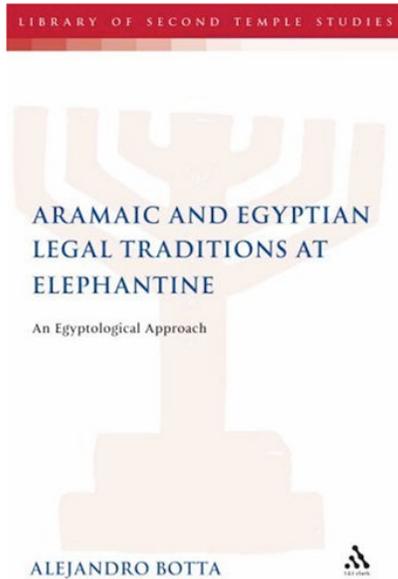


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The Aramaic and Egyptian Legal Traditions at Elephantine: An Egyptological Approach

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This book is a modified, revised, and updated version of a dissertation supervised by Prof. B. Porten and submitted in 2001 at the Hebrew University of Jerusalem.

Chapter 1 explains the study's purpose: it aims to compensate for the lack of attention of Aramaists to the relationship between Egyptian and Aramaic legal traditions. So far, most of the scholarly attention has been devoted to (1) a comparison of the Elephantine legal traditions of the Aramaic papyri with the later Aramaic legal tradition (A. D. Gross, *Continuity and Innovation in the Aramaic Legal Tradition* [Leiden: Brill, 2008]); (2) a comparison of the Elephantine legal traditions of the Aramaic papyri with the Mesopotamian legal tradition (Y. Muffs, *Studies in the Aramaic Legal Papyri from Elephantine* [reprint; HO 66; Leiden: Brill, 2003]; E. Cussini, "The Aramaic Law of Sale and the Cuneiform Legal Tradition" [Ph.D. diss., Johns Hopkins University, 1993]); (3) the study of the legal traditions of these documents as a self-contained system (R. Yaron, *Introduction to the Law of the Aramaic Papyri* [Oxford: Clarendon, 1961]). Despite the fact that scholars have already drawn attention to the Egyptian roots of some West Semitic legal terminology (see 5), the research by Botta is the first in-depth study in this field. It is a detailed study of the origin of the so-called "withdrawal formula" in Aramaic and Egyptian legal instruments (Aramaic רחוק "to be far"; Egyptian *w3y* "to be far") and

it tries to prove that the origin of this formula is Egyptian. The starting-point is a reconsideration of the origin of the שלִיט formula in Demotic and Aramaic legal instruments. Both formulae are studied by the author in order to make his case.

Botta's method of working is very similar to the one followed by Muffs in 1969. Muffs compared one legal formula of the Aramaic documents, *tyb lbby* "my heart was satisfied," with parallels in Akkadian and Egyptian texts. Muffs's work as such is not a systematic description of the legal system of the Aramaic Elephantine papyri. The same holds true for Botta's. But there is one major difference between the two approaches. Whereas Muffs explored both the Egyptian and the Mesopotamian lead, Botta from the outset deliberately focuses on the Egyptian perspective (6). Based on a fresh examination of the שלִיט clause (ch. 4), Botta ventures to pose that it is the Egyptian legal tradition that has influenced the Akkadian use of legal formulae through the mediation of the Aramaean scribes (ch. 4, 95; see also 201), rather than the other way around, and thus challenges the consensus regarding the Mesopotamian origin of the legal tradition of the Elephantine Aramaic papyri (see also 2.1)

Chapter 2 ("The Elephantine Community and Aramaic Law") is divided into three parts. The first part discusses and defines several important concepts, such as ethnic groups and the nature of importation of the community's customary laws. It places the origin of the Elephantine community within the broader context of the move of peoples in the first millennium B.C.E. Such a move brings about the importation of a community's customary law in a foreign context. Botta presupposes that the move of both Aramaeans and Jews to Egypt was a move to a comparable culture. One of the points of discussion is the date of arrival of the Jewish colonists at Elephantine. Here a reference to the treatment of this subject by J. M. Méléze-Modrzejewski's *The Jews of Egypt from Rameses II to Emperor Hadrian* (Philadelphia: Jewish Publication Society, 1995) would have been in place. The second part of this chapter summarizes the legal practices at Elephantine and necessarily draws heavily on other sources. After a general overview of the scholarly works devoted to the subject, Botta draws a general picture of the legal life of the colony based on legal documents. It addresses personal status, the work of scribes, the framework of the documents, transfer of property, obligation, family law, and litigation. The third part briefly describes methodological considerations regarding legal traditions in contact and is very crucial to what follows. It applies concepts from comparative law and makes the reader sensitive to the necessity to distinguish between different levels of functionality when comparing the interrelationship between different legal traditions, in this case the Aramaic and Demotic legal traditions. Botta stresses that one can compare only elements that fulfill the same function and indicates that his investigations are limited to the first four levels (out of a total of twelve): the abstract concept, the legal term, legal formulae,

and the legal clause. This section contains a very useful overview of legal terms and their definitions.

