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

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## THE LANGUAGES OF THE LEGAL AND ADMINISTRATIVE DOCUMENTS FROM THE JUDEAN 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 Judaeian Desert found on Masada, in Wadi Murabba'at, Naḥal Ḥever, Naḥal Se'elim, Naḥal 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 The bulk of the material has been published only recently, and some of it remained unpublished to this day.<sup>1</sup> As it happens, the Greek documents have fared better than others: most of them are now published, or nearly so.<sup>2</sup> 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.<sup>3</sup> 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.<sup>4</sup> Jewish

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<sup>1</sup> See surveys: Hannah M. Cotton, Walter Cockle and Fergus Millar, 'The Papyrology of the Roman Near East: A Survey', *JRS* 85 (1995) 214–35; a much shorter survey, restricted to the finds from the Judaeian Desert, can be found in Hannah M. Cotton, s.v. Documentary Texts in *Encyclopedia of the Dead Sea Scrolls*, eds. Lawrence H. Schiffman and James C. VanderKam (forthcoming). These two surveys are limited to the documentary texts. The following two catalogues include the literary texts as well: Emanuel Tov with the collaboration of Stephen J. Pfann, *The Dead Sea Scrolls on Microfiche, Companion Volume*, revised edition (Leiden), 1995; *The Dead Sea Scrolls Catalogue. Documents, Photographs and Museum Numbers*, compiled by Stephen A. Reed, revised and edited by Marilyn J. Lundberg with the collaboration of Michael B. Phelbs, SBL Resources for Biblical Study 32 (Atlanta) 1994.

<sup>2</sup> The three main collections of Greek documents from the Judaeian Desert so far in print are P. Benoit, J. T. Milik, and R. de Vaux, *Les grottes de Murabba'at*, Discoveries in the Judaeian 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 Nabatean 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 Seiyāl Collection 2)*, Discoveries in the Judaeian Desert XXVII, Oxford 1997 (designated in this paper by their number in *DJD* XXVII). A small number of Greek documents from Naḥal Ḥever, Naḥal Se'elim, Naḥal Mishmar, Qumran and Ketef Jericho will be published in Discoveries in the Judaeian 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.

<sup>3</sup> J. C. Greenfield and J. Naveh, 'Hebrew and Aramaic in the Persian Period', in *Cambridge History of Judaism I: Introduction: The Persian Period*, Cambridge 1992, 115–29; J. Naveh, *On Sherd and Papyrus*, Jerusalem 1992, 11ff. (Hebrew).

<sup>4</sup> 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.<sup>5</sup>

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 legionary garrison of the province of Judaea, which, together with auxiliary forces, besieged and conquered Masada in 73 (74) CE.<sup>6</sup> 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.<sup>7</sup> This is also borne out by the epigraphical evidence.<sup>8</sup> 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).<sup>9</sup>

#### 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.<sup>10</sup> 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.<sup>11</sup> 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.<sup>12</sup> For a time, though, it was also the language of legal and administrative

<sup>5</sup> 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.

<sup>6</sup> See H. M. Cotton and J. Geiger, *Masada II: The Latin and Greek Documents*, Jerusalem 1989. The documents are referred to in the text as *Doc. Mas.*

<sup>7</sup> H. Rosén, ‘Die Sprachsituation im römischen Palästina’, in *Die Sprachen im römischen Reich der Kaiserzeit* (Beihefte der Bonner Jahrbücher 40), 1980, 220ff.; F. Millar, ‘Latin in the Epigraphy of the Roman Near East’, in H. Solin, O. Salomies and U.-M. Liertz, eds., *Acta Colloquii Epigraphici Latini. Helsinki 3–6 Sept. 1991* (Commentationes Humanarum Litterarum 104), 1995, 403ff.

<sup>8</sup> As demonstrated by Werner Eck in an unpublished lecture delivered in Jerusalem, December 1997: ‘The Reflection of Power: Latin Inscriptions in the Province of Judaea/Syria Palaestina’; see also W. Eck, ‘Rom und die Provinz Judaea/Syria Palaestina: Der Beitrag der Epigraphik’, in A. Oppenheimer, ed., *Jüdische Geschichte in hellenistisch-römischer Zeit. Wege der Forschung: Vom alten zum neuen Schürer*. Schriften des Historischen Kollegs, Munich 1999, 237–63.

<sup>9</sup> See Millar (n. 7).

