic papyri, Coptic wills are more likely to quote scripture directly than

[6] See Chapter 3 (pp.114-116) of this volume and Wipszycka (2015) pp. 34-36 for an introduction to Abraham of Hermonthis and his dossier.

[7] See Champlin (1991) pp. 8-9 for Roman wills as vehicles for expressing emotion through rewards and punishments that deviate from intestate succession. Similarly, Kotsifou (2012) pp. 44-47 finds that in wills preserved on papyrus, "a testator refers to emotion mainly when he needs to justify his choice of people he left goods with or excluded from his document."

any other type of legal document.[8] These documents contain a striking number of original, rather than formulaic, uses of scripture and other Christian writings, and the distribution of a testator's assets frequently provides information about his or her religious or moral convictions. The testament of an aged family member provided an opportunity to articulate religious ideologies, especially in situations where one of the potential heirs was excluded for not conforming to Christian behavioral norms or when the testator wanted to leave a donation or set up a trust at a local religious institution. These scriptural references often provide positive and negative examples of the correct Christian attitude towards oaths and donations, thus constructing the wills in question as part of a Christian tradition that extends back to the origins of the church.

The typical structure of these documents opened with an invocation and an identification of the testator and the notary. Many testaments then provide a narrative, in which the testator describes how a serious illness caused him to realize his mortality and drove him to draw up a will in light of his failing body.[9] This first section of the chapter will focus on these narrative clauses within the wills, as they often contain citation of scripture and other insertions of Christian elements into the standard legal clauses of a will. The testaments then explain how the estate is to be allocated between the various family members or religious institutions and provide a penalty clause that lays out fines and consequences for violating the will.

Written in 725 AD, the will of Paham recorded in P.KRU 67 represents an exceptional instance within the already less formulaic genre of documents to which it belongs, having been composed and written down by the testator himself and consequently containing a number of free narrative sections and unconventional clauses that do not occur in other Coptic wills. The

[8] Richter (2008) pp. 142-150.
[9] On emotional responses to death in antiquity, see Simon (1936), Joly (1955) and Chapa (1998) pp. 15-50.

testator is a monk and priest living in Jeme who writes a will for his lay children. The will shows how Paham attempted to exert social control over his family in his disposition of his property and express his closely held religious convictions through his autograph testament. It also provides an opportunity to study popular attitudes towards law, as Paham does not appear to have served as a notary on any regular basis and the document contains several clauses relevant to considerations regarding the use of oaths and judgement by bishops and other clergy within Jeme. It thus provides an opportunity to study social control in Coptic wills, as well as the attitudes of a monk and priest towards the oaths and episcopal arbitrations studied in previous chapters.

Paham addresses his will to his second son Jacob, who is tasked as heir to execute the instructions laid out in the document. Paham makes it explicit from the start that he is writing the will himself to ensure that his property is distributed as he wishes:

> … ⲁⲛⲟⲕ ⲡⲁϩⲁⲙ ⲁⲓⲥϩⲁⲓ ⲛⲧⲉⲓⲇⲓⲁⲑⲏⲕⲏ ϩⲛⲧⲁⲩⲓⲝ ⲙⲙⲓⲛ ⲙⲙⲟⲓ ⲉⲓⲟⲩⲏϩ ϩⲓⲡⲧⲟⲟⲩ ⲭⲏⲙⲉ ⲉⲓⲟ ⲙⲙⲟⲛⲟⲭⲟⲥ ⲁⲩⲛⲁⲩ ⲭⲉ ⲙⲛⲗⲁⲁⲩ ⲛⲕⲁⲧⲁⲥⲁⲣⲝ ⲛⲧⲁⲓ ϩⲁϩⲧⲏⲓ ⲙⲡⲙⲁ ⲉⲧⲙⲙⲁⲩ ⲁⲓ-ⲙⲉⲉⲩⲉ ⲉⲃⲟⲗ ⲭⲉ ⲡⲣⲱⲙⲉ ⲥⲟⲟⲩⲛ ⲁⲛ ⲛⲧⲉⲫϩⲓⲏ ⲁⲓⲭⲟⲟⲫ ⲭⲉ ⲙⲏⲡⲟⲧⲉ ⲛⲧⲉⲟⲩⲱⲱⲡⲉ ⲉⲓ ⲉⲭⲱⲓ ⲛⲧⲁⲙⲟⲩ ⲉⲝ[ⲁ]ⲡⲉⲓⲛⲁ: ⲉⲙⲛⲣⲱⲙⲉ ⲟⲩⲃⲏⲓ ⲛⲧⲁⲧⲁⲩⲟ ⲙⲡⲁⲱⲁⲭⲉ ⲛⲁϥ ⲉⲧⲃⲉ-ⲛⲕⲟⲩⲓ ⲛⲛⲉⲗⲁⲭⲓⲥⲧⲟ[ⲛ]…
>
> I Paham, I am writing this testament with my very own hand, dwelling upon the mountain of Jeme and being a monk. It could be seen that there was no blood relation at my side in that place. I remembered that man does not know his way. I said, "Do not let a sickness come upon me so that I die suddenly, with no one with me to whom I may convey my word concerning the small, quite humble property…" [10]

Paham asserts that he wrote the will with "my very own hand," using the intensified "ϩⲛⲧⲁⲩⲓⲝ ⲙⲙⲓⲛ ⲙⲙⲟⲓ." (l. 13). Here, he identifies himself as a monk dwelling in the monastery (lines 13-14); earlier he had also very likely mentioned that he was a priest in the lacunose line 4. One section, similar to that contained in other Coptic wills, cites a scripture reflecting on human

[10] P.KRU 67 lines 13-17. MacCoull (2009) translation.

mortality as a reason motivating Paham's decision to draw up a testament. Leslie MacCoull identifies the words "man does not know his way" in line 15 with Proverbs 20:24: "A man's steps are from the Lord; how then can man understand his way?" This identification is not certain because Paham does not provide any of the bracketing language used in other Coptic texts to signal a scriptural citation and the quotation does not match the Proverbs passage perfectly.[11] However, there is a plausible link between the two because the Coptic used (ⲡⲣⲱⲙⲉ ⲥⲟⲟⲩⲛ ⲁⲛ ⲛⲧⲉϥϩⲓⲏ) contains words synonymous to those used in the Septuagint text (θνητὸς δὲ πῶς ἂν νοήσαι τὰς ὁδοὺς αὐτοῦ). As we will see in further examples, Coptic testaments often began by reflecting on one's mortality, and this passage provides the necessary introduction for Paham to begin to stipulate his wishes for his estate.

We can see the workings of informal social control in Paham's division of his estate, which explicitly encourages behavior conforming with Christian mores. Disowning and disinheritance represented the strongest penalties that a parent could impose upon an estranged son or daughter, and the threat of disinheritance could be used to attempt to alter the behavior of children during one's life.[12] Paham extensively describes the deterioration of his relationship with his older son Papnoute:

> ⲉⲡⲉ[ⲓⲁⲏ ⲱⲟⲙⲛ]ⲧ ⲛⲱϩⲣⲉ ⲁⲓⲃⲱⲕ ⲁⲓⲣⲙⲟⲛⲟⲭⲟⲥ ⲁⲓⲕⲁⲁⲩ ⲉⲩⲟⲛϩ ⲁⲩⲥⲟⲓⲗⲉ ⲉⲡⲕⲟⲥⲙⲟⲥ ⲙⲡⲱⲟⲙⲛⲧ ⲉⲧⲃⲉⲡⲛⲟⲥ ⲇⲉ ⲛⲱϩⲣⲉ ⲛⲁⲡⲛⲟⲩⲧⲉ ⲁϥⲭⲓ ⲟⲩⲥϩⲓⲙⲉ ⲙⲡⲃⲟⲗ ⲙⲡⲁⲟⲩⲱⲱ ⲁⲓⲗⲩⲡⲉ ⲉⲙⲁⲧⲉ ⲉⲙⲁⲧⲉ ⲁⲗⲗⲁ ⲙⲡⲉⲧⲛⲧⲉϥϩⲓⲏ ⲥⲟⲩⲧⲛ ⲭⲓⲛⲧⲉⲛⲟⲩ ⲛⲧⲁϥⲭⲓⲧⲥ ⲉⲁϩⲉⲛⲙⲓⲱⲉ ⲱⲱⲡⲉ ⲙⲛϩⲉⲛⲱⲧⲟⲣⲧⲣ ϩⲙⲡⲉϥϩⲱⲃ ⲁⲩⲉⲓ ⲉⲣⲏⲥ ⲱⲁⲣⲟⲓ ⲁⲩⲧⲁⲩⲉⲧⲓⲧⲓⲁ ⲉⲣⲟⲓ ⲭⲉ ⲧⲉⲥⲡⲁⲣⲑⲉⲛⲉⲓⲁ ⲟⲩⲟⲭ ⲁⲛ ⲁⲓⲭⲟⲟϥ ⲍⲉ ⲙⲛ ⲧⲁⲓϩⲱⲃ ⲛⲙⲙⲁϥ ⲉⲃⲟⲗ ⲭⲉ ⲁϥⲣⲁⲧⲥⲱⲧⲙ ⲛⲥⲱⲓ ⲁⲓⲕⲁ ⲡⲙⲁ ⲙⲡⲛⲟⲩⲧⲉ ⲡⲉⲕⲣⲓⲧⲏⲥ ⲙⲙⲉ: ⲙⲛ ⲛⲉⲱⲗϩⲗ ⲙⲡⲁⲉⲓⲱⲧ ⲉⲧⲟⲩⲁⲁⲃ ⲙⲛ ⲥⲁⲧⲣⲉϥⲃⲱⲕ: ϩⲓⲧⲟⲟⲧ ⲁⲩⲁⲡⲁⲧⲁ ⲛⲛⲉϥⲙⲉⲩⲉ ϩⲓⲧⲛ ϩⲉⲛⲱⲁⲭⲉ ⲛⲕⲟⲗⲁⲕⲓⲁ ⲁⲩⲕⲁⲁⲥ ⲛⲁϥ ⲁⲫⲭⲡⲟ ⲛϩⲉⲛⲱϩⲣⲉ ⲛⲙⲙⲁⲥ ⲉⲡⲉⲡⲉϥϩⲏⲧ ⲙⲟⲕϩ ⲉⲣⲟϥ ⲁⲩⲱ ⲱⲁϥⲉⲓ ⲛϥⲧⲁⲩⲟ ⲡⲉϥⲙⲕⲁϩ

[11] See Choat (2006a) pp. 74-83 and (2006b) on quotation and allusion to scripture in earlier fourth-century papyrus documents. See Jones (2016) pp. 43-56 and 181-194 for the use of New Testament texts in Late Antique Greek amulets and similarities between the citation practice of Church Fathers and the authors of these amulets.

[12] See Champlin (1991) pp. 14-15 and 107-109 for disinheritance of children in Roman wills and the high standard of justification required for it.

ⲛⲁⲏⲧ ⲉⲣⲟⲓ ⲛⲁⲁⲁ ⲛⲥⲟⲛ ⲛϥⲧⲣⲉⲡⲁⲁⲏⲧ ⲙⲛⲕⲁⲁ ⲛⲁⲟⲩⲟ ⲁⲗⲗⲁ ⲙⲡⲉⲓⲟⲩⲱⲱ ⲉⲛⲟⲭϥ ⲉⲃⲟⲗ ⲉⲧⲃⲉ ⲡⲛⲟⲩⲧⲉ ⲭⲉ ⲛⲁⲥⲡⲗⲁⲭⲛⲟⲛ ⲁⲓ† ⲟⲩⲕⲟⲩⲓ ⲙⲙⲁ ⲛⲁϥ ⲉⲧⲣⲉϥⲟⲩⲱⲁ ⲛⲁⲏⲧϥ ⲁⲙⲡⲁⲏⲓ ⲙⲛ ⲛⲉϥⲥⲕⲉⲩⲏ
ⲉⲓⲧⲉ ⲁⲁⲧ ⲉⲓⲧⲉ ⲛⲟⲩⲃ ⲉⲓⲧⲉ ⲃⲁⲣⲱⲧ ⲉⲓⲧⲉ ⲁⲟⲓⲧⲉ ⲁⲡⲗⲱⲥ ⲡⲉⲛⲧⲁⲓ†ⲁⲁϥ ⲥⲉⲛⲁⲁⲉ ⲉⲣⲟϥ ⲉϥⲥⲏⲁ ⲁⲛⲕⲉⲙⲁ ⲙⲛ ⲛⲥⲱⲥ ⲁⲡⲛⲟⲩⲧⲉ ⲟⲙⲡⲉϥⲱⲓⲛⲉ ⲛⲑⲉ ⲛⲣⲱⲙⲉ ⲛⲓⲙ ⲁϥⲙⲟⲩ ⲙⲛ ⲛⲉϥⲱⲏⲣⲉ ⲁⲓⲟⲩⲥⲟⲡ ⲙⲡϥⲕⲁ ⲗⲁⲁⲩ ⲛⲥⲡⲉⲣⲙⲁ ⲉϥⲟⲛⲁ ⲛⲁϥ ⲧⲉⲛⲟⲩ ⲛⲑⲉ ⲛⲧⲁⲡⲛⲟⲩⲧⲉ ⲁⲁϥ ⲛⲱⲙⲙⲟ ⲉ-ⲡⲉⲓⲕⲟⲥⲙⲟⲥ ⲙⲛ ⲛⲉϥⲱⲏⲣⲉ ⲁⲛⲟⲕ ⲁⲱ ⲉⲧⲉⲓⲉⲓⲣⲉ ⲙⲙⲟϥ ⲛⲱⲙⲙⲟ ⲉⲛⲁⲙⲁ ⲛⲱⲱⲡⲉ ⲑⲏⲣⲟⲩ ⲛ-ⲧⲁⲩⲉⲓ ⲉⲭⲱⲓ ⲁⲁⲛⲁⲉⲓⲟⲧⲉ ⲙⲛ ⲧⲉϥⲥⲁⲓⲙⲉ ⲁⲩⲱ ⲧⲁⲕⲗⲏⲣⲟⲛⲟⲙⲓⲁ ⲉⲧⲱⲟⲟⲡⲛⲁⲓ ⲧⲉⲛⲟⲩ ⲛⲛⲉⲗⲁⲁⲩ ⲛⲣⲱⲙⲉ ⲉϥⲉⲓⲣⲉ ⲙⲡⲉϥⲡⲣⲟⲥⲟⲡⲟⲛ ⲛⲁⲭⲓ ⲉⲃⲟⲗ ⲛⲁⲏⲧⲟⲩ ⲉⲧⲃⲉⲡⲏⲓ…

> Since […] three children; I left and I became a monk. I left them living as strangers on the earth, the three of them. The eldest of my children, Papnoute, took a woman against my wish. I grieved very much for his way that was not right. Since the time that he took her, there have been quarrels and disturbances in his affair. They came south to me, it was told me as a cause that she was not a virgin. I said that I would have nothing to do with him because he did not listen to me. I left the matter to God, the true judge, and the prayers of my holy father. After he had left me, his thoughts were deceived by words of flattery, and she was brought back to him. He begot children by her, but his heart became afflicted, and he came and laid his afflictions of heart before me many times; and he caused me more heartache. But I did not wish to send him away for, by God, he is of my loins. I gave a little place to him so that he could dwell in it, in my house, with his goods, whether silver or gold or brass or clothes, everything. That which I gave him shall be found written in other places. Later, God visited him in the manner of every man and he died, and his children too. He did not leave any offspring living after him. As God made him and his children strangers on this earth, I myself am the one who makes him a stranger to all my dwelling places which came to me from my parents, and my inheritance, he and his wife. No man, acting as his representative, shall take of them.[13]

No other extant Coptic will contains a narrative of comparable length and detail. The extensive detail of this family history may be due to the fact that Paham wrote his own will, and thus he had more freedom to recount his fraught history with Papnoute and reasons for disinheriting him in detail. Paham objected strongly to Papnoute's choice of spouse, saying that "he took a wife contrary to my wish (ⲁϥⲭⲓ ⲟⲩⲥⲁⲓⲙⲉ ⲙⲡⲃⲟⲗ ⲙⲡⲁⲟⲩⲱⲱ)."[14] He did not give his blessing to Papnoute's initial decision to marry her, and he cites further instances of her objectionable behavior later in the passage. The core of Paham's objection and the cause that he supplies for

[13] P.KRU 67 lines 18-33. Schiller (1926) translation.
[14] P.KRU 67 lines 19-20.

