HANNAH M. COTTON

THE LANGUAGES OF THE LEGAL AND ADMINISTRATIVE DOCUMENTS FROM THE JUDEAN DESERT


© Dr. Rudolf Habelt GmbH, Bonn
THE LANGUAGES OF THE LEGAL AND ADMINISTRATIVE DOCUMENTS FROM THE JUDAEN DESERT*

This discussion will be devoted to legal and administrative documents, including official letters, from the first and second centuries written in the Roman province of Judaea and in the Nabataean kingdom which became in 106 the province of Arabia. The great majority of the documents, but not all of them, whether letters or legal deeds, were written by or at least involve Jews.

The sources and the languages

The evidence consists of documents from the Judaean Desert found on Masada, in Wadi Murabba‘at, Nahal Hever, Nahal Se’elim, Nahal Mishmar, and Ketef Jericho. Some come from unknown provenance. The bulk of the material has been published only recently, and some of it remained unpublished to this day.1 As it happens, the Greek documents have fared better than others: most of them are now published, or nearly so.2 The Semitic documents include, besides documents in Hebrew, texts in Jewish Aramaic and in Nabataean Aramaic, both of which developed from the Reichsaramäisch, the lingua franca of the Persian period in what later became the Roman Near East. It was only with the advent of Hellenism and the absence of a central government to preserve it that the uniformity of the Aramaic language (and of its script) broke down and different ‘national’ dialects of Aramaic gradually emerged.3 Nabataean Aramaic is distinguished from Jewish Aramaic externally by its script and otherwise by the recurrence in it of obtrusive elements, described by most Semitists as Arabic.4

* This is a revised version of a paper originally delivered at the conference on Aspects of Bilingualism in the Ancient World, held at Reading University, 2–4 April 1998. I am grateful to J. N. Adams, M. Janse, and S. Swain for inviting me to participate in the Reading meeting and for permitting me not to publish this revised version of my text in the proceedings of that conference, and to the participants in the meeting, for their criticism and comments, most of which are reflected, I hope faithfully, in this final version of my paper.


2 The three main collections of Greek documents from the Judaean Desert so far in print are P. Benoit, J. T. Milik, and R. de Vaux, Les grottes de Murabbâ‘at, Discoveries in the Judaean Desert II, Oxford 1961 (designated here Mur), N. Lewis, The Documents from the Bar Kokhba Period in the Cave of Letters: Greek Papyri (with Aramaic and Nabataean Signatures and Subscriptions, edited by Y. Yadin and J. C. Greenfield), Judean Desert Studies II, Jerusalem 1989 (designated here P.Yadin), and H. M. Cotton, and A. Yardeni, Aramaic, Hebrew and Greek Texts from Nahal Hever and Other Sites with an Appendix Containing Alleged Qumran Texts (The Seiyâl Collection 2), Discoveries in the Judaean Desert XXVII, Oxford 1997 (designated in this paper by their number in DJD XXVII). A small number of Greek documents from Nahal Hever, Nahal Se’elim, Nahal Mishmar, Qumran and Ketef Jericho will be published in Discoveries in the Judaean Desert XXXVI; the Greek letters from the Bar Kokhba archive will be published in Ada Yardeni and Baruch Levine, The Documents from the Bar Kokhba Period in the Cave of Letters II, Judean Desert Studies III.


4 It is assumed that the Nabataeans spoke Arabic and used their version of Aramaic in official documents; see F. Millar, The Roman Near East, 31 BC–AD 337, Cambridge, Mass. 1994, 401f. for objections to this view.
Aramaic and most of the documentary Hebrew is written in what is commonly known as ‘Jewish script’, a form of script which developed from the common Aramaic script of the Persian period.\(^5\) Latin is omitted from this discussion although it does appear in documents from Masada (and in some fragments from Wadi Murabba’at). The Masada documents belong to soldiers of the Tenth Legion, the legiary garrison of the province of Judaea, which, together with auxiliary forces, besieged and conquered Masada in 73 (74) CE.\(^6\) The evidence of the Masada papyri bears out H. Rosén’s observation made before their publication that Latin was never more than the language of the Roman administration and army in Palestine, and was never integrated into the socio-linguistic fabric of the provincial population.\(^7\) This is also borne out by the epigraphical evidence.\(^8\) Furthermore, in their dealings with the subject populations the Romans too used the medium of the Greek language (which does not mean that they themselves wrote Greek).\(^9\)

Non-Aramaic documents: the problem

All scholars agree that Aramaic was the dominant language of the Jews in Palestine during the first and second centuries CE.\(^10\) As was to be expected, the majority of the documents found in the Judaean Desert were written in Jewish Aramaic. Yet it can be shown that the same society represented in the Aramaic documents, and sometimes, the very same people, wrote documents, or had them written, in Hebrew and Greek as well. In other words it is not the case that documents in different languages represent different sections of Jewish society. Why, then, Hebrew and Greek in a society whose predominant language was Aramaic?

Non-Aramaic documents: The Hebrew documents from Wadi Murabba’at

First, Hebrew. This is not the place to enter into a discussion of whether or not Hebrew was spoken in Judaea at the time.\(^11\) Nor will I discuss here texts of liturgical nature, as for example those attested on Masada between 66 and 73 (74); the use of Hebrew as the language of worship and religious literature has never been contested.\(^12\) For a time, though, it was also the language of legal and administrative

---

\(^5\) The term ‘Jewish script’ is the term used to describe the scripts used by Jews in order to write both Aramaic and Hebrew; see F. M. Cross Jr., ‘The development of the Jewish scripts’, in G. E. Wright, ed., *The Bible and the Ancient Near East (essays in Honor of W. F. Albright)*, New York 1961, 133–202.


\(^9\) See Millar (n. 7).


\(^11\) The difficulties involved in using written documents as evidence for spoken language are well expressed in a recent discussion of the languages in Palestine: ‘In some cases writing may reflect no more than scribal practice. And in all cases writing is necessarily related to speech in highly complex and sometimes highly attenuated ways’, S. Schwartz, ‘Language, Power and Identity in Ancient Palestine’, *Past and Present* 148, 1995, 13.

documents (among which we should include official letters), although the great majority of legal documents continued to be written in Aramaic.

