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THE GUARDIAN (EIIITPOIIOC) OF A WOMAN IN THE DOCUMENTS FROM THE JUDEAN DESERT


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The Guardian (εἰπτροποιος) of a Woman in the Documents from the Judaean Desert*

The documentary texts from the Judaean Desert are mostly legal texts. They were written in a number of languages: Hebrew, Jewish Aramaic, Nabataean Aramaic and Greek. However, regardless of the language in which they were composed, with very few exceptions all of them were written by Jews or at least involve Jews.1 Those Jews who wrote their documents in Greek are by no means Hellenized Jews. This is amply demonstrated by their Aramaic subscriptions and signatures, and sometimes by the faulty Greek they use.2 What does the use of different languages tell us about this society? Does the use of one language, as against others, reflect no more than the diplomatics of the documents, or does it reveal to us the coexistence of different legal systems within this society? It seems to me that the topic of this paper, the presence or absence of a guardian of a woman in a document, can profitably be used to address these questions.

The legal representative, the guardian of a woman, appears only in the Greek documents, and never in the Hebrew, Aramaic or Nabataean ones. What is the implication of this absence? That the legal system reflected in the Semitic documents did not recognize, or did not call for, the institution of a guardian for a woman? In that case what legal system is reflected in the Greek documents? I deliberately take no account here of the evidence of the rabbinic sources. In defence of this, it should be said that in view of the late date of the redaction of the Jewish legal code in the Mishnah, reliance on these sources would involve us in a vicious circle: we are totally dependent on the papyri for evaluating the evidence of the rabbinic sources. In defence of this, it should be said that in view of the late date of the redaction of the Jewish legal code in the Mishnah, reliance on these sources would involve us in a vicious circle: we are totally dependent on the papyri for evaluating the evidence of the rabbinic sources. In defence of this, it should be said that in view of the late date of the redaction of the Jewish legal code in the Mishnah, reliance on these sources would involve us in a vicious circle: we are totally dependent on the papyri for evaluating the
doctrine exercised by the rabbis on the law used by Jews at the time.3

We may start with a random example from the Babatha archive: in P.Yadin 17 of 21 February 128 Judah son of Eleazar Khthousion, Babatha’s second husband, acknowledges that he has received 300 denarii from her to be paid on demand; her guardian is present with her: ὑμολογήσατο Ἰοῦδας Ἐλεαζάρου [Χ]ήθουσιος Ἁμναύτης γυναίκαν αὐτοῦ, εὐνοῦν παρώντος αὐτῇ ἑπτάδε του πράγματος ἱάμον Ἰακώβου Ἰησοῦ . . . ὡς τῷ Ἰοῦδαν ἀτεσ-χηκέναι παράθεσε τοῦ ἱαμναύτης ἐκ λόγου παραθήκης ἱαμναύτης τοῦ ἱάμον Ἰακώβου τοῦ γυναίκας τῆς τῆς τῆς Ἰησοῦ καὶ τῆς τῆς τῆς Ἰακώβου τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τῆς τĽ


4 ‘Judah son of Eleazar Khthousion from Ein Gedi acknowledged to Babatha daughter of Shim’on, his own wife, present with her as her guardian for the purpose of this matter Jacob son of Yeshu’a . . . that he has received from her on account of a deposit three hundred denarii of silver in coin of genuine legal tender, on condition that he hold them and owe
The presence of a legal representative of a woman is well attested in contemporary Egyptian papyri. But there is a difference of usage: the term used for the guardian of a woman in the passage just quoted and elsewhere in the papyri from the Judaean Desert is ἐπίτροπος; in the Greek papyri from Egypt, however, the guardian of a woman is designated κύριος. The term ἐπίτροπος is reserved in the Egyptian papyri for the guardian of a minor; and for good reason too. The two terms are not synonyms; they stand for two distinct legal concepts. The ἐπίτροπος can only refer to the person who administers someone else’s patrimony.5 The κύριος on the other hand was in the old Attic law from which the term derives the master of a person who could not own property. It is a fossilized remnant of an older social structure in which the woman lacked altogether the competence to own property. The κύριος, as the term indicates, was the woman’s lord and master. With time women could and did own property and the κύριος was no longer the person in whose power the woman was. His function degenerated therefore into that of an assistant of the woman in the performance of certain legal actions, mere lip service to an older legal system.6 He survived thus in Ptolemaic Egypt, but perhaps not in the Seleucid sphere of influence, since he is absent from the Greek papyri from Dura-Europus and from the recently published papyri from Mesopotamia.7