Papnoute's marital strife is the sexual history of Papnoute's wife. He states that he found out that she was not a virgin when Papnoute married her: "it was told me as a cause that she was not a virgin (ⲁⲩⲧⲁⲩⲉⲧⲓⲧⲓⲁ [sic] ⲉⲣⲟⲓ ϫⲉⲧⲉⲥⲡⲁⲣⲑⲉⲛⲉⲓⲁ)."[15] In addition to being censured in Christian moral writings, women of property who had sexual relations before marriage could also be prosecuted under late antique Roman law.[16] Paham states that he surrendered the matter of his son and daughter-in-law's sin to the authorities within the monastery, "I left the matter to God, the true judge, and the prayers of my holy father (ⲁⲓⲕⲁ ⲡⲙⲁ ⲙⲡⲛⲟⲩⲧⲉ ⲡⲉⲕⲣⲓⲧⲏⲥ ⲙⲙⲉ: ⲙⲛⲛⲉⲱⲗⲏⲗ ⲙⲡⲁⲉⲓⲱⲧ ⲉⲧⲟⲩⲁⲁⲃ)," almost certainly a reference to his monastic superior.[17] This estrangement did not cause a total break between the two men, since Paham records that he continued to discuss Papnoute's marital difficulties with him and even provided him with a portion of a house to live in with his family. His strong objections to Papnoute's marital choice based in Christian teachings about sexuality did affect how he drew up his testament in a significant way, as he explicitly disinherits Papnoute, his widow, and any one claiming to act on his behalf.

Having described how Papnoute's rejection of Christian teachings on sexuality has led Paham to exclude him from his inheritance, Paham goes about making the legal arrangements necessary to ensure that Papnoute's widow does not retain any of Paham's property. Paham designates his second son Jacob as heir and executor of the will, and many of the clauses are addressed to him in the second person. Paham tells Jacob to take possession of the house where Papnoute was living and not to allow his widow to "live in it as if she were its owner (ϩⲱⲥ ⲉⲥⲟ ⲛϫⲟⲉⲓⲥ ⲉⲣⲟϥ).[18] Jacob is also supposed to gather all the movable property that Paham gave to

[15] P.KRU 67 lines 21-22.
[16] Arjava (1996) pp. 217-220.
[17] P.KRU 67 line 23.
[18] P.KRU 67 lines 34-35.

Papnoute, and he is instructed to pay back a debt of two and a half solidi that Papnoute owed. In order to verify that Jacob has repossessed all of Paham's property, he is supposed to obtain an oath from Papnoute's widow. The will stipulate that "… you shall be owner so that you can question his wife by the oath of every place, if you wish it upon an ostracon (ⲕⲟ ⲛϫⲟⲉⲓⲥ ⲉⲧⲣⲉⲕϫⲛⲟⲩ ⲧⲉϥⲥⲁⲓⲙⲉ ⲉⲡⲁⲛⲁϣ ⲙⲙⲁ ⲛⲓⲙ ⲉⲕⲟⲩⲁϣϥ ⲉϫⲛⲟⲩⲉⲓⲇⲟⲥ ⲛⲃⲗϫⲉ)[19]… His wife shall swear as to that which she brought unto him and she shall take it in turn."[20] In fulfilling his duty of separating Papnoute's property from his wife's, Jacob is to use forms of evidence that were used in arbitration documents examined in the previous chapter. She is required to swear an oath "of every place," and Jacob can choose to record this oath on an ostracon, in order to preserve documentary proof of the words that she swore. This recording of the oath is consistent with the emphasis on producing transcriptions of oaths and verbal proceedings that was evident in Coptic legal documents discussed in Chapter 3.[21] Paham is willing to take extensive measures to ensure that his patrimony is separated from the possessions of his son's widow, measures that include requiring her to swear an oath and recording it.

In addition to this unusually rich narrative section, the penalty clauses of P.KRU 67 are also more extensive than those in other Coptic legal documents. They indicate a variety of actors that Paham thinks could violate the will in the future, and they lay out an explicitly ecclesiastical penalty for such violators. Paham elaborates on the excommunication provision commonly contained in penalty clauses from this period by stating that anyone who tries to destroy the testament "… are to become strangers to the Father and the Son and the Holy Ghost and to every

[19] MacCoull renders this passage "you are to require of his wife an oath about every item that has gone missing, up to and including a ceramic object," but I prefer Schiller's translation of ⲙⲁ as "place" rather than "item" and consider ⲉⲕⲟⲩⲁϣϥ to be a conditional rather than a relative construction.
[20] P.KRU 67 lines 42 and 44. Schiller (1926) translation.
[21] pp. 139-154 this volume.

community of Christians." This last phrase, "every Christian community (ⲙⲛⲕⲟⲓⲛⲱⲛⲓⲁ ⲛⲓⲙ ⲛⲭⲣⲓⲥⲧⲓⲁⲛⲟⲥ)," does not occur in other contemporary penalty clauses, and thus may reflect Paham's particular understanding of how the penalty of excommunication for legal offences would function. The offender would be excluded from all communities, including congregations or monastic bodies.

Paham also lists a number of officials he thinks could violate his testament. He names a number of secular magistrates who could violate his wishes and who should be excommunicated as a result, including a ⲡⲣⲟⲛⲟⲏⲧⲏⲥ or ⲗⲁⲱⲁⲛⲉ.[22] He reserves his most extensive warning for members of the church hierarchy:

> ⲁⲩⲱ ⲡⲉⲡⲓⲥⲕⲟⲡⲟⲥ ⲉⲧⲧⲏⲱ ⲙⲡⲉⲟⲩⲟⲉⲓⲱ ⲉϥⲱⲁⲛⲟⲩⲱⲱ ⲛϥⲁⲙⲉⲗⲉⲓ ⲛϥⲧⲁ[ⲕⲟⲓ] ⲛⲧⲉⲓⲇⲓⲁⲑⲏⲕⲏ ⲏ ⲛϥⲭⲟⲟϥ ⲥⲟⲗⲱⲥ ⲭⲉ ⲛⲧⲁⲭⲣⲏⲩ ⲁⲛ ⲉϥⲟⲩⲱⲱ ⲉⲱⲟⲗⲥ ⲉⲃⲟⲗ ⲕⲁⲛ ⲥⲓⲧⲛⲱⲁⲭⲉ ⲛⲕⲟⲗⲁⲕⲓⲁ ⲏ ⲥⲓⲧⲛⲥⲉⲛⲣⲱⲙⲉ ⲛⲛⲁⲑⲏⲧ ⲏ ⲥⲓⲧⲛ ⲥⲉⲛⲥⲡⲟⲛⲧⲓⲁⲟⲛ ⲁⲩⲱ ⲗⲁⲁⲩ ⲛⲣⲱⲙⲉ ⲛⲓⲙ ⲉϥⲛⲧⲧⲁⲍⲓⲥ ⲛⲧⲙⲛⲧⲟⲩⲏⲏⲃ ⲉⲓⲧⲉ ⲉⲡⲓⲥⲕⲟⲡⲟⲥ ⲉⲓⲧⲉ ⲡⲣⲉⲥⲃⲩⲧⲉⲣⲟⲥ ⲉⲓⲧⲉ ⲇⲓⲁⲕⲱⲛ ⲉⲓⲧⲉ ⲁⲛⲁⲅⲛⲱⲥⲧⲏⲥ ⲉⲓⲧⲉ ⲗⲁⲓⲕⲟⲥ ⲡⲉⲧⲛⲁⲟⲩⲱⲱ ⲉⲱⲱⲗ ⲉⲃⲟⲗ ⲛ-ⲧⲉⲇⲓⲁⲑⲏⲕⲏ ϥⲟ ⲛⲱⲙⲙⲟ ⲉⲡⲉⲓⲱⲧ ⲙⲛ ⲡⲱⲏⲣⲉ ⲙⲛ ⲡⲉⲡⲛⲁ ⲉⲧⲟⲩⲁⲁⲃ ⲛϥⲉⲓ ⲉⲍⲟⲩⲛ ⲛⲧⲁⲭⲓ ⲍⲁⲡ ⲛⲙⲙⲁϥ ⲍⲓⲡⲃⲏⲙⲁ ⲙⲡⲛⲟⲩⲧⲉ ⲉⲧⲍⲁⲍⲟⲧⲉ
>
> And the bishop appointed at that time, if he should wish to disregard and destroy the testament saying in such a way that it is not established, wishing to undo it, whether through words of flattery or through some heartless men or through some bribery, or any person whosoever in the rank of priesthood, whether bishop or priest or deacon or lector, or layman, whoever wishes to undo the testament is to be a stranger to the Father and the Son and the Holy Ghost, and will have to appear and be judged at the fearsome judgement-seat of God.[23]

As a monk and priest, Paham was keenly aware of the social influence church officials could exert, especially bishops, as we have seen in the Abraham of Hermonthis material.[24] This moment of writing a will provided Paham with the opportunity to circumvent the ecclesiastical hierarchy by arrogating to himself the ability to impose excommunication on a hypothetical

[22] P.KRU 67 line 126. See Wickham (2005) pp. 422-424 for a full description of the duties of this magistracy and their role in arbitration. See also, Steinwenter (1920) p. 38.
[23] P.KRU 67 lines 119-125. MacCoull (2009) translation.
[24] See pp. 114-133 of this volume.

corrupt bishop and call down divine judgement on any clergy who would violate his legal arrangement. He invokes a higher moral authority, namely the "judgement seat of God (ⲡⲃⲏⲙⲁ ⲙⲡⲛⲟⲩⲧⲉ)," and by implication a higher standard of justice in legal affairs that could overturn the decision of a corrupt bishop. The bishop's ruling was not necessarily just unless it conformed to a divine standard of fairness that would consist in following the wishes expressed in the testament. Penalty clauses directed against bishops do occur in other Coptic legal documents, such as *P.CLT* 5 and P.KRU 66 and 68, but this clause is much more extensive than any of them and is unique in invoking excommunication as a penalty for the corrupt bishop. The insertion of this unusual penalty clause into a will both reflects the influence that bishops and other clergy wielded in the legal system, while also representing the use of a will to threaten excommunication even though it would not be possible in practice given Paham's position, in that a priest is not empowered to excommunicate a bishop. In the context of Paham's autograph will, this indicates that this monk and priest appreciated the prestige and power of bishops but also felt that he could invoke a standard of divine justice that could overturn their rulings.

The insertion of Christian elements into legal document clauses, including explicit citations of scripture, is especially frequent in wills that include a donation to a monastery or church. It is perhaps unsurprising that those individuals who felt such a strong affective tie to Christian institutions that they donated significant amounts of property to them would also most directly invoke Christian ideology within their testaments. However, the testators carefully selected some of the scriptural passages, in addition to citing other scriptures in a more formulaic manner.[25] These donations could amount to a significant portion of an individual's estate, so the

[25] De Bruyn (2017) finds wide variation in scribal practice and adherence to the original in quotations of the Lord's Prayer and other scriptural passages in late antique amulets. Some amulets display phonetic spellings that indicate that the author may have been transcribing them from memory (pp. 143-146). Others quote whole verse from the gospels and appear to have been written by professional scribes

testament was designed in many cases to prevent the testator's relatives from misappropriating any property designated for the church. For instance, in P.KRU 69 (729 A.D.), the testatrix Tsible instructs her husband to donate four trimesia and the price for the portion of a house and field that she inherited to a religious institution. None of her estate is reserved for her family. It is possible that she owned other property not mentioned in this will, but this seems less likely because Tsible emphasizes that everything she inherited was to be donated to the church. She instructs that both "my portion of the house that came to me from my father and my portion of the field" and "the household goods that came to me from my father" are to be given as an offering to the church and that "I am not giving any of them to my husband."[26] Tsible even asserts her right to dispose her property in this way in the penalty clauses, stating that "And it is possible for me to do what I like with what is mine (ϫⲉⲉⲓⲥⲧⲓ ⲛⲁⲓ ⲉⲧⲣⲁⲣⲡⲉⲓⲧⲉⲓⲛⲁⲓ ⲙⲡⲓⲧⲉⲡⲱⲓⲡⲉ)."[27] The patrimony of husband and wife were kept separate, as they were under Roman law, and Tsible decided to assert her right to donate her property to the church as part of her religious convictions. Her husband would be the temporary possessor of her goods, but only as property held in trust, as he was instructed explicitly to sell it and donate the proceeds.

The opening of Tsible's will frames this donation as a reaction to recovering from a severe illness. She writes that she asked for a scribe to draw up a will because "I became afraid lest the decree reach me in the manner of every man as God defined the word (ⲡⲗⲟⲅⲟⲥ) unto our common father Adam, saying: 'You are earth and you shall return to earth (ϫⲉ ⲛⲧⲕⲟⲩⲕⲁⲓ ⲉⲕⲛⲁⲕⲟⲧⲉⲕ ⲁⲡⲕⲁⲓ)'" quoting Genesis 3:19.[28] This passage is the most commonly quoted

(pp.146-153), while still others appear to have been written for personal use, e.g. as devotionals for monks, rather than products produced for a client (p.182).
[26] P.KRU 69 lines 31-42. MacCoull (2009) translation.
[27] P.KRU 69 lines 57-58. MacCoull (2009) translation.
[28] P.KRU 69 lines 17-22. Modified Schiller (1926) translation.

scripture in Coptic wills, also occurring in P.KRU 66, 68, 69, 71, 76, and 106.[29] It almost always occurs in this type of introductory clause, explaining that the testatrix decided to create a will in this particular moment because she had an opportunity to reflect on the transient nature of her life. The scriptural passage is marked out as a quotation of the word (ⲗⲟⲅⲟⲥ) of God in a way that is similar to how scripture was cited in the Budge papyrus. This emphasis on the fleeting nature of human life helps to motivate and justify a substantial donation to the church, a bequest that might leave Tsible's husband with no inheritance from her. She invokes scripture to justify a social choice that demonstrates her high degree of devotion to the institutions of the church.

In addition to this Genesis passage that is quoted in several Coptic wills and donation documents, other testaments quote scriptures that are not attested in any other legal documents and may thus represent a passage requested and approved by the testator himself. Arthur Schiller considered P.KRU 74 (733 A.D.) to be "the best example of Coptic will of the eighth century extant" at the time of his dissertation because "practically all of the formulae are present in their most frequent order."[30] In it, Paul leaves an inheritance for his wife Sarra and children Susana and David, as well as an offering to the monastery of St. Phoibammon. Unlike in P.KRU 69, the name of the recipient of the donation survives, but the amount of the gift is lost: "I wish and order that [x] solidi be given to the holy *topos* of Apa Phoibammon the mighty martyr for the salvation of my soul (ϩⲁⲡⲥⲱⲧⲉ ⲛⲧⲁⲯⲩⲭⲏ)."[31] In addition to this donation to the monastery, a church official was also involved in drafting the document, since Elias the priest and lector acted as notary and "executed (ⲁⲓⲍⲱⲙⲁⲧⲓⲍⲉ)" the testament.[32] Therefore, it is possible that he inserted the scriptural passages used in the document.

[29] Richter (2008) p. 143.
[30] Schiller (1924) p. 10.
[31] P.KRU 74 lines 57-59. MacCoull (2009) translation.
[32] P.KRU 74 line 111.

