Governmental Control of Guardianship over Minors in Roman Egypt

THOMAS KRUSE

ABSTRACT

The contribution deals with the mechanisms of governmental control of guardianships over minors in Roman Egypt as it was exercised through the responsible administrative officials at the various levels of the administration. The relevant measures of this administrative control extended over the appointment of guardians for which applications had to be filed with the administrative authorities. These applications, which aimed at an official registration as guardian, may also reflect in some respect an indigenous legal tradition, though it is doubtful if such applications were obligatory. Another important measure of control of guardians was the obligation of the latter to render account of his management of affairs. The article also examines the role of the officials responsible for the appointment and control of guardians, i.e. the prefect of Egypt, the nome strategos and, at the municipal level, the exegetes and others.

Societies both past and present were and certainly still are aware of the fact that guardianship (especially one over minors of deceased fathers) provides an opportunity to the guardian (often the paternal uncle) to abuse at the cost of causing damage to the property or even the person of his ward. Thus "the wicked guardian" – as he is styled in the title of an article by Jolowicz dating from 1947[1] – became a quite famous figure in literary tradition, though one has to bear in mind that authors presenting such guardians tend to overestimate bad examples and style strained and dysfunctional family-relationships as a rule rather than an exception of social life.

In Rome, guardianship (*tutela*) was originally modeled on the *patria potestas* or rather constructed as a sort of artificial transfer of the *potestas* of the father to the guardian until the ward was old enough to establish a *potestas* by himself. So the Roman legal concept of guardianship was initially a "reines Gewaltverhältnis" (to use a German legal *terminus technicus*) as was the *patria potestas* by which the guardian had control over the property of the ward *domini loco*. Still, in the course of time the interests of the ward and the obligation of the guardian to serve them came increasingly to the fore in Roman legal thought and theory, as made evident in the writings of the Roman jurists dedicated to the institution of the *tutela*.[2] The guardian was no longer regarded as bearer of the ward's property but only the ward himself.

In the same period, the Roman state began to regard the provision for the ward as a public affair and took care of the appointment of guardians and their management of their ward's affairs. The state also developed certain principles for the administration of the ward's property. Guardianship evolved into a sort of public obligation (*munus*) with certain institutions and mechanisms established to control the guardian's conduct. The competences of the *praetor urbanus* (who was among other things initially responsible for matters concerning guardianship) grew and were mainly furnished by his role in settling disputes resulting from guardianships. This development was already underway in the Republican period, and finally matured in the early principate, as the emperor Marcus Aurelius established the office of *praetor tutelarius* as a chief official in the city of Rome for guardianship related issues.

The evolution of the *tutela* as briefly outlined here concerns of course only the guardianship of minors, not that over women (*tutela mulieris*; κύριος in Greek) whose importance and applicability diminished through time and eventually found expression only in applications for an *ad hoc* appointment

[1] JOLOWICZ 1947.

[2] For this the reader may also refer to the article by Eva Jákab in this volume.

of guardian by women to assist them in performing a single legal act (*tutor ad actum*).[3]

In the Roman provinces such as Egypt, to which we will now turn, in particular where the *peregrini* i.e. the native population (not the Roman citizens) are concerned, the institution of guardianship evolved under the influence of local legal traditions which continued to be effective after the Roman takeover. In Egypt one of the most prominent manifestations of these local traditions was the woman's right to act as guardian,[4] a right that women were generally denied in the world of the *polis*.

In assessing the measures and instruments of governmental control of guardianships of minors (being under 14 years old) in Roman Egypt[5] as they can be gathered from the papyrus documents one should thus take into account this persistence of indigenous legal traditions, and resist the temptation to regard the phenomena figuring in these documents as being completely in accordance with Roman legal principles.

State officials would first become involved in, and monitor guardianship related issues when they appointed the guardian. According to the principles of Roman law, state officials became involved in the appointment of guardians only in the absence of a guardian appointed by will (*tutor testamentarius*) or by law (*tutor legitimus*), which would be the case in the presence of relatives qualified to assume that duty.