In the Greek papyri from the Judaean Desert the term ἐπίτροπος is used – even in a single document – both for the guardian of a woman and for the guardian of a minor, as in the following example: Βησας Ἰησοῦν Ἡγαθάδην γινώμ. ἐν Μαζρα. ἐπίτροποι ὁρφανῶν Ἰησοῦου Χθουκίουνως . . . Σελάμιοῦ Ἰουδᾶν Ἡγαθάδην διὰ ἐπίτροπον αὐτῆς Ἰουδᾶς ὡς καὶ Κύβερνος Ἀνανίου Ἡγαθάδην τοῦ τοῦ πράγματος χάριν.8 But the identity of terms does not in fact reflect an identity of function. As I hope to prove in the following discussion, the low profile kept by the guardian of a woman in the Greek documents from the Judaean Desert is conspicuous. It contrasts sharply with that of the guardian of the minor9 but resembles that of the κύριος in the Egyptian papyri.10

That the lack of distinction was not due to the influence of the Aramaic environment is proved by the fact that in the Aramaic subscriptions the distinction is made: the guardian of a woman is called κύριος = κύριος,10 as in P.Yadin 15 line 37: ἰδέατε ρέ, καὶ ἐκάθητο ἁράναμα καὶ μεθελήσατε μαθήματα,12 whereas for the guardian of the minor the Aramaic borrowed the Greek term ἐπίτροπος.
The Guardian (ἐπίτροπος) of a Woman

In the fourteenth year of the Emperor Trajan Hadrian Caesar Augustus, in the consulship of Marcus Flavius Aper and Quintus Fabius [Catullinus . . . ] in Aristoboulias of the Zeiphênê. Sela.e[ ] gave in marriage [her daughter (?) Selam- . . . ] through Bork. Agla, her guardian for this matter [. . . ]', X

Hans Julius Wolff in his pioneer study of the legal system in the documents from the Judaean Desert could not know that the confusion in terminology was not unique to documents from the new province of Arabia which came under Roman rule only in 106, and whose accelerated Romanization is so well attested in the archives from Maḥoza/Mahoz ‘Aglatain, but is present also in documents from the province of Judaea, which was under Roman rule from 6 CE. In a cancelled marriage contract of 130 CE written in Aristoboulias, 7 km south of Hebron, a mother who gives her daughter in marriage is assisted by a guardian designated ἐπίτροπος and not κύριος: ’Ετούς τεσσερεκαθέκατον Λυτο[ν]-κράτορος Τραί[ιανοῦ Ἀδριάτου Καίαιρος Σεβακτοῦ ἐπὶ ὑπάρχον Μάρκου Φιλομού Λ'Απρου καὶ Κοιντήτου Φαβίου [Κατουλλάνου. 19 letters] ἐν Αριστοβουλίαδι τῆς Ζεβάργης έξεύδετο Σελα.ε[ ] c.30 letters] διὰ Βορκ. Α γλα ἐπιτρόπου[ο] ἀυτής τοῦ δε τοῦ πράγματος τάξιν. The absence of the ἐπίτροπος of a woman in Mur 115, a contract of remarriage from Judaea, written in 124 CE, might be explained by the role of the bride in this contract in contrast to that of the mother, in XHev/Se gr 69: the latter is the subject of the homologia (see below).

