

WOMEN'S PETITIONS IN LATE ANTIQUE EGYPT

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The subject of petitions submitted by women initially attracted my interest because I was engaged in a project to collect all private letters by women, and petitions seemed an obvious point of comparison.¹ It appeared particularly worth investigating if the stylized form of the petitions and the intervention of professional writers in their composition would leave room for anything distinctive to women. Our stated subject of "la pétition à Byzance" caused me, to be sure, something of the usual terminological disquiet that everyone working on late antique Egypt must experience, wondering whether our particular material is part of "Byzantium" or not – an ambivalence that Byzantinists often share.

These petitions were extensively used by Joëlle Beaucamp in her wide-ranging study of the social realities of women's roles in Byzantine Egypt, the second volume of a work called *Le statut de la femme à Byzance*.² She calls on them to illuminate a variety of topics, starting with basic questions about women's legal competence and extending to important issues about special protections and disabilities.³ Beaucamp treats the entire period from 284 to 641 as a single unit, accepting "Byzantium" as a legitimate term for this era. In this practice she accords with long-standing practice in the papyrology of late antiquity. Nor is this a matter of thoughtless adoption of an antiquated periodization, for Beaucamp argues repeatedly for a high level of consistency in women's legal position throughout this period and sees only modest signs of development. A similar view is expressed on the subject of women's public appearances and roles by Antti Arjava in his book on women and law, stating that "Nor can we demonstrate changes over the course of time."⁴

1. This project (*Women's Letters from Ancient Egypt, 300 BC to AD 700*) is being carried out in collaboration with Raffaella Cribiore. It is to be published in electronic form as part of the American Council of Learned Societies' History Electronic Book Project, through the University of Michigan Press. A shorter version will appear in print form with the same press.

2. *Le statut de la femme à Byzance (4^e-7^e siècle) II. Les pratiques sociales* (Paris 1992). I am deeply indebted to Joëlle Beaucamp for valuable discussion of the issues raised in the present paper, both during the Congress and subsequently, and for the opportunity to read her paper, still unpublished, on judicial assistance for women in the Byzantine papyri.

3. These issues of legal practice will not play a role in my discussion; the reader is referred to Beaucamp's detailed analysis, showing that women acted at law almost exclusively in matters of their own legal interests, not on behalf of others (just as imperial enactments consistently ordered). Exceptions concern close family members, like dependant children or the death of a husband. See BEAUCAMP II 21-28 for discussion.

4. *Women and Law in Late Antiquity* (Oxford 1996) 246.

La pétition à Byzance, éd. D. Feissel et J. Gasco (Centre de recherche d'Histoire et Civilisation de Byzance, Monographies 14), Paris 2004.

That view of homogeneity and that periodization practice has long worried me, and I have argued elsewhere for distinguishing the “long fourth century” (from Diocletian to some point in the first half of the fifth century) from the following centuries.⁵ When I began to look at the very useful database of petitions that Jean Gascoü and Jean-Luc Fournet have put at our disposition,⁶ my concern was immediately reawakened, and I have been drawn in entirely different directions from my original intention, pursuing issues which seemed to me to require consideration before it would be possible to return to my point of departure.

This database, however, makes a certain point by leaving out texts of the late third and fourth centuries, concentrating on the later period.⁷ The first obvious conclusion that emerges from examining its contents is that so few of these petitions for the period that runs from the end of the 4th century to the end of Roman rule were submitted by women. Of the 117 petitions gathered by Gascoü and Fournet for the later period, only 13, or just under 11 percent, stem from women.⁸ By way of comparison, the earlier period – whatever one may wish to call it – running from the accession of Diocletian to the end of the fourth century presents an entirely different face. Here are the figures:

	283-346	347-400	IV	Total 283-400	Post 400
Women	38	8	6	52	13
Women %	30%	24%	17%	26%	11%
Men or unc.	90	26	29	140	105
Total	128	34	35	192	118

Although smaller slices of years present some variation as a result of archival groups, the overall picture is clear. More than one quarter of those from 283 to the end of the fourth century are from women, with the figure higher for the period down to 350 and lower for the period from 350 to 400.⁹ The difference between these numbers and those for the post-4th century period is striking.¹⁰ It is unlikely to be the result

5. *Egypt in Late Antiquity* (Princeton 1993) ix. I discuss the problems of periodization and the concept of “Byzantine” with respect to Beaucamp’s book in *BASP* 32 (1995) 82.