Yet this is clearly not the case in Roman Egypt: in an application for the appointment of a guardian dating to 218 CE a woman from the nome *metropolis* of Oxyrhynchos addresses a request to the municipal office of the *exegetes* that the paternal uncle of her underage children should be appointed as their guardian (ἐπίτροπος).[6] According to Roman law, the paternal uncle would in any case be the natural *tutor legitimus*, whose appointment would not necessitate the involvement of the state. Why, then, was this application deemed necessary? In another document, this time from the Arsinoite nome and dating to 225 CE,[7] M. Lucretius Diogenes requests the prefect of Egypt

---

[3] For an overview of the development of the institution of guardianship in Roman law see JÖRS, KUNKEL & WENGER 1987, 419-430; for Egypt in particular see MITTEIS 1912, 248-256; MARKUS 1989.

[4] On this see, e.g., CHIUSI 1994; VUOLANTO 2002.

[5] On the legal age in Roman Egypt see ARJAVA 1999.

[6] BGU IV 1070 (= M.Chr. 323): [αἰτοῦμαι (?) . . . . τῷ ἰδίῳ] κινδύνῳ ἐπίτροπον τῶ[ν] ἀφηλίκων μου τέκνων | [- ca.18 -] τῆς πατρικῆς αὐτῶν κληρονομίας Αὐρήλιον Ἀχιλλέα |[5] [Θέωνος - ca.11 -] ̣αλειτο[ ] τὸν πρὸς πατρὸς αὐτῶν θεῖον ὄντα εὔπορον (ll. 3-5) – "I [request?] at my own risk as guardian of my minor children […] of their paternal inheritance, Aurelius Achilleus [son of Theon] … being their uncle from the father's side and possessing sufficient wealth".

[7] P.Harr. I 68 (Philadelphia?, Arsinoites, 225 CE).

Claudius Herennianus to order the strategos of the Herakleides-district of the Arsinoite nome (where the property of the family is located) to appoint him as guardian of the minor orphan children of his sister, because both parents have died (καταστ]ῆσαί με ἐπίτροπον τῆς ὀρφανείας τῶν παίδων) and the children have no surviving closer relatives other than himself (καὶ οὐδὶς αὐτοῖς ὑ[π]άρχει ἐνγυτέρω γέν‹ε›ι ἢ ἐγὼ [Λουκρήτι]ος Διογένης).[8] But here again, given the fact that Lucretius Diogenes was the maternal uncle of the orphans and their sole existing relative, he would anyway be destined for their guardianship as *tutor legitimus*. So, why ask the governor to take action?

In another, much earlier document, dating to 36 CE,[9] a woman named Taorses from the village of Tebtynis in the Arsinoite nome requests Chairemon, the *exegetes* of the nome capital, to instruct the notary's bureau to register a transfer of ownership of some assets of the inheritance of her minor children, their father having passed away some time earlier. In this same application she states that at an earlier date she herself has been appointed guardian of her children by the same *exegetes* upon her own application (ὧν καὶ ἀπεγραψάμην διὰ σοῦ ἐπίτροπος).[10] Taorses has four living brothers, who join in her petition and could all become *tutores legitimi*, yet the official in charge chose to accept Taorses' motion and appointed her guardian of her fatherless children.

According to Raffael Taubenschlag, the famous legal historian of Greco-Roman Egypt, there can be "no doubt that statutory guardianship was known in peregrine law, and that both paternal and maternal cognates were called upon in a certain order of procedure".[11] This view was already challenged some 70 years ago by H.F. Jolowicz.[12] Rightly so: it is difficult to detect in the texts cited above a "certain" order of procedure of any kind. One rather gets the impression that the officials in charge accepted any application for the appointment of a guardian if the candidate seemed suitable to them and if there was consensus amongst the surviving family members about the qualification of the potential candidate to act as the children's guardian. If such a consensus existed the officials in charge could, following local legal traditions, even appoint the mother, as they did (at least I would suppose) in the abovementioned case of Taorses.

---

8 P.Harr. 68,9-12.

9 P.Mich. V 232 (= SB V 7568).

10 P.Mich. V 232,6.

11 TAUBENSCHLAG 1955, 120.

12 JOLOWICZ 1947, 83-84.

The applications to appoint as guardians persons who clearly were, from the Roman legal point of view, the natural *tutores legitimi* could possibly be explained by the existence of rivaling local legal traditions which somehow could have prevented an automatism in favor of an appointment of the *tutor legitimus* and could thus have prompted the population to propose other candidates, and the officials in charge to take these alternative candidates into consideration.

But may perhaps "a certain order of procedure" at least be detected in the fact that it was necessary to apply for the appointment to a guardianship? Or, in other words: Were such applications obligatory? Judging from our evidence this question is certainly hard to answer. It is true that applications for the appointment of guardian do not refer to an order by the provincial governor or any other high ranking official to apply for the appointment as guardian or to be officially registered as such, but it can not in my opinion be deduced from this fact that such an application was not obligatory if a certain person wanted to become a guardian.