Chapter 3 very briefly deals with the Egyptian formulary tradition. Its main point is that Egyptologists thus far have paid little attention to Egyptian legal history.

Chapter 4 (“Challenging the Consensus: The שליט Clause”) reconsiders the origin of the so-called investiture clause (שליט clause). This clause affirms or denies certain rights of a legal party in a legal transaction. A fresh reexamination of this clause in Aramaic and Demotic documents leads Botta to believe that the Aramaic clause has an Egyptian origin; the same holds true for its Akkadian counterpart. This conclusion challenges the consensus that the origin of this clause is Akkadian (Muffs) and opens the door to consider Egyptian origins in other cases as well.

Chapter 5 (“The ‘Withdrawal’ and Related Formulae in the Aramaic Legal Tradition”), the first of three chapters that form the core of the book, deals with the withdrawal formula (also indicated as the רחק formula) in the Aramaic documents from Elephantine. The withdrawal formula appears in different clauses: not only in the withdrawal clause (1), but also in the release clause (2), the transfer clause (3), and the waiver of suit clause (4). The variations in the use of the withdrawal formula can be attributed to “the presence of different scribal traditions and to the fact that the Aramaic legal formulary in Elephantine was not rigid at that time” (101).

Chapter 6 (“The Use of *wzy* in the Egyptian Legal Tradition”) deals with the Egyptian material. Although few legal documents are known from the earliest period of legal history, there are other literary sources that contain formulae with the verb *wzy* “to be far.” These sources demonstrate that the withdrawal formula was widely established at an early period. It is only from after the Twenty-Fifth Dynasty that the number of legal documents in Egyptian increases. In the Demotic legal documents from the Ptolemaic period, the withdrawal formula is used in a wide variety of documents, but the formula remains uniform in its expression. The sources demonstrate that the withdrawal formula was widely established at an early period and leads Botta to conclude that Aramaic borrowed the withdrawal clause from Egyptian use and not vice versa.

Chapter 7 (“A Comparison of the Aramaic and Egyptian Uses of Withdrawal Formulae”) focuses on a comparison between the Aramaic and Demotic use of withdrawal formulae according to the first three levels of analysis (the legal concept and term, the legal formula, the legal clause). The first level is the most difficult to judge. The expression of the metaphor of removal by physical distance is both ancient and widespread. It is also found in the Mesopotamian realm. At the second level, each basic Aramaic withdrawal

formula has its counterpart in Egyptian (but not always vice versa), and the Egyptian material always antedates the Aramaic material. At the third level, almost every Aramaic generic legal clause with this formula has its counterpart in Egyptian (Demotic).

Botta's conclusion in chapter 8 ("Reconsidering the Origins of Aramaic and Demotic Legal Formulae") is that both investigated Aramaic legal clauses can be traced back to Egyptian legal terminology. The parallels between Mesopotamian and Egyptian legal traditions are found only at the level of legal terms (one of the lowest levels of complexity) and are explained through the mediation of the Aramaic scribe and the Aramaic legal tradition: the Aramaic scribe incorporated Egyptian legal terms in the Aramaic legal formulary and exported it to the Mesopotamian realm. Botta thus dismisses the earlier hypothesis that Aramaic scribes are responsible for certain formulae of Mesopotamian origin in Egyptian legal terminology (e.g., Muffs).

I would like to congratulate Botta for this meticulous piece of work. He has made an important first step in investigating a subject on the interface between Aramaic studies, Egyptology, and legal studies. This subject has been neglected by scholars for obvious reasons: few are familiar with all three disciplines. A few points of criticism, however, remain. It is not clear to me whether Botta challenges the Mesopotamian approach only in the two particular cases that he has examined or whether he believes that the Aramaic legal formulary in general is deeply influenced by the Egyptian legal formulary tradition. The terminology he uses is not always used in a systematic, transparent, and clear-cut way. One example of this is that it is often impossible to tell the difference between a "formula" or a "clause." Further, what is one to think, for instance, of the use of the concept "legal term" as one of the lowest levels of complexity ("the basic concrete unit, which refers merely to words with legal meaning or nuances," 65) vis-à-vis "three levels of legal terms, namely, legal formulae, legal clauses, and legal formulary" (200)? It is to be regretted that the book does not contain an index of subjects. Such an index would have made it easier to use the book as a reference tool. The book contains some inevitable typos. Some of these are more annoying than others, such as the consistent spelling *šhyd'* instead of *šhdy'* on 55. These points of criticism by no means are meant to detract from my overall positive impression of this book.