As in P.KRU 69, Paul cites scripture to explain his reason for making a will:

ⲡⲥⲱⲃ ⲥⲁϩⲁⲁⲧ ⲉⲧⲣⲁⲣⲡⲕⲟⲧ ⲉⲧⲉⲣⲉⲟⲩⲟⲛ ⲛⲓⲙ ⲭⲣⲓⲱⲥⲧⲉⲓ ⲙⲙⲟⲩ
ⲉⲃⲟⲗ ⲭⲉ ⲟⲩⲁⲧⲟⲩⲱⲛⲥ ⲉⲃⲟⲗⲡⲉ ⲡⲁⲓ ⲥⲓⲭⲙⲥⲓⲭⲙⲡⲕⲁⲥ [sic] ⲉⲃⲟⲗ
ⲭⲉ ⲧⲟⲟⲙ ⲙⲛ ⲡⲁⲙⲁⲥⲧⲉ ⲱⲟⲟⲡ ⲁⲛ ⲙⲛ ⲣⲱⲙⲉ ⲱⲁⲉⲛⲉⲥ ⲟⲩⲇⲉ
ⲭ]ⲱⲙ ⲕⲁⲧⲁ ⲡⲱⲁⲭⲉ ⲙⲡⲉⲕⲕⲗⲏⲥⲓⲁⲥⲧⲏ[ⲥ]
ⲁⲩⲱ ⲭⲉⲛ†ⲥⲟⲟⲩⲛ ⲁⲛ ⲭⲉ ⲱⲁⲣⲉⲧⲉⲩⲛⲟⲩ ⲙⲡⲙⲟⲩ ⲉⲓ ⲉⲭⲱⲓ ⲛⲛⲁ[ⲱ]
ⲛⲛⲁⲩ ⲕⲁⲧⲁ ⲡⲱⲁⲭⲉ ⲙⲡⲉⲛⲭⲟⲓⲉⲥ ⲭⲉⲣⲟⲉⲓⲥ ⲭⲉ ⲛⲧⲉⲧⲛⲥⲟⲟⲩⲛ
ⲁⲛ ⲙⲡⲉⲥⲟⲟⲩ ⲟⲩⲇⲉ ⲧⲉⲩⲛⲟⲩ ⲉⲓⲟⲱⲱⲧ ⲗⲟⲓⲡⲟⲛ ⲉⲡⲙⲟⲩ ⲛⲟⲩⲟⲛ
ⲛⲓⲙ ⲉⲧⲡⲁⲣⲁⲅⲉ ⲥⲓⲧⲟⲟⲧ ⲁⲓⲣⲡⲙⲉⲉⲩⲉ ⲙⲡⲁⲙⲟⲩ ⲡⲱⲓ ⲥⲱ ⲙⲙⲓⲛ
ⲙⲙⲟⲓ ⲁⲓⲣⲥⲟⲧⲉ ⲭⲉ ⲙⲏⲡⲟⲧⲉ ⲥⲛ ⲟⲩⲱⲉⲡ ⲛⲱⲱⲡ ⲁⲩⲱ ⲡⲁⲣⲁ ⲧⲁ[ⲡⲣⲟ-]
ⲥⲇⲟⲃⲓⲁ ⲛⲧⲁⲭⲱⲕ ⲉⲃⲟⲗ ⲥⲙⲡⲉⲓⲃⲓⲟⲥ ⲛⲧⲁⲕⲁ ⲡⲁⲥⲱⲃ ⲟ ⲛⲁⲡⲣⲟ[ⲛⲟⲏⲧⲟⲛ]
ⲁⲩⲱ ⲛⲁⲡⲓⲙⲏⲗⲉⲧⲟⲛ ⲉⲧⲃⲉⲡⲥⲱⲃ ⲛⲕⲉⲫⲁⲗⲁⲓⲟⲛ ⲉⲧⲉⲧⲁⲡⲣⲟⲥⲫⲟⲣⲁ-
ⲧⲉ ⲙⲛⲧⲁⲕⲁⲓⲥⲉ ⲁⲩⲱ ⲡⲥⲱⲃ ⲛⲛⲁⲱⲏⲣⲉ ⲙⲛⲧⲁⲥⲥⲓⲙⲉ ⲁⲩⲱ ⲡⲉⲧⲛ[ⲧⲏⲓ]
ⲧⲏⲣⲩ ⲉⲧⲙⲧⲉⲩⲭⲱⲱⲣⲉ ⲉⲃⲟⲗ…

> There has come round to me the last thing, what everyone will have required of him, because this is an unrevealed thing upon the earth since power and dominion do not belong to man forever, nor is there [an enduring] generation,[33] according to the saying of Ecclesiastes, and so I do not know when the hour of death is going to come to me, or at what time, according to the saying of our Lord, "Watch therefore, for you know neither the day nor the hour;"[34] so, for the rest, looking at the death of everyone who has gone on before me, I called to mind my very own death. I was afraid lest in a sudden departure and contrary to my expectation I end this life and undo my work, leaving it unplanned for and neglected, concerning the capital matter of my offering and my burial preparations, and the affairs of my children and my wife, and everything that is mine, lest it be dispersed.[35]

Having reflected on his own mortality, Paul decided to write a will to make sure his estate is divided as he would like for it to be. He is especially concerned with what he calls the "capital matter (ⲡⲕⲉⲫⲁⲗⲁⲓⲟⲛ)" of his offering and burial preparations, which must refer to his donation to the monastery. In other words, the will is especially concerned that this donation occur and not be neglected during the division of the estate. This passage exhibits two different styles of scriptural citation. The first is a partial paraphrase of Ecclesiastes 1:3-4[36], which is marked by the

[33] Ecclesiastes 1:3-4.
[34] Matthew 25:13.
[35] P.KRU 74 line 12-24. MacCoull (2009) translation.
[36] "What does man gain by all the toil at which he toils under the sun? A generation goes, and a generation comes, but the earth remains forever." ESV translation.

phrase "according to the saying of Ecclesiastes (ⲕⲁⲧⲁ ⲡⲱⲁϫⲉ ⲙⲡⲉⲕⲕⲗⲏⲥⲓⲁⲥⲧⲏ[ⲥ])." Even this looser rewording is marked by the same sort of explicit naming of the source that is used for direct quotations elsewhere. This citation serves to evoke the first chapter of Ecclesiastes and its message concerning the vanity of human affairs and pursuits in comparison with divine ones. Paul also quotes Matthew 25:13 directly: "Watch therefore, for you know neither the day nor the hour (ϫⲉ ⲣⲟⲉⲓⲥ ϫⲉ ⲛⲧⲉⲧⲛⲥⲟⲟⲩⲛ ⲁⲛ ⲙⲡⲉϩⲟⲟⲩ ⲟⲩⲇⲉ ⲧⲉⲩⲛⲟⲩ)." He provides a direct quotation of Jesus' words from the Sahidic Coptic gospel, taken slightly out of context as the passage in Matthew concerns the parable of the ten virgins and arrival of the returning groom, who represents the Messiah, rather than an injunction to watch for one's own death. The out of context quotation of this verse suggests that these quotations were used to give a biblical flavor to these introductory clauses to the will, rather than for their precise theological content. Nevertheless, the cumulative effect of this section of the will reveals Paul citing Scripture to explain his decision to write a will that would ensure that part of his estate was used as a donation to the monastery of St. Phoibammon.

P.KRU 66 and 76 (722 A.D.) contain a substantial number of scriptural citations in their opening clauses. These two documents represent two very similar drafts of the will of Susanna daughter of Moses and Tsia. P.KRU 76 is the later draft of the two, and it includes several significant insertions that will be discussed below. Analyzing these insertions reveals what the scribe considered to be important as he finalized the text of the document. Susanna is the granddaughter of Elisha the archdeacon of the *topos* of St. Patermouthis. Susanna's testament also includes substantial financial contributions to local religious institutions. She owns a fifth share of a local church,[37] which she donates to the Monastery of St. Patermouthis, on the

[37] See Schmelz (2002) p. 35 for further examples of private ownership of churches.

condition that her children still be allowed to take part in the festivals there.[38] Additionally, the will stipulates that her children donate offerings on her behalf for five years after her death.[39] As with P.KRU 74, the notary who wrote the contract is a priest, as the slightly fuller, more finalized draft P.KRU 76 reveals: "I Komes, most humble priest of the holy Apa Patermouthis of Kastron Jeme, Susanna asked me, I drew up this testament with my hand and also I bear witness."[40] These priests may have served as notaries in part because they had acquired the literacy and technical skills required to do so over the course of their education. They may have been available in particular for a testator or testatrix who intended to donate some or all of their estate to a religious institution, a possibility supported by the fact that Komes is a member of the monastery to which Susanna had decided to donate. Monastic personnel provided Susanna with the ability to create a written will that secured her donation to the monastery. Given this context for the creation of the document, it makes sense that the will would exhibit the ruling ideology of the institution in which it was created.

As in other Coptic wills, Susanna frames her decision to draw up a will as being motivated by a realization of her own mortality. This realization is supported by quotation of scripture about the frailty of human life. The testament quotes Genesis 3:19 twice as well as six other verses from the Old Testament. One passage in particular interweaves a number of scriptural citations, with most of them drawn from Psalm 38 (according to the Septuagint numbering):

> ... ⲁⲓⲣⲉⲟⲧⲉ ⲭⲉ ⲙⲓⲡⲟⲧⲏ ⲉⲛ-
> [ⲟ]ⲩⲱⲡⲛⲱⲱⲡ ⲛⲧⲉⲡⲙⲟⲩ ⲑⲣⲱⲟⲓ ⲙⲡⲁⲧⲁⲉⲓⲙⲉ ⲉⲧⲁⲉⲁⲏ ⲁⲩⲱ ⲛⲧⲁⲃⲱⲕ ⲉⲓⲧⲁⲉⲓⲏ
> ⲛⲧⲁⲉⲓⲟⲧⲉ [sic] ⲃⲱⲕ ⲛⲉⲏⲧⲥ

[38] P.KRU 76 lines 26-29.
[39] P.KRU 76 lines 52-53.
[40] P.KRU 76 lines 89-90. MacCoull (2009) translation. ⲁⲛⲟⲕ ⲕⲟⲙⲉⲥ ⲡⲓⲉⲗⲁⲭ/ ⲙⲡⲣⲉⲥⲃⲩ/ ⲙⲡⲁⲉⲁⲡⲟⲥ ⲁⲡⲁ ⲡⲁⲧⲉⲣⲙⲟⲩⲑ/ ⲙⲡⲕⲁⲥⲧⲣⲟⲛ ⲛⲭⲏⲙⲉ ⲁⲥⲟⲩⲥⲁⲛⲛⲁ ⲉⲓⲧⲉ ⲙⲟⲓ ⲁⲓⲥⲙⲛ ⲧⲓⲧⲓⲁⲑⲏⲕⲏ ⲛⲧⲁⲥⲓⲝ ⲁⲩⲱ ⲟⲛ ϯⲱ ⲙⲙⲛⲧⲣⲉ.

ⲁⲩⲱ ⲟⲛ ⲕⲁⲧⲁ ⲑⲉ ⲛⲧⲁⲡⲛⲟⲩⲧⲉ ⲍⲟⲣⲓⲍⲉ ⲙⲙⲟⲥ ⲉⲭⲛⲡⲉⲛⲱⲟⲣⲡ ⲛⲉⲓⲱⲧ ⲁⲇⲁⲙ ⲡⲉϥⲡⲣⲟⲧⲟⲡⲗⲁⲥⲙⲁ
ⲭⲉⲛⲉⲧⲕⲕⲁⲍ [sic] ⲉⲕⲛⲁⲧⲕⲟⲕ [sic] ⲉⲡⲕⲁⲍ ⲡⲓϣⲁⲗⲙⲱⲇⲟⲥ ⲇⲁⲩⲉⲓⲇ ⲡⲓⲱⲧ ⲙⲡⲉⲭⲥ ⲕⲁⲧⲁⲥⲁⲣⲝ ⲭⲱ ⲙⲙⲟⲥ ⲭⲉ[ⲉⲓ-]
[ⲥ]ⲁⲗⲱⲟⲩ ⲍⲓⲭⲛⲡⲍⲁⲏ [sic] ⲕⲁⲧⲁ ⲑⲉ ⲛⲛⲁⲉⲓⲟⲧⲉ ⲧⲏⲣⲟⲩ ⲁⲩⲱ ⲟⲛ ⲭⲉⲉⲣⲉⲡⲣⲱⲙⲉ ⲟ ⲛⲑⲉ ⲛⲟⲩⲍⲁⲓⲃⲉⲥ ⲉⲓⲁⲥⲣⲓⲕⲉ
ⲁⲩⲱ ⲟⲛ ⲭⲉ ⲍⲁⲑⲉ ⲙⲡⲁⲧⲓⲃⲱⲕ ⲧⲁⲧⲙⲥⲟⲧⲧ ⲉⲱⲟⲡⲉ ⲁⲩⲱ ⲟⲛ ⲭⲉ ⲉⲣⲉⲡⲣⲱⲙⲉ ⲙⲟⲟⲱⲉ ⲍⲛⲟⲩⲍⲓⲕⲱⲛ ⲉⲫⲥⲟⲩⲍ
ⲉⲍⲟⲩⲛ ⲉⲫⲥⲟⲟⲩⲛ ⲁⲛ ⲭⲉ ⲉⲫⲥⲟⲟⲩⲍ ⲙⲙⲟⲟⲩ ⲛⲛⲓⲙ ⲛⲧⲉⲣⲓⲥⲱⲧⲙ ⲟⲩⲛ ⲉⲛⲓⲙⲛⲧⲙⲛⲧⲣⲉ ⲧⲏⲣⲟⲩ ⲭⲉ ⲉⲩ-
ⲛⲏⲩ ⲉⲍⲣⲁⲓ ⲉⲡⲣⲱⲙⲉ ⲛⲕⲁⲍ ⲍⲓⲕⲣⲙⲉⲥ ⲛⲧⲁⲙⲓⲛⲉ ⲁⲓⲣⲍⲟⲧⲉ ⲧⲉⲛⲟⲩ

> I was afraid lest death suddenly surprise me and I not know my end,[41] and I go the way my fathers went, and leave this place of temporary sojourning behind, going the way of all the earth, again in the way that God defined for our first father Adam His first-created "You are dust and will return to dust,"[42] and the Psalmist David, ancestor of Christ according to the flesh, said "I am a sojourner upon the earth, as all my fathers were,"[43] and again, "Man is like a shadow that passes away,"[44] and again, "Before I go hence and am seen no more,"[45] and yet again "Man walks in an image and heaps up riches and cannot tell who will gather them."[46] As I heard all these witnesses from being written in Scripture coming to me about man being of earth and ashes,[47] I was afraid.[48]

As in previous wills, the Genesis verse is marked as being a direct quotation from God to Adam in the second person "ⲭⲉ ⲉⲧⲕⲕⲁⲍ ⲉⲕⲛⲁⲧⲕⲟⲕ ⲉⲡⲕⲁⲍ," and later in Susanna's will this same verse is quoted again as the "way God defined (ⲍⲟⲣⲓⲍⲉ) the sentence (ⲁⲡⲟⲫⲁⲥⲓⲥ) for our father Adam."[49] The four consecutive quotations from the Psalms are also attributed to "the Psalmist David, ancestor of Christ after the flesh."[50] There then follows a series of quotations from the Psalms, each marked with "and again (ⲁⲩⲱ ⲟⲛ ⲭⲉ-)" to designate it as a direct quotation of

[41] Similar to Psalm 38:4.
[42] Genesis 3:19.
[43] Psalm 38:13.
[44] Psalm 101:11.
[45] Psalm 38:14.
[46] Psalm 38:7.
[47] See Genesis 18:27 and Job 30:19.
[48] P.KRU 66 lines 7-14. Modified MacCoull (2009) translation.
[49] P.KRU 66 line 25.
[50] P.KRU 66 line 10. ⲡⲓϣⲁⲗⲙⲱⲇⲟⲥ ⲇⲁⲩⲉⲓⲇ ⲡⲓⲱⲧ ⲙⲡⲉ$\overline{\text{ⲭⲥ}}$ ⲕⲁⲧⲁⲥⲁⲣⲝ.

scripture. Most of these quotations are drawn from Psalm 38, where David asks God for relief from his punishment for sin and admits the futility of his plans and endeavors. Psalm 38:7 is particularly relevant for the context of a will: "Surely a man goes about as a shadow! Surely for nothing they are in turmoil; man heaps up wealth and does not know who will gather!"[51] The use of common loan-words between the Septuagint and Coptic cited here makes this identification particularly secure.[52] The cumulative effect of this series of scriptural citations gives justification for Susanna's decision to make a will, as she like David does not know the full course of her transient life.