The person who is often found signing for the woman in the Semitic documents from the Judaean Desert must be carefully distinguished from the ἐπίτροπος. This is the subscriber, designated in the Egyptian papyri by the term ὑπογραφέως and in one of the Greek papyri from the Judaean Desert by the term χειρογρήμης: Ἰος Λείου φόρμου τύχην Κύρίου Καίαιρος καὶ ἕνα πέτει ἀπογραφθῆ ὡς προγέγραψαι μηθήν ὑποστελέμενος, ἡ γράφα διὰ ἐν χειρογρημένου ὤναν οὐαδολου. The latter

13 Judah son of Eleazar Khthou- sion is attested for the first time as Babatha’s husband in P.Yadin 17 of 21 February 128. We do not know if he was already married to her at the time that P.Yadin 15 was written, i.e. October 125. However, even if he were married to her by then, Yoḥana son of Makhoutha of P.Yadin 22 is certainly not married to her at the time. Thus cannot mean ‘husband’ but must stand for κύριος. The distinction between and in the Aramaic subscriptions is all the more striking since as I pointed out above the guardian of a woman is absent from the Semitic documents.


15 Wolff (n. 5), 796–7; cf. Lewis, Documents, 17.

16 These are likely to have been mentioned in the provincial edict.

17 ‘Es scheint nicht einmal undenkbar, dass die römische Provinzialregierung selbst in griechisch herausgebrachten, aber römisch gedachten, wenn nicht geradezu aus dem Lateinischen übersetzten, Verlautbarungen beide Arten der Tutel in dieser vom Standpunkt der griechischen Sprache her annehmlichen Weise gleich benannt hatte’, Wolff (n. 5), 796; see also his comments there on the ἐπίτροπος τοὐδε τῶν πράγματος.

18 ‘In the fourteenth year of the Emperor Trajan Hadrian Caesar Augustus, in the consulsipship of Marcus Flavius Aper and Quintus Fabius [Catullinus . . . ] in Aristoboulias of the Zeiphênê. Sela.e[ ] gave in marriage [her daughter (?)] Selam- pious . . . ] through Bork. Agla, her guardian for this matter [ . . . ]’, XHev/Se gr 69 lines 1–4.

19 See H.C. Youtie, ‘ΠΟΠΟΡΑΦΕΥΣ: the social impact of illiteracy in Graeco-Roman Egypt’, ZPE 17, 1975, 201–221.

20 ‘X son of Levi, swear by the tyche of the Lord Caesar that I have in good faith registered as written above, concealing
term χειρογρήψτης is revealing of the true function of this person: he lends his hand by signing for someone who is legally competent to do so, but who happens to be illiterate (or otherwise incapable of writing), when a subscription and/or a signature in his or her own hand is required to render a document valid. No technical term exists for this person in the Semitic documents, but the graphic notion of borrowing someone else’s hand is present in the Aramaic XHev/Se ar 13, where a woman called Shlamzion daughter of Yehosof renounces all claims against her former husband. She is said to have ‘borrowed the hand of Mattat so[n] of Shim’on, who wrote what she said’: שָלָם ציָון בָּנוֹת שֵׁם וַעֲנָּה לְשׁוֹמֵּשׁ (P.Yadin 15 line 37).