6. See p.141-196.

7. It is true, to be sure, that there was a good reason for this: other lists already existed for the period down to 400, whereas no recent list for the later period is available.

8. The database accidentally omitted *ChLA* XI 469, which Jean Gascoü kindly called to my attention.

9. Beaucamp suggested (443 n. *) “que les requêtes féminines représentent entre un quart et un tiers du total.” The upper range of her suggestion is undoubtedly too high, produced by the fact that her numerator came from a list including some “requests” which were not petitions and which took in several years more of publications, while the denominator was earlier and more restrictive.

10. As the base for the pre-400 data I have used the list by B. KRAMER in *ZPE* 69 (1987) 155-161, omitting those that are part of the Gascoü-Fournet database. I have checked this list against Beaucamp’s list of requests from women (II 394-400 = Annexe IV), adding the following documents published by the time of Kramer’s list but not included in it (Beaucamp’s reference numbers are given in brackets after each item): *P.Oxy.* XXXVIII 2849.8-27 [11]; *P.Lond.* V 1911 [19]; *P.Oxy.* XVII 2133 [23]; *CPR* I

of chance, given the number of documents at stake. Nor is the large number of fourth-century petitions from women likely to be an artifact of papyrological archaeology, as the women's petitions in the 4th century texts come from the same sources as most of the preserved documents in general, particularly from archives of men's papers (Sakaon, Isidoros, Abinnaeus, and the family of Psnos together account for 57 of the 197 petitions), and those after 400 come entirely (as far as provenance is known) from Oxyrhynchos and Aphrodito. Only the absence of Hermopolis from the later women's petitions is anomalous, and this may be chance.

There are three further reasons to believe that the decline in women's petitions as a percentage of total petitions is significant. First, petitions do not in general decline significantly as a part of our papyrus documentation after 400. Very crudely, all dates in the Heidelberg Gesamtverzeichnis from 283 to 399 total 2749; for this period we have 197 petitions, or 7.2% of the total. For the period 400-641, there are 119 petitions of a total of 1795 dates, or 6.6%. Given the imprecision of the inquiry,¹¹ the difference is unimpressive. If petitions had faded from prominence in the later period, we might imagine a structural change in which the relative disappearance was only a small part. But there is no such fading.

Secondly, there is another type of evidence to suggest women's prominent activity in the use of petitions in the period from the tetrarchs through the fourth century. This is the rescripts in the imperial codes, as analyzed a quarter-century ago by Liselot Huchthausen, and more recently by Simon Corcoran.¹² In reviewing Corcoran's work, Andrea Jördens called particular attention to the point – already developed by Huchthausen – that nearly a third (31.5%, to be exact) of all petitioners attested in the Tetrarchic rescripts are women.¹³ This number represents a substantial rise from the already strong showing of women in the rescripts of the period 193-284, in which they represent 19.1% of the addressees.¹⁴ The very strong showing of women in the papyri from the last years of the third century, as our table shows it, may be unrepresentative.

233 [25]; *PAmh.* II 141 [52]. Adding these without making an independent search for omitted *men's* petitions may of course cause the percentages to be slightly too high. I have not, however, added the few petitions in Beaucamp's list published after the closing date of Kramer's list, as there is no comparable list of men's petitions to provide a context. In the post-4th century base I have included the three texts in Gasco-Fournet that are omitted from Beaucamp's table (see her note * on p. 443). Petitions involving women with men or women as intermediaries are included under women. It would be easy to haggle about particular texts and the precise numbers, but the outcome would remain much the same.

11. For one thing, these numbers omit the imprecisely dated texts assigned only to a century; for another, the HGV's records are of datings, not documents, so that texts with multiple dates may be overweighted.

12. L. HUCHTHAUSEN, "Herkunft und ökonomische Stellung weiblicher Adressaten von Reskripten des *Codex Iustinianus* (2. und 3. Jh. u. Z.)," *Klio* 56 (1974) 199-228; id., "Zu kaiserlichen Reskripten an weibliche Adressaten aus der Zeit Diokletians (284-305 u.Z.)," *Klio* 58 (1976) 55-85; S. CORCORAN, *The Empire of the Tetrarchs. Imperial Pronouncements and Government AD 284-324* (Oxford 1996) 105-107. The same point was made very briefly by ARIAVA (above, n. 4) 246.