With this I do not claim, of course, that the appointment of a guardian was *per se* under all circumstances obligatory: there are attested minors who act "through" (διά) certain relatives who are not styled as their guardian (ἐπίτροπος) or where male relatives act in the name of minors without identifying themselves as their guardians. For example, in a London papyrus from Antinoopolis dating to 212 CE a male infant who is underage acts διά his elder brother.[13] And in another document from Oxyrhynchos dating to the early 2nd century CE[14] a certain Theonas submits to the *exegetes* of the city an accurately drawn up list of objects which his deceased brother had bequeathed to his two minor children. The objects are not very valuable and some of them are already pledged for small sums of money. The obviously very diligent and careful uncle even states that he sold a pig for 40 drachmae which formed part of this property. At the same time, Theonas never claims that he acts as guardian of his minor nephews.

One may conclude, on account of the above said, that if there was a male person available who was willing to take care of the wards and to assume the role as head of the family it was not necessary to appoint a guardian for these children. There are other cases, however, where the family wished to sort out the situation by way of a magisterial appointment of a guardian, maybe for reason of greater safety: officially appointed guardians were accountable, after all, for management of the family affairs. This may have been particu-

[13] P.Lond. III 1164 (g) (p. 162) l. 8.

[14] P.Oxy X 1269.

larly the case where exceptionally valuable assets or estates were involved. I would think, therefore, that under these circumstances one could not assume the guardianship without official authorisation and that, if a person wanted to become a guardian of minors, his application for appointment and thereby his official registration as guardian were obligatory.

It has to be stressed in this context that the applications for appointment as a guardian also aimed at such an official registration. This is clearly shown by the words the widow Taorses from the Arsinoite village of Tebtynis chooses in 36 CE in her already cited petition to the *exegetes* of Ptolemais Euergetis concerning the transfer of ownership of property belonging to her three minor sons; she states that somewhat earlier she has been appointed by the same *exegetes* guardian of her children: υἱοὺς ἀφήλικας τρεῖς …, ὧν καὶ ἀπεγραψάμην διὰ σοῦ ἐπίτροπος,[15] "three sons under age …, for whom I have had myself registered as guardian by you". The word ἀπογράφομαι is pivotal in this phrase, meaning – in quite the same way as, e.g., in the household (or so called 'census')- declarations – 'to have oneself registered'.

If, however, the family decided not to submit formal application for the appointment of a guardian the state was not compelled to take any initiative to act on behalf of the minors. To be proactive in this way was, of course, imperative only if no relatives existed who could take care of the minor and a guardian had consequently to be appointed by the state itself. This initiative was, as it seems, sometimes delayed, presumably either by simple negligence on the part of the local authorities or because they had not been informed early enough of the existence of certain minors without surviving relatives.

In a papyrus of unknown provenance dating to the 2nd century CE a certain Heron petitions the *exegetes* to order the scribes of the nome *metropolis* to appoint a guardian for the minor son of a man named Heras who has passed away the month before because, as he states, "the seals affixed (*sc*. to the deceased's property) are still in their place", the minor "is in debt to many people and a guardian has not been appointed yet".[16] It seems as if the petitioner here was a creditor of the deceased father as well. It is also quite clearly shown by this document that in such cases people expected the guardian to be officially appointed through the officials in charge.

Another indication that such appointments were avoided more often than desired may be gathered from an edict issued by the *praefectus Aegypti*

---

[15] P.Mich. V 232,6. The translation of ἀπεγραψάμην with "appointed" by the editor does not in my opinion capture the crucial point of the phrase.

[16] P.Ryl. II 121, 8-12: [τ]υγχάνει δὲ καὶ χρεωστὴς | πολλῶν μέχρι δ[ὲ] τ[ο]ύτου |[10] τ[ὰς] σφραγεῖδας (l. σφραγῖδας) ἃς ἐπέθηκ[ε] | [ἐπ]ίκειν̣ται καὶ ἐπίτροπος | [α]ὐτοῦ οὐ κατεστάθη.