The επιτρόπος could fulfill the function of the subscriber at the same time as he served as an επιτρόπος, in which case the verbs γράφω or ὑπογράφω are used to describe his action. Thus Judah son of Eleazar Kthousion is both an επιτρόπος and a subscriber in Babatha’s land declaration: Ἰουδάχης Ἐλαζάρου ἐπιτρόπου αὐτῆς καὶ ἑγράφα ὑπὲρ αὐτῆς (P.Yadin 16 lines 35–36), as is Iohannes son of Makhoutha in Babatha’s deed of sale: διὰ ἑπιτρόπου αὐτῆς καὶ ὑπογράφωντος Ἰουδάχης Μαχχουθα τῆς αὐτῆς Μαωάς (P.Yadin 22 line 29), and Babelis son of Menahem in Babatha’s receipt: Βαβελίς Σωθικοῦ, εὐπαρθόντος αὐτῆς ἐπιτρόπου καὶ ἑγράφα ὑπὲρ αὐτῆς υπογράφωντος Βαβελίς (P.Yadin 27 lines 4–5). And yet the επιτρόπος is to be distinguished from the subscriber, as is apparent in P.Yadin 15 where both an επιτρόπος and a subscriber take part in the legal proceedings. This is a case of deposition against the guardians of Babatha’s son. Babatha’s guardian for this matter, Judah son of Eleazar Kthousion, did not write the subscription for her; instead, Eleazar son of Eleazar wrote it for her, since her illiteracy prevented her from doing it herself: ἔμπαρτοροποιήσατο ἡ Βαβάθα ὡς προφέργαιται διὰ εἰπτρόπου αὐτῆς τοῦ πράγματος Ἡσώδον Χθουείσων ὡς παρών υπὲργραφείν. (second hand) Βαβάθας Σωθικοῦ ἐμπαρτοροποιήσαμεν καὶ τὰ Ἡσωδον Ἐγγα καὶ Ἀβδαοῦβα Ἑλλουθά ἐπιτρόπων ἰκουσ υἱὸν ὡμοῖον δι’ ἑπιτρόπου μοῦ Ἡσωδον εὐδαοῦβα ἐκολοµίζως τῆς προφεργαρµαµείνες ἑφέσειν. Ἐλαζάρου Ἐλαζάρου ἐγράφα ὑπὲρ αὐτῆς ἑρµηνεύει διὰ τὸ αὐτῆς μὴ εἰς ἄνδαγα γράµµατα.24

It seems clear that διὰ τὸ αὐτῆς μὴ εἰς ἄνδαγα γράµµατα, ‘because she did not know her letters’ in Babatha’s case, does not mean that she could not write Greek, but that she was illiterate in any language. A Greek subscription was not required: Judah son of Eleazar, her guardian, wrote his own subscription in Aramaic: Ἰουδαίον Ἐλαζάρου ἐγράφα ὑπὲρ αὐτῆς ἑρµηνεύει διὰ τὸ αὐτῆς μὴ εἰς ἄνδαγα γράµµατα.25 If Judah son of Eleazar did not write a subscription for Babatha, although he was her guardian and could write Aramaic, but Eleazar son of Eleazar did, then we must look for some legal reason: evidently she was legally competent to do so, but incapable of doing so because of her illiteracy. This is where a subscriber, and not a guardian, must have been used.

What was then the function of the guardian of a woman? As observed above the low profile kept by