The later draft P.KRU 76 inserts the words "written in scripture (ⲉⲧϩⲛⲛⲉⲅⲣⲁⲫⲏ ⲛⲁⲓ ⲉⲧⲥⲏϩ)" in the phrase "As I heard all these witnesses from being written in Scripture coming to me about man,"[53] suggesting that Susanna is citing a written copy of the Psalms, most likely with the help of Komes the priest, rather than a collection of biblical passages that he happened to memorize. These verses are invoked to justify morally the necessity of making a will, and the fact that this scripture was written down was relevant to its authority. Furthermore, this clause indicates a level of familiarity with Christian teachings that is consonant with the other information that we have about the social context of the will's composition. At other points, new scriptural citations are added to the P.KRU 76 draft of the will, such as in line 18, where the phrase "in whose hands is the breath of everyone" is added to the sentence "But when God [insertion] orders to take away the spirit he gave me."[54] This addition is a quotation of Job 12:10 "In his hand is the life of every living thing and the breath of all mankind." This scripture is

[51] Pslam 39:6 ESV translation, cited according to Masoretic Numbering.
[52] "μέντοιγε ἐν εἰκόνι διαπορεύεται ἄνθρωπος" and "ϫⲉ ⲉⲣⲉⲡⲣⲱⲙⲉ ⲙⲟⲟⲩⲉ ϩⲛⲟⲩϩⲓⲕⲱⲛ."
[53] P.KRU 76 line 6.
[54] P.KRU 76 lines 17-19. MacCoull (2009) translation.

inserted without the attribution that accompanies the citations used earlier in the text, but it nevertheless contributes to the overall biblical register of the testament.

In addition to demonstrating how Christian scripture appeared in novel contexts in late antiquity, these wills show how Christian norms influenced testators and legal relationships in this period. In the Roman period, Ted Champlin found that wills composed by Roman elite expressed the testator's deepest affective attachment, but his study also documents how the constraints of social norms weighed heavily on the actions of individuals and shaped the expectations of all those affected by the documents.[55] Champlin explains that Roman wills did not reflect on the afterlife or seek to safeguard the welfare of one's soul, but rather sought to ensure the memory of the deceased through the building of tombs and establishment of foundations.[56] Furthermore, Champlin finds a set of social motives, beliefs, and expectations for leaving a will that cut across a wide range of testators, regardless of the size and composition of their family.[57] In contrast, the narrative sections of Coptic wills reveal that the force driving these testators to create a will was a putative eternal reality that could be affected by their property relations while alive and its disposition upon death. This theological reasoning had very real politico-economic implications, as it effected changes in testamentary succession that shifted resources out of families into the possession of religious institutions. In light of these Christian norms, testatrices like Tsible affirmed that "it is possible for me to do what I like with what is mine" and assigned large bequests in response to concerns about an eternal reality.

This scriptural influence on the clauses of legal texts appears in other legal documents that have authors exhibiting close social ties to religious institutions, apart from the Coptic

[55] Champlin (1991).
[56] Champlin (1991) pp. 26-27.
[57] Champlin (1991) pp. 60-61.

testaments examined above. P.KRU 106 (734 A.D.) is similar to P.KRU 76 in its richness and number of scriptural citations interwoven in its text. The crucial difference between the two documents is that, instead of being a will, P.KRU 106 was composed by a woman named Anna as a donation document intended to take immediate effect and addressed to three representatives of the Monastery of St. Paul of Koulol, located in Jeme. Anna writes to Apa Zacharias, the superior of the monastery, in addition to Apa Philotheus and Mena that, facing a serious illness, she is donating a house, a portion of another house, part of a bakery and a plot of land to the monastery. As in the wills examined above, a priest from Jeme served as the notary for this donation document. At the close of the document, he writes: "I, Chmntsneu, son of Shenoute, the most humble priest and *hegoumenos* of the holy church of Jeme, I wrote this donation document by hand in the manner that Anna daughter of Iohannes entrusted (ⲉⲡⲓⲧⲣⲉⲡⲉ) it to me and I executed (ⲁⲓⲍⲱⲙⲁⲧⲓⲍⲉ) it."[58] This completio signature is explicit about the role that Anna played in the composition of the document, as Chmntsneu says that she entrusted, ἐπιτρέπειν, that it be written in a particular way, a term that Leslie MacCoull even translates as "was supervising."[59] Furthermore, the document itself suggests a high degree of notarial skill and experience on the part of Chmntsneu in "executing" it, because at 245 lines it is much longer than any of the wills discussed above and involves a very detailed donation of real property. Chmntsneu's name also appears at several points over the course of the document, as he signs the document on Anna's behalf in lines 222-224, since she could not sign for herself. Furthermore, towards the beginning of the document, she explains that "I am now asking the scribe to establish for me, by my desire and will, the donation document, by his hand,"[60] thereby implying that she approached

[58] P.KRU 106 lines 242-244. My own translation.
[59] MacCoull (2009) p. 173.
[60] P.KRU 106 lines 34-36. MacCoull (2009) translation. ⲉⲁⲓⲁⲓⲧⲉⲓ ⲧⲉⲛⲟⲩ ⲙⲡⲥⲩⲛⲅⲣⲁⲫⲉⲩⲥ ⲉⲧⲣⲉⲫⲁϫⲣⲟ ⲛⲁⲓ ⲉⲓⲧⲙⲡⲁⲟⲩⲱⲱ ⲙⲡⲉⲃⲟⲩⲗⲏⲙⲁ ⲛⲁⲱⲣⲓⲁⲥⲧⲓⲕⲟⲛ ⲉⲓⲧⲛⲧⲟⲓϫ…

Chmntsneu to draft the donation document. This clause also declares that the document was composed according to Anna's "desire and intention, ϩⲓⲧⲙⲡⲁⲟⲩⲱⲱ ⲙⲡⲉⲃⲟⲩⲗⲏⲙⲁ" which suggests that the scripture citations included below may have been selected and approved by her.[61]

In a structure similar to Coptic testaments, Anna or the priest writing on her behalf provides an extensive reflection on her own mortality that is inflected with many biblical quotations and serves to explain her decision to donate a substantial collection of real property to the monastery. She cites an impressive variety of scripture that includes the gospels, epistles, psalms, and Ecclesiastes. The text deploys scriptural references for a variety of rhetorical purposes, so it is worth examining the passage in full. Anna explains:

> ⲉⲡⲉⲓⲇⲏ ϩⲛⲛⲉⲓⲕⲁⲓⲣⲟⲥ ⲛⲁⲓ ⲧⲉⲛⲟⲩ ⲛⲧⲁⲛⲉⲓ ⲉϩⲣⲁⲓ ⲉⲣⲟⲟⲩ ⲁⲡⲛⲟⲩⲧⲉ ⲡⲁⲅⲁⲑⲟⲥ ⲛⲛⲁⲏⲧ ⲟⲩⲱⲛ ⲉⲡⲁϩⲏⲧ ⲉⲧⲣⲁⲛⲟⲩⲭ ⲡⲁⲕⲟⲩⲓ ⲛⲁⲩⲡⲧⲟⲛ ⲡⲁⲓ ⲉⲧⲥⲟⲭⲃ ⲡⲣⲟⲥ ⲡⲱⲁⲭⲉ ⲙⲡⲁⲭⲟⲓⲉⲥ ⲛⲧⲁϥⲭⲟⲟⲥ ϩⲛⲛⲉⲩⲁⲅⲅⲉⲗⲓⲟⲛ ⲉⲧⲟⲩⲁⲁⲃ ⲉⲧⲃⲉ ⲗⲩⲡⲧⲟⲛ ⲥⲛⲁⲩ ⲛⲧⲉⲭⲏⲣⲁ ⲛⲧⲁⲥⲛⲟⲩⲭⲟⲩ ⲉⲡⲕⲁⲍⲱⲫⲩⲗⲁⲕⲓⲟⲛ ⲉⲁⲥ-ⲭⲓ ⲛⲟⲩϩⲟⲩⲟ ⲁⲩⲱ ⲙⲡⲉⲥϩⲉ ⲉⲛⲉⲧⲣϩⲟⲩⲟ ⲛⲁⲥ ⲛⲥⲛⲟⲩⲭⲉ ⲉⲙⲏⲧⲉ ⲉⲗⲩⲡⲧⲟⲛ ⲥⲛⲁⲩ ⲁⲗⲗⲁ ⲁⲡⲭⲟⲉⲓⲥ ⲣⲁⲱⲉ ⲉⲭⲱⲟⲩ ⲁⲛⲟⲕ ϩⲱ ⲧⲉⲛⲟⲩ ⲧⲉⲧⲁⲗⲁⲓⲡⲱⲣⲟⲥ ⲧⲁⲓ ⲉⲧⲃⲱⲱⲧ ⲉⲃⲟⲗ ϩⲏⲧ ⲛⲧⲉⲥ-ⲟⲩⲛⲟⲩ ⲉⲓⲉⲓⲙⲉ ϩⲓⲧⲛⲡⲛⲟⲃ ⲛⲱⲱⲛⲉ ⲛⲧⲁⲓϩⲉⲉ ⲉϩⲣⲁⲓ ⲉⲣⲟϥ ⲭⲉⲁⲓϩⲱⲛ ⲉϩⲟⲩⲛ ⲉⲧⲁϩⲁⲏ ⲕⲁⲧⲁ ⲑⲉ ⲛⲧⲁϥⲭⲟⲟⲥ ⲛⲃⲓ ⲡⲉⲡⲣⲟ-ⲫⲏⲧⲏⲥ ⲉⲧⲟⲩⲁⲁⲃ ⲭⲉⲧⲁⲙⲟⲓ ⲡⲭⲟⲉⲓⲥ ⲉⲧⲁϩⲁⲏ ⲡⲣⲟⲥ ⲡⲟⲩⲱⲱ ⲟⲩⲛ ⲙⲡⲁⲅⲁⲑⲟⲥ ⲛⲛⲟⲩⲧⲉ ϩⲙⲡⲧⲣⲁϩⲉⲉ ⲉϩⲣⲁⲓ ⲉⲡⲉⲓⲱⲱⲛⲉ ⲡⲁⲓ ⲧⲉⲛⲟⲩ ⲉⲧⲉⲓⲛⲁⲃⲱⲕ [ⲛϩ]ⲏⲧϥ ⲕⲁⲧⲁ ⲑⲉ ⲛⲛⲁⲉⲓⲟⲧⲉ ⲧⲏⲣⲟⲩ ⲉⲁⲓⲣϩⲟⲧⲉ ⲉⲓϩⲓⲭⲙⲡⲉⲃⲗⲟⲃ ⲉⲓⲃⲱⲱⲧ ⲉⲡⲉⲓⲥⲁ ⲙⲙⲟⲓ ⲙⲡⲥⲁ ⲥⲛⲁⲩ ⲙⲡⲉⲓⲛⲁⲩ ⲉⲡⲉⲧⲉⲓⲛⲁⲣⲉⲕⲧ ⲧⲁⲭⲓⲥⲉ ⲉⲭⲱϥ ⲉⲧⲣⲁϩⲉⲉ ⲉⲩⲕⲟⲩⲓ ⲛⲙⲧⲟⲛ ϩⲙⲡⲙⲁ ⲉⲧⲉⲓⲛⲁⲣⲭⲣⲓⲁ ⲙⲙⲟϥ ⲉⲁⲡⲛⲟⲩⲧⲉ ⲛⲟⲭⲥ ⲉⲡⲁϩⲏⲧ ⲉⲧⲣⲁⲇⲱⲣⲣⲓⲥⲉ ⲙⲡⲉⲓⲕⲟⲩⲓ ⲛⲉϥⲡⲙⲉⲉⲩⲉ ⲉϩⲟⲩⲛ ⲉⲡⲙⲟⲛⲁⲥⲧⲏⲣⲓⲟⲛ ⲉⲧⲟⲩⲁⲁⲃ ⲛⲥⲁⲧⲡⲉ ⲙⲡⲉⲓ-ⲇⲱⲣⲓⲁⲥⲧⲓⲕⲟⲛ ⲫⲁⲡⲟⲥ ⲁⲡⲁ ⲡⲁⲩⲗⲟⲥ ⲙⲡⲕⲟⲗⲟⲗ ⲡⲛⲟⲃ ⲛⲁⲛⲁⲭⲱⲣⲓⲧⲏⲥ ⲡⲣⲱⲧⲟⲛ ⲙⲉⲛ ⲭⲉ ⲱⲁⲣⲉⲛⲉϥⲥⲟⲡⲥⲡ ⲁⲩⲱ ⲛⲉϥⲡⲣⲉⲥⲃⲉⲓⲁ ⲉⲧⲟⲩⲁⲁⲃ ⲭⲓ ϩⲙⲟⲧ ⲉⲭⲱⲓ ⲙⲛⲁϩⲣⲙ-ⲡⲉⲕⲣⲓⲧⲏⲥ ⲙⲙⲉⲉ ⲁⲩⲱ ⲭⲉⲱⲁⲣⲉⲡⲁⲕⲟⲩⲓ ⲛⲉⲣⲡⲙⲉⲉⲩⲉ ⲱⲱ-ⲡⲉ ⲉϥⲙⲏⲛ ⲉⲃⲟⲗ ⲉⲧⲃⲉⲧⲛⲟⲥ ⲛⲁⲫⲁⲡⲏ ⲉⲧⲱⲟⲟⲡ ⲧⲉⲛⲟⲩ

[61] See Bryen (2012) pp. 56-65 for the ways in which the mediated language of petitions composed by a scribe does not detract from their ability to provide insight into the subjective experience of the imperial subject who commissioned the petition.