Fl. Valerius Pompeianus on October 25th 287. The governor orders the local officials in charge to appoint guardians for orphans without one according to their age (presumably in a fixed period of time – there is a lacuna in the text) "for" – as he continues – "it will thus result that they receive proper attention, whereas at present much business concerning orphans and depending upon their guardians is delayed because the orphans are unattended by *tutores* or *curatores*".[17] Obviously, the key incentive for having guardians appointed under these circumstances was the wish to secure the smooth running of economic activity concerning the property of the minors rather than any concern for the minors' own well-being.

Among the officials involved in Roman Egypt in the appointment of guardians we count the provincial governor (the *praefectus Aegypti*), the head of the nome's administration (nome strategos – στρατηγὸς τοῦ νομοῦ) and the *exegetes* (ἐξηγητής): a high ranking municipal official in Alexandria and the nome *metropoleis*. The competence of the prefect of Egypt requires no further elucidation. Provincial governors were in charge of each and every affair within their province of command and could as such be permanently addressed by their subjects. This was explicitely stated to be the case in the matter of guardianships, according to a law dating back to the late Republic which signalled the governor as the authority responsible for the appointment of guardians in the provinces, not only in the case of Roman citizens but also in that of the *peregrini*.[18] But, as was usually the case with trivial activities, the governor commonly referred the matter back to the lower, local administrative instances.

This is also the case with the rarely attested cases of application for the appointment of a guardian that are addressed to the governor of Egypt. I do not suppose that, in these cases, the petitioners simply wished to back their case with the higher authority of the governor; in most of them, rather, the application derives from some peculiar circumstances: this is especially the case with citizens of Antinoopolis, who possessed certain privileges vis à vis the ordinary Egyptians:[19] in a document from the Arsinoite nome (perhaps from

---

[17] P.Oxy. VI 888 (= M.Chr. 329): οὕτω γὰρ συμβήσεται τῆς π[ροσ]ηκ[ούσης ἐπιμελείας τ]υγχάνειν, ὡς νῦν γε [π]ολλὰ τῶν ὀρφανικῶν πραγμάτων τῶν ἐπὶ το[ῖς] [5]κη[δεμόσιν ὄντων ἀνα]βολῆς τυγ'χάνειν διὰ τὸ μὴ παρεῖναι τοῖς ὀρφανοῖς ἐπιτρόπους ἤτοι | κου[ράτορας. – In the time of this edict κηδεμών is obviously used as a collective term for "guardian", whereas otherwise the text distinguishes between ἐπίτροποι (*tutores*) of minors (i.e. under the usual legal age of 14) and *curatores* of younger persons who, according to Roman legal practice since the *lex Plaetoria de minoribus* (of 200 BCE), were subject to a restricted contractual capability.

[18] *lex Titia et Iulia* (or two *leges*?) (Inst. 1,20; Ulp. *frag*. XI 18), cf. also P.Oxy. IV 720.

[19] On the privileges of Antinoopolis and its citizens see ZAHRNT 1988.

the village of Philadelphia) which dates to 225 CE both the applicant and the minors he wishes to became guardian of are citizens of Antinoopolis who own property in the Arsinoite nome.[20] A similar case is attested in a papyrus from the Arsinoite village of Tebtynis, dating to 266-267 CE: an Antinoite woman requests the prefect to have her brother appointed guardian of her minor daughter. The governor should undertake this through an order to the strategos of the Arsinoite nome "where we" as she states "own land".[21] In both cases, in other words, the guardianship was connected with the administration of property of Antinoopolite wards that was located outside Antinoopolis, under the jurisdiction of the Arsinoite strategos. Since, however, the strategos was not entitled, as a matter of course, to appoint a person from outside his jurisdiction to any given position he required an order from the governor in order to have citizens of Antinoopolis appointed as guardians.

At the level of local administration applications for the appointment of guardians could be submitted either to the nome strategos or to the *exegetes*, the latter being more frequently attested in this capacity than the former.[22] But it is not possible from the evidence published so far to know how the two officials cooperated in handling such applications. As long as no other evidence points to the contrary I would suppose that the population was at liberty to decide to which of the two officials responsible for such decisions it wanted to present applications for the appointment of guardians. Within the administration of the nome capital we also find the scribes of the *metropolis* (γραμματεῖς μητροπόλεως) as officials involved in the appointment of guardians. These lower-ranking officials, however, do not act, as L. Mitteis once thought, on an equal footing with the nome strategos and the *exegetes*;[23] whenever they are involved they clearly act as subordinate officials doing so upon instructions received from their superiors: the strategos and the *exegetes*.