<sup>10</sup> E. Schürer, G. Vermes, F. Millar, and M. Black, *The History of the Jewish People in the Age of Jesus Christ (175B.C.–A.D.135)*, vol. 2, Edinburgh 1979, 20ff.

<sup>11</sup> 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.

<sup>12</sup> See Y. Yadin and J. Naveh, *Masada I: The Aramaic and Hebrew Ostraca and Jar Inscriptions*, Jerusalem 1989, 8–9; 32–9.

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.<sup>13</sup> Later more Hebrew documents were discovered in Naḥal Ḥever.<sup>14</sup> All the Hebrew documents from Naḥal Ḥever can be dated safely to the the Bar Kokhba Revolt of 132–6 CE.<sup>15</sup> 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.<sup>16</sup> 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 Naḥal Ḥever, 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.<sup>17</sup>

*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 (הוֹתְמִים) 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.<sup>18</sup> 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 (לְיִשְׂרָאֵל לַיָּמֵי הַיְשׁוּעָה), in Jerusalem (בְּיִרוּשָׁלַיִם), 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 (בְּיִרוּשָׁלַיִם) 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 (לְיִשְׂרָאֵל לַיָּמֵי הַיְשׁוּעָה) in Jerusalem (בְּיִרוּשָׁלַיִם), Yehonathan son of Yehosaf, Shime'on son of Simai, Jonathan son of Ele'azar, and Jonathan son Ḥananiah are signing ...'.

The presence of four signatories to the deed, although there is nothing in the document to suggest that they constituted a court,<sup>19</sup> 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:

<sup>13</sup> See n. 2.

<sup>14</sup> See Y. Yadin, 'Expedition D', *IEJ* 11, 1961, 36–52; 'Expedition D – The Cave of the Letters', *IEJ* 12, 1962, 227–57.

<sup>15</sup> For 136 see W. Eck, 'The Bar Kokhba Revolt: The Roman point of view', *JRS* 89, 1999 (forthcoming); W. Eck and G. Foerster, 'Ein Triumphbogen für Hadrian bei Tel Shalem', *JRA* 13, 1999 (forthcoming).

<sup>16</sup> 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.

<sup>17</sup> 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).

<sup>18</sup> 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.

<sup>19</sup> Cf. H. Misgav, 'Jewish Courts of Law as Reflected in the Documents from the Dead Sea', *Cathedra* 82, 1996, 17–24 (Hebrew).

Jerusalem does not appear in his published text but in a ‘repentant’ appendix.<sup>20</sup> 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’ (בירושלים) 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 formulae mentioning Jerusalem on coins from the time of the revolt,<sup>21</sup> or in *Mur* 25 line 1: ‘Year Three of the freedom of Jerusalem’ ([שנת] תלת לחרות ירו[ו]שלים), 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.<sup>22</sup> 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,<sup>23</sup> 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 Judaeen 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’ (על ידי)<sup>24</sup> or ‘in the name of’ (לשם)<sup>25</sup> or ‘in the days of’

<sup>20</sup> *DJD* II, p. 205.

<sup>21</sup> See e.g. L. Mildenberg (‘Bar Kochba in Jerusalem’, *Schweizer Münzblätter* 27, 1977, 1–6) who interprets – ‘for the freedom of Jerusalem’ – לחרות ירושלים – as no more than an aspiration on the part of the rebels.

<sup>22</sup> 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’ (ב 14 למרחשוון שנת ארבע לאחולת ישראל). The new dating extends the revolt to October/November 135, well after the fall of Beithar, traditionally dated to July 135 (cf. E. Schürer, G. Vermes, and F. Millar, *The History of the Jewish People in the Age of Jesus Christ (175 B.C.–A.D. 135)* vol. 1, Edinburgh 1973, 551ff.). However, in view of the epigraphic evidence which demonstrates that the *imperator iterum* is not attested in Hadrian’s titulature before 136 (see Eck and Eck and Foerster in n. 15 above), it seems to me that a late date in 135 need not make us redate *Mur* 22 to the first revolt. However, Eshel, Broshi, and Jull believe that the results of a carbon 14 test carried out on *Mur* 22 date it safely to the first century CE. Although I also believe that there are good – historical and other – reasons for accepting such a dating, as will be seen below, it seems to me, in view of the margin of error inherent in any carbon 14 testing, and especially so given the brevity (in carbon 14 terms) of the period between the first revolt (66–70 CE) and the second revolt (132–136 CE), that any such results can only offer supportive testimony to historical evidence and arguments, and cannot be conclusive on their own.

<sup>23</sup> 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).