ϵϩⲟⲩⲛ ϵⲛϩⲏⲕϵ ϵⲧⲡⲁⲣⲁⲅϵ ⲙⲡⲙⲟⲛⲁⲥⲧ/ ϵⲧⲟⲩⲁⲁⲃ
ⲁⲩⲱ ϵⲧⲃϵⲛϵⲧϵⲣϵⲛⲥⲛⲏⲩ ⲭⲟ ⲙⲙⲟⲟⲩ ϵⲃⲟⲗ ϵⲛϩⲏⲕϵ ⲙⲛ-
ⲛϵⲧⲱⲁⲁⲧ ⲕⲁⲧⲁ ⲑϵ ⲛⲧⲁⲡⲗⲁⲥ ⲙⲡϵⲥ†ⲛⲟⲩϥϵ ⲡϩⲁⲓⲟⲥ
ⲡⲁⲩⲗⲟⲥ ⲡⲁⲡⲟⲥⲧⲟⲗⲟⲥ ⲭⲟⲟⲥ ⲭϵ ⲧⲁⲅⲁⲡⲏ ⲙϵⲥϩϵ ϵⲛϵϩ
ⲁⲩⲱ ⲭϵ ⲡⲛⲁ ⲱⲁϥⲱⲟⲩⲱⲟⲩ ⲙⲙⲟϥ ϵⲭⲛⲧϵⲕⲣⲓⲥⲓⲥ ϩⲙ-
ⲡⲧⲣⲁⲙⲟⲱⲧ ⲟⲩⲛ ϵⲡⲁⲓ ⲁⲓⲣⲡⲙⲑϵⲩϵ ⲟⲛ ⲙⲡϵⲛⲧⲁⲛϵⲛϵⲓⲟⲧϵ
ⲛⲁⲡⲟⲥⲧⲟⲗⲟⲥ ⲭⲟⲟⲥ ϩⲛⲛⲕⲁⲑⲟⲗⲓⲕⲟⲛ ϵⲧⲟⲩⲁⲁⲃ ⲭϵ ⲡⲥⲟⲡⲥⲡ
ⲙⲡⲇⲓⲕⲁⲓⲟⲥ ⲟⲙⲟⲟⲙ ϵⲙⲁⲧϵ ⲁⲩⲱ ϥϵⲛϵⲣⲅⲉⲓ ⲁⲩⲱ ϩⲟⲙⲟⲓⲟⲥ
ⲟⲛ ⲧⲁⲣϵⲡⲁⲕⲟⲩⲓ ⲛϵⲣⲡⲙⲑϵⲩϵ ⲛⲁⲱⲱⲡϵ ⲙⲡⲣⲟⲥⲫⲟⲣⲁ ϩⲁ-
ⲧⲁⲙⲛⲧⲧⲁⲗⲁⲓⲡⲱⲣⲟⲥ ⲭϵ ⲙⲛⲧⲏⲓ ⲣⲱⲙϵ ⲙⲙⲁⲁⲩ ⲁⲩⲱ ⲭϵ †ⲥⲟⲟⲩⲛ
ⲛⲛⲁⲛⲟⲃϵ ϵⲧⲟⲱ ⲁⲓⲙⲟⲩⲱⲧ ⲅⲁⲣ ⲛⲛⲁⲗⲟⲅⲓⲥⲙⲟⲥ ϵⲧⲃϵⲛⲁⲛⲟⲃϵ
ⲭϵ ⲙⲛⲣⲱⲙϵ ⲫⲁⲣ ⲱⲟⲟⲡ ⲡⲁⲓ ϵⲧⲛⲁⲱⲛϩ ⲛϥⲧⲙⲣⲛⲟⲃϵ ϵⲣⲟⲕ
ⲅⲁⲛ ⲟⲩϩⲟⲟⲩ ⲛⲟⲩⲱⲧⲡϵ ⲡϵϥⲁϩϵ ϩⲓⲭⲙⲡⲕⲁϩ ⲛϥⲛⲁⲣⲃⲟⲗ
ⲁⲛ ϵⲛⲟⲃϵ ⲕⲁⲧⲁ ⲧϵⲫⲱⲛⲏ ⲛⲧⲁⲛϵⲛⲭⲟⲓϵⲥ ⲭⲟⲟⲥ ⲙⲡϵⲛ-
ϵⲓⲱⲧ ⲁⲇⲁⲙ ⲭϵ ⲁⲇⲁⲙ ⲛⲧⲕⲟⲩⲕⲁϩ ϵⲕⲛⲁⲕⲟⲧⲕ ϵⲡⲕⲁϩ
ⲛⲧϵⲣϵⲓⲥⲱⲧⲙ ⲇϵ ϵⲛϵⲓⲫⲱⲛⲟⲟⲩϵ ⲛⲧϵⲓⲙϵⲓⲛϵ ⲁⲓⲣϩⲟⲧϵ
ϩⲓⲭⲙⲡⲁⲃⲗⲟⲃ ϩⲓⲧⲛ ⲡⲱⲱⲛϵ ϵⲧϩⲟⲣⲱ ϵⲭⲱⲓ ⲁⲩⲱ ⲁⲓⲣⲡⲙⲑϵⲩϵ
ⲛⲧϩⲟⲧϵ ⲙⲡⲛⲟⲩⲧϵ ⲙⲛⲡϵⲕⲣⲓⲙⲁ ϵⲧϵⲙⲛⲭⲓ ϩⲟ ⲛϩⲏⲧϥ ϵⲧⲃϵ-
ⲧⲁ⳿ⲩⲭⲏ ⲛⲧⲁⲗⲁⲓⲡⲱⲣⲟⲥ ⲭϵ ⲧⲁⲓⲧϵ ⲧⲙϵⲣⲓⲥ ⲙⲡⲣⲱⲙϵ ϩⲙ-
ⲡϵϥⲱⲛϩ ⲧϵⲣϥ ⲕⲁⲧⲁ ⲑϵ ϵⲧϵⲣϵⲡⲥⲟⲫⲟⲥ ⲛϵⲕⲕⲗⲏⲥⲓⲁⲥⲧⲏⲥ
ⲭⲱ ⲙⲙⲟⲥ ⲭϵ ⲙⲛⲁⲅⲁⲑⲟⲛ ⲛⲥⲁⲡϵⲧϵⲣϵⲡⲣⲱⲙϵ ⲛⲁⲧⲁⲁϥ
ⲛⲱⲃⲃⲓⲱ ⲛⲧϵϥ⳿ⲩⲭⲏ ⲕⲁⲧⲁ ⲑϵ ⲟⲛ ⲛⲧⲁⲡϵⲛⲭⲟϵⲓⲥ ⲭⲟⲟⲥ
ϩⲛⲛϵⲩⲁⲅⲅⲉⲗⲓⲟⲛ ϵⲧⲟⲩⲁⲁⲃ ⲭϵ ⲣⲟϵⲓⲥ ⲭϵ ⲛⲧϵⲧⲛⲥⲟⲟⲩⲛ
ⲁⲛ ⲙⲡϵϩⲟⲟⲩ ⲟⲩⲇϵ ⲧϵⲟⲩⲛⲟⲩ ⲭϵ ⲧϵⲧⲛⲥⲟⲟⲩⲛ ⲁⲛ ⲭϵϵⲣϵ-
ⲡⲭⲟⲓϵⲥ ⲙⲡⲏⲓ ⲛⲏⲩ ⲛⲁⲱ…

In these present times into which we have come, God, the good and merciful, opened my heart to cast in this my tiny little mite, according to the word of my Lord that He spoke in the holy gospels about the two mites of the widow that she cast into the treasury. She reached for more, but did not find that she had more to cast in, save for two mites, but the Lord rejoiced over them.[62] Now I too, this poor one, looking at how her time (has come), I have come to know, through the great sickness into which I have fallen, that I am approaching my end, as the holy prophet said: "Lord, let me know mine end."[63]… So God put it into my heart that I should make a donation of this little memorial to the holy monastery, this present one aforenamed, whose holy public designation is above in this donation document, the holy Apa Paul's of Kolol, the great anchorite: first of all so that his supplications and his holy intercessions may obtain favor for me before the true Judge, and so that my little memorial may remain concerning the great love now practiced towards the poor who come to the holy monastery, and concerning what the brothers have said about the poor and needy, as the tongue of sweet-smelling incense, the holy Paul the apostle, said: "Love never fails"[64] and "Mercy rejoices

[62] Mark 12: 41-44 and Luke 21:1-4.
[63] Psalm 38:4.
[64] 1 Corinthians 13:8. ϩϵ is equivalent to πίπτω.

> against judgement."[65] Accordingly, reflecting on this, I again remembered what our fathers the holy apostles said in the holy catholic epistles, "The prayer of a righteous man avails much and is powerful."[66] And again so that my little memorial may be an offering for my poverty, because I have no one and I know that my sins are many- for I have my examined my thoughts concerning my sins, for there is no person living who has not sinned against You[67]; even if he lived on earth for only a single hour he would not evade sin, according to the saying that our Lord uttered to our father Adam: "Adam, you are dust and you shall return to dust;"[68] and when I heard these sayings thus on my bed I was afraid owing to the sickness that lay upon me, and I remembered the fear of God and the judgement at which there is no respecting of persons, concerning my poor soul. And this is man's apportionment all the days of his life, as the wise Ecclesiastes said: "There is nothing better for a man than that he should give requital for his soul,"[69] and again our Lord said in the holy gospels, "Watch, for you know not the day nor the hour;[70] you know not at what hour the master of the house will come."[71]

The citation of scripture in this extensive passage resembles its use within wills. Genesis 3:19 is quoted without strict regard to its context to express the transient nature of human life, and Matthew 25:13 similarly is used to gesture at the unpredictable time of one's death, just as it was in P.KRU 74. The impact of that insight is slightly different in P.KRU 106, however, as it motivates Anna to make an immediate generous donation to the monastery rather than to write down a testament that will ensure that her wishes are carried out after her death. Psalm 38:4 was also paraphrased in P.KRU 66 and 76, but the quotation is more explicitly marked here, as it is introduced with the words "as the holy prophet said (ⲛⲧⲁϥϫⲟⲟⲥ ⲛⲥⲓ ⲡⲉⲡⲣⲟⲫⲏⲧⲏⲥ ⲉⲧⲟⲩⲁⲁⲃ ϫⲉ

[65] James 2:13.
[66] James 5:16.
[67] Proverbs 20:9, cf. Psalm 142:2.
[68] Genesis 3:19.
[69] Ecclesiastes 2:24.
[70] Matthew 25:13.
[71] Matthew 24:42. P.KRU 106 lines 50-98. MacCoull (2009) translation.

ⲧⲁⲙⲟⲓ…)”[72] This indicates that Psalm 38 may have had wider use in Coptic legal documents, beyond its intensive use in P.KRU 66 and 76.[73]

In addition to these scriptural citations about the uncertainty of human life that have close parallels in Coptic wills, Anna’s donation contract also uses several biblical references to construct positive and negative archetypes of religious benefactors as well as endorse the fruits of her donation within the monastery. At the start of the above-quoted passage, Anna draws an analogy between herself and the widow who donated two mites in the gospels. She explains that God “opened my heart to cast in this my tiny little mite (ⲡⲁⲕⲟⲩⲓ ⲛⲁⲩⲡⲧⲟⲛ), according to the word of my Lord that He spoke in the holy gospels about the two mites of the widow that she cast into the treasury.”[74] Anna cites the fact that this story comes from the gospels and places herself in a position similar to that of the widow. The vocabulary used in this sentence suggests close familiarity with the story as told in the books of Mark and Luke, as the word for “mite, ⲗⲩⲡⲧⲟⲛ” and “treasury, ⲕⲁⲍⲱⲫⲩⲗⲁⲕⲓⲟⲛ” appear in both the Koine Greek and Coptic versions of those two gospels. Furthermore, these two words are extremely rare in other Coptic texts, with the former occurring only in one other documentary text, P.Ryl.Copt. 112b, a fragment of a New Testament manuscript from the Rylands collection, and the latter term only occurring in P.KRU 106.[75] These words were not in general use in other Coptic letters or legal documents; their presence here indicates that the author was well-acquainted with the vocabulary of the Greek or Coptic New Testament. Anna chose this widow as a Christian ideal of charity, who gave

[72] P.KRU 106 lines 59-60.
[73] This is consistent with the use of quotations the Psalms in other late antique contexts, such as amulets against illness. See De Bruyn (2017) p. 177 on collective habits in the selection of particular Psalms for amulets.
[74] P.KRU 106 lines 51-54. …ⲟⲩⲱⲛ ⲉⲡⲁϩⲏⲧ ⲉⲧⲣⲁⲛⲟⲩⲝ ⲡⲁⲕⲟⲩⲓ ⲛⲁⲩⲡⲧⲟⲛ ⲡⲁⲓ ⲉⲧⲥⲟⲭⲃ ⲡⲣⲟⲥ ⲡⲱⲗⲁⲝⲉ ⲙⲡⲁⲭⲟⲉⲓⲥ ⲛⲧⲁⲩⲭⲟⲟⲥ ϩⲛⲛⲉⲩⲁⲓⲧⲉⲗⲓⲟⲛ ⲉⲧⲟⲩⲁⲁⲃ ⲉⲧⲃⲉⲡⲗⲩⲡⲧⲟⲛ ⲥⲛⲁⲩ ⲛⲧⲉⲭⲏⲣⲁ ⲛⲧⲁⲥ ⲛⲟⲝⲟⲩ ⲉⲡⲕⲁⲍⲱⲫⲩⲗⲁⲕⲓⲟⲛ…
[75] Förster (2002) p. 144 and 469.

everything that she had to the temple in a gesture that Jesus praised. Anna's gift was substantial, encompassing her house and several other pieces of real property, so it is possible that she also was donating a substantial share of her possessions as part of this donation.

Anna goes on to offer a scriptural justification for her decision to donate her property to the monastery in particular, as she explains how the monastery's activities are in line with ideal Christian pursuits. She gives two reasons for donating to this specific monastery: so that its namesake Apa Paul will intercede on her behalf before God and so that her gift will further the monastery's ministry to the poor in the community.[76] Anna explains concerning the love (ⲁⲅⲁⲡⲏ) that the monastery shows towards the poor: "as the tongue of sweet-smelling incense, the holy Paul the apostle, said: 'Love never fails' and 'Mercy rejoices against judgement.'"[77] The citation of the apostle Paul as the "tongue of sweet-smelling incense" reveals a familiarity with the Pauline designations used in the writings of church fathers like Cyril.[78] The verses from 1 Corinthians and James are both word-for-word quotations of the corresponding verses in the Sahidic Coptic version of the New Testament. However, it is somewhat puzzling that the author attributes the verse from James to Paul, since the book of James traditionally is attributed to James the brother of Jesus, and the author identifies himself as James (or ⲓⲁⲕⲱⲃⲟⲥ) in James 1:1 of the Sahidic Coptic translation of the book. It is possible that this misattribution resulted from a simple slip of the mind, since she had just asked for Apa Paul of Kolol to intercede for her. These two verses serve to demonstrate that the monastery's mission to the poor is in accordance with the Christian values of love and mercy.

[76] P.KRU 106 lines 70-75. See MacCormack (1997) p. 669 on how Christian testamentary giving to the disadvantaged, poor, and widows furthered the social and political standing of the monastic houses and bishops who acted as their representatives.
[77] P.KRU 106 lines 76-78.
[78] MacCoull (2009) p. 168 n. 30.

Having provided a scriptural justification for her donation to the monastery in support of its ministry to the poor, Anna also explains why she must make a gift that will secure intercession for her soul. The author does not misattribute the second quotation from James, which is said to come from "what our fathers the holy apostles said in the holy catholic epistles." This verse, "The prayer of a righteous man avails much and is powerful,"[79] is also an exact quotation of the Sahidic Coptic New Testament. This citation helps to explain why Anna has confidence in the intercession of Apa Paul, despite the awful weight of her sins, which she describes in lines 83 to 87. Anna also cites Ecclesiastes "as the wise Ecclesiastes said: 'There is nothing good, other than what one gives in exchange for his soul.'"[80] This scripture is also taken out of context, as Ecclesiastes chapter 2 reflects primarily on the vanity of toil, but it serves to justify a large donation to a religious institution, based on the supposition that this act would secure salvation for one's soul.

Anna's donation contract also includes several references to scripture in the penalty clauses of the document, including the negative exemplum of Ananias and Sapphira as Christian donors who appear in several Coptic contracts. In addition to the typical monetary fines and threats of excommunication, the penalty clause also threatens anyone who would try to subvert the express intent of the contract with the following consequences:

> ...ⲁⲗⲗⲁ ⲉⲣⲉⲡⲥⲁϩⲟⲩ ⲛⲛⲉⲅⲣⲁⲫⲏ
> ⲛⲁⲉⲓ ⲉⲭⲱⲩ ⲛⲥⲉⲟⲭⲛⲉⲩ ⲙⲛⲛⲉⲧⲱⲟⲟⲡ ⲛⲁⲩ ⲧⲏⲣⲟⲩ ⲁⲩⲱ ⲛⲩⲱⲱⲡⲉ
> ϩⲁⲧϩⲟⲧⲉ ⲛⲧⲉⲥⲙⲏ ⲧⲁⲓ ⲉⲧⲭⲱ ⲙⲙⲟⲥ ϩⲙⲡⲉⲩⲁⲅⲅⲉⲗⲓⲟⲛ ⲉⲧⲟⲩⲁⲁⲃ ⲉⲧⲭⲱ
> ⲙⲙⲟⲥ ⲭⲉⲛⲁⲓ ⲙⲉⲛ ⲥⲉⲛⲁⲃⲱⲕ ⲉⲩⲕⲟⲗⲁⲥⲓⲥ ⲛⲱⲁⲉⲛⲉϩ ⲁⲉⲩⲁⲉⲣⲟⲛ
> ⲁⲉ ⲉⲩⲛⲁⲱⲱⲡⲉ ⲛⲱⲙⲙⲟ ⲉⲡⲉⲓⲱⲧ ⲙⲛⲡⲱⲏⲣⲉ ⲙⲛⲡⲉⲡⲛⲁ ⲉⲧⲟⲩⲁⲁⲃ
> ⲁⲩⲱ ⲛⲩⲭⲓ ⲙⲧⲙⲟⲓⲣⲓⲥ ⲛⲓⲟⲩⲁⲁⲥ ⲡⲉⲥⲕⲁⲣⲓⲱⲧⲏⲥ ⲡⲉⲛⲧⲁⲩⲡⲁⲣⲁⲇⲓⲇⲟⲩ
> ⲙⲡⲭⲟⲉⲓⲥ ⲁⲩⲱ ⲧⲙⲟⲓⲣⲓⲥ ⲛⲁⲛⲁⲛⲓⲁⲥ ⲙⲛⲥⲁⲡⲡⲓⲣⲁ ⲧⲉⲩⲥϩⲓⲙⲉ

[79] P.KRU 106 lines 80-81. ⲭⲉ ⲡⲥⲟⲡⲥⲡ ⲙⲡⲇⲓⲕⲁⲓⲟⲥ ⲟⲙⲟⲟⲙ ⲉⲙⲁⲧⲉ ⲁⲩⲱ ⲉⲩⲉⲛⲉⲣⲅⲉⲓ.
[80] P.KRU 106 lines 93-95. ⲕⲁⲧⲁ ⲟⲉ ⲉⲧⲣⲉⲥⲟⲫⲟⲥ ⲛⲉⲕⲕⲗⲏⲥⲓⲁⲥⲧⲏⲥ ⲭⲱ ⲙⲙⲟⲥ ⲭⲉⲙⲛⲁⲅⲁⲑⲟⲛ ⲛⲥⲁⲡⲉⲧⲉⲣⲉⲡⲣⲱⲙⲉ ⲛⲁⲧⲁⲁϥ ⲛⲱⲃⲃⲓⲱ ⲛⲧⲉϥ ⲯⲩⲭⲏ.