Accordingly, in P.Ryl. II 121 (already cited above) from the city of Arsinoe it is stated that the *exegetes* should instruct (ἐπισταλῆναι) the scribes of the *metropolis* to appoint a guardian for the deceased's minor son. In the same manner, in another case, attested in a papyrus dating to 182 or 183 CE a deputy strategos of the Oxyrhynchite nome, reacting to an application addressed to him by a man named Heras, orders the γραμματεῖς μητροπόλεως to appoint a guardian for a minor, "preferably a person from the kinfolk, and if this is not

[20] P.Harr. I 68.

[21] P.Tebt. II 326.

[22] For the administrative duties of the *exegetes*, cf. also P.Hamb. IV p. 217-270.

[23] Mitteis 1912, 254.

possible, he may come from outside, in order that the affairs of the minor do not incur any danger".[24]

Finally there is a petition to the epistrategos by a man who in 156 CE has been nominated by a γραμματεὺς μητροπόλεως of Oxyrhynchos for the guardianship of minors – εἰσέδωκέ (*sc*. the scribe of the *metropolis*) με εἰς ἐπιτροπήν as the petitioner states – the minors having no surviving paternal or maternal relatives. Since the petitioner himself is, as he states, burdened with liturgic obligations and is also in debt, he requests that the epistrategos should order the nome strategos to compel the scribes of the *metropolis* to act so that another person is appointed (καταστα̣θῆναι) in his place.[25] The procedure that is recorded in this petition is to be examined in the broader context of liturgic appointments: following an application for the appointment of a guardian, the γραμματεὺς μητροπόλεως —and for that matter any other low-ranking local administrative officials of the nome *metropolis* and the villages— would set the appointment procedure in motion by nominating suitable candidates, as they would be doing in the case of any other liturgy.[26] Their nominations however had to be ratified by superior officials, who had also to be involved, as we see from the cited text, if the nominee protested against his nomination. In general the involvement of the scribes of the nome *metropolis* in the appointment of guardians can be accounted for by their duties with respect to the town administration and their closer acquaintance with its inhabitants. Therefore it laid in their hands (but in reaction to a respective order of a superior, i.e. strategos or *exegetes*) to select persons suitable to assume a guardianship.

The local officials were probably also in charge of replacing an acting guardian by another, if they had reason to distrust him. Such is the case reported in a petition of Didymos, a minor from Oxyrhynchos who in June 123 CE addressed the deputy nome strategos and complained of fraud on the

---

[24] SB XII 10792,10-14: μάλιστα | μὲν τῶν πρὸς γένους, εἰ δὲ μή, εἶεν τῶν ἔξωθεν, πρὸς \τὸ/ μηδὲν τῶν | τῷ ἀφήλικι διαφερόντων παραπολ\λέσθαι; on this text see also Lewis 1970.

[25] P.Oxy. III 487 (= M.Chr. 322).

[26] For the view of guardianship as a (burdensome!) liturgy see also SB V 7558 (= Sel. Pap. II 260 = FIRA III 30) (Karanis, 173 CE?), where a legionary veteran and citizen of Antinoopolis petitions the epistrategos because he had been appointed as guardian of the minor daughter of a fellow veteran and of her property (being located in the Arsinoite nome) in his last will and testament. The petitioner claims exemption from this guardianship by virtue of the fact that it had been ruled by a former epistrategos that "an Antinoite should not act as guardian of any one else but an Antinoite who is in the nomarchy (i.e. the administrative district of Antinoopolis) (l. 9: περὶ τοῦ Ἀντινοέα μηδενὸς ἄλλου ἐπιτροπεύειν ἢ μόνου τοῦ ἐν τῇ νομαρχίᾳ Ἀ[ν]τινοέως)". This view fits well with the notion expressed in some other documents that Antinoites should not been obliged to perform liturgies outside Antinoopolis; on this text see also the remarks of its first editor (Boak 1932).

part of his mother, Matrina, who was also his guardian.[27] Due to the vague phrasing of the petition, it is not easy to see what the fraud consisted in. The petitioner appears, however, to allege that his mother, besides other various acts of bad faith, took by deception possession of a deed belonging to Didymos and would only return it in exchange for it a "receipt of the guardianship" (ἀποχὴν τῆς ἐπιτροπῆς), a term not attested elsewhere which probably signifies a document absolving the mother from all claims connected with the management of the guardianship.[28] By acting in this way, Didymos continues, she hoped to escape the responsibility for her wrongdoing and adds that his mother did all this, "notwithstanding the fact that Philoneikos the strategos has decided, in accordance with a report of proceedings, that another person should be appointed as my guardian, distrusting both her and my own youth".[29] Obviously a trial had already taken place before the nome strategos, in the course of which the strategos decided to replace the mother as guardian of her son by another person because he distrusted the mother but at the same time thought that the petitioner was still too young to act on his own. The appointment had not yet been made and so the mother could continue to mistreat her son.