The first Hebrew documents were discovered in Wadi Murabba’at and published in 1961. Later more Hebrew documents were discovered in Nahal Hever. All the Hebrew documents from Nahal Hever can be dated safely to the the Bar Kokhba Revolt of 132–6 CE. Yadin’s suggestion that the revival of Hebrew as the official language may have been brought about by a decree of the leader seems attractive. An official act seems to have been necessary, given the overwhelming evidence for the currency of Aramaic in legal documents before this period. It comes as no surprise therefore that all the Hebrew documents, both those from Wadi Murabba’at as well as those from Nahal Hever, have so far been associated with the second revolt. At first sight, the dating formulae seem to leave no doubt that this is indeed so. However, in the case of some of the Hebrew documents from Wadi Murabba’at there are some problems with such an uncritical attribution, and as will be seen immediately the evidence of the dating formulae is not altogether unambiguous.

Mur 29 and 30 are double documents, both containing deeds of sale. The declaration of the sale is made by the seller in front of four people who are said actually to be signing (µymtwj) it (Mur 29 line 9 and Mur 30 line 9), although some of the signatures on the verso do not in fact belong to those four. Both contracts are dated by the year of the revolt and said to be concluded in Jerusalem. The outer (lower) text of Mur 29 lines 9–10 reads: ‘On fourteenth Ellul, Year Two of the redemption of Israel (ךלמ), in Jerusalem (ךרバラ, Yehonathan son of Yehosaf, Shim’on son of Shabbai, Judah son of Judah, and Shim’on son of Zechariah are signing’; and in the first two lines of the inner (upper) text we read: ‘Kalbos son of Eutroplos from Jerusalem (ךרバラ) sold’ etc. Similarly, the outer (lower) text of Mur 30 lines 8–9 reads: ‘On twenty first Tishrei, Year Four of the redemption of Israel (ךלמ) in Jerusalem (ךרバラ), Yehonathan son of Yehosaf, Shime’on son of Simai, Jonathan son of Ele’azar, and Jonathan son Hananiah are signing ...’.

The presence of four signatories to the deed, although there is nothing in the document to suggest that they constituted a court, makes it clear that the transaction was done in public. Thus as late as autumn 135 (the date of Mur 30) a public transaction dated by the year of the revolt could have taken place in Jerusalem. This would imply that Jerusalem recognized Bar Kokhba’s sovereignty as late as autumn 135. No wonder that Milik hesitated – at first – to read Jerusalem in the relevant lines:

---

13 See n. 2.


16 Y. Yadin, Bar Kokhba. The Rediscovery of the Legendary Hero of the Second Jewish Revolt, London 1971, 181, but not for the reason he gives there, namely that ‘the earlier documents are written in Aramaic while the later ones are in Hebrew’; we now know that the chronological division made by Yadin between Hebrew and Aramaic is false; cf. Rosén (n. 7) 225–6.

17 The most recent discussion of the date of the documents from Wadi Murabba’at by H. Eshel, M. Broshi, and T. A. J. Jull reached me too late for their arguments and conclusions to be integrated into my text. It seems that they have arrived at similar conclusions to my own. However, their main interest is in the question of whether or not Jerusalem was in the hands of the rebels during the second revolt, whereas my concern here is with the linguistic aspect; see H. Eshel, M. Broshi, and T. A. J. Jull, ‘Documents from Wadi Murabba’at and the Status of Jerusalem during the Bar Kokhba Revolt’, in Refuge Caves of the Bar Kokhba Revolt, eds. H. Eshel and D. Amit, Tel Aviv 1998, 233ff. (Hebrew).

18 Thus it is difficult to accept Milik’s suggestion that they resemble the Egyptian six-witness document, see DJD II, p. 143; we may have here something resembling one of the forms of the Egyptian notarial instrument, see H. J. Wolff, Das Recht der griechischen Papyri Ägyptens in der Zeit der Ptolemaer und des Prinzipats II: Organisation und Kontrolle des privaten Rechtsverkehrs. Handbuch der Altertumswissenschaft X.5.2, Munich 1978, 81ff.

Jerusalem does not appear in his published text but in a ‘repentant’ appendix. However, the reading is now confirmed by Ada Yardeni (oral communication). In other words at least from August/September 133 CE (the date of Mur 29) to September/October 135 (the date of Mur 30) Bar Kokhba’s sovereignty was recognized in Jerusalem.

It could be argued that despite the preposition ‘in’ (ב), the expression ‘in Jerusalem’ (ירושלים) does not stand for the place where the contract was signed, but is part of the dating formula – a dating formula which expresses political aspiration and a hope, as is claimed for formulæ mentioning Jerusalem on coins from the time of the revolt, or in Mur 25 line 1: ‘Year Three of the freedom of Jerusalem’ (שש תרי ירושלים), which is clearly part of a dating formula, and cannot, without further proof, be taken as a reflection of reality. However, taking ‘in Jerusalem’ in Mur 29 and 30 to be part of a dating formula used simply for propaganda purposes leaves the contracts, quite abnormally, without any reference to the place where they were concluded. Legal usage excludes such forced interpretation of ‘in Jerusalem’ in Mur 29 and 30. The implications seem to be inescapable: the Jews who concluded these contracts ‘in Jerusalem’ lived in this city and recognized the authority of a Jewish state there as late as September/October 135 – if indeed the dating to the second revolt is to be trusted at all.

This new geographical extension of the war is surprising, and in view of the silence of the Jewish sources about the conquest of Jerusalem by the rebels – the importance of which for Jewish nationalism in the second century cannot be exaggerated – it is highly disturbing. However, while it is not necessary to take sides in the controversy waged for many years now over whether Jerusalem was conquered by the rebels or not, and if so when and for how long it was in the rebels’ hands, I should like to propose another date for these two documents. If accepted, this new dating has far reaching consequences for the use of languages in Jewish documents from the Judaean Desert. I propose to assign these documents to the first revolt of 66–70.