13. ZSS-RA 85 (1999) 334-341 at 336: "Erstaunlich zahlreich sind auch Frauen als Petentinnen nachzuweisen, die fast ein Drittel aller Anträge einreichen."

14. The numbers are remarkably consistent: 19.5% for Severus and Caracalla; 18.9% for Alexander; 18.8% for the emperors from 235-284.

sentative, but it does come from the period of the tetrarchy and goes in the same direction as the rescripts. Huchthausen noted that the names of the recipients of rescripts are far more heavily Greek in the Tetrarchic period than in the preceding ninety years; she also emphasizes that not all of the women receiving rescripts were wealthy.¹⁵ As Corcoran puts it, "What cannot be denied is that women are very ready to take part in litigation." That litigation concerns very largely inheritance, business dealings, and other matters of family property.

Thirdly, the evidence of women's letters, from which I started, is suggestive. Here we find that such letters go from being about 1 percent of all documentary papyri in the first four centuries of Roman rule to being just a fifth of that in the sixth century. Women virtually disappear as authors of letters in Greek after the fourth century. The implications of this decline must be left aside for the present, as I deal with them elsewhere.¹⁶ But they point, in my view, to post-4th century changes in women's ways of participating in the culture of communication that may be related to the decline in the number of petitions.

Low numbers are not the only striking characteristic of the late petitions. Female literacy is another. Of the 13 cases, there is no information on this subject in 4, which are models, drafts, or incompletely preserved.¹⁷ Of the remaining 9, three come from the archive of Dioskoros of Aphrodito and reflect his notarial activity and files; they would generally not be expected to be actually submitted copies, although one does have a signature of a subscriber (*hypographeus*) for the woman (*P.Cair.Masp.* I 67092). That leaves the 6 Oxyrhynchite texts. At least 5 of these, and possibly all 6, have signatures in a second hand, to all appearances that of the woman submitting the petition.¹⁸ As no one will want to defend the proposition of universal female literacy in late antique Oxyrhynchos,¹⁹ this result must be (unless a peculiar artifact of chance) a sign of the relatively high status of those women submitting petitions.

The contrast with the 4th century petitions (the "long 4th century," as I have already called it, for present purposes counting 283-399 in that term) is notable. Of these, 36 do not contain autograph signatures, because they either are copies, drafts, or quotations, which in the nature of things have no signature, or because they do not preserve the necessary information because the papyrus is damaged. Of the 16 papyri

15. HUCHTHAUSEN 1976 (*supra*, n. 12) 56, 75.

16. In the introduction to the collection cited *supra*, n. 1, and in my "Les lettres privées des femmes : un choix de langue en Égypte byzantine," *Bulletin de la Classe des Lettres de l'Académie Royale de Belgique* 6 ser. 12 (2001) 133-153.

17. These are *P.Köln* IV 191, *P.Münch.* III 79 (both models/drafts), *BGU* II 670 (broken off) and *ChLA* XI 469 (left side is lost, and a line below the last preserved line could have contained a signature).

18. The uncertain instance is *SB* VI 9239, where Gascou and Fournet note that "signature et date sont peut-être d'une main différente du reste." If both signature and date are in a second hand, it seems to me most likely that of a *hypographeus*, but on the plate it looks possible that the name is in one hand, the remainder in yet a third hand.

19. See W. V. HARRIS, *Ancient Literacy* (Cambridge, Mass. 1989) for a generally pessimistic view; he notes (315) the great difficulty of assessing women's literacy, particularly in late antiquity. Indeed, ARJAVA (above n. 4) 24 goes so far as to use the supposed illiteracy of most petitioners as an argument against taking the statements of petitions to reflect the thoughts of the petitioners.

that certainly contain autograph signatures, 12 are the signature of a signer on behalf of the woman in question, an agent or *hypographeus*. Only 4 (or 25%) have signatures that appear to be those of the woman submitting the petition. The level of ability to sign is thus much lower, a quarter rather than approaching 100 percent. It is not likely that this difference reflects a vast upsurge of female literacy in the later centuries, and we may thus conclude that the 4th century texts come from a wider social and cultural range than do the later ones.

Personal status is another salient aspect. In 2 cases there is no information. Of the remaining 10, 5 are widows and 2 more probably widows; one each is divorced (petitioning against her ex-husband), married (also against her husband), and never-married (against a fiancé who has breached his promise of marriage). In one case the woman is trying to recover her dowry, but it is not clear if she is divorced or widowed or from whom she is trying to recover the property. Overall, in every case we are dealing either with a woman without a husband or a woman litigating with her husband. Put another way, non-widows submitted petitions only in cases of litigation about marriage or matrimonial property.