Once a guardian was officially appointed and registered, his management of the ward's affairs and property was scrutinized by the state and he was held accountable to certain officials for his actions on behalf of his ward, as is attested by a number of documents. That there did indeed exist an obligation on the part of a guardian to render account of his management of affairs can be concluded from a fragmentary sworn statement of the early 3rd century CE from the Arsinoite nome addressed to the *exegetes* of the nome *metropolis*.[30] In this statement under oath a man who had been appointed (either by testament or by magisterial appointment) as guardian of a minor declares that he "will assume the guardianship faithfully and diligently and will execute the sale of the inheritance according to the laws, (a sale) of which I will render account and file a report with your office".[31] A Heidelberg papyrus dating from

---

27 P.Oxy. VI 898.

28 See the remarks of the editors.

29 P.Oxy. VI 898, 26-29: καίτοι Φιλονίκου τοῦ στρα(τηγοῦ) | καθ' ὑπομνηματισμοὺς κρείν|αντος ἕτερόν μου ἐπίτροπον | κατασταθῆναι, οὐ πιστεύοντος |[30] οὔτε αὐτῇ οὐδὲ τῇι ἡλικίᾳ μου.

30 SB XVI 12557 (222-235 CE).

31 SB XVI 12557 (= SB V 9049) (222-235 CE): ὀμ]νύω … ὑγιῶς καὶ πιστῶς] ἀντιλήμψασθαι τῆς ἐπιτροπῆς | [τῆς προκειμένης καὶ τὴ]ν πρᾶσιν τῶν καταλειφθέντων ποι[10]ήσειν κατὰ τοὺς νόμους ὦ]ν τοὺς λόγους τάξομαι καὶ καταχωριῶ | [τῷ σῷ ἀρχείῳ ἀναγραφὴ]ν [ἢ] ἔνοχος εἴην τῷ ὅρκῳ (ll. 6-11); on this text see also ZUCKER 1945; SIJPESTEIJN 1982.

141/142 CE preserves a fragmentary report addressed to the *exegetes* of Hermopolis by two guardians of minors. The papyrus records a detailed account of the income of several landholdings which the minors inherited from their deceased father. In the prescript of this report the two ἐπίτροποι state that they reacted to a formal inquiry by the *exegetes*: "Having been asked by you about the income of the landholdings bequeathed by the father of the minors, we declare that they own…".[32] (and then follows a list of the individual plots with their respective revenues).

A very fragmentary document from Antinoopolis,[33] probably dating to 205 CE, attests that the guardian of a minor appointed by the *exegetes*[34] also had to file a report or list (presumably called ἀναγραφή) of household utensils (σκεῦοι) in the possession of his ward such as blankets, baskets, vessels and the like; if the guardian sells these items he will be obliged to have the sale registered with the keepers of the public archive of the nome (βιβλιοθήκη δημοσίων λόγων), a procedure illustrated by a receipt which the same guardian issued to the *bibliophylakes* of the public archive of the Arsinoite nome, the same archive in which the guardian states that he has registered "a deed of sale of the implements and other property left by the father of the minor for the part due to him".[35]

The guardians of minors also seem to have been under the obligation to have legal transactions which affected the property of their wards authorized by the officials in charge. We have already cited in a different context the formal application to the *exegetes* of the widow Taorses dating from 36 CE.[36]

---

[32] P.Heid. IV 336 (*editio princeps*: ZPE 55, 1984, 167-178): ἐ[περω]|τ̣[ώ]μ̣[ε]ν̣ο̣[ι] ὑπὸ σοῦ περὶ προσόδ̣[ων ὧν κατ]ὲ̣λ̣ε̣ιψ̣[εν ὁ] | τῶν ἀφηλίκων̣ π̣α̣τ̣ὴρ̣ Ὡρίων ἐδαφῶν δηλ̣ο̣[ῦ]|μεν ὑπάρχειν α̣ὐ̣τ̣[οῖς] κ.τ.λ. (ll. 5-8).