Some support for my suggestion can be found in their dating formula. Normally in Hebrew and Aramaic documents from the time of the second revolt the formula ‘the freedom’ or ‘the redemption of Israel’ is followed by the formula ‘by’ (ברא) or ‘in the name of’ (שמון) or ‘in the days of’

---

20 DJD II, p. 205.

21 See e.g. L. Mildenberg (‘Bar Kochba in Jerusalem’, Schweizer Münzbücher 27, 1977, 1–4) who interprets –‘for the freedom of Jerusalem’ – as no more than an aspiration on the part of the rebels.

22 Eshel, Broshi, and Jull (n. 17) 235 are also disturbed by the new chronological extension of the second revolt implied by Yardeni’s new reading of the dating formula in yet another Hebrew document (Mur 22), which now reads: ‘Fourteenth of Marheshvan Year Four of the redemption of Israel’ (irteen מ האישי ירושלים תרכת), which is clearly part of a dating formula, and cannot, without further proof, be taken as a reflection of reality. However, taking ‘in Jerusalem’ in Mur 29 and 30 to be part of a dating formula used simply for propaganda purposes leaves the contracts, quite abnormally, without any reference to the place where they were concluded. Legal usage excludes such forced interpretation of ‘in Jerusalem’ in Mur 29 and 30. The implications seem to be inescapable: the Jews who concluded these contracts ‘in Jerusalem’ lived in this city and recognized the authority of a Jewish state there as late as September/October 135 – if indeed the dating to the second revolt is to be trusted at all.

23 For detailed discussion of the evidence see M. Mor, The Bar Kochba Revolt. Its Extent and Effect, Jerusalem 1991, 146–71 (Hebrew), and now Eshel, Broshi, and Jull (n. 17).

24 DJD XXVII no. 49 (Hebrew): ‘20 Kislev, year 2 of the redemption (ירושלים) of Israel by Shim’on son of Kosibah, the Prince of Israel’; DJD XXVII no. 8 XHev/Se ar 7: ‘14 Iyar, year 3 of the freedom (ירושלים) of Israel by Shim’on son of [Kosibah, the Prince of Israel]’; F. Yadin 44 (lease, Hebrew): ‘28 Heshvan year 3 of the redemption (ירושלים) of Israel by Shim’on son of Kosibah, the Prince of Israel’.

25 DJD XXVII no. 7 (deed of sale, Aramaic): ‘14 Iyar, year 3 of the freedom (ירושלים) of Israel in the name of Shim’on son of Kosibah, the Prince of Israel’; DJD XXVII no. 13 (renunciation of claims, Aramaic): ‘20 Sivan, year 3 of the freedom (ירושלים) of Israel in the name of Shim’on son of Kosibah, the Prince of Israel’.
The Languages of Documents from the Judaean Desert

223

(رضى בנים)26 "Shim’on son of Kosibah [scil. Bar Kokhba], the Prince of Israel’. Alternatively the documents make mention only of the year of Bar Kokhba’s rule: ‘year so and so of Shim’on son of Kosibah, the Prince of Israel’.27 In the two contracts from Wadi Murabba’at, just mentioned (Mur 29 and 30), however, ‘the redemption of Israel’ is not followed by a reference to Bar Kokhba.

That this is not altogether decisive can be shown by the absence of a reference to Bar Kokhba in DJD XXVII no. 8a dated to ‘20 Adar, year 3 of the freedom (גא”ר) of Israel’. This papyrus certainly dates to the time of the second revolt since it is written by the same hand and in the same place (Kefar Brywy)28 as DJD XXVII no. 8 explicitly dated to the third year of the revolt: ‘[ ] Adar, year 3 of the freedom (גא”ר) of Israel in the days of Shim’on son of Kosibah, the Prince of Israel’.

Against the attribution to the first revolt one may also enlist the legends on the coins of the first revolt. Until very recently only: ‘to the freedom (גא”ר or גא”ר) of Zion’ and ‘to the redemption (גא”ר) of Zion’ were attested on the reverse of these coins, but not ‘to the redemption of Israel’ (as we find in Mur 22, 29 and 30). But as the numismatist of the Bar Kokhba revolt, L. Mildenberg, well puts it: ‘Numismatic evidence is irrefutable, but not final’.29 In 1993 Robert Deutsch published a unique bronze coin (prutah) from the first year of the first revolt with the legend ‘Israel’ on the reverse, which he very reasonably restores: ‘to the redemption (גא”ר) of Israel’.30 Thus it cannot be ruled out that the dating formulae ‘to the freedom’ or ‘redemption of Israel’ would signify the first revolt. In addition, the cursive script of the two documents from Wadi Murabba’at allows for an earlier date.31

The difference between Wadi Murabba’at and NaΩal No doubt the discoveries of Hebrew documents which certainly date to the Bar Kokhba revolt in the ‘Cave of Letters’ in NaΩal Hever in 1960–62, immediately after the publication of the documents from Wadi Murabba’at, strengthened the belief that the Hebrew documents from Wadi Murabba’at must date to the Bar Kokhba revolt as well. The drastic difference between the history of the caves of Wadi Murabba’at and that of the ‘Cave of Letters’ in NaΩal Hever was thereby overlooked. However, unlike the ‘Cave of Letters’ of NaΩal Hever, the caves of Wadi Murabba’at show human occupation from the early bronze age and well into the Arab period.32 The first document, written in paleo-Hebrew, dates to the eighth century BCE (Mur 17). But more relevant for us is the survival of literary and documentary texts and coins from the first century CE. The ‘Cave of Letters’ on the other hand was occupied during the second revolt only,33 and one can prove that earlier documents were brought thither at the time of

26 DJD XXVII no. 8 (sale, inner text in Aramaic; outer text in Hebrew): ‘[ ] Adar, year 3 of the freedom (גא”ר) of Israel in the days of Shim’on son of Kosibah, the Prince of Israel’; P. Yadin 42 (lease, Aramaic): ‘1 Iyyar, year 3 of the redemption (גא”ר) of Israel by (or in the days of) Shim’on son of Kosibah, the Prince of Israel’; note that in the Aramaic contract from Wadi Sdeir (unpublished, I am grateful to Ada Yardeni for showing me a transcription of the text) ‘On 6 Adar, year three of the freedom (גא”ר) of Israel’ there is room for ‘by (or ‘in the name of’) Shim’on son of Kosibah, the Prince of Israel’.