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21 Nor does the term ὑπογράφω appear in the Greek papyri from the Judaean Desert, only the verb, see P.Yadin 22 line 29 and P.Yadin 27 line 5, quoted in the text. See H. M. Cotton, ‘Subscriptions and signatures in the papyri from the Judaean Desert: the χειρογρήςτης’, JJP 25, 1996, 29–40.
22 Cf. Yardeni’s new reading of Mur 18 lines 9–10: μέσα χγμι Ξρότας γεράτε µεν [κε沉积 τοι ξιάρσε βολά δε] (P.Yadin 22 line 29).
23 Likewise in the verso of XHev/Se gr 64 the first signature, of which only traces are left, is likely to have been that of the mother, Salome Gropte, the donor, although she did not write it herself. The second signature is probably that of her husband and guardian, Joseph son of Shim’on, who signed for her – the traces of ink are compatible with his name, see Cotton and Yardeni, p. 220 ad XHev/Se gr 64 lines 42–43.
24 ‘Babatha deposed as aforesaid through her guardian for this matter, Judah son of Kthousion, who was present and subscribed. [second hand] I, Babatha daughter of Shim’on, have deposed through my guardian Judah son of Kthousion against John son of Eglas and ‘Abdoöbdas son of Ellouthas, guardians of my orphan son Jesus, according to the aforesaid conditions. I, Eleazar son of Eleazar, wrote for her by request, because of her being illiterate’, lines 31–35.
25 ‘Judah son of Kthousion lord of Babatha: in my presence Babatha confirmed all that is written above. Judah wrote this’, P.Yadin 15 line 37.
the guardian of a woman in the Greek documents from the Judean Desert is conspicuous. Nevertheless, he seems to be taking a more active part in those contracts in which the woman is the one in whose name the homologia is written or another kind of legal obligation is undertaken. Here, with one exception\textsuperscript{26} we find the formula δια ἐπίτροπον αὐτῆς, that is ‘through her ἐπίτροπος’. Thus a mother gives her daughter in marriage διὰ Βορκ. Ἀγάλα ἐπίτροπου αὐτῆς τοῦ πράγματος χάριν.\textsuperscript{27} Babatha summons Iohannes son of Joseph, her son’s guardian, to appear before the governor (παρήγγειλεν Βαβάθα Σίμωνος τοῦ Μαναήνου: δια ἐπίτροπου αὐτῆς τοῦ πράγματος Ἰουδᾶ Χαθουίωνος etc. (P.Yadin 14 lines 22–23). Similarly Babatha writes a deposition against her son’s guardians ‘through her guardian for that matter, Judah son of Khthousion, who was present and subscribed: ἐμαρτύροντα ἡ Βαβάθα ὡς προγράφηται διὰ ἐπίτροπου αὐτῆς τοῦ πράγματος Ἰουδᾶ Χαθουίωνος ως παρὼν ὑπέγραφεν (P.Yadin 15 lines 31–32). On the occasion of selling the date crop of three date groves to Shim’on son of Yeshu’a, Babatha uses Iohannes son of Makhoutha as guardian and subscriber: [διὰ ἐπίπτροπον αὐτῆς καὶ ὑπογράφοντος Ἰουδᾶ/α] χαθουίωνος Μαχχουθακα: ‘through her ἐπίτροπος who also subscribed Iohannes son of Makhoutha’ (P.Yadin 22 lines 28–29). Babatha summons Julia Crispina to come before the governor in Rabbathmoab: ‘through her Bork., her epitropos, Iohannes son of Makhoutha, who was present and subscribed: ἐμαρτύροντα ἡ Βαβάθα ὡς προγράφηται διὰ ἐπίτροπου αὐτῆς τοῦ πράγματος Ἰουδᾶ Χαθουίωνος ὡς παρὼν ὑπέγραφεν (P.Yadin 15 lines 31–32). On the occasion of selling the date crop of three date groves to Shim’on son of Yeshu’a, Babatha uses Iohannes son of Makhoutha as guardian and subscriber: [διὰ ἐπίπτροπον αὐτῆς καὶ ὑπογράφοντος Ἰουδᾶ/α] χαθουίωνος Μαχχουθακα: ‘through her ἐπίτροπος who also subscribed Iohannes son of Makhoutha’ (P.Yadin 22 lines 28–29). Babatha summons Julia Crispina to come before the governor in Rabbathmoab: ‘through her epitropos, Maras son of Abdalagis from Petra (P.Yadin 25 lines 46–47); διὰ ἐπίπτροπον αὐτῆς Μαρας Ἀβδα/λαγανοῦ Πετραῖος. Finally Babatha acknowledges the receipt of maintenance money for her orphaned son through her ἐπίτροπος, Babelis son of Menahem: [διὰ ἐπίπτροπον αὐτῆς Βαθλης Μαναήνου (P.Yadin 27 line 18). In contrast, in those contracts in which the woman is the recipient of an homologia – in all but one of the cases\textsuperscript{28} –, we have merely the formula recording the presence of the ἐπίτροπος. Thus in P.Yadin 17, where Judah son of Eleazar Khthousion, Babatha’s second husband, acknowledges that he has received 300 denarioi as a deposit to be paid on demand, only the presence of the epitropos is recorded: ωμολογήσατο Ἰουδᾶς Ελεαζάρου [Χθουπούδος Αὐγοήνος πρός] Βαβάθα Σίμωνος ἰδίως γυναίκας αὐτοῦ, συνπαρώνος αὐτῆς ἐπίπτροπος τοῦ πράγματος χάριν Ἰακώβου Ἰησοῦ (lines 21–24).\textsuperscript{29} A similar case is that of XHev/Se gr 65 (= P.Yadin 37): in this marriage contract the husband acknowledges the receipt of a dowry which transforms the union from an unwritten marriage (ἐγγάφος γάμος) into a written marriage (ἐγγάφος γάμος). This is one of the reasons for restoring the text in the lacuna in lines 14–15 so as to record simply the presence of the ἐπίτροπος: συμπαρώνος ε. 8 letters Μακχουθακα [ἐπίτροπον τῆς αὐτῆς Κομαίσης (lines 14–15).\textsuperscript{30} It should be pointed out that in the last two cases the ἐπίτροπος of the woman is not her husband, for the obvious reason that P.Yadin 17 and XHev/Se gr 65 involve the husband and wife as the two opposing parties to a contract creating a state of obligation between them.\textsuperscript{31} The opposite rule, however, does not seem to hold: the formula διὰ τοῦ ἐπίπτροπον αὐτῆς ‘through her ἐπίπτροπος’ does not always occur in contracts in which the woman is the one in whose name the homologia is written or another kind of legal obligation is undertaken; here too, the mere presence of the epitropos can be recorded. In P.Yadin 16 Babatha declares her lands in the census held in the province of Arabia by its governor in 127, recording that her ἐπίτροπος, her second husband Judah son of Eleazar, is present with her: Βαβάθα Σίμωνος Μαουζητῆς τῆς τῆς Ζωαρηθῆς περιμέτρου Πέτρας, οἰκίσκεα ἐν ἰδίος ἐν αὐτῆς Μαουζητῆς, ἀπογράφομαι ἀ κέκτημαι, συμπαρώνος μια ἐπίπτροπον Ἰουδάνου Ἑλεάζαρου