[33] P.Fam. Tebt. 49.

[34] P.Fam. Tebt. 49 Col. I 2: ἐπίτροπος καταστα]θ̣ε[ὶ]ς ἀπὸ ἐξη[γητοῦ.

[35] P.Fam. Tebt. 50 (Arsinoites, Dec. 18, 205 CE): βιβλ(ιοφύλαξι) δη(μοσίων) λ̣[όγ]ων | παρὰ [Φι]λοσαράπιδος Λυσιμάχο(υ) | [το]ῦ κ̣α̣[ὶ Δ]ιδύμο[υ] Ἀντινοέως | ἐπιτρό(που) καταστ̣[αθ]-(έντος) ἀπὸ ἐξηγ(ητοῦ) |[5] ἄρχ(οντος) π̣[ρυ]τανικῶν Ἰουλίου | τοῦ κ̣α̣ὶ Ἡ̣ρ̣ώδ̣ο̣υ̣ Φιλαντινόου | τ̣ο̣ῦ̣ κ̣α̣ὶ Ἡρώδου ἀφήλικος | Ἀντιν̣[ο]έως. | κατεχώρισα ὑμῖν διάπρα|[10]σιν σκ̣ε̣υ̣ῶν καὶ ἄλλων τῶν | καταλ̣ι̣φθέ̣ν̣τ̣ων ὑπὸ τοῦ | τοῦ ἀφήλικος πατρὸς εἰς τὸ | ἐπιβάλ(λον) αὐτῷ μ̣[έ]ρ̣ος. (ἔτους) ιδ | Λουκ̣ί̣ου Σεπ̣τ̣ιμίου Σευήρου |[15] Εὐσεβοῦς Περτίνακος | καὶ Μά̣[ρ̣]κου Αὐρηλίου Ἀντωνίνου | Εὐσε[β]οῦς Σεβαστῶν καὶ | [[Πουβλίο̣υ̣ Σεπτιμίου Γέτα]] | Καίσαρος [Σ]εβαστοῦ Ἀδρι(ανοῦ) κβ. | [20] (hand 2) Σερῆνος βιβλ(ιοφύλαξ) σεσημ(είωμαι). – "To the keepers of the public archives, from Philosarapis son of Lysimachos also called Didymos, an Antinoite, appointed as guardian of Julius also called Herodes, son of Phlantinoos also called Herodes, a minor Antinoite, by the *exegetes*, chairman of the *prytanikoi*. I have entered in your archive a deed of sale of the implements and other property left by the father of the minor for the part due to him. Year 14 of Lucius Septimius Severus Pius Pertinax and Marcus Aurelius Antoninus Pius, Augusti, and [[Publius Septimius Geta]] Caesar Augustus, 22nd Hadrianos. I, Serenos, keeper of archive, have signed".

[36] P.Mich. V 232 (= SB V 7568).

Taorses, who has been appointed as guardian of her minor children, requests the *exegetes* to order the notary's bureau to register a transfer of property that forms part of the inheritance of the minors. A provision to have such transactions authorized could also explain why in a document from Oxyrhynchos of 186 CE the *exegetes* of this town receives an application from three ἐπίτροποι of orphans to be given permission to put up for auction a slave pertaining to the inheritance of their wards.[37]

As long as no guardian had been appointed, the administration of the property of orphan minors without relatives was probably undertaken by the relevant officials. In four documents from the Hermopolite nome, one dating from 61/62,[38] the other three from 78 CE,[39] the *exegetes* receives applications for the lease of landed property of minors. In these texts no mention is made of guardians of the minors, and I would presume that guardians have not yet been appointed; had this been the case, one would expect the applications for lease to be addressed to them as was regularly the case whenever landed property of minors with guardians was leased out.[40] Thus one may conclude that an official such as the *exegetes* who received applications for lease of land belonging to minors without guardians acted as a sort of "public trustee of orphan children", as the editor of one of these texts has put it.[41]

To sum up: I hope that I was able to make clear with the help of the various documents discussed in this article that local state officials in Roman Egypt possessed quite far-reaching competences and possibilities to control guardianships of minors. At the same time, since these officials relied not on information they collected themselves but on that supplied by the population (as was usually the case in pre-modern administrative systems), it was not easy to ensure that the official would effectively carry out their tasks: state officials could only exercise control if they were addressed by the guardians, the wards or other persons who had a certain interest in the affairs of the latter or if the guardians cooperated with them. If relatives existed, guardians were only appointed if an application to this effect was addressed to the local officials. But the state had, of course, to be informed of such cases in the first place and this