27 P Yadin 47a (Aramaic contract): ‘14 Tevet, year 3 of Shim’on son of Kosibah, the Prince of Israel’; P. Yadin 43 (receipt, Aramaic): ‘5 … year … Shim’on son of Kosibah’; P. Yadin 45 (lease, Hebrew): ‘2 Kislev year 3 of Shim’on son of Kosibah, the Prince of Israel’; P. Yadin 46 (lease, Hebrew): ‘2 Kislev year 3 of Shim’on son of Kosibah, the Prince of Israel’.


31 Oral communication by Ada Yardeni; cf. also Eshel, Broshi, and Jull (n. 17) 237 for the results of carbon 14 tests carried out on Mur 22 and 29.

32 DJD II, pp. 14–49.

the Bar Kokhba revolt. Thus it is entirely conceivable that the caves of Wadi Murabba’at should have served as a place of refuge also during the first revolt – a place to which documents from the time of the revolt, but also some which preceded it, came to be hidden.

Aramaic documents from Wadi Murabba’at

A survey of the Aramaic legal documents from Wadi Murabba’at which date to the period before or during the first revolt, as well as of those which may well share this earlier date, strengthens the case for the early date of the Hebrew documents.

The earliest dated document, Mur 18, is dated by Nero’s regnal year to 55/56 CE: ‘Year 3 of Nero Caesar’ (line 1). This is an Aramaic IOU note, likely to have arrived in Wadi Murabba’at at the time of the first revolt. Mur 19, an Aramaic deed of divorce which closely resembles the rabbinic deed of divorce, is dated to ‘year six in Masada’. Milik understood ‘year six’ to refer to the era of the province of Arabia, thus dating it to 111 CE. However, ‘there is not a single instance of the Arabian era in a document clearly from Judaea;34 so the era of Arabia cannot be applied here without further proof. In fact it is precisely because there is no era in Mur 19 that the only possible dating would be by the first Jewish revolt, i.e. 72 CE. After the fall of Jerusalem, one could hardly add after ‘year 6’ the formula ‘to the freedom (or redemption) of Zion (or Israel)’. The isolated sicarii on Masada made a virtue of necessity: ‘in Masada – בשטחה – doubles up for the era and the place of the contract, i.e. the era of the revolt has become the era of Masada to the extent that it continued only on Masada. Mur 21, an Aramaic marriage contract, was tentatively assigned by Milik himself to the years before the first revolt. Mur 23, an extremely fragmentary double document in Aramaic, can be dated either to ‘year 1’ or to ‘year 5 of the’, (י. ח. שנה), where it breaks off. The letter י in Aramaic is the initial letter of both ‘one’ (יחד) and ‘five’ (חמש). If we read 5 (חמש), then it must refer to the first revolt. The Aramaic Mur 25 dated to ‘Year Three of the freedom of Jerusalem’ (שש שנים למדינה של שבת)5, where as we have seen ‘Jerusalem’ is clearly part of a dating formula, may also belong to the first revolt.

One notes also that the caves of Wadi Murabba’at contain documents of people who lived in Jerusalem and its surrounding countryside:35 Hardona (Mur 20); Khisalon (Mur 18, perhaps Mur 30 line 11), Zuba (Mur 18),36 Anablata (Mur 19) and Jerusalem (Mur 29, 30, 114). The early date of some of these may also suggest an early date for other documents from the same area. I think of two documents which would fit this category. The first is Mur 20, another Aramaic marriage contract, concluded in Hardona, 5 km. from Jerusalem. The era is lost in the lacuna which follows ‘7 Adar, year 11’ written in its first line. Again Milik assumed that ‘year 11’ refers to the era of the province of Arabia, thus yielding the year 116/7. Since Judaea did not have its own provincial era, ‘year 11’ is likely to refer to a regnal year of an emperor. Claudius or Nero could easily fill the lacuna, i.e. 51 CE or 65 CE. The second document is an undated Aramaic double document which consists of Mur 26 and a fragment designated XHēv/Se ar 50, whose provenance is unknown. Both are published together now by Ada Yardeni in DJD XXVII.37 This document was signed by a witness from Hebron and the scribe (or more likely a witness) from Jerusalem (XHēv/Se ar 50 lines 29 (18)–31 (20)). The provenance of the witness and the scribe may suggest a date going back to the first revolt or before. Finally, the very many

35 See Eshel, Broshi and Jull (n. 17) 236.
36 For the reading of הוב instead of Milik’s מוב see Naveh (n. 3) 84.
37 See DJD XXVII no. 50 (= Mur 26 and XHēv/Se ar 50) and in more detail see A. Yardeni in Eretz Israel 26, 1999 (forthcoming).
fragments of documents in Hebrew and in Aramaic whose date cannot be recovered in any case could be associated either with the first revolt or with the second one. 38

Conclusion: Hebrew and Jewish ideology

It may not be a coincidence therefore that there are no documents in Hebrew which date to the years before the first revolt, 39 or to the period between the two revolts. During the revolts Hebrew became, alongside Aramaic, the language of legal documents. The same ideology which inspired the decision to use Hebrew in legal documents of the second revolt may well have motivated also the freedom fighters of the first one. However, the Aramaic scribal tradition of writing such documents is often revealed in the language and the legal formulae of the documents. The reality is represented almost plastically in one of the double documents from the second revolt. The inner text of DJD XXVII no. 8, that is the part which is hidden, was written in Aramaic, whereas the outer text was written in Hebrew. In other words, the legally binding text, the inner one, is written in the normal language of legal documents at the time, 40 whereas the Hebrew, displayed on the outside, advertises the ideology of the now independent Jewish state. The same ideology stands behind the appearance of Hebrew legends on coins of the two revolts written in the already then obsolete paleo-Hebrew script. Hebrew became the symbol of Jewish nationalism, of the independent Jewish State.