> … the curse of the scriptures will come upon him, and he will perish together with all that is his, and he will be in fear at this voice saying (as) in the holy gospels it says, "These, for their part, will go away into everlasting punishment."[81] And secondly, he will be a stranger to the Father and the Son and the Holy Ghost, and will receive the apportionment of Judas Iscariot, the one who betrayed the Lord, and the apportionment of Ananias and Sapphira his wife.[82]

This penalty clause is unusual in providing a direct quotation of scripture concerning the consequences for someone attempting to subvert Anna's intention to donate her property, as I have not found another Coptic legal document that inserts a verse of scripture into this clause, though oblique references are common. Anna clearly indicates the source of the verse: "in the holy gospels it says, 'These, for their part, will go away into everlasting punishment.'"[83] As with other New Testament scriptures in this donation document,[84] this is an exact quotation of a verse from the Sahidic Coptic scripture, in this case the 25th chapter of Matthew. The author's familiarity with this verse is further supported by the use of the rare Greek loanword ⲕⲟⲗⲁⲥⲓⲥ or "punishment", which occurs in only two other Coptic documentary texts,[85] one of which is also an intentional reference to this verse. The context of this verse describes the final judgement, at which the Son of Man will divide humanity into the sheep and the goats, based on whether they had helped the humble and poor during their lives. In this penalty clause, the judgement reserved for those who failed to help the hungry and imprisoned is invoked to punish those who seek to undermine Anna's donation agreement in the courts. It is possible that the author also intended to connect the context of this verse with the monastery's intended use of this offering to help the poor, as any attempt by Anna's relatives to divert these funds would undermine that mission.

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[81] Matthew 25:46.
[82] P.KRU 106 lines 194-200. MacCoull (2009) translation.
[83] P.KRU 106 lines 196-197. ⲉⲧⲭⲱ ⲙⲙⲟⲥ ⲥⲙⲡⲉⲩⲁⲓⲧⲉⲗⲓⲟⲛ ⲉⲧⲟⲩⲁⲁⲃ ⲉⲧⲭⲱ ⲙⲙⲟⲥ ⲭⲉⲛⲁⲓ ⲙⲉⲛ ⲥⲉⲛⲁⲃⲱⲕ ⲉⲩⲕⲟⲗⲁⲥⲓⲥ ⲛⲱϫⲉⲛⲉⲥ.
[84] The exact wording of the Old Testament passages is more difficult to confirm, as many books of the Coptic translation of the Old Testament do not survive or remain unedited.
[85] P.KRU 65 line 23 and P.Ryl.Copt. 407 line 9. Förster (2002) p. 428.

The penalty clause also invokes three biblical figures whose fate would befall someone trying to misappropriate her donation. These individuals are Judas Iscariot, the disciple who betrayed Christ, and Ananias and Sapphira, two members of the early church who were struck dead for lying before the Holy Spirit about the value of a piece of property whose sale price they were donating to the church.[86] These biblical figures appeared in other contemporary penalty clauses, with the "fate of Judas" also present in P.KRU 88, 90, and 98 and the "fate of Ananias and Sapphira in P.KRU 13, 17, 18, 88, and 94,[87] as well as *P.CLT* 1 and 9. Several of these documents involves donations to religious institutions, since P.KRU 13 is a deed of sale of house portions from a monastery to a private person for the purposes of charity, P.KRU 88 donates a healed child as a perpetual laborer at a monastery,[88] and P.KRU 18 is a deed of sale from one priest to another of property originally donated to a monastery. In these documents, Ananias and Sapphira take on the role of negative exempla for benefactors to the church, as they attempt to deceive the Apostles of the early church and hence perjure themselves before the Holy Spirit, earning the penalty of death. Invoking them within the penalty clause implies that anyone trying to misappropriate the property set aside as an offering in Anna's name would similarly be acting as dishonest donors and merit a similar fate.[89]

♦ ♦ ♦

Several of the wills discussed above documented important points of contact between the laity and monasteries and other Christian institutions. They showed how individuals donating to these

[86] Matthew 27: 3-10 and Acts 5:1-11.
[87] Richter (2008) p. 144.
[88] See Papaconstantinou (2002a) and (2002b) and Richter (2005) for this unusual type of Coptic legal document.
[89] See Rosé (2008) on how Ananias and Sapphira served as antithetical models for coenobitism in patristic and early medieval writers. Additionally, see Harrill (2011) for conceptions of perjury in the interpretation of this episode.

institutions also aligned themselves with their ideologies, even in a legal document where additions to the formulae were usually quite rare. In the second section of this chapter, I turn to documents produced within an episcopal chancery and monasteries in Upper Egypt. In these ostraca and papyri, Christian officials used the form of contracts and legally binding guarantees to record the appointing of church officers and keep track of obligations within the church. These documents also demonstrate the extent to which the members of these Christian bodies represented small groups, where powerful forces of social control were brought to bear, as demonstrated in legal documents drawn up between members of these organizations.

Christian ideology, such as a commitment to a particularly Christian form of marriage, appears in legal documents with close ties to Coptic monasteries beyond testaments. P.Bal. 152 (eighth century A.D.) is a relatively rare example of a Coptic marriage document.[90] The document involves the marriage of a man named Victor, who is the son of Makare, a priest and monk at the monastery of Apa Apollo in the nome of Sbeht (Greek Apollonopolis Parva). Victor appears to be a lay person who intends to marry Sophia from the town of Shotep (Greek Hypsele). Nonetheless, the document was drawn up within the monastery of Apa Apollo,[91] demonstrating Makare's continued influence over his family's affairs, despite the fact that he most likely lived apart from them in the monastery. Furthermore, the document was most likely stored in the monastery, given the archeological context in which this text was excavated and the monastic subjects of other texts found with it.[92] Makare also signs the wedding document along with his wife and another son in its concluding clause: "I Victor and his father and his mother

[90] Kahle (1954) notes only 4 other examples. See Förster (2002) p. 144, which shows that the loan-word ⲅⲁⲙⲟⲥ is also very rare in Coptic documentary texts, occurring only in this contract and in P.Pisentius 51.
[91] P.Bal. 152 line 3.
[92] Kahle (1954) pp. 15-21 and 570-571.

and his brother who have already written, we assent to this document."[93] The occasion of Victor's marriage involved going to the monastery where his father lived and securing his agreement on the marriage contract.

The ideological influence of this document's composition within a Christian institution is evident from the clauses of the marriage contract. Victor agrees that "I for my part (undertake) that I shall not despise you more than as it were my own body, nor shall I be able to throw you out without lawful cause."[94] This agreement uses language clearly rooted in Ephesians 5:28-31, a prominent New Testament passage defining the duties of Christian marriage, where the husband is exhorted to love his wife as he loves his own body, after the model of Christ's love for the church. The mention of "lawful cause [ⲛⲟⲙⲟⲥ ⲁⲓⲧⲓⲁ]" may also be a reference to Jesus' teachings in Matthew 19 that a man can only divorce his wife in cases of adultery, in sharp contrast to Roman law, which allowed for comparatively easy divorce.[95] Christian bishops and certain emperors attempted to enforce this strict standard in Late Antiquity, although the harsher divorce legislation was frequently repealed in the Eastern empire and moral urgings had limited success.[96]

In addition to documents concerning arbitration and church discipline, which were quoted and discussed in the previous chapter,[97] the Abraham of Hermonthis dossier also includes a number of documents that regulate the organization of his diocese using legal documents. These documents perform necessary functions within an ecclesiastical institution, such as the

[93] P.Bal. 152 lines 10-11. ⲁⲛⲟⲕ ⲃⲓⲕⲧⲱⲣ ⲙⲛ ⲡⲉϥⲓⲱⲧ ⲙⲛⲧⲉϥⲙⲁⲁⲩ ⲙⲛ ⲡⲉϥⲥⲟⲛ ⲛⲉⲧⲱⲩⲣⲡⲥ2ⲁⲓ ⲧⲛⲥⲧⲟ[ⲓ]ⲭ ⲉ[ⲡⲓ]ⲭⲁⲣⲧⲩⲥ.
[94] P.Bal. 152 lines 7-8. Kahle (1954) translation. ⲁⲛⲟⲕ 2ⲱⲧ ⲟⲛ ⲭ[ⲉ ⲛ]ⲛⲁ ⲕⲁⲧⲁⲫⲣⲟⲛⲓ ⲙⲙⲟ ⲙⲡⲁⲣⲁⲑⲉ ⲙⲡⲁⲥⲱⲙⲁ ⲙⲓⲛ ⲉⲙⲟⲓ ⲟⲩⲁⲉ ⲭⲉ ⲛⲛⲁⲉⲱⲛⲟⲭⲉ [ⲉ]ⲃ[ⲟ]ⲗ ⲁⲭⲛ ⲉⲧⲓⲁ ⲉⲣⲉⲛⲟⲙⲟⲥ ⲛ2ⲩⲧϥ.
[95] See Treggiari (1991) pp. 461-465 and Frier & McGinn (2004) pp. 160 and 169.
[96] Arjava (1996) pp. 177-189.
[97] pp. 114-133 this volume.

appointing of new church officers. These documents also demonstrate small group sociology and social control within these ecclesiastical bodies, in that prospective church officers must engage with the language and practices of Roman law if they want to participate in the church hierarchy, and they needed to draw on a network of guarantors who would also have an interest in monitoring their behavior.

One of the best examples of these small groups within the clergy is P.Berl.Inv. 12489 (early seventh century), in which five individuals, at least two of whom are clergy, give a guarantee for two newly ordained deacons. They agree to accept liability for the deacons' wrongdoings and to ensure that they carry out the training and preparation associate with their new office. The text reads as follows:

R: [†ⲉⲡ]ⲉⲓⲇⲏ ⲁⲛⲡⲁⲣⲁⲕⲁⲗⲉⲓ ⲛ̅ⲧⲉⲕⲙ̅ⲛ̅
[ⲧ ⲉⲓⲱ]ⲧ ⲉⲧⲟⲩⲁⲁⲃ ⲉⲧⲣⲉⲕⲭⲓⲣⲟⲇⲟ̣ⲛ̣ⲉ̣ⲓ̣
[ⲛ ⲓⲱⲁⲛⲛ]ⲏ̣ⲥ ⲛⲇⲓⲁⲕ/ ⲙ̅ⲛ̅ ⲁⲭⲓⲗⲏⲩ ⲧⲉⲛⲟⲩ
ⲧⲛ̣̅ϣⲧⲱⲣⲉ ⲙ̅ⲙⲟⲟⲩ ⲉⲧⲣⲉϩⲁⲣⲉϩ ⲉⲛⲉⲛⲧⲟ
ⲗⲏ ⲛⲥⲉ ϫⲱⲣ ⲡⲉⲩⲁⲅⲅⲉⲗⲓⲟⲛ ⲛ̅ⲥⲉⲣⲛⲉⲩ
ϣⲗⲏⲗ ⲁⲩⲱ ⲛ̅ⲥⲉ ⲁⲙⲁϩⲧⲉ ⲙ̅ⲡⲉⲑⲃⲃⲓⲟ ⲙ̅ⲛ̅
ⲧⲕⲁⲧⲁⲥⲧⲁⲥⲓⲥ ⲙ̅ⲡⲙⲁ ⲉⲧⲟⲩⲁⲁⲃ ⲛ̅ⲥⲉϫⲱⲕ
ϩⲙⲉ ⲛ̅ϩⲟⲟⲩ ⲉⲃⲟⲗ ⲉⲩⲛⲏⲥⲧⲉⲩⲉ ⲉⲩⲉⲓⲣⲉ ⲛ̅ϣⲉ ⲛ̅
ⲥ̣ⲟⲡ ⲛ̅ϣⲗⲏⲗ ⲙ̅ⲙⲏⲛⲉ ⲁⲩⲱ ⲉⲧⲙ̅ ϫⲱϩ ⲉⲡ
[ⲉ]ⲩ ⲙⲁⲛ̅ⲛ̅ⲕⲟⲧⲕ ⲛ̅ϩⲙⲉ ⲛ̅ⲏⲟⲟⲩ ⲁⲩⲱ ⲛ̅ⲧ[ⲛ]
[ⲣ]ⲟⲉⲓⲥ ⲉⲧⲉⲡⲓⲥⲧⲏⲙⲏ ⲛ̅ⲧⲙⲛⲧⲇⲓ
ⲁ̣ⲕ/ ϩⲛⲑⲃⲃⲓⲟ ⲛⲓⲙ ⲁⲩ̣ⲱ
ⲛ̣̅ⲧⲛ̅

V:[ϩⲁⲣⲉϩ ⲉ]ⲛⲕⲁⲛ[ⲱⲛ] ⲛⲧⲉ[ⲕⲕ]
[ⲗ]ⲏ̣ⲥⲓⲁ ϩⲛ̅ⲟⲩ†ϩⲧⲏϥ ⲁⲛⲟⲕ
[ⲓⲱ]ⲁⲛⲛⲏⲥ ⲙ̅ⲛ̅ⲁⲭⲓⲗⲉⲩ ⲧⲛ̅ⲥⲧⲟⲓ̣
ⲭⲉⲓ ⲉⲛⲉⲓⲕⲁⲛⲟⲛ ⲙⲛ̅ⲛⲉⲓ ⲛⲟ̣ⲙⲟⲥ
[ⲛⲧⲁ]ⲕ̣ ⲧ̣ⲁⲁⲩ ⲉⲧⲟⲟⲧⲛ ⲛ̅ⲧⲛ ⲁⲁⲩ
[ⲁⲛⲟ]ⲕ ⲑⲉⲟⲇⲱⲣⲟⲥ ⲡⲡⲣ̣ⲉⲥⲃ ⲙⲛ ⲁⲡⲁ ⲃⲓⲕⲧⲱ[ⲣ]
[ⲡⲡⲣ]ⲉ[ⲧⲟⲕ]ⲧⲓⲥⲧⲏⲥ ⲧⲛ̅ ϣⲧⲱ ⲙⲟⲟⲩ ⲛ†ϩⲉ
[ⲁⲛ]ⲟⲕ ⲡ̣ⲁ̣ⲩ̣ⲗⲟⲥ ⲡⲉⲓⲱⲧ ⲛⲓⲱⲁⲛⲛⲏ̣ⲥ̣ †ϭⲛ̣
[ⲁⲩⲛ]ⲉ̣ⲩ̣ⲉ̣ ϩ̣ⲁ̣ⲡⲁ̣ ϣⲏⲣⲉ ⲁⲩⲱ ⲡ̣[ⲉϥ]ⲛⲟⲃⲉ
[ϩ]ⲓϫⲱⲓ ⲁⲛⲟⲕ ⲭⲣⲓⲥⲧⲟⲫⲟ̣ⲣ̣ⲟ̣ⲥ̣ [†ϭⲛ]ⲇⲩⲛⲉ̣ⲩ̣
[ⲉ ϩⲁⲣⲟⲩ] ⲁⲩⲱ ⲡ̣ⲉ̣ⲩ̣[ⲛⲟⲃ]ⲉ [ϩⲓϫⲱⲓ ⲁⲛⲟⲕ]
[ ] †ϭⲛⲇⲩⲛⲉⲩⲉ ϩⲁⲡⲁ[ⲥⲟ]ⲛ