Again, the contrast with the 4th century is significant. Out of 52 cases, nearly half (25) do not contain the needed information because the text is fragmentary or because the writer does not feel it relevant or necessary to indicate any material facts about marital status. Of the remainder, 4 are certainly widows; 1 comes from a couple; 5 come from orphans, with 2 cases certainly still minors; 1 is submitted by a woman through her father; 4 are submitted by women against their (ex-)husbands. There remain 12 cases of married women. In half of these, it is not clear if the woman is still married or not; in the remaining 6 the woman is definitely still married. But these are interesting to examine more closely. In one we learn that the woman is (or was?) married only because she wants to tell Abinnaeus that she is the daughter-in-law of a soldier. In two cases the petitions are submitted with or through the husband. In one case the husband is abroad, and submission on behalf of the husband in another case may suggest absence also.

One may look at these results from two points of view. On the one hand, widowhood simply does not have the central role it holds in the later texts, and even women with living and present husbands are submitters of petitions. There is a much lesser tendency to cite widowhood as a factor in victimhood or something the official should take into question. Arguments (however valid and fair) are made more directly on the basis of law and actions. On the other hand, there are few women who are demonstrably married at the moment of submitting the petition and whose husbands are currently available to them for involvement in the legal process. But in saying this we must keep in mind the large number of cases where even well-preserved petitions do not give us enough information about the woman's status to reach a conclusion.

This point poses from a different angle the concluding query posed by Beaucamp in the unpublished paper cited above (n.2): "Si vraiment les femmes agissant seules sont le plus souvent dépourvues de mari, il faut admettre que, dans les papyrus byzantins, les femmes non mariées (les *viduae* du latin) sont surreprésentées." The chronological stratification offered here suggests that this overrepresentation disappears in the later periods as women decline as a percentage of all litigants. A social

evolution in which the number of not-married women declined sharply from third to sixth century would to my mind be not only difficult to demonstrate but not particularly plausible. If that view is correct, however, it becomes hard to accept the idea that women in the third and fourth-century petitions whose status we do not know are all women without men.

It is then in my view difficult to avoid the sense that the second half of the fourth century –speaking very approximately, of course– brought with it a diminution, and by the period after 400 a drastic diminution, in the propensity for women to make use of the petition procedure, or to engage in litigation more generally. The appropriate sphere for such action seems to have shrunk to matrimonial issues where there was no option but to proceed oneself, and to situations where a widow was compelled to act on her own. Where once, as the rescripts confirm, women litigated a wide variety of business- and property-related matters, they were now mostly limited to a much smaller sphere. Where in earlier times almost any situation where a husband was not readily available to take care of business might lead a woman to submit a petition, now only the more extreme situations did.

This conclusion must be confronted with what at first appears to be the contradictory evidence of the documents concerning women engaged in judicial or arbitration procedures, listed in an appendix to Beaucamp's book (II 389-393, Annexe III). There we find 42 cases listed, of which 17 come from the fifth century or later: 40 percent of the total, against only 19 percent of the petitions. Caution is in order, however, for some of these documents are very fragmentary and give us a very limited opportunity to understand precisely the role of the woman in the litigation. On closer examination, in fact, they do not contradict what we see in the petitions. First, some of them are cases in which the woman was the defendant, not the petitioner. In a case dating from 421, the woman was the defendant against a charge of *hybris*, and she now swears not to engage in further dispute with the plaintiff (*P.Select.* 13). The woman mentioned among debtors in *P.Oxy.* XVI 1877 is again a defendant, as is that in *P.Grenf.* II 99a. A woman may be mentioned (the name is fragmentary) in a mutilated decision of an *ekdikos* (*PSI* VII 768), but nothing can be said of her possible role as a litigant, perhaps again as defendant. Arbitration between a woman and a man is ordered in *P.Oxy.* XVI 1839 and *SPP* XX 212, but it is not clear how these disputes arose and whether any written document originating with the woman had been involved.