Non-Aramaic documents: Nabataean and Greek documents

All the Nabataean documents and most of the Greek ones found in the Judaean Desert were written in the province of Arabia, which until 106 was the Nabataean kingdom. The same question which was addressed to the Hebrew documents applies here as well: why Nabataean and Greek and not (Jewish) Aramaic?

Nabataean documents from the Nabataean kingdom and the province of Arabia

Of the Nabataean documents found in the Judaean Desert, only one, popularly designated P.Starcky (and sometimes XHev/Se nab 1 or P.Yadin 36) has so far been published, 41 but we know that they are all legal contracts. XHev/Se nab 1 and the unpublished (but read and transcribed) Nabataean P.Yadin 1, 2, 3, 4, 6, and 9 are part of the Babatha archive found by Yadin in the ‘Cave of Letters’ in Nahal Hever. 42 The unpublished XHev/Se nab 2–5(6) 43 may belong to the archive of Salome Komaïse

---

38 From sites other than Wadi Murabba’at we have DJD XXVII no. 9, an Aramaic deed of sale, dated palaeographically to the first century CE; DJD XXVII no. 11 is an Aramaic marriage contract, dated to ‘year 8’ which could refer to any emperor in the first (or second) century whose reign exceeded seven years; the very fragmentary contracts DJD XXVII nos. 21–25; DJD XXVII no. 32 (=XHev/Se ar 32 + Q437), an Aramaic document, which like DJD XXVII no. 11 is dated to ‘year 8’; the documents allegedly from Cave 4 in Qumran include a double document in Hebrew mentioning a high priest (יִשְׂרָאֵלְלָה) and dated palaeographically to the first century BCE (4Q348); finally a Nabataean letter in early Nabataean script (4Q343) is dated palaeographically to the late Herodian period. This list is not exhaustive.

39 With the exception of 4Q348 (see previous note).

40 Naveh (n. 3) 102.


42 The Babatha Archive (94–132 CE) consists of P.Yadin 1–35. P.Yadin 5, 11–35 (Greek) were published in Lewis (n. 2); P.Yadin 1–4, 6–10 (Aramaic, and Nabataean) will be published by Yardeni and Levine (n. 2).

43 Only XHev/Se nab 2 has been read and transcribed by Ada Yardeni, to whom I am indebted for showing me the transcription.
daughter of Levi,\textsuperscript{44} whose documents also come from the ‘Cave of Letters’.\textsuperscript{45} Both archives revolve around the legal affairs of Jewish families in Mahoza/Mahoza ‘Aglatain, a village on the southern shore of the Dead Sea, in the province of Arabia which was the kingdom of Nabataea until 106. Although, as far as we can see, not all the Nabataean documents directly involve the Jews present in the other documents from the archives, there is no doubt that they were brought to the ‘Cave of Letters’ by the Jews who left Arabia at the time of the Bar Kokhba revolt, and thus may justifiably be considered documents belonging to them.

The earliest Nabataean document, XHev\textsuperscript{2}Se nab\textsuperscript{1}, of the year 60, is a declaration by a Jew called Ele’azar who is the heir of his father, Nikarkhos, and of his childless uncle Banai (?) son of Nabima. \textit{P.Yadin} 1 is an IOU note from 94 CE, between husband and wife, both Nabataeans; \textit{P.Yadin} 2 and 3, of 99 CE, are deeds of sale, written one month apart from each other by the same scribe. They describe the sale of the same date grove by a Nabataean woman, ‘Abi’adan daughter of ‘Afta\textsuperscript{h} daughter of Manigros, at first to a man called Archelaus son of ‘Abd’amiyu (\textit{P.Yadin} 2) and a month later to Shim’on – probably to be identified as Shim’on bar Menaḥem, Babatha’s father – (\textit{P.Yadin} 3);\textsuperscript{46} the undated XHev\textsuperscript{2}Se nab\textsuperscript{2} and \textit{P.Yadin} 4 also belong to the regal period in Arabia, since the king is mentioned in one of the clauses. The first one is a deed of sale between a Jewish woman, Shalom and a Nabataean called Sh’adalahi.

Nabataean continued to be used as the language of legal documents after provincialisation, even in contracts involving only Jews. Two contracts in Nabataean belong to the Roman period in Arabia: \textit{P.Yadin} 6 of the year 119 is a deed of lease between two Jews from Ein Gedi who live in Mahoza ‘Aglatain in Arabia, and \textit{P.Yadin} 8 of 122 which may be a deed of renunciation of claims mentions a Jew called Joseph. On the other hand there are no documents written in Jewish Aramaic or Greek from the Nabataean period. Both languages appear for the first time in legal documents from Arabia only after 106. However, the use of Jewish Aramaic is limited to four documents only: \textit{P.Yadin} 7, of 120 CE, is a deed of gift in contemplation of death between Babatha’s parents, probably on the occasion of their daughter’s first marriage.\textsuperscript{48} Although written in Jewish Aramaic, this document recalls Nabataean contracts both in its script, which closely resembles Nabataean cursive hands, and in its legal formulae and the intrusion of Arabic words; \textit{P.Yadin} 8 of 122 is a sale of a white donkey; \textit{P.Yadin} 10, the marriage contract of Babatha to her second husband, Judah son of Ele’azar, was written between 125 and 128;\textsuperscript{49} and finally there is \textit{DJD} XXVII no. 12 of 131, a receipt given to Salome Komaisé daughter of Levi in Mahoz ‘Aglatain. Although this is written in Aramaic, its striking resemblance to a receipt in Greek from 125 (\textit{DJD} XXVII no. 60)\textsuperscript{50} suggests that like the Greek receipt, the Aramaic receipt too was for tax or rent paid to the Emperor.\textsuperscript{51}

