



**James Morton**, *Byzantine Religious Law in Medieval Italy* (Oxford Studies in Byzantium). Oxford, OUP 2021. 336 S. 15 s/w-Abb.

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The present monograph of James MORTON can be added to a growing number of studies dedicated to Byzantine law that have been written in the Anglophonic world over the past decade. Taken together, these monographs point to an increasing interest in what has long been a neglected field of study, an overlooked corner of the *ius commune*.

Rather than focusing on the Byzantine heartland, MORTON concentrates in this book on the phenomenon of Byzantine religious law (canon law) in southern Italy, including Sicily. In contrast to the recent titles on Byzantine law alluded to above, the present study examines the empire's edge: during the mediaeval period this region was only intermittently under Byzantine rule. Sicily was lost to the Aghlabids by the beginning of the 10th century, while Byzantine authority in the rest of southern Italy was extinguished at the Norman conquest of Bari in 1071. Nonetheless, the Greek-speaking inhabitants of this region, the Italo-Greeks, even though no longer under Byzantine rule or the jurisdiction of the Patriarchate of Constantinople, maintained cultural practices and an identity that remained strongly oriented towards the Byzantine world, even into the 14th century.

Two key concepts which MORTON draws upon in his narrative are legal pluralism and jurisgenesis (4f.). Legal pluralism, an idea much in vogue in mediaeval studies, posits the existence of multiple legal orders within a society in both a vertical (for instance, with overlapping legal systems of the state, church, guilds, etc.) and a horizontal (parallel legal systems for Latin and Greek Christians, Muslims) sense. The rather less well-known idea of jurisgenesis postulates the existence of two ideal-type modes of creating legal norms, *paideic* (relying on the normative power of community practices) and *imperial* (institutional lawmaking via church and state).

The core of his analysis, around which the book's narrative is constructed, is an examination of 36 mediaeval Greek manuscripts of south Italian provenance, 26 of which are legal manuscripts (see the table on 9f., as well as the detailed descriptions of the manuscripts on 215–249). It is these three dozen manuscripts that document how the Greek-speaking Christians of mediaeval south Italy maintained their Byzantine identity centuries after the last territories of the East Roman state had disappeared there. It is mainly on the basis of these manuscripts, though of course also with reference to contemporaneous sources, that MORTON seeks to answer, among other questions, “[h]ow could the Greek Christians of southern Italy disregard the canon law of their Latin conquerors and persist in using nomocanons for such a long time?” (2).

What follows is a competent and, by the standards of Byzantine Studies, highly accessible study which tells the story of the mediaeval Italo-Greek community clinging to the tradition of Byzantine canon law, as a way of defending Orthodox practices (clerical marriage and leavened bread for the eucharist) against Latin Christian critique. Not unsurprisingly, the most common owners of Byzantine legal manuscripts from south Italy were monasteries, particularly wealthy communities enjoying the patronage of the Norman court like Patiron and the Holy Savior of Messina. These foundations constituted, to use MORTON's term, a sort of ‘monastic archipelago’, where the Byzantine Church was represented primarily in the form of powerful monasteries and their dependencies, led by archimandrites (99–119). At least to judge by the surviving legal manuscripts, we know less about their use by the Greek clergy, with the exception of one subset of manuscripts, the so-called Salerno Group (139–154).

Among the book's more surprising conclusions is how self-contained this Italo-Greek community remained, especially in questions of canon law, into the twilight of the Middle Ages. Their canon law manuscripts neither adopted provisions of the canon law of their Latin overlords nor were discernably influenced by their canon law manuscripts.

In summation, MORTON's study of the use of Byzantine canon law during and especially after the collapse of Byzantine political power on the peninsula can be fruitfully compared to similar case studies written in recent years on the Melkite communities of the Islamic world, who also lived for certain periods under the Latin rule.