\textsuperscript{26} The exception is P.Yadin 20, where Besas son of Yeshu’a and Julia Crispina concede a courtyard in Ein Gedi to Shelamíon, the daughter of Babatha’s second husband, who is said to act through her guardian: Σελαμιοῦ Ιουδᾶ [Ναγαθῆς διὰ ἐπίπτροπον αὐτῆς Ἰουδᾶς τοῦ ὄς καὶ Κύνβερ Ἀγανοῦ Ναγαθηρίου τοῦ πράγματος χάριν, lines 25–27 = lines 5–6.

\textsuperscript{27} ‘Through Bork., her epitropos for that matter’, XHev/Se gr 69 line 4.

\textsuperscript{28} P.Yadin 20, see above n. 26.

\textsuperscript{29} The εμπαρώνος αὐτῆς ἐπίπτροπος may be considered the equivalent of μετὰ κυρίαν of the Egyptian papyri, see Rupprecht (n. 4), 98 and n. 47 there.

\textsuperscript{30} ‘X son of Menahem, the ἐπίτροπος of the above-mentioned Komaïse, was present with her’.

\textsuperscript{31} See comments ad XHev/Se gr 65 lines 14–15 in Cotton and Yardeni, 235–7.
κωμής Ληστής περι Ιερειχούστα τῆς Ἰουδαίας οἰκουντος εν ιδίων εν αὐτῆ Μαθαίας.\footnote{1. Babtha daughter of Simon, of Maheza in the Zoarene [district] of the Petra administrative region, domiciled in my own private property in the Maheza, register what I possess, present with me as my guardian being Judah son of Elazar, of the village of En-Gedi in the district of Jericho in Judaea, domiciled in his own private property in the said Maheza . . . , lines 13–17.}

In XHev/Se gr 64, the mother, Salome Gropte, writes a deed of gift in favour of her daughter, Salome Komaiése, with her guardian merely recorded as present: Caļołmaμή καὶ Γραπτή Μαναῆμην συμπαράγωντος αὐτῆ ἐπιτρόπων τοῦ τράγματος χάριν ἕως τοῦ Ἱσμαίωνος αὐτῆς.\footnote{33 'Salome who is also known as Gropte, present with her her ἐπιτρόπος for this matter, Josephus son of Shim'on, her husband', lines 3–5.}