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

<sup>25</sup> *DJD* XXVII no. 7 (deed of sale, Aramaic): ‘14 Iyyar, year 3 of the freedom (חרות) 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 (חרות) of Israel in the name of Shim’on son of Kosibah, the Prince of Israel’.

(על ימי)<sup>26</sup> ‘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’.<sup>27</sup> 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 (חרות) 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 Bryw)<sup>28</sup> as *DJD* XXVII no. 8 explicitly dated to the third year of the revolt: ‘[ ] Adar, year 3 of the freedom (חרות) 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 (חרות or חרות) of Zion’ and ‘to the redemption (גאולה) 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’.<sup>29</sup> 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 (גאולה) of Israel’.<sup>30</sup> 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.<sup>31</sup>

#### The difference between Wadi Murabba‘at and Naḥal Ḥever

No doubt the discoveries of Hebrew documents which certainly date to the Bar Kokhba revolt in the ‘Cave of Letters’ in Naḥal Ḥever 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 Naḥal Ḥever was thereby overlooked. However, unlike the ‘Cave of Letters’ of Naḥal Ḥever, the caves of Wadi Murabba‘at show human occupation from the early bronze age and well into the Arab period.<sup>32</sup> 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,<sup>33</sup> and one can prove that earlier documents were brought thither at the time of

<sup>26</sup> *DJD* XXVII no. 8 (sale, inner text in Aramaic; outer text in Hebrew): ‘[ ] Adar, year 3 of the freedom (חרות) 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 (גאולה) 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 (חרות) of Israel’ there is room for ‘by (or ‘in the name of’) Shim’on son of Kosibah, the Prince of Israel’.

<sup>27</sup> *P.Yadin* 47a (Aramaic contract): ‘14 Tevet, year 3 of Shim’on son of K[osibah, 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’.

<sup>28</sup> Identified by M. Broshi and E. Qimron ‘A House Sale Deed from Kefar Baru from the Time of Bar Kokhba’, *IEJ* 36, 1986, 207) with Βαάρια of Jos. *BJ* 7.180; 189 and the Βααρυ of the Madaba Map (see M. Avi-Yonah, *The Madaba Mosaic Map*, Jerusalem 1954, 29, 39–40, pl.2) – a place in the Peraea (Transjordan). I am grateful to Boaz Zissu for discussing the identification of the place with me.

<sup>29</sup> L. Mildenberg ‘A Bar Kokhba Didrachm’, *INJ* 8, 1986/7, 33.

<sup>30</sup> R. Deutsch, ‘A Unique Prutah from the First Year of the Jewish War against Rome’, *INJ* 12 1992/3, 71–2.

<sup>31</sup> 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.

<sup>32</sup> *DJD* II, pp. 14–49.

<sup>33</sup> Y. Yadin, ‘Expedition D’, *IEJ* 11, 1961, 36–52.

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;<sup>34</sup> 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' – במצדא – 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', (שנת ה. ל), where it breaks off. The letter ה in Aramaic is the initial letter of both 'one' (חדה) 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' (שנת תלת לחרות ירושלים), 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:<sup>35</sup> Hardona (*Mur* 20); Khisalon (*Mur* 18, perhaps *Mur* 30 line 11), Zuba (*Mur* 18),<sup>36</sup> 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 XHev/Se ar 50, whose provenance is unknown. Both are published together now by Ada Yardeni in *DJD* XXVII.<sup>37</sup> This document was signed by a witness from Hebron and the scribe (or more likely a witness) from Jerusalem (XHev/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

<sup>34</sup> D. Goodblatt, 'Dating documents in *Provincia Iudaea*: A note on Papyri Murabba'at 19 and 20', *IEJ* (forthcoming).

<sup>35</sup> See Eshel, Broshi and Jull (n. 17) 236.

<sup>36</sup> For the reading of ציבה instead of Milik's ציבה see Naveh (n. 3) 84.

<sup>37</sup> See *DJD* XXVII no. 50 (= *Mur* 26 and XHev/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.<sup>38</sup>

#### 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,<sup>39</sup> 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,<sup>40</sup> 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,<sup>41</sup> 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 Naḥal Hever.<sup>42</sup> The unpublished *XHev/Se nab 2–5(6)*<sup>43</sup> may belong to the archive of Salome Komaïse

<sup>38</sup> 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* + 4Q347), 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 (צֹהֵן גִּדְוֹל) 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.

<sup>39</sup> With the exception of 4Q348 (see previous note).