In other cases, a woman appears as a party in litigation, but only as one of a group of litigants of whom others are male. Such cases are found in the settlements published as *P.Monac.* I 1 (two brothers and a sister form a party), *P.Lond.* V 1709 (a brother, a sister, and a half-sister), *M.Chr.* 365 (a husband and wife), and *P.Mich.Aphrod.* (again a married couple). In still other instances, a woman acts through a male representative; instances are *P.Lond.* V 1707 (a settlement) and *BGU* XII 2173, where a woman has appointed a legal representative, designated in Greek as *entoleus*, to take action on her behalf. Particularly striking is *P.Mich.* XIII 659, where a married couple constitute a party but only the husband acts in judicial actions.

Overall, study of these documents confirms rather than invalidates the hints of the petitions. Women who have husbands or other men who can act for them at law do not tend to use the petition process as plaintiffs. It is widows who are attested in them as taking initiative in litigation (*P.Mich.* XIII 660 and 661; *BGU* I 103; *P.Monac.* I 6). These account for only 3 of the 17 instances. The documents from court and arbitration cases, then, show few signs of women other than widows initiating action on their own, by petition or any other means. Instead, they almost always act through or in concert with male family members.

Evaluating the significance of the phenomena we see in the period after the fourth century is not easy. For example, Beaucamp has drawn attention to the fact that all examples of invocation of "womanly weakness" come from the first part of our period, with no instances of the fifth to seventh centuries.²⁰ But she points out also that the other Byzantine sources continue to use such language right up to the seventh century, concluding that "la continuité de telles mentions jusqu'au 7^e siècle fait penser que leur disparition des documents papyrologiques, à la fin du 4^e, est fortuite."²¹ And she insists that the disappearance from the papyri of such phrases occurs "sans que cela puisse être mis en relation avec quelque changement que ce soit dans la condition féminine" (49).

As to widowhood, Beaucamp shows conclusively, in my view, that at no point in late antique legal practice can widows be seen to enjoy actual, substantial and specific protections or preferences. The references to widowhood in the documents are rather to be seen in general as rhetorical usage, seeking by such a *captatio benevolentiae* to urge the particular attention of a magistrate to the matters brought before him by a widow and to her needs. They are in this respect no novelty of late antiquity, but merely the latest instances of a rhetorical tradition amply attested in the Hellenistic and Roman periods. As she puts it, "le veuvage est en général évoqué pour que les autorités veillent avec une attention redoublée aux droits ou aux intérêts de la femme, et non pour qu'elles lui accordent une protection exorbitante du droit commun sur tel ou tel point."²²

On the substantive side, however, Beaucamp has argued that there was a gradual growth in the strength of widows' legal positions compared to those of unmarried girls or married women, a development more marked in actual practice and attitudes than in the specific imperial legislation.²³ This strength concerns particularly widows' power over their children and their patrimony. It is, in Beaucamp's view, the principal respect in which women's position changed during the several centuries of the "protobyzantine" period. She believes that widows had substantially more freedom in disposing of property and conducting economic affairs than did married women. At the same time, she recognizes widows' peculiar vulnerability, something signalled both in the papyri and in literature, as more than merely a rhetorical topos.²⁴ As I

20. BEAUCAMP II 46 (table), 47-49 (discussion).

21. BEAUCAMP II 280.

22. BEAUCAMP II 35.

23. See II 266 for this conclusion based on the papyri; cf. II 374 in her final conclusions.

24. II 278-79.

have noted elsewhere, the stronger accentuation of the positive side of widowhood in Beaucamp's work betrays the viewpoint of the propertied classes, not the daily experience of the majority of women, for whom widowhood was a catastrophe.²⁵

The high level of literacy, and thus of economic status, of the widows who figure in the few surviving petitions from the period after the 4th century might be taken to reinforce Beaucamp's larger conclusion, once adjusted to include distinctions by class. The women who still use the petition process and who are active participants in the legal system appear to be precisely those women who on this view would have acquired greater independence in this period, widows with property. But to my thinking it may be more rewarding to ask the question in reverse: Where are the others? Why are there few or no petitions from the women who constitute the main source of such petitions in the third and fourth centuries, from a range of economic status considerably broader than that of the later petitions and including the married as well as the widowed? Was there an evolution in their condition that subtracted them from visible involvement in the machinery of justice? And if so, what meaning are we to attach to this evolution? These are questions too large to approach in the context of this paper, of course. But they seem to me central issues of the evolution of Egypt and the rest of the eastern Mediterranean from Roman to Byzantine, and they deserve serious investigation. For the moment, it is sufficient to remark how acutely the petitions bring them to our attention.

25. See *BASP* 32 (1995) 82.