> After having asked your holy fatherhood to ordain John and Achilles as deacons, we now make a guarantee for them, that they keep the commandments and study the gospel and say their prayers, and that they stand in humility and the (existing) order of the holy place, and complete 40 days fasting by praying 100 prayer cycles daily and for 40 days not touching their sleeping place, and that they adhere to the profession of the ministry in all humility and that they keep the canons of the church carefully. I [sic], John, and Achilles, we are in agreement with these canons and these commands that you have given us to do. I, Theodore, the priest and Apa Viktor, the monastic founder, we vouch for them in this way. I, Paul, the father of John, take over the liability for my son, and his offense (come) on me. I, Christophorus, accept liability for them, and their misdeeds come upon me. I, NN, accept liability for my brother.[98]

The use of a legal form and language is striking in an ecclesiastical document that is not concerned with arbitration and is presumably internal to the community of Christian clergy. The guarantors, Theodore, Victor, Paul, Christophoros, and an individual whose name does not survive, provide a formal legal guarantee on this occasion of the ordination of John and Achilles as deacons. The recipient of the guarantee is not named, but he is addressed as "your holy fatherhood (ⲉⲓⲱⲧ ⲉⲧⲟⲩⲁⲁⲃ)," and is most likely Abraham of Hermonthis, since a bishop ordained clergy and this document was found with other Abraham ostraca.[99] The five guarantors "give security"[100] that the deacons will complete the vigil associated with their ordination and obey the canons of the diocese. The document lays out the requirements for John and Achilles in detail, providing by extension the exact conditions that would result in the guarantee being violated. In their signatures, three of the guarantors state further that they "accept liability for them, and their misdeeds come upon me." This is less specific than the consequences for violation of the penalty clauses in contemporary legal documents. These do not seem to be penalties that would be enforceable in a court. Rather, the use of the theologically weighty idea of the sins (ⲛⲟⲃⲉ) of the deacons coming upon their guarantors suggests that the concept of a

[98] P.Berl.Inv. 12489. Translation after Krause (1956) p. 33.
[99] Krause (1956) p. 33.
[100] ϣⲧⲱⲣⲉ, equivalent of Greek ἐγγυάω.

legal relationship of guarantor was a useful way of figuring the spiritual responsibility that these sponsors were undertaking for the newly appointed deacons. Legal forms and documents were present in the social imaginary of this group of clergy in a way that made it a natural mode of expressing the responsibilities of individuals appointed to religious offices.

This use of the form of a legal guarantee within Christian institutions appears in other documents in Abraham's dossier. P.Berl.Inv. 8700 is a guarantee given by a deacon to Abraham for the good behavior of a third party. The text reads as follows:

> R: † ⲁⲛⲟⲕ ⲡⲉⲧⲣⲟⲥ ⲇⲓⲁⲕ/
> ⲉϥⲥϩⲁⲓ ⲉⲧⲟⲟⲧϥ ⲙ̄ⲡⲁ
> ⲉⲓⲱⲧ ⲁⲡⲁ ⲁⲃⲣⲁϩⲁⲙ ⲡⲉ
> ⲡⲓⲥⲕ/ ⲭⲉ ⲧⲱⲧⲱⲣⲉ ⲉ
> ⲧⲱ ⲟⲧⲕ̄ ⲭⲛ̄ ⲙ̄ⲡⲟⲟⲩ
> ⲉϩⲣⲁⲓ ⲉⲧⲉ ⲥⲟⲩ ⲭⲟⲩⲱϣⲓⲥ
> ⲙ̄ⲡⲁⲓⲱⲛⲉ ⲛⲁϩⲣⲙ ⲡⲉⲧⲣⲟⲥ̣
> ⲡⲗⲁⲱⲁⲛⲉ ⲭⲉ ⲉⲕⲱⲁⲛⲁ
> ⲛ̣ⲁⲩ ⲙ̄ⲡⲉⲑⲟⲟⲩ ⲉϩⲟⲩⲛ
> ⲉⲑⲉⲟⲇⲟⲣⲟⲥ̣
> ⲧⲟ̄ⲛ ⲧⲛⲛⲟ
> ⲛⲧⲁⲭⲓⲧ
>
> V: ⲉⲡⲉⲧⲉⲙⲓⲁ ϩⲁ
> ⲣⲟϥ ⲁⲩⲱ ⲟⲛ
> ⲛ̄ϥ ⲧⲉⲛⲧⲟⲗⲏ ⲙ̄
> ⲡⲛⲟⲩⲧⲉ ⲁⲛⲟⲕ ⲡⲉ
> ⲧⲣⲟⲥ ⲡⲇⲓⲁⲕ/ ⲧⲥⲧⲟⲓⲭ/
> † ⲁⲛⲟⲕ ⲑⲉⲟⲇⲱⲣⲟⲥ ⲧⲥⲧⲟⲓ/
>
> I, Peter the deacon. He [sic] writes to father Abraham the bishop. I will give you a guarantee from this day on, the 29th day of the month Paone, under the *lashane* Peter: if you see evil in Theodore, I will [...] and receive punishment for him and also his divine commands. I Peter the deacon, I agree. I Theodore, I agree.[101]

This document contains a lacuna and is more laconic than the previous text. Consequently, it is more difficult to determine the exact purpose for which Peter is giving a guarantee for Theodore. He uses the same legal verb for serving as a guarantor, ⲱⲧⲱⲣⲉ, and states that the penalty

[101] P.Berl.Inv. 8700. Translation after Krause (1956) p. 33.

(ⲉⲡⲉⲧⲉⲙⲓⲁ=ἐπιτιμία) for wickedness on the part of Theodore will fall on Peter. It is possible that Theodore was appointed to an ecclesiastical office, as in P.Berl.Inv. 12489. In any event, the same guarantor form was used to make one Christian spiritually accountable for the sins of another, and the imitation of a legal document is enhanced by the explicit mention of the exact date and current *lashane*. The document is also signed by both men, ratifying Peter's accountability for Theodore within this social group.[102]

Christian bishops also made church officers responsible for the sins of their congregants when they ordained them using the language of legal documents. Abraham's dossier includes a series of seven surviving appointment certificates for priests and deacons within his church, which all use very similar language to one another.[103] These documents take the form of letters from Abraham to the newly appointed clergyman; they instruct the deacons and priests to discipline the members of their congregation who are now under their pastoral care. The final clause of each letter resembles the structure of a penalty clause from a legal contract: "If you see any neglect in that place and you overlook (it), their judgment will come upon you from the judgment seat of God."[104] This clause lays out a possible infraction of the cleric's duties of pastoral care and also offers a corresponding punishment, that their judgement (ⲉⲡⲉⲩⲕⲣⲓⲙⲁ=κρῖμα) would come upon the priest or deacon instead. This reference to punishment before the "judgement seat of God (ⲃⲏⲙⲁ ⲙⲡⲛⲟⲩⲧⲉ)" is common in penalty clauses for cases of violation of more extensive Coptic contracts and testaments, as we saw in the first section of this chapter. The penalty clause directed at clergy from Paham's will is an especially relevant

[102] See MacCormack (1997) pp. 655-656 for the related practice of requiring baptismal sponsors who stood surety for the character and conduct of the newly baptized individual.
[103] P.Berl.Inv. 12488, 12500, and 12507; O.Crum 57, 58, and 63; and O.Moscow.Copt. 76.
[104] P.Berl.Inv. 12500 lines 15-18. [ⲉⲓ]ϫⲱⲕ ⲉⲕⲱⲁⲛⲛⲁⲩ ⲉⲕⲁⲫⲣⲟⲛ[ⲏ]ⲥⲓⲥ ⲛ̅ⲥⲟⲩⲛ ⲙ̅ⲡⲙⲁ ⲉⲧⲙⲙⲁⲩ ⲛⲅ̅ⲟⲃ[ⲱ]ⲕ ⲉⲡⲉⲩⲕⲣⲓⲙⲁ ⲙⲁⲱⲱⲡⲉ ⲉⲓϫⲱⲕ ⲉⲓⲡⲃⲏⲙⲁ ⲙⲡⲛⲟⲩⲧⲉ

comparison, since these letters are also intended to discourage abuse and neglect on the part of church officers. This same vocabulary and concept of divine punishment for neglecting a duty was also deployed in these letters which ordained clergy and laid out their duties of pastoral care.

Legal document forms were used for other institutional functions within the Coptic Christian diocese, such as the assignment of specific clerical duties. P.Berl.Inv. 12501 is one example in which priests from the city of Jeme contract with Abraham to perform baptism within the city. This ostracon was excavated in 1911 north of the present day German house rather than at the monastic site of Deir el-Bahari, nevertheless it is addressed to Abraham by name and certainly comes from the context of the monastery of Apa Phoibammon.[105] The contract reads as follows:

R: † ⲁⲛⲟⲛ ⲡⲉ ⲕⲗⲏⲣⲟⲥ ⲧⲏⲣⲩ ⲛⲁ̅
ⲏⲙⲉ ⲉⲛⲥⲁⲓ ⲙⲡⲉⲛⲉⲓⲱ[τ] ⲉⲧⲟⲩ[ⲁ]
ⲁⲃ ⲁⲡⲁ ⲁⲃⲣⲁⲍⲁⲙ ⲡⲉⲡⲓ̈ⲕⲟⲛ[ⲟⲥ]
ⲭⲉ ⲍⲁⲙⲁ ⲙ̅ⲡⲱⲟⲙ̅ⲛ̅ⲧ ⲛⲃⲁⲡⲧⲓⲥⲙ̣[ⲁ]
ⲉⲧⲉ ⲱⲁⲩ ⲱⲱⲡⲉ ⲍⲙ̅ⲡ†ⲓⲙⲉ ⲧ̅ⲣⲣⲟⲙ[ⲡⲉ]
ⲕⲁⲧⲁⲡⲉⲑⲟⲥ ⲙ̅ⲡ†ⲓⲙⲉ ⲧ̅ⲛⲟⲛⲍⲉ[ⲧⲟⲓ]
ⲙⲟⲥ ⲛⲧ̅ⲛⲁⲍⲉ ⲉⲣⲁ̅ⲧⲛ̅ ⲉⲣⲟⲟⲩ ⲛⲧ̅ⲛ̅
ⲡⲣⲟⲥⲉⲭⲉ ⲉⲣⲟⲟⲩ ⲡⲥⲙⲟⲩ ⲉⲧⲉⲣ
ⲉⲡⲛⲟⲩⲧⲉ ⲛⲁ̅ⲛ̣ⲧ̣ ⲉⲍⲟⲩⲛ ⲍⲛ̅ⲟ̣
ⲉⲓⲕ ⲍⲛ̅ ⲏⲣⲏ̅ ⲍⲛ̅ ⲉⲃⲣⲁ ⲉⲧⲛⲁ
ⲱⲱⲡⲉ ⲛ̅ⲍⲏⲧⲟⲩ ⲙ̅ⲡⲱⲟⲙ
ⲛⲧ ⲙ̅ⲛ̅ⲛⲥⲁⲧⲣⲉⲛ †
ⲡ ⲁⲛⲍⲁⲗ ⲱⲙⲁ
ⲡⲥⲙⲟⲩ ⲉⲧⲉⲱⲱⲡⲉ
ⲧⲡⲏⲱⲉ ⲉⲣⲟ
ⲛⲧⲡⲏⲱ
ⲉ

V: ⲉⲣⲟⲕ ⲉⲣⲉ ⲡⲛⲟⲩⲧⲉ ⲍⲛⲧ̣ⲛ̣
ⲙⲏⲧⲉ [ ] ⲁⲩ
ⲍⲛⲁⲩ ⲛ [ ] ⲡⲥ
ⲉⲭⲛ [ⲁⲛⲟⲛ]
ⲡⲉⲕⲗⲏⲣⲟⲥ [ⲧⲏⲣⲩ ⲛⲭⲏⲙⲉ ⲧⲛⲥⲧⲟⲓⲭⲉ]
† ⲁⲛⲟⲕ [†ⲥⲧⲟ]
ⲓⲭⲉ [ⲁⲛⲟⲕ †ⲥⲧⲟⲓⲭⲉ]

[105] I am very grateful to Matthias Müller for this point. See Anthes (1943) pp. 22 and 25.

ⲉⲡⲉⲓ [ ]
† ⲡⲁⲩ[ⲗⲟⲥ ⲧⲥⲧⲟⲓ]
ⲭⲉⲓ [ ]
† ⲡⲉⲧⲣⲟⲥ ⲡⲇⲓⲁⲕ/
ⲧⲥⲧⲟⲓⲭⲉⲓ

> We, the whole clergy of Jeme, write to our holy Father, Bishop Apa Abraham: concerning the three baptisms that take place annually in the city according to the custom of the city, we are ready to carry them out and take care of them. The blessing, which God will put into bread, wine and oil, will be part of them, the three [baptisms]. After that we will pay the expenses. The Sacrament that takes place, one half for us, the other for you, where God is in our midst [...] We, the entire clergy agree. I NN agree[…] I NN agree with these[…] Paulus […] agree, Peter the deacon agrees.[106]

The signatures on the back of the document are lacunose, but the surviving words make clear that they are all different hands, some of which are actually written in different directions and planes of the surface of the limestone slab. This indicates that signatures were collected from priests and deacons of the village in person, possibly at some sort of gathering at Abraham's chancery. The use of a contract that each member of the clergy signed and "agreed to (ⲥⲧⲟⲓⲭⲉ)" in order to provide for baptisms in the village, rather than a brief internal memorandum, provides further indication that the forms of legal documents were used to manage the internal business of Abraham's chancery. The contractual form is used throughout the document, with the two parties named at the beginning and the undertaking written out using a promise in the first person. The document also provides information about religious practice in Jeme, revealing that baptisms occurred thrice yearly and that this was the "custom (ⲉⲑⲟⲥ)" of the town. The reference to half portions divided between the clergy and Abraham is obscure, but Ewa Wipszycka has proposed that the two parties were dividing the customary offerings of the newly baptized and their families in this text.[107]

[106] P.Berl.Inv. 12501. Translation after Krause (1956) p. 148.
[107] Wipszycka (1972) p. 73.

Another example of the use of a contract to regulate the relationship between an individual cleric and a Christian institution is P.Ryl.Copt. 153. This document is fragmentary, but from its surviving portions it seems that a priest named Theodosius agreed to give some portion of the offerings that he received over the course of his preaching to the monastery of St. Colluthus. As in P.Berl.Inv. 12501, Theodosius concluded the document with a formal legal signature: "† I Theodosius the most humble priest agree to the contract."[108] This document indicates that Abraham of Hermonthis was not unique in using the form of legal documents to regulate the activities of clergy within his diocese.

In conclusion, this chapter has examined the use of scriptural citation and evidence of social control through Coptic wills and donation documents in order to understand better the small groups constituting families and congregations in Late Antique Egypt. This material raises several questions of religious and economic history, in addition to the relatively narrow legal topics that I have examined in this chapter. For instance, are there any earlier examples of individuals bequeathing sums of this size to religious institutions? Hellenistic and Roman Egypt records examples of generous votive offerings, and occasionally individuals would leave their entire estate to the imperial fisc, but a testatrix like Tsible or Anna choosing to leave her entire estate to a religious institution rather than one of her family members could represent a radical change in how real property accumulated across generations.[109] Furthermore, the involvement of religious officers throughout this process, as scribes and notaries who drew up these donation

[108] P.Ryl.Copt. 153 line 6. † ⲁⲛⲟⲕ ⲑⲉⲟⲇⲟⲥⲓ ⲡⲓⲉⲗⲁⲭ/ ⲡⲡⲣⲉⲥⲃⲩⲧ/ †ⲥⲧⲟⲓⲭⲉⲓ ⲧⲓⲥⲟⲙⲟⲗⲟⲅⲓⲁ †
[109] See Banaji (2001) p. 118-128 for some passing considerations on this topic. See also MacCormack (1997) pp. 659-665 for literary evidence of changes in inheritance practices brought about by Christianity and imperial legislation responding to these changes. This legislation often permitted large bequests to the church, even when the size of these donations would have violated rules of classical Roman jurisprudence governing testamentary bequests.

documents and then in some cases stored these documents within their monasteries,[110] represents a striking development in these religious institutions.

