

The aim of this work is to outline the process of private dispute resolution functioning as an alternative or a supplementary measure to the court proceedings in the legal practice of Egypt from the 4th to the 7th century.

The inspiration for this study comes from the controversial article of Schiller 'The Courts Are No More' published in the year 1971. The scarcity of sources concerning the state jurisdiction dating after Justinian inclined Arthur Schiller to formulate a thesis that this period witnessed a total vanishing of state jurisdiction, which was replaced by alternative measures of dispute resolution. Schiller's theory met with vehement response, most thoroughly expressed by Simon, who argued that state jurisdiction indeed existed also in 6th and early 7th centuries without significant hindrance. Recently, this problem has been tackled anew by Urbanik, Palme and Kreuzsaler. In effect, the heated debate has yet to lead to a satisfying conclusion that would take into account all the factors and – perhaps more importantly, as duly noted by Palme – include the statistical data, which could challenge the statement concerning the attractiveness of alternative methods of dispute resolution in the given period.

The present study offers a hypothetical model of standard ADR 'proceedings' resulting from the papyrological evidence. This will allow observing to what extent it is possible to speak about arbitration, mediation, negotiations or other private dispute resolution methods in terms of legal measures, and to what degree they should be perceived as an alternative solution. In this context, this investigation is interested in ADR solely from the standpoint of the conducted 'proceedings' and applied 'procedures', not the solutions that resulted from it and their accordance with law. The focus is placed on the mechanisms of social control and private dispute resolution in the light of the papyrological evidence, and the way they operated within the legal frames of the Roman empire in Late Antiquity. Of interest is also the interaction between those mechanisms with the law and the means of state adjudication, as well as the question of the possible influence of local legal traditions in the aspect of alternative dispute resolution, both on the legal practice as well as on the Roman law.

Further, the arguments usually used to claim the deterioration of the court proceedings in Late Antiquity in favour of the alternative ways of dispute resolution are discussed. The question about the attractiveness of these methods is tackled from the anthropological, sociological and – to some extent – statistical approaches.

This work juxtaposes information presented in legal sources with those from documents of legal practice in order to establish similarities and differences on the studied issues. The idea behind this treatment is to establish how arbitration and other methods of dispute resolution functioned in the legal practice of Late Antiquity, as well as to find reasons for the discrepancies between the sources when it comes to the shape of certain legal institutions and their functioning in legal theory and practice. The present work attempts at determining the scope of the mutual influence exercised by law and legal practice. It deals with the problem of how late antique Egypt interacted within the legal system of the late Roman Empire and what was the real impact of Roman law.

Among the additional queries addressed in the course of the research the following may be highlighted: (i) to what degree did the inhabitants of Byzantine Egypt and the eastern provinces of the Empire exhibit legal consciousness during the dispute resolution?; and (ii) how skillful and willing were they in using the law in everyday situations, or rather, what did they understand to be law? This work, therefore, also places focus on law as a tool and factor in social relations and a control mechanism functioning between ordinary people.