The presence of the formula διὰ ἐπιτρόπων αὐτῆς in a case where the woman is not the subject of the homologia, but the receiver of one,\footnote{34 I.e. P.Yadin 20 (see above, n. 26) lines 6–7 = line 27: ὄμολογησαν ὁ ἀυτᾶς Ἑλαὶς τις Σιμωνὸς ἡμιθνηθαῖ. [ . . . 34 letters] προγεγραμμέναις ἕς ἐκ λόγου προκός παρὰ Σαλομῆς Ἡσαίου Γαλγουλα.} combined with its absence in contracts in which she is the one in whose name the homologia is written casts doubt on the attempt to draw a legal distinction between διὰ ἐπιτρόπων αὐτῆς and συμπαράγωντος αὐτῆ ἐπιτρόπων; the two formulae might have been used interchangeably. If so, this further accentuates the minor role played by the guardian of a woman in these documents.\footnote{35 Furthermore, there are documents where a woman is involved, but no ἐπιτρόπος accompanies her: in P.Yadin 19 Shlamzion receives a gift from her father; in P.Yadin 21 Shim'on son of Yeshu'a acknowledges purchase of a date crop from Babatha; in P.Yadin 26 Babatha receives a summons from Besas son of Eleazar to appear before the governor's court; in P.Yadin 23 Besas son of Eleazar challenges Babatha to prove that she is entitled to the date groves of her late husband which she has seized; in P.Yadin 26 Babatha and Miriam summon each other to appear before the governor's court; in XHev/Se gr 63 Salome Gropte receives a renunciation of claims from her daughter Salome Komaiése; in XHev/Se gr 64 Salome Komaiése receives a deed of gift from her mother Salome Gropte; finally in Mur 115 Elaios son of Shim'on acknowledges that he has been paid the two hundred drachmae of dowry by Salome son of Iohannes Galgoula: ὡμολογήσαν ὁ ἀυτᾶς Ἑλαὶς τις Σιμωνὸς ἡμιθνηθαῖ [ . . . 34 letters] προγεγραμμέναις ἕς ἐκ λόγου προκός παρὰ Σαλομῆς Ἡσαίου Γαλγουλα.}  

Furthermore, there are documents where a woman is involved, but no ἐπιτρόπος accompanies her: in P.Yadin 19 Shlamzion receives a gift from her father; in P.Yadin 21 Shim'on son of Yeshu'a acknowledges purchase of a date crop from Babatha; in P.Yadin 23 Babatha receives a summons from Besas son of Eleazar to appear before the governor's court; in P.Yadin 24 Besas son of Eleazar challenges Babatha to prove that she is entitled to the date groves of her late husband which she has seized; in P.Yadin 26 Babatha and Miriam summon each other to appear before the governor's court; in XHev/Se gr 63 Salome Gropte receives a renunciation of claims from her daughter Salome Komaiése; in XHev/Se gr 64 Salome Komaiése receives a deed of gift from her mother Salome Gropte; finally in Mur 115 Elaios son of Shim'on acknowledges that he has been paid the two hundred drachmae of dowry by Salome son of Iohannes Galgoula: ὡμολογήσαν ὁ ἀυτᾶς Ἑλαὶς τις Σιμωνὸς ἡμιθνηθαῖ [ . . . 34 letters] προγεγραμμέναις ἕς ἐκ λόγου προκός παρὰ Σαλομῆς Ἡσαίου Γαλγουλα.}
managing the woman’s property; and there is no doubt at all that women could own property and dispose of it as they wished.

