

Was Byzantine Egypt a Legal Anomaly?

Looking at Testamentary Documents for Evidence using Modern Tools

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Abstract

Modern scholars are deeply divided over whether Byzantine Egypt (350 to 650 CE) followed Roman law, with some saying that the effect of Roman law on Egypt was significant and others saying that it was superficial at best. There are a number of reasons for this schism, including the very general references to law in the surviving documents and the differences between Egyptian legal practice and some fundamental elements of Roman legal practice. This thesis seeks to provide additional evidence about the Egyptian adoption of Roman law by using a more systematic approach that looks at testamentary documents and donations *mortis causa* over a period of time, focusing on whether changes in the law are reflected in changes in the documents. It also uses the newly available word search capability of the papyri databases to look at when Roman legal terms are introduced into Egypt and how they are used.

The conclusion of this thesis is that lawyers and notaries in Byzantine Egypt understood and used elements of Roman law in their testamentary practices that were useful in accomplishing the goals of their clients. They were generally very careful to ensure compliance with procedural requirements. They regularly used concepts such as waivers of the requirement for guardians for women based on 'the right of children,' the confirmation of codicils, and *et cetera* disinheritance clauses. They did use stipulation clauses in ways that Roman legal practitioners would not, and donations *mortis causa* developed into a simpler alternative to a will. Cultural practices, such as the inclination to leave property to a surviving spouse with inheritance by the children after the death of the surviving spouse, remained. The impact of Roman law on Egyptian legal practice appears to have accelerated in the sixth and seventh centuries. This information is important to historians because of the light it sheds on the success of the early Byzantine emperors to create one Roman world with shared values and norms.

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