37 P.Oxy. IV 716 (= M.Chr. 360; cf. BL X 139).

38 VBP II 18 (cf BL II 2,174; VIII 13; XI 9).

39 P.Amh. II 85-86; P.Heid. IV 337.

40 Cf. BGU II 644 (Arsinoite, 69 CE): a minor with his guardian (μετὰ ἐπιτρόπου) leases some land; P.Grenf. I 47 (Arsinoite, 148 CE): A guardian of minors has leased land (ἐμίσθωσα); P.Amh. II 91 (Arsinoite, 159 CE): A minor μετὰ ἐπιτρόπου receives an application for lease.

41 See introduction to P.Amh. II 85.

and the fact that such guardianships were seen as unpleasant liturgies which persons eagerly sought to evade[42] may have been the reason why such legally required appointments of guardians were often postponed.

It can also be shown from the papyrus documents from Roman Egypt dealing with the administrative control of guardianships that the state administration was primarily interested in securing the smooth operation of transactions connected with the property of minors, whereas the care for minors' well-being seems to have played a less prominent role. This picture may, however, very well be somewhat deceptive owing to the narrow scope of our documentation. One should thus not prematurely blame the provincial administration of insensibility and cold-heartedness for the needs of orphans and minors.

[42] See above on P.Oxy. III 487 (= M.Chr. 322) and SB V 7558.

BIBLIOGRAPHY*

ARJAVA 1999
A. ARJAVA, *Die römische Vormundschaft und das Volljährigkeitsalter in Ägypten*, «ZPE» 126, 202-204.

BOAK 1932
A.E.R. BOAK, *A Petition for the Relief from Guardianship. P. Mich. Inv. n° 2922*, «JEA» 18, 69-76.

CHIUSI 1994
T. CHIUSI, *Zur Vormundschaft der Mutter*, «ZRG RA» 111, 155-196.

JÖRS, KUNKEL & WENGER 1987
P. JÖRS, W. KUNKEL & L. WENGER, *Römisches Recht. 4. Auflage*, New York-Berlin, neu bearbeitet von Heinrich Honsell, Theo Mayer-Maly, Walter Selb, Heidelberg.

JOLOWICZ 1947
H.F. JOLOWICZ, *The Wicked Guardian*, «JRS» 37, 82-90.

LEWIS 1970
N. LEWIS, *Instructions for Appointing a Guardian*, «BASP» 7, 116-118.

MARKUS 1989
A. MARKUS, Tutela impuberis. *Einfluss des Volksrechts auf das klassische römische Vormundschaftsrecht unter besonderer Berücksichtigung der gräko-ägyptischen Papyri*, Diss. Marburg.

MITTEIS 1912
L. MITTEIS, *Grundzüge und Chrestomathie der Papyruskunde. 2. Band: Juristischer Teil. Erste Hälfte: Grundzüge*, Leipzig.

SIJPESTEIJN 1982
P.J. SIJPESTEIJN, *Sammelbuch VI 9049 - A Sworn Declaration to be a Guardian of a Minor – Reconsidered*, «RHD» 50, 197-200.

TAUBENSCHLAG 1955
R. TAUBENSCHLAG, *The Law of Graeco-Roman Egypt in the Light of the Papyri. 332 B. C. - 640 A. D.*, Warsaw 1955[2].

VUOLANTO 2002
V. VUOLANTO, *Women and the Property of Fatherless Children in the Roman Empire*, in: P. SETÄLA et al. (eds.), *Women, Wealth and Power in the Roman Empire,* Rome, 203-243.

ZAHRNT 1988
M. ZAHRNT, *Antinoopolis in Ägypten: Die hadrianische Gründung und ihre Privilegien in der neueren Forschung*, in: *ANRW* II, 10. 1, 669-706.

ZUCKER 1945
F. ZUCKER, *Beeidete Übernahme der Vormundschaft über eine Minderjährige. Pap. Jen. Inv. 92*, in: *Festschrift für Leopold Wenger zu seinem 70. Geburtstag. Bd. 2.*, Munich, 149-167.

* Papyrus documents are cited according to the *Checklist of Editions of Greek, Latin, Demotic and Coptic Papyri, Ostraca and Tablets* accessible via: http://papyri.info/docs/checklist.