In view of the conspicuous passivity of the επίτροπος of a woman in the Greek documents, it would seem that his absence from the Semitic documents is just a matter of form and procedure required by the courts for which the Greek contracts were intended. Which courts are these? One notices that all Greek documents in which a woman appears with her guardian, both in Arabia and in Judaea, were written under Roman rule, and, as suggested above, under the influence of Roman law. Does the presence of an επίτροπος of a woman show incontrovertibly that the Greek documents were intended for a Roman court of law, and his absence from the Semitic documents that they were intended for other courts? In order to claim this we should have to prove that the Semitic documents too were written under Roman rule. Unfortunately the nature of the evidence hampers us in this attempt: 1) in some of the documents the date is missing;37 2) others are too lacunose for us to know if an επίτροπος was present there;38 3) the absence of the επίτροπος in Semitic documents dated to the Roman period may be due to the role played by the woman in them: Mur 19 (18 October 111 CE) is a writ of divorce given to the wife by her husband; Mur 20 (117 CE) is a marriage contract, and in fact an acknowledgement by the husband of the debt of the ketubba; XHēv/Se ar 12 (30 January 131) is a receipt given to Salome Komaïse by the tax or rent collectors – all three documents might not have called for the presence of an επίτροπος even under Roman rule; 4) other Semitic documents in which a woman takes part in the proceedings were not written under Roman rule: the Nabataean P.Yadin 1 (94 CE) and P.Yadin 2–3 (99 CE), XHēv/Se nab 2 (ca. 100 CE) were written under Nabataean rule; Mur 29 (133 CE), 30 (135 CE), XHēv/Se ar 7 (135 CE), 8a (134 or 135 CE) and 13 (134 CE) were all written during the Bar Kokhba revolt. The dating by the year of the revolt shows clearly that the contractors recognized the rebels as the only legitimate government. In some of these documents we find the women acting together with their husbands: in Xσνεv/Se ar 7 the wife is selling property together with her husband; in Mur 30 and XHēv/Se ar 8a (perhaps also Mur 29) the wife waives all claims on the property sold by her husband, presumably because it guaranteed the return of her ketubba or dowry. Consequently, it could be claimed that the absence of a guardian may well be due to the fact that he would be superfluous, even under Roman legal procedures.

A single document belonging to the last-mentioned group shows a woman unaccompanied by an επίτροπος as the principal to an action: XHēv/Se ar 13 of 134 CE is a deed of renunciation of all claims on the wife’s part after a divorce.39 Three times, in different variations, the phrase ‘I have no claim against you’ recurs. In lines 8–9 we find: µηδένα λόγον ἐχειν πρὸς αὐτήν [πρὸς αὐτήν] [πρὸς αὐτήν] [πρὸς αὐτήν] [πρὸς αὐτήν] [πρὸς αὐτήν] [πρὸς αὐτήν] [πρὸς αὐτήν]. We know from XHēv/Se gr 63, a deed of renunciation of all claims, which repeats twice or three times the same phrasing in Greek: μηδένα λόγον ἐχειν πρὸς αὐτήν (lines 4, 8, 11), that under Roman rule such a deed required the presence of the επίτροπος of a woman.40 It seems obvious that under Bar Kokhba’s rule a woman did not need an επίτροπος. What remains obscure is whether a similar deed, although written in Aramaic, if written under Roman rule, would have required the presence of an επίτροπος.41

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37 Mur 20 (marriage contract); XHēv/Se ar 50 + Mur 26 (deed of sale).
38 XHēv/Se ar 11 (marriage contract, perhaps of 113/4 CE).
39 Contra T. Ilan (‘Notes and Observations on a Newly Published Divorce Bill from the Judaean Desert’, Harvard Theological Review 89, 1996, 195–202), this document is not a writ of divorce, even though it refers to such an instrument.
40 See Cotton and Yardeni, 195–6 (Introduction to XHēv/Se gr 63).
41 This paper is based on a lecture given at the International Congress on ‘The Dead Sea Scrolls – Fifty Years after their Discovery’ held at The Israel Museum, Jerusalem, July 20–25, 1997; I am grateful to the participants for their comments, and to Dieter Hagedorn and Werner Eck for insightful criticism of an earlier version.