<sup>40</sup> Naveh (n. 3) 102.

<sup>41</sup> J. Starcky, 'Un contrat Nabatéen sur papyrus', *Revue Biblique* 61, 1954, 161–81. Ada Yardeni is preparing a revised edition of this papyrus.

<sup>42</sup> 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).

<sup>43</sup> 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,<sup>44</sup> whose documents also come from the ‘Cave of Letters’.<sup>45</sup> Both archives revolve around the legal affairs of Jewish families in Maḥoza/Maḥoz ‘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’ in Naḥal Ḥever 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/Se nab* 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. *P.Yadin* 1 is an IOU note from 94 CE, between husband and wife, both Nabataeans; *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 ‘Aftaḥ daughter of Manigros, at first to a man called Archelaus son of ‘Abd‘amiyu (*P.Yadin* 2) and a month later to Shim‘on – probably to be identified as Shim‘on bar Menaḥem, Babatha’s father – (*P.Yadin* 3),<sup>46</sup> the undated *XHev/Se nab* 2 and *P.Yadin* 4 also belong to the regal period in Arabia, since the king is mentioned in one of the clauses.<sup>47</sup> The first one is a deed of sale between a Jewish woman, Shalom and a Nabataean called Sh‘adali.

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: *P.Yadin* 6 of the year 119 is a deed of lease between two Jews from Ein Gedi who live in Maḥoz ‘Aglatain in Arabia, and *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: *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.<sup>48</sup> 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; *P.Yadin* 8 of 122 is a sale of a white donkey; *P.Yadin* 10, the marriage contract of Babatha to her second husband, Judah son of Ele‘azar, was written between 125 and 128;<sup>49</sup> and finally there is *DJD* XXVII no. 12 of 131, a receipt given to Salome Komaise daughter of Levi in Maḥoz ‘Aglatain. Although this is written in Aramaic, its striking resemblance to a receipt in Greek from 125 (*DJD* XXVII no. 60)<sup>50</sup> suggests that like the Greek receipt, the Aramaic receipt too was for tax or rent paid to the Emperor.<sup>51</sup>

<sup>44</sup> The archive of Salome Komaise daughter of Levi (125 [113?]-131 CE) consists of *DJD* XXVII no. 12, (no. 32?), nos. 60–65, published in Cotton and Yardeni (n. 2).

<sup>45</sup> See Cotton and Yardeni (n. 2) 3ff.

<sup>46</sup> On *P.Yadin* 2 and 3 see A. Yardeni, ‘Notes on Two Unpublished Nabataean Deeds from Naḥal Ḥever – *P.Yadin* 2 and 3’, *Proceedings of the International Congress on The Dead Sea Scrolls – Fifty Years after their Discovery – held at The Israel Museum, Jerusalem, July 20–25, 1997* (forthcoming).

<sup>47</sup> The clause says: וְלִמְרִיאָא רַבְאֵל מְלִכָא כּוּהּ: *XHev/Se nab* 2 (ca. 99? unpublished) line 22; *P.Yadin* 4 (99 CE, unpublished) lines 17–18; cf. *P.Yadin* 2 (99 CE, unpublished) lines 13–14 = line 40; *P.Yadin* 3 (99 CE, unpublished) line 18 = lines 45–46.

<sup>48</sup> Published by Y. Yadin, J. C. Greenfield, and A. Yardeni, ‘A Deed of Gift in Aramaic Found in Naḥal Ḥever: *Papyrus Yadin* 7’, *Eretz Israel* 25, 1996, 383–403 (Hebrew); for the occasion see H. M. Cotton and J. C. Greenfield, ‘Babatha’s Property and the Law of Succession in the Babatha Archive’, *ZPE* 104, 1994, 211–24.

<sup>49</sup> Published by Y. Yadin, J. C. Greenfield, and A. Yardeni, ‘Babatha’s *Ketubba*’, *IEJ* 44, 1994, 75–99.

<sup>50</sup> See H. M. Cotton, ‘Land Tenure in the Documents from the Nabataean Kingdom and the Roman Province of Arabia’, *ZPE* 119, 1997, 258–9.