\textsuperscript{44} The archive of Salome Komaisé daughter of Levi (125 [113?]–131 CE) consists of \textit{DJD} XXVII no. 12, (no. 32?), nos. 60–65, published in Cotton and Yardeni (n. 2).
\textsuperscript{45} See Cotton and Yardeni (n. 2) 3ff.
\textsuperscript{47} The clause says: ‘טֵב אַלְּכַּר לַקְּרָבָה שָׁמִי לֹא אֹּלָה:’ XHev\textsuperscript{2}Se nab\textsuperscript{2} (ca. 99? unpublished) line 22; \textit{P.Yadin} 4 (99 CE, unpublished) lines 17–18; cf. \textit{P.Yadin} 2 (99 CE, unpublished) lines 13–14 = line 40; \textit{P.Yadin} 3 (99 CE, unpublished) line 18 = lines 45–46.
\textsuperscript{51} The use of Aramaic in tax receipts is surprising, although it is clear that the tax collectors were local people: see commentary on \textit{DJD} XXVII no. 60 in Cotton and Yardeni (n. 2); cf. B. Isaac, ‘Tax Collection in Roman Arabia: New
Greek documents from the province of Arabia

As against two Nabataean contracts and four written in Jewish Aramaic we have altogether 32 Greek documents from the period between 106 and 132 in Arabia, that is in the first 25 years of the province. There are 26 Greek documents in the Babatha archive and 6 Greek documents in the archive of Salome Komaïse daughter of Levi.52 The first safely dated Greek document is P.Yadin 5 from 11053 and the last one is P.Yadin 27 from 132.

Thus the intimate connection between provincialisation and the use of Greek in legal documents from Nabataea/Arabia is firmly established. It should be stressed that the same names which appear in the Nabataean and Aramaic documents reappear in the Greek documents, as well as in the subscriptions and signatures to these documents. In other words we are talking of the very same section of the population. The signatures and subscriptions, with some notable exceptions, continue to be written in Jewish Aramaic when the signatories are Jews and in Nabataean when the signatories are Nabataeans. Sometimes though the signatures are in Greek letters; in such cases, more often than not they belong to Nabataeans.54 However, the scribes of the Greek documents are Jews: Theenas son of Shim’on, the scribe of P.Yadin 13, 14, 15, 17 and 18; X son of Shim’on, the scribe of P.Yadin 19; Germanus son of Judah, the scribe of P.Yadin 20–27 and 34, and perhaps also Judah son of Reisha, the scribe of DJD XXVII no. 64 – if indeed he is to be identified as the scribe of one of the most ungrammatical Greek documents in our collection.55

At least one Jew seems to prefer Nabataean to Aramaic, although he is the scribe of an Aramaic document of the year 122.56 This is the intriguing Yohana son of Makhoutha. Everywhere else in the Babatha archive he uses Nabataean: he signs as a witness in Nabataean in three documents of the years 125, 127 and 130;57 he serves as Babatha’s guardian in a deed of sale from 130 (P.Yadin 22), and since she is illiterate, he subscribes for her there in Nabataean.58 These five lines of Nabataean constitute the only Nabataean subscription in the documents. Yoḥana’s full patronymic is revealed in P.Yadin 16 line 42: ‘Yoḥana son of ‘Abd’obdat Makhoutha’. It turns out that the unattested Makhoutha is a nickname;59 and Abd’obdat (οὐσιοςμιστὸς – ‘slave of ‘Obdat’) is the father’s real name, in other words that he was

---

Evidence from the Babatha Archive’, Mediterranean Historical Review 9, 1994, 265ff. (= Idem, The Near East under Roman Rule. Selected Papers, Leiden 1997, 330ff.). The bulk of tax receipts in Demotic from the Roman period in Egypt dates to the time of Augustus and Tiberius (the latest from the reign of Caligula) and they all come from Upper Egypt, particularly from the area around Thebes. Thus it would seem that the use of Greek was gradually imposed (I am grateful to Michael Sharp for this information).

52 A few other fragmentary Greek documents may also come from Arabia DJD XXVII nos. 66, 68, 70–73.

53 There is no certainty about the provenance of DJD XXVII nos. 66 of 99 or 109.


55 See Introduction to DJD XXVII no. 64 and comments ad line 44.

56 P.Yadin 8 (unpublished) where he is called Yohanan son of Makhoutha. He is mentioned for the first time in the fragmentary P.Yadin 5 fr. b (Greek) of 110, but the context is lost.

57 In P.Yadin 14 of 125, in P.Yadin 16, Babatha’s census declaration of 127, and in P.Yadin 20 of 130.

58 See comments by Yadin and Greenfield on the subscription in Lewis (n. 2), p. 147; for the difference between the subscriber and the guardian see H. M. Cotton, ‘The Guardian (επιτροπος) of a Woman in the Documents from the Judaean Desert’, ZPE 118, 1997, 269ff.

59 There are other nicknames in the papyri: Ele‘azar Khthousion, Judah Kimber, Yohana son of Egla (P.Yadin 15, l. 33: ἐλέαζαρ κηθουσίων; Judah Kimber), That Egla is a nickname emerges from P.Yadin 14 line 23 and 15 lines 3–4 (= line 18); Μακθουτα Μακθουτου τοῦ Υγάια. Somala (P.Yadin 16 lines 5 and 35) is therefore likely to be Ananias’ nickname and not the name of a grandfather, despite Lewis (n. 2) p. 81.
Nabataean. On the other hand, the theophoric Jewish name Yohana and the Aramaic P. Yadin 8 may suggest that the son is the issue of a mixed marriage between a Jew and a Nabataean.

The Nabataean Onainos son of Sa’adalos – ‘graphically described as ‘the one who lends his hand’: χειροσχρηττοις – wrote the subscription to the census declaration of Salome Komaïse’s brother who was illiterate. The fragmentary document where he is said to have written the subscription is a copy, written in Greek, of the original census declaration: the original was written in several hands and also in more than one language. Thus it is hard to know whether Onainos son of Sa’adalos wrote the subscription in Greek or in Nabataean.