The growth of monasteries as legal and economic institutions in addition to their religious role was facilitated in part by donations from community members and the sociological forces that may have helped motivate these donations. The language and clauses of these legal documents was another landscape in which these institutions showed their influence in Late Antique Egypt. Furthermore, the Abraham of Hermonthis dossier indicates several points of contact between legal practice and these religious institutions. Abraham recorded the institutional arrangements of his diocese using legal document forms, demonstrating that the language and forms of law providing powerful conceptual tools for structuring social relationships within the religious institutions of Late Antique Egypt. These two bodies of texts form a symmetrical contrast to each other: just as religious norms were persuasive as a justification for leaving a particular disposition of property on one's death, so too the language of legal documents conferred legitimacy and solemnity on the actions of a bishop. Together, these two types of evidence affirm that legal language and document forms remained important in structuring social relations in the early Islamic period, even as the norms of Christian theology and scripture began to affect the ends to which legal practices like the creation of wills were directed.

[110] This was more likely to occur in documents that directly concerned the monastery, like donation documents and the administrative documents used with Abraham's chancery, than documents of private individuals who were not associated with the monastery. See Cromwell (2017) pp. 60-66. A large number of Greek and Coptic papyri, including Coptic secular contracts from Jeme, have been attributed to a single box found in the Monastery of Phoibammon in the 1850's, but Vorderstrasse (2015) pp. 418-419 demonstrates on the basis of acquisition dates and archive reconstruction that all of these documents could not have come from this box.

Conclusion

This study offers correctives to three aspects of the current state of scholarship on the legal history of Coptic Christian communities in late antique Egypt. I assert that arbitration and adjudication played complementary roles, with the former framing itself in relation to the imperial state, and demonstrate how legal arguments and reasoning in this period, unlike earlier periods, were shaped by the inclusion of Christian norms. First, this dissertation has called into question the institutional role that other scholars have assigned to arbitration in this period. Both Mikhail and Schiller describe the sixth century and afterwards as a period in which the Coptic Christian communities of Egypt chose to have disputes arbitrated by their co-religionists rather than litigate cases before secular magistrates, who were suspect because they held different doctrinal positions[1] or because the locus of social authority had shifted from imperial officials to religious officers.[2] A closer examination of *dialysis* agreements and other evidence for dispute resolution in this period reveals that arbitration and adjudication actually existed in a complementary relationship. In many instances, cases that were being litigated before an imperial court were settled by an arbiter or settlements recorded in arbitration agreements were subsequently taken up in the formal court setting when one party violated the terms of the contract. Furthermore, arbitration as an institution was especially useful for solving disputes within Christian institutions without publicizing those disputes beyond that community. At the same time, the creation of a formal arbitration agreement allowed both parties the opportunity to take up the dispute in an imperial court in the event of non-compliance. Rather than marking a break or end of a legal regime, arbitration actually played an important role in extending the

[1] Schiller (1971).
[2] Mikhail (2014).

Roman imperial legal regime into Coptic Christian communities in early Islamic Egypt. The formal characteristics and authenticating features of Greco-Roman legal instruments remained important for signaling legal validity in this period. The Budge Papyrus is modeled after Roman court proceedings as a verbatim record of an arbitral proceeding, which is only one example of the ways in which social knowledge was recorded using the same types of practices and instruments that were used during the previous imperial administration.

Second, recognizing that arbitration and adjudication worked in complementary ways, rather than asserting that one replaced the other in a straightforward progression, requires a more nuanced understanding of the way that arbitral or ecclesiastical authority frames itself in relation to the imperial state. In both literary representations and legal documents, clerics serving as arbiters adopted a number of imperial symbols, norms, and processes in order to validate their authority to resolve disputes within their communities. This was the case in the works of hagiography examined in Chapter 1, in which holy men acknowledged the executive authority of imperial magistrates and endorsed state-based methods of recording social knowledge, such as legal instruments and reports of proceedings. It was also the case in documentary papyri, which recorded the decisions of clerical arbiters using elaborate *dialysis* agreements that could be enforced in the formal court setting and adopted the rhetorical and formal qualities of secular petitions in appealing to bishops and other figures of spiritual authority. In these arbitral contexts, Christian authority was modeled after a state-based nexus of social influence and adopted many of its core features in figuring authority and constructing social knowledge.

Third, this dissertation has emphasized aspects of the legal pluralism of late antique Egypt that did not exist in earlier periods of Greco-Roman rule. These include the importation of Christian norms such as citation of Scriptural authority and the prestige of Christian officials into

these formal settings, shifting the types of legal arguments and reasoning that were thought to be persuasive. This was the case in the Budge Papyrus, in which one disputant offered a line of argument explicitly grounded in Christian sources of authority in hopes that the arbiters would value these sources above the notarial standards put forward by his opponent. It was also the case in Coptic wills that quote scripture extensively and were drawn up by monastic scribes. These documents often left large bequests to monastic institutions and thus disrupted the normal course of inter-generational property transfer and required a strongly articulated rationale to explain this shift to themselves. The testators asserted that they had considered the fate of their soul in the face of a serious illness and decided that the spiritual gains that could be realized from contributing to a monastery and helping to care for the poor outweighed any material gains for them or their families.

Furthermore, there is reason to suspect that these testators did not innocently arrive at this disposition of their property, but rather they were influenced by monastics who drew up their wills and donation documents and may have been compromised by considerations of what would best benefit their own institution. There may have been a systemic bias towards leaving property to monasteries when these clerics could influence testators using threats of divine punishment and draw up extensive wills and donation documents on their behalf. In fact, it is even possible that Coptic wills survive in much greater numbers than wills from previous periods precisely because monasteries needed to retain a written legal instrument to protect their title from challenges by family members who would receive the estate based on the rules of intestate succession. Religious institutions used the rhetoric of Christian charity to great effect, as we saw in the lawsuit between the Apion house and the Monastery of Apa Hierax in Chapter 2.[3] In that

[3] pp. 100-106 of this volume.

case, the monastery was able to convince Flavius Strategios II to abandon his better legal claim and donate the property at issue to the monastery using the language of pious benefaction. This shift in the norms that guided the ways that testators drew up their wills had significant politico-economic consequences as it shifted real property to monastic institutions that were then poised to play a central role in their communities as holders of property and political authority. There remains much ground to cover regarding the growth of ecclesiastical estates and the real property holdings of monasteries in late antique Egypt. For instance, a study of these wills and donation documents as well as leases from tenants of the church where they survive and tax records from the Byzantine and early Islamic period would reveal more information about the growth of church institutions as holders of real property. Some scholarly attention has been devoted to documenting the growth of church property and revenues in fourth to sixth century Egypt,[4] but an attempt to follow the growth of church property into the early Islamic era and to connect it with the appeals and rationales for donation found in legal documents would constitute a valuable contribution to this topic of research.

Dispute resolution and legal practice in late antique Egypt was characterized by a plurality of legal norms. Greco-Roman procedure and document forms remained appealing for conducting transfers of property and disputes that arose from them, as demonstrated by the fact that clerics arbitrating disputes retained these procedures and signals of legitimacy. Christian norms such as scripture and social networks among clerics also affected how disputes were resolved and the ends towards which legal transactions were directed. Arbitrations conducted in Christian sanctuaries, oaths sworn in the name of saints, and citation of scripture all characterized legal practice in early Islamic Jeme. Arbitration and continuity of the formal

[4] Bagnall (1993) pp. 289-293.

qualities of written legal instruments allowed the Roman imperial legal regime to persist within Coptic Christian minority legal culture across important political breaks including doctrinal conflict with the Byzantine court after the Council of Chalcedon, the conquest of Egypt, and the first two centuries in which the Caliphate ruled Egypt. The move into arbitration as a less formal institutional context for dispute resolution allowed for some evolutions in legal practice, such as the use of scripture in wills and Christian oaths as a form of proof. On the whole, however, the involvement of Christian clergy and monastics in legal practice required these clerics to model themselves after Roman judges, notaries, and estate holders, rather than providing a form of mediation that was drawn purely from their spiritual authority and the precepts of their faith.

APPENDIX

Abraham of Hermonthis Dossier Translations, listed by inventory number

P.Berl.Inv 8697:

I, Abraham the bishop: Zacharias and Constantine told me: “We found the vessel of wine under the chest in the interior of the sanctuary, in the enclosed space. We thought, that it was water. I, Zacharias, when I tasted it, I noticed that it was wine. I set it aside…” But when I asked, they told me that the Priest Jacob had deposited it. I Abraham the bishop, Zacharias and Constantine said these words to me in this way.

P. Berl. Inv.8699:

I [sic], Hatre and Pebo and Johannes, we write to our father, the bishop Apa Abraham. Until Thoth, if we do not build the church, we are ready to… and come to you. I, Pebo and Hatre and Johannes, we agree.

P. Berl. Inv.8700:

I, Peter the deacon. He [sic] writes to father Abraham the bishop. I will give you a guarantee from this day on, the 29th day of the month Paone, under the *lashane* Peter: if you see evil in Theodore, I will [...] and receive punishment for him and also his divine commands. I Peter the deacon, I agree. I Theodore, I agree.[1]

P.Berl.Inv. 8703:

At the beginning of the letter, we worship your sacred and honored paternity, and we greet our beloved brother, Father Apa Viktor, and all who are with you. But the main thing is, be kind and pray for us so that we can escape temptation in this difficult time. Farewell in the Lord. To Bishop Abraham. From his most humble son.

P. Berl. Inv.8727:

First I greet your sonship. The Lord bless you through God’s mercy. God gave us the good *lashanes* [i.e., village headman] and those who rule amidst the people. When therefore he came now to our humbleness with his brothers and the great men and all the people of the town, we asked their sonships that there would be peace amidst you together with them at once. For it is written: "Who destroys war, establishes peace." When we asked them for peace, they said, "Be so good as to write to them, “We agree on peace”. Be so good as to send us the outcome of the matter as it is. May the Lord bless you and give you peace with those who are amidst you at once.” Be so good to us and send me the outcome, how you want to talk to them by God. I pray for the well-being of all of you. Give it to my pious children, Apa Victor and all the great men together, from Abraham, the most humble.[2]

[1] Translation after Krause (1956) p. 33.

[2] Also published as BKU II 318. Modified Schmelz (2014) translation.

P. Berl. Inv.12486:

> R: I, Athanasius, the priest. Since I was disobedient towards you, you excluded me from service. I came to you, I beseeched you to readmit me to service. You told me to memorize a portion of the book of the Gospel. Now I give a guarantee to you that I will memorize a portion of the book, by the end of the month of Phaophi. If I do not learn it, then I will be expelled from the clergy [ἀπόκληρος]. And I come and watch my place for the day and you will not find pride with me and I teach the priests to administer communion. I, Athanasius the priest, agree to the contract and …

P. Berl. Inv.12488:

> First, now, I greet your sonship. See, I appoint you in substitution of Apa Ananias. Now be so good and give heed to the neglect, which happens within that place and stop them, so that they do not do it, but teach them to walk in the fear of God. But he who should be disobedient towards you out of the clergy or the laity, exclude him from the sacrament until he comes to me. Furthermore, be an authority and behold, all their care rests upon you. If you see any neglect in that place and you overlook (it), their judgment will come upon you from the judgment seat of God.
> To our son Pesynthios
> From Bishop Abraham

P. Berl. Inv.12489:

> After having asked your holy fatherhood to ordain John and Achilles as deacons, we now make a guarantee for them, that they keep the commandments and study the gospel and say their prayers, and that they stand in humility and the (existing) order of the holy place, and complete 40 days fasting by praying 100 prayer cycles daily and for 40 days not touching their sleeping place, and that they adhere to the profession of the ministry in all humility and that they keep the canons of the church carefully. I [sic], John, and Achilles, we are in agreement with these canons and these commands that you have given us to do. I, Theodore, the priest and Apa Viktor, the monastic founder, we vouch for them in this way. I, Paul, the father of John, take over the liability for my son, and his offense (come) on me. I, Christophorus, accept liability for them, and their misdeeds come upon me. I, NN, accept liability for my brother.[3]

P. Berl. Inv.12491:

> R: First I greet your sonship. May the Lord bless you. See the men of Timamen have opposed me. They have destroyed my canons, they have thrown the clergy into the canal. When I asked them, "Why did you throw the clergy into the canal?" They raised their voices against me. And I have not been able to find a man who can put them in line behind me whether bishop or *riparius* or any other man. For it is written: "That which no one has done they have done to me" and "It

[3] Translation after Krause (1956) p. 33.

is not possible to be slave to two masters." Each man who uses violence destroys the gospel.
V: They were unashamed and they abandoned the command of the Lord and they abandoned my canons, I have undergone violence and place them in line behind me and I sent and I stopped the Eucharist and you said "For what reasons did you not send to them? The matter is not mine, I cannot change it, it is not just for me [to do so]. There is no innovation/novelty within the clergy of the church." God did not cause it, a man did not cause it. And an event happened in my days which did not happen ever before, since it happens that they do not want to act justly, necessity arises and I cause trouble [lit. go as an irritation/annoyance]…

P. Berl. Inv.12495:

First now I greet thy sonship. May the Lord bless you. Be kind and sit down with your brother, because he told me that not wanting to agree with him and his purity you excluded him from the service. Now do not persist without being in agreement with him. And his purity is my concern, while your heart was unhappy. To the priest Isaak from Bishop Abraham.

P. Berl. Inv.12497:

I greet thy sonship. May the Lord bless you. They told me that Joseph did some misdeeds in your monastery and they have told me that the monks and they have told me that the lay people- even though it is not the command of God- have committed with you. I am amazed concerning you, that you… have tolerated [him in the] monastery. Now, behold, hear that the [celebration of] the divine service is forbidden for the monastery until he comes to me. For it… And if you celebrate the service, while he is still in the monastery, you will be excluded from the divine service. To my God loving Son, the priest Johannes from the monastery of Apa Ezekiel from Abraham the least bishop.

P. Berl. Inv.12498:

First, now I greet your sonship. Please take this letter with these two crosses bound by the three seals through which they are tied together and give them in peace to the Komes. Do not let anyone know about it. If you do not go, your heart will be restless. To the priest Patermouthis from Bishop Abraham.

P. Berl. Inv.12500:

First, now, I greet your sonship. See, I appoint you to the place of Apa Victor. Now be so good and give heed to the neglect, which happens within that place and stop it, so that they do not do it, but teach them to walk in the fruit of God. But he who should be disobedient towards you out of the clergy or the laity, exclude him from the sacrament until he comes to me. Furthermore, strive to teach them and behold, all their care rests upon you. If you see any neglect in that place and you overlook (it), their judgment will come upon you from the judgment seat of God.
To our son Apa Dios the deacon
From Bishop Abraham

P. Berl. Inv.12501:

> We, the whole clergy of Djeme, write to our holy Father, Bishop Apa Abraham: concerning the three baptisms that take place annually in the city according to the custom of the city, we are ready to carry them out and take care of them. The blessing, which God will put into bread, wine and oil, will be part of them, the three [baptisms]. After that we will pay the expenses. The Sacrament that takes place, one half for us, the other for you, where God is in our midst [...] We, the entire clergy agree. I NN agree[…] I NN agree with these[…] Paulus […] agree, Peter the deacon agrees.[4]

P. Berl. Inv.12507:

> First, now, I greet your sonship. See, I appoint you to the place of Apa Markos. Now be so good and give heed to the neglect, which happens within that place and stop it, so that they do not do it, but teach them to walk in the fruit of God. But he who should be disobedient towards you out of the clergy or the laity, exclude him from the sacrament until he comes to me. Furthermore, strive to teach them and behold, all their care rests upon you. If you see any neglect in that place and you overlook (it), their judgment will come upon you from the judgment seat of God.
> To Abraham the deacon
> From Bishop Abraham

[4] Translation after Krause (1956) p. 148.

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