<sup>51</sup> The use of Aramaic in tax receipts is surprising, although it is clear that the tax collectors were local people: see commentary on *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.<sup>52</sup> The first safely dated Greek document is *P.Yadin* 5 from 110<sup>53</sup> 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.<sup>54</sup> 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.<sup>55</sup>

At least one Jew seems to prefer Nabataean to Aramaic, although he is the scribe of an Aramaic document of the year 122.<sup>56</sup> This is the intriguing Yoḥana 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;<sup>57</sup> 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.<sup>58</sup> 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;<sup>59</sup> and Abd'obdat (עבד עבדה – 'slave of 'Obdat') is the father's real name, in other words that he was

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Evidence from the Babatha Archive', *Mediterranean Historical Review* 9, 1994, 265f. (= 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).

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

<sup>53</sup> There is no certainty about the provenance of *DJD* XXVII nos. 66 of 99 or 109.

<sup>54</sup> *P.Yadin* 12 lines 16–17: Ἀβδερῆς Κομμαίου μάρτυς corrected to Ἀβδερῆτας by E. Puech, 'Présence arabe dans les manuscrits de "la Grotte aux Lettres" du wadi Khabra', in H. Lozachmeur, ed., *Actes de la Table ronde internationale organisée par l'Unité de recherche associée 1062 du CNRS, Études sémitiques, au Collège de France, le 13 novembre 1993*, Paris 1995, 39, n. 8; *P.Yadin* 19 line 34: [C]ομμαῖος Κα[ ]βαίου μάρτυς. Sometimes Jews also sign their names in Greek letters, e.g. *P.Yadin* 5; *P.Yadin* 14 line 47: Ἐδαῖος Θαδαίου μάρτυς; cf. for the same person: *P.Yadin* 15 line 43; *P.Yadin* 20 line 50; *P.Yadin* 23 line 29.

<sup>55</sup> See Introduction to *DJD* XXVII no. 64 and comments ad line 44.

<sup>56</sup> *P.Yadin* 8 (unpublished) where he is called Yoḥanan 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.

<sup>57</sup> In *P.Yadin* 14 of 125, in *P.Yadin* 16, Babatha's census declaration of 127, and in *P.Yadin* 20 of 130.

<sup>58</sup> 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 (ἐπίτροπος) of a Woman in the Documents from the Judaean Desert', *ZPE* 118, 1997, 269ff.

<sup>59</sup> There are other nicknames in the papyri: Ele'azar Khthousion, Judah Kimber, Yoḥana son of Eglā (*P.Yadin* 15, l. 33: יודנה חברי בר עגלא). That Eglā is a nickname emerges from *P.Yadin* 14 line 23 and 15 lines 3–4 (= line 18): Ἰωάνης Ἰωσήπου τοῦ Ἐγλα. 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.<sup>60</sup> On the other hand, the theophoric Jewish name Yoḥana and the Aramaic *P.Yadin* 8 may suggest that the son is the issue of a mixed marriage between a Jew and a Nabataean.<sup>61</sup>

The Nabataean Onainos son of Sa'adalos – 'graphically described as 'the one who lends his hand': χειροχρήστης – 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<sup>62</sup> 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.<sup>63</sup> 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,<sup>64</sup> 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).<sup>65</sup> 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.<sup>66</sup> 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.<sup>67</sup>

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, ἐρμηνεία, of Judah's subscription, which must have been written in Aramaic.<sup>68</sup> It is signed by seven witnesses; the first witness, Gaius Iulius Proclus, is a Roman soldier, the rest are likely to be fellow Ein Gedian. 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.<sup>69</sup>

<sup>60</sup> But see *CIS* II 1, 3 (1902) no. 486, lines 1–2: 'Ḥonainu (חננין) son of Aba who is also called 'Abdallahi (אבדאללה)'.  
<sup>61</sup> T. Ilan, 'Yohana bar Makoutha and Other Pagans bearing Jewish Names', (forthcoming) as the title indicates takes Yoḥana son of Makhoutha to be a pagan.

<sup>62</sup> *DJD* XXVII no. 61 lines 3–4: ἐ[γράφη διὰ] χειροχρήστου Οναινου Κααδαλλου.

<sup>63</sup> See H. M. Cotton, 'Subscriptions and Signatures in the Papyri from the Judaean Desert: The XEIPOXPHTHC', *JJP* 25, 1996, 29–40.

<sup>64</sup> See Rosén (n. 7) 219ff.

<sup>65</sup> Cotton and Geiger (n. 6) 9–10.