Greek documents from Judaea

Whereas the use of Greek by Jews in legal documents in the province of Arabia is connected with the advent of the Romans, and Romanization filters through the Greek prism, no such association can be made for the use of Greek in Judaea whose provincialization dates to 6 CE. With the exception of inscriptions on Jewish ossuaries, the first Greek documents from Jewish circles come from Masada. The majority of the Greek material found on Masada is likely to have been written by no one but the sicarii, and therefore dates to the years 66–73(4). The use of Greek by this group of Jewish extremists is not more surprising than the use of Greek by the Bar Kokhba administration in P. Yadin 52 and 59. By now we should have learnt, I think, that the use of Greek by Jews has no ideological implications: it should not be mistaken for the hellenization of the writer nor be taken as evidence for his political and national sentiments. However, the Greek documents from Masada cannot be considered legal documents, and will therefore be ignored in the following discussion.

The first safely dated legal document written in Greek in Judaea thus comes from the Babatha archive. P. Yadin 11 of 6 May 124 was written in Ein Gedi. This double contract is an acknowledgement of a loan upon security, which Babatha’s second husband, Judah son of Ele’azar Khthousion, took from Magonius Valens, a centurion of the cohors prima Thracum milliaria then stationed in Ein Gedi. Lines 29–30 contain a translation, ἐπιμνησία, of Judah’s subscription, which must have been written in Aramaic. It is signed by seven witnesses; the first witness, Gaius Iulius Proclus, is a Roman soldier, the rest are likely to be fellow Ein Gedians. Curiously the signatures are in Greek and not in Latin and Aramaic respectively, as we might have expected. Lewis maintains that what we have is a copy, with the original being retained by the lender.

Footnotes:
60 But see CIS II 1, 3 (1902) no. 486, lines 1–2: ‘Honainu (חניאן) son of Aba who is also called ‘Abdallahi (عبدالله)’.
61 T. Ilan, ‘Yohana bar Makoutha and Other Pagans bearing Jewish Names’, (forthcoming) as the title indicates takes Yohana son of Makhoutha to be a pagan.
62 DJD XXVII no. 61 lines 3–4: ἑγράφη διὰ χειροσχρηττοις Ὀναινοῦ Σαἀδαλου.
64 See Rosén (n. 7) 219ff.
65 Cotton and Geiger (n. 6) 9–10.
67 Doc. Mas. 740, which carried a date and is tentatively dated to 25–35 CE, is too fragmentary to betray its real nature.
68 P. Yadin 11, lines 29–30: ἐπιμνησία: Ὂοιχάδας Ἐλαζάρου Χακάζιαβος τὰ ... ἐπεθεκα ἄκολονθος τοῖς προγεγραμμένοις, ἑγράφη διὰ ἤνοντενην.
69 Lewis (n. 2) 42. This is difficult for two reasons: first, one would have expected to find it stated that this is a verified copy, as is the practice in other documents (e.g. P. Yadin 16 lines 1–2 and DJD XXVII no. 62 frg. a lines 1–2); secondly, the
P. Yadin 11 closely recalls Mur 114, another IOU document which involves a Roman soldier of the legio X Fretensis and a person whose name is lost in the lacuna. Unlike P. Yadin 11, Mur 114 is very fragmentary. The document is dated by its editor to 171 CE, since he quite reasonably identifies the Statilius Severus in line 2 with the consul ordinarius of that year, T. Statilius Severus. However, the fact that the document is said to be signed ‘[in] Jerusalem’ (line 3–4), should give us pause. For the Romans, Jerusalem no longer existed in 171, only Aelia Capitolina. One would surely have expected Aelia Capitolina to be given as the place where a contract, dated by the consular year and involving a Roman legionary, was concluded after 132. A date between 70 and 132 is much to be preferred. It could be suggested that with caution the Statilius Severus of line 2 is to be identified as the suffect consul of the year 115, T. Statilius Maximus Severus Hadrianus, who replaced M. Pedo Vergilianus when the latter died in the earthquake in Antiochia. This suggestion, if correct, would make Mur 114 the earliest dated contract from Judaea written in Greek.

To the same milieu belongs the very fragmentary and undated Mur 113 which describes a legal process, involving two Jewish women, Salome and Miriam, and a Roman veteran. However, the similarity to the proceedings documented in P. Yadin 26 of 130 may give us a clue to its nature.

Marriage contracts between Jews in Greek

That Greek is used in contracts which involve Roman soldiers is hardly surprising. It is more intriguing to find three marriage contracts written in Greek in which both parties, in at least two, are Jews. The earliest dated one is Mur 115 of 124, concluded at Bethbassi in the toparchy of Herodium, south of Jerusalem. This is a contract of re-marriage between Elaios son of Shim’on, who came ‘from the village of Galoda of Akrabatta, but [was] an inhabitant of Batharda of Gopha’ – both in Samaria – and his former wife Salome daughter of Yohanan Galgoula. The second one is DJD XXVII no. 69 of 130, contracted in Aristoboulias in the toparchy of Zif, south of Hebron between Selampios (Shelamzion) and Akabas (Aqilia or Akabia) son of Meir from Yaqim (or Yaqum) in the same toparchy. Both documents are dated by regnal and consular year. The acephalic Mur 116, dated palaeographically to the first half of the second century CE, records some of the clauses in a marriage contract between an Aurelius and Salome. ‘Aurelius’ does not have to be a sign that the bearer is a Roman citizen despite what the editor suggests. At any rate the marriage seems to have followed local custom, for we find in the preserved portion of this document formuleae so far attested only in marriage contracts between Jews written in Aramaic or in Greek, namely that in the event of the wife’s prior death, her sons will inherit their mother’s dowry whereas daughters are to be fed and clothed in the father’s house until they get married. I deliberately avoid saying that ‘the document follows Jewish law’ since the provision for male sons to inherit from their mother in fact contravenes Biblical law which makes the husband the sole heir to his wife’s property. It must have been introduced into Jewish law under the influence of other Near

courtyard given here as security is bestowed later in a deed of gift by Judah on his daughter Shlamzion (P Yadin 19, 16 April 128) which implies that the loan was paid back. One would then expect the original to be returned (perhaps cancelled) to Judah, rather than that he should keep a copy; on the courtyard see H. M. Cotton, ‘Courtyard(s) in Ein-Gedi: P. Yadin 11, 19 and 20 of the Babatha archive’, ZPE 112, 1996, 197–202.

70 This was E. Groag’s suggestion in ‘Zu einem neuen Fragment der Fasti von Ostia’, JOEAI 29, 1935, Beibl. 177–204; a dating by a suffect consul outside Italy is also problematic; see H. M. Cotton and W. Eck, ‘Mur 114: an IOU note from Jerusalem’ (forthcoming).

71 P. Benoit (‘Une reconnaissance de dette du IIe siècle en Palestine’, in Studi in onore di Aristide Calderini e Roberto Paribeni II, Milan 1957, 257–72) makes the soldier the borrower. For a suggestion that he is the lender see Cotton and Eck (previous note).

72 I hesitate to add DJD XXVII no. 66 of 99 or 109, a deed loan with hypothek, to the list, since no typical Jewish names are mentioned in it; the Φιλαδεφίας [or Φιλαδεφίας] in line 2 may indicate that it comes from Arabia rather than Judaea, see introduction to no. 66 in Cotton and Yardeni (n. 2) 239–40.

73 DJD II, p. 254.
Eastern traditions, where the wife’s children were her heirs in order to protect male sons in polygamous marriages against the loss of their mother’s property to sons of another woman. This is in fact expressed in so many words in this document: ‘[And if Salome] dies [before Aurelius], the sons that she will have from him will inherit her dowry and the things written above ... [in addition] to inheriting all of Aurelius’ property together with their future brothers [from another woman]’ (Mur 116, lines 4–8).74

Although in their formulae and practices these marriage contracts resemble Greek marriage contracts from Egypt, the Jews of the documents cannot be described as assimilated Jews, living outside the pale, so to speak. For their documents to be found in Naḥal Ḥever and Wadi Murabba‘at together with letters and leases of Bar Kokhba and his men, they too must have taken part in Bar Kokhba’s national and religious revolt. That their marriage contracts resemble Greek contracts from various parts of the Roman Near East can only prove that Jewish society as a whole, at the time, shared the mixture of legal systems documented in the area.75

**Conclusion: Greek documents and provincial jurisdiction**

Greek became the language of legal documents in Arabia almost immediately upon provincialisation, whereas more than a hundred years elapsed before it is first attested in legal documents from Judaea. Nevertheless, I believe that identical reasons motivated the adoption of Greek in legal documents in both provinces, namely the need to make the contracts valid in a court of law which had the power to enforce them when necessary, such as that of the governor of the province, of another Roman official, or the court of a polis. An additional reason could be the need to deposit the deeds in a public archive, similar to what we know to have been the case in Egypt, where public archives were used to deposit private documents; having been registered there, these documents could later be produced in court as evidence.77

After 70 conditions prevailing in Judaea became similar to what conditions in Arabia had always been: there was no Jewish court which had the authority to enforce its decisions. In Arabia there had never been Jewish courts of law as the exclusive use of Nabataean in the regal period demonstrates.

Until the first revolt (66–70) at least the Great Sanhedrin in Jerusalem with the high priest at its head must have enjoyed a large measure of judicial independence in both civil and criminal law. There is much evidence for that in Josephus, Philo and the New Testament. Even if officially the Sanhedrin’s judicial competence did not extend beyond Judaea proper, its authority certainly did not know such bounds.78 Things changed drastically after 70. The destruction of Jerusalem and the Temple meant among other things the dissolution of the Great Sanhedrin. What measure of legal and administrative autonomy was left? How much of the earlier judicial autonomy remained?79

---


75 See Cotton in Yardeni and Cotton (n. 2) 153–7.


78 Schürer, Vermes, Millar, and Black (n. 10) 197–8; 218ff.

79 The rabbinic sources, accepted by some scholars, have a neat picture of an autonomous hierarchical Jewish jurisdiction: ‘a court of three sat in every village, a court of seven in a toparchy, of twenty three in a meris, and the great Sanhedrin of seventy-one was at the head of the whole system’ (M. Avi-Yonah, *The Holy Land: From the Persian to the Arab Conquests*, Grand Rapids 1966, 99 – rightly dismissed as a pure conjecture in Schürer, Vermes, Millar and Black (n. 10) 188, n. 15). This picture, itself an idealization, is taken to have remained basically unchanged after 70, despite the fact that the Great Sanhedrin no longer existed.
It would be absurd to claim that the Roman government took it upon itself to deal with all civil cases in the province of Judaea/Syria Palaestina. It is a remarkable fact though that no court, Jewish or non-Jewish – apart from that of the Roman governor of Arabia – is mentioned in any of the documents from the Judaean Desert – a great many of which are legal documents. However, we should not jump from this to the conclusion that the governor’s court was the only court in operation in a Roman province. Nevertheless, the absence of others is disturbing, especially in view of the host of references in rabbinic sources to courts of different sizes in towns and villages. Furthermore, the fact that we have dozens of contracts written in Aramaic means that there was some sort of Jewish jurisdiction in civil cases. Perhaps one should think in terms of courts of arbitration acceptable to both parties to the contract or the litigation. In the course of time, the Romans, even if not officially recognizing these forms of Jewish jurisdiction, nonetheless came to tolerate them.

However, even from the rabbinic sources one can show that Jews used non-Jewish courts. There are several discussions in the rabbinic sources about the validity of contracts made in Greek, about the use of gentile witnesses, courts and archives. Sometimes such activities are explicitly forbidden. The harsh language employed by the Rabbis in the prohibition on the use of gentile courts may well indicate that the Jews did use them; no less is implied when the Rabbis used conciliatory language and allowed what was in common use to have validity under Jewish law.

Of course, as we have seen, Jews continued to write contracts in Aramaic after 70 in Judaea and after 106 in Arabia, but they could not expect the Roman courts to enforce these contracts. That the overwhelming majority of documents in the archives from Arabia are in Greek is illustrative of the trust their writers put in non-Jewish courts, especially those of the Roman governor. Perhaps it was with this in mind that Judah son of Ele‘azar who had written with his own hand his own marriage contract with Babatha in Aramaic (P.Yadin 10) employed a scribe to write a Greek marriage contract for his daughter (P.Yadin 18). This contract she could take to the Roman governor’s court if necessary.

 Jerusalem

Hannah M. Cotton