<sup>66</sup> First published by B. Lifshitz, 'Papyrus grecs du désert de Juda', *Aegyptus* 42, 1962, 240–58. *P.Yadin* 52 has been re-edited many times since: G. Howard, and J. C. Shelton, 'The Bar-Kochba Letters and Palestinian Greek', *IEJ* 23, 1973, 101–2; Rosén (n. 7) 224; D. Obbink, 'Bilingual Literacy and Syrian Greek', *BASP* 28, 1991, 51–7; H. Lapin, 'Palm Fronds and Citrons: Notes on Two Letters from Bar Kosiba's Administration', *HUCA* 64, 1993, 111–35; G. W. Nebe, 'Die beiden griechischen Briefe des Jonathan Archivs in Engedi aus dem zweiten jüdischen Aufstand 132–135 nach Chr.', *RQ (Hommages à J. T. Milik)* 17, 1996, 275–89; for final publication see above n. 2 ad fin.

<sup>67</sup> *Doc. Mas.* 740, which carried a date and is tentatively dated to 25–35 CE, is too fragmentary to betray its real nature.

<sup>68</sup> *P.Yadin* 11, lines 29–30: ἐρμηνεία: Ἰουδᾶς Ἐλαζάρου Χθούσιωνος τὰ ... ὑπέθηκα ἀκοιούθως τοῖς προγεγραμμένοις. ἐγράφη διὰ Ἰουτείνου.

<sup>69</sup> 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.<sup>70</sup> This suggestion, if correct, would make *Mur* 114 the earliest dated contract from Judaea written in Greek.<sup>71</sup>

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.<sup>72</sup>

#### 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 Gophna’ – 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 (Aqiba 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.<sup>73</sup> At any rate the marriage seems to have followed local custom, for we find in the preserved portion of this document formulae 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

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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.

<sup>70</sup> 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).

<sup>71</sup> P. Benoit (‘Une reconnaissance de dette du II<sup>e</sup> 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).

<sup>72</sup> 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  $\Phi\iota\lambda\alpha\delta\epsilon\lambda\phi\epsilon[\omicron]c$  (or  $\Phi\iota\lambda\alpha\delta\epsilon\lambda\phi\epsilon[\iota]c$ ) 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.

<sup>73</sup> *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).<sup>74</sup>

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.<sup>75</sup>

#### 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,<sup>76</sup> 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.<sup>77</sup>

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.<sup>78</sup> 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?<sup>79</sup>

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<sup>74</sup> See in detail H. M. Cotton, 'The Rabbis and the Documents', in M. Goodman, ed., *The Jews in a Graeco-Roman World*, Oxford 1998, 175ff.

<sup>75</sup> See Cotton in Yardeni and Cotton (n. 2) 153–7.

<sup>76</sup> See W. Eck, 'Roman officials in Judaea and Arabia and civil jurisdiction', in R. Katzoff, ed., *Proceedings of the Judaeian Desert Documents Workshop held in Bar Ilan University, 3–5 June 1998* (forthcoming).

<sup>77</sup> For the evidence see H. M. Cotton, 'The Guardianship of Jesus Son of Babatha: Roman and Local Law in the Province of Arabia', *JRS* 83, 1993, 101–2, and Cotton (n. 74).

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

<sup>79</sup> 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.<sup>80</sup> In the course of time, the Romans, even if not officially recognizing these forms of Jewish jurisdiction, nonetheless came to tolerate them.<sup>81</sup>

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.<sup>82</sup>

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<sup>83</sup> is illustrative of the trust their writers put in non-Jewish courts, especially those of the Roman governor.<sup>84</sup> 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)<sup>85</sup> 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.<sup>86</sup>

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<sup>80</sup> Misgav (n. 19) 17f.

<sup>81</sup> As for the assumed rabbinic tribunals, I do not think anyone has ever refuted Cheyes’ arguments presented exactly a hundred years ago (1899) that when we examine the sources closely, we never find people approaching a proper tribunal, but rather a single rabbi (‘Les juges juifs en palestine de l’an 70 à l’an 500’, *REJ* 39, 1899, 39–52).

<sup>82</sup> See Cotton (n. 77) 101–2 and Cotton (n. 74) 169ff.

<sup>83</sup> The ratio of Aramaic to Greek documents in Judaea does not reflect normal conditions in the Roman province: many of the Aramaic documents found in the Judaean Desert were written in the short period of national independence during the Bar Kokhba revolt.

<sup>84</sup> The Babatha archive contains many examples of people’s unshakeable confidence in the accessibility of the Roman governor; it was not unfounded, see Cotton (n. 77) 106–7.

<sup>85</sup> Yadin, Greenfield, and Yardeni (n. 49).

<sup>86</sup> As always I thank my friends Professor David Wasserstein and Professor Werner Eck for good